

Texas Register

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Texas Register

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Governor-Appointments, executive orders, and proclamations

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

Emergency Sections-sections adopted by state agencies on an emergency basis
Proposed Sections-sections proposed for adoption

Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections-sections adopted following a 30-day public comment period
Open Meetings-notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



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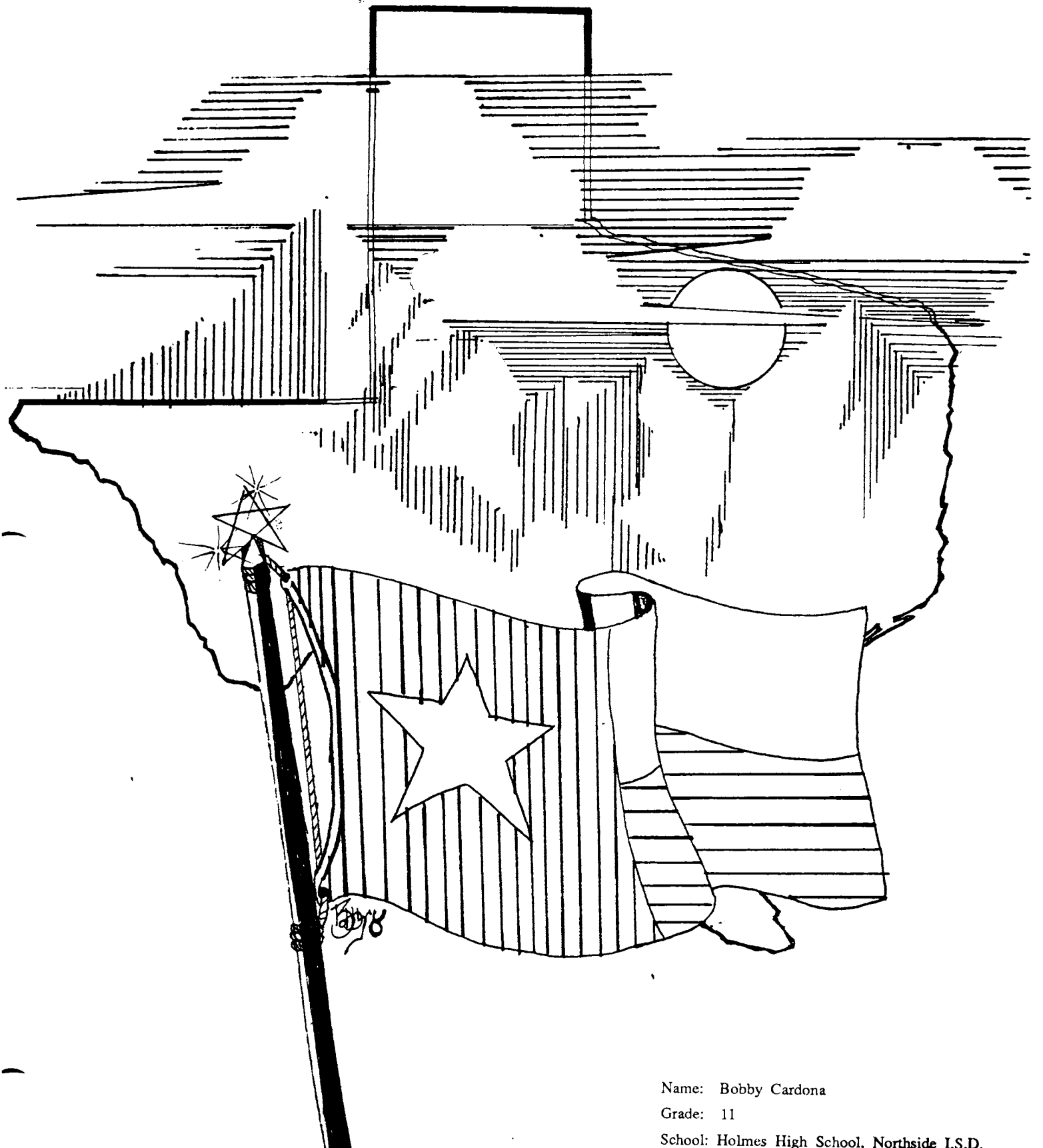
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TAC Titles Affected

TAC Titles Affected—August

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

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40 TAC §§151.602-151.606—4447

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◆ ◆ ◆



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Attorney General

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

Opinions

JM-1191 (RQ-2027). Request from Stephen C. Howard, Orange County Attorney, County Courthouse, Orange, concerning whether Texas Civil Statutes, Article 6252-17, §2(g), authorizes the school principal and school district superintendent to require a teacher's grievance to be heard in executive session.

Summary of Opinion. The Open Meetings Act, Texas Civil Statutes, Article 6252-17, §2(g), permits, but does not require a school board of trustees to hold an executive session to consider a teacher's grievance. An employee who is the subject of deliberations under §2(g) has a right to an open hearing, but has no right to insist upon a closed hearing.

TRD-9007707



JM-1192 (RQ-1800). Request from Robert Hill Trapp, County Attorney, San Jacinto County, Coldspring, concerning application of the Tax Code, §31.04(a) to tax bills which cannot be mailed because of an unknown address.

Summary of Opinion. The Tax Code, §31.04, does not operate to forbid the establishment of the delinquency date and the imposition of penalties and interest on taxes due in a situation in which no tax bill is sent because the name or address of the

delinquent taxpayer is unknown. Section 31.04 governs in instances in which tax bills can be mailed, but are mailed late. Subsection (a) of the Code, §33.04 specifically provides that the duty imposed on a tax collector to notify delinquent taxpayers does not apply where the collector does not know and, by exercising reasonable diligence, cannot determine the name or address of the delinquent taxpayer. In an instance in which no tax bill can be mailed because the address of the taxpayer is unknown, §31.02, the Code, which provides that the delinquency date is February 1 of the year after the taxes are imposed, controls the establishment of a delinquency date.

TRD-9007706



JM-1193 (RQ-1826). Request from Randy M. Phillips, Lipscomb County Attorney, Booker, concerning authority of a county to pay its employees who are indebted to the county for property taxes.

Summary of Opinion. The Local Government Code, §154.025, does not prohibit a county from paying the salaries of county employees or elected officials who are delinquent in ad valorem tax obligations.

TRD-9007705



JM-1194 (RQ-1924). Request from George Pierce, Chairman, Committee on Urban Affairs, Texas House of Representatives, Austin, concerning authority of a municipality to advance compensation to an employee.

Summary of Opinion. A city may not ordinarily advance salary to its employees.

TRD-9007704

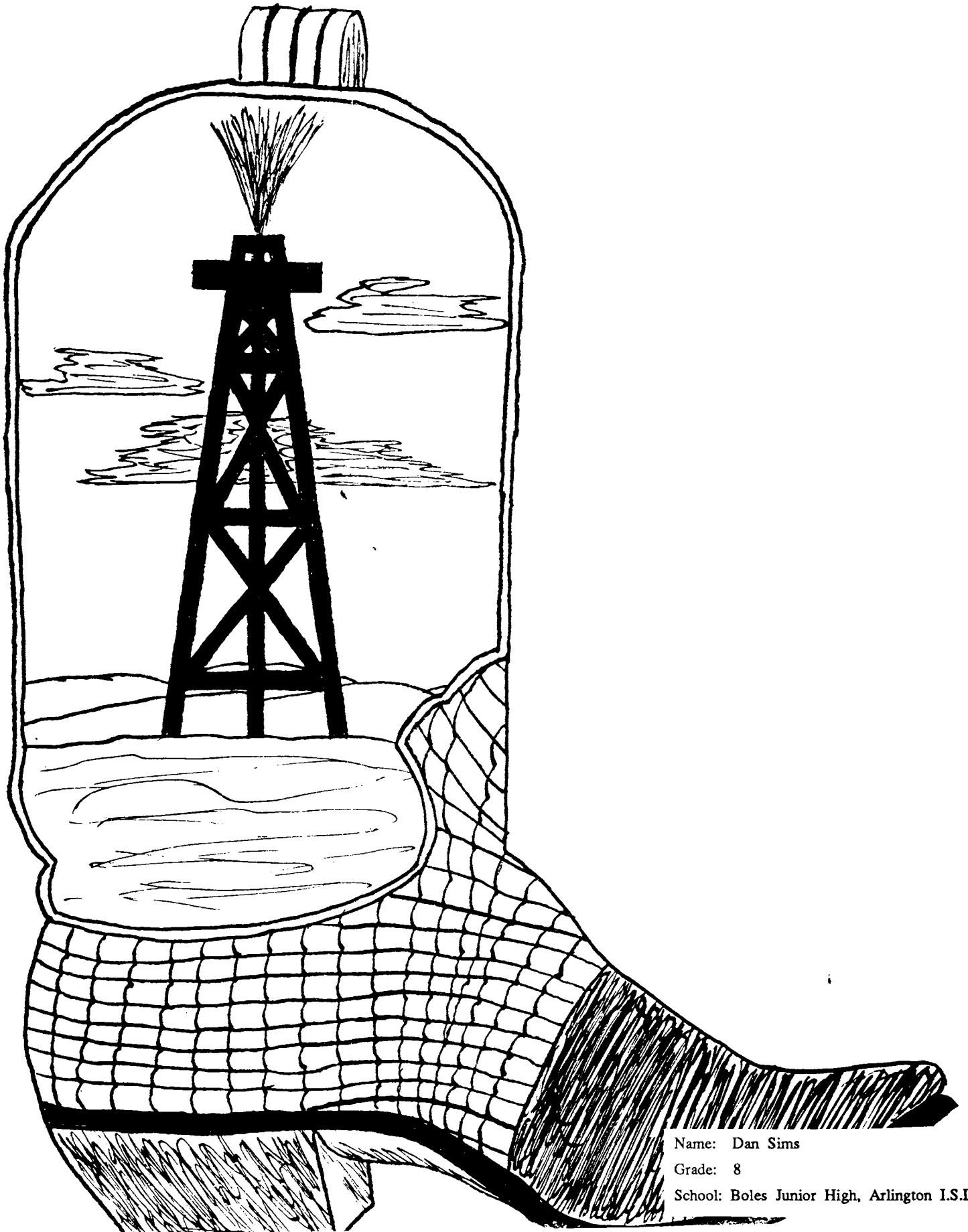


JM-1195 (RQ-1993). Request from Larry E. Kosta, Executive Director, Texas Department of Licensing and Regulation, Austin, concerning authority of a municipality to impose a registration fee, license fee, occupation tax, or a bond requirement on a state licensed air conditioning and refrigeration contractor.

Summary of Opinion. Municipalities may not impose additional local license taxes, occupation taxes, or requirements of filing a bond with the municipality on air conditioning and refrigeration contractors licensed under Texas Civil Statutes, Article 8861. Whether a municipality may impose a registration fee on such licensees would involve questions of fact as to the nature of the particular fee.

TRD-9007709





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Proposed Sections

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

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

TITLE 16. ECONOMIC REGULATION Part VIII. Texas Racing Commission

Chapter 301. Definitions

• 16 TAC §301.1

The Texas Racing Commission proposes an amendment to §301.1, concerning definitions. The amendment adds definitions for age of a greyhound, booking, branding, double entry, lure, weighing in weight, and weight out weight.

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 that the commission's rules will be easily understood. There will be no effect on small businesses as a result of enforcing the section as proposed. 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 September 4, 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 authorize the commission to adopt rules to administer the Texas Racing Act.

§301.1. Definitions. The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicate otherwise.

Age of a greyhound—Determined as beginning on the day the greyhound is whelped.

Booking—A contract between an association and a kennel owner for the kennel owner to provide greyhounds to the association for a race meeting and for the association to provide kennel buildings to house the greyhounds.

Branding—The act of a totalisator system imprinting a mutual ticket with information that identifies the ticket as canceled or chased and automatically

making the appropriate notation in the system's memorles.

Double entry—An entry of two or more greyhounds in the same race that have either common ownership or the same trainer and are separate wagering interests.

Lure—A mechanical apparatus at a greyhound racetrack consisting of a stationary rail installed around the track, a motorized mechanism that travels on the rail, and a pole that is attached to the mechanism and extends over the track, and to which a decoy approved by the commission is attached.

Weighing in weight—The weight of a greyhound on weighing in to the lock-out kennel.

Weighing out weight—The weight of a greyhound on weighing out of the lockout kennel immediately before post time for the race in which the greyhound is entered.

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 August 2, 1990.

TRD-9007791 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

Chapter 309. Operation of Racetracks

Subchapter C. Greyhound Racetracks

Facilities and Equipment

• 16 TAC §309.303

The Texas Racing Commission proposes an amendment to §309.303, concerning track surface. The amendment requires an association to maintain the track surface and banking in a uniform condition to foster the safety of the greyhounds.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. There will be an effect on small businesses as a result of enforcing the section. The amount of maintenance required will depend on many factors, such as the degree of wear on the track, the particular track surface, and the weather, it is not possible to determine the fiscal implications for small businesses at this time. 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 September 4, 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 authorize the commission to adopt rules to administer the Texas Racing Act.

§309.303. Track Surface.

(a) The track must consist of a clay base with a surface of a nonabrasive sand with low alacticity or of a comparable material.

(b) An association shall maintain the track surface and the banking in a uniform condition to foster the safety of the greyhounds.

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 August 2, 1990.

TRD-9007790 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

• 16 TAC §309.305

The Texas Racing Commission proposes an amendment to §309.305, concerning starting boxes. The amendment requires an association to provide and maintain at least two starting boxes of a particular design and to inspect the boxes regularly to ensure the boxes are in proper working condition. The amendment also requires an association to

provide qualified personnel to maintain the starting boxes.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. The cost to small business to purchase the two starting boxes is estimated to be \$35,000-\$40,000. 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 September 4, 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 to administer the Texas Racing Act.

§309.305. Starting Boxes.

(a) An association shall provide and maintain at least two starting boxes approved by the commission or its designee. Each starting box must be equipped with an automatic opener with a manual back-up.

(b) The association shall periodically inspect each starting box to ensure its safe and effective operation. Whenever the track is being used for racing or schooling, the association shall have at least one person present on association grounds who is skilled and qualified to maintain starting boxes.

(c)(a) An association shall ensure that the starting box [boxes] located at the five-sixteenths start is [are] set back in the chute.

[(b) Each starting box must be equipped with an automatic opener with a manual back-up.]

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 August 2, 1990.

TRD-9007789 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
• 16 TAC §309.309

The Texas Racing Commission proposes an amendment to §309.309, concerning lockout

kennel. The amendment requires an association to provide a disinfected dipping vat approved by the commission in the cool-out area adjacent to the lockout kennel.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 to administer the Texas Racing Act.

§309.309. Lockout Kennel.

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

(d) An association shall provide an area adjacent to the lockout kennel in which a greyhound can wait to weigh in and cool down following a race or wait for schooling races. The area must:

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

(4) have a disinfected [filtered chlorinated] dipping vat, approved by the commission veterinarian, through which a greyhound may be walked to assist in cooling down following a race; and

(5) (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 August 2, 1990.

TRD-9007788 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
• 16 TAC §309.311

The Texas Racing Commission proposes an amendment to §309.311, concerning kennel compound. The amendment requires the security system for the kennel compound to include floodlights.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. It is not possible to determine the effect on small business at this time, because the cost will depend on the size of the kennel compound and the spacing of the kennels. 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 September 4, 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 to administer the Texas Racing Act.

§309.311. Kennel Compound.

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

(d) The association shall provide at its expense continuous security system for the kennel compound area approved by the commission. The security system must include floodlights to adequately illuminate the kennel compound at night.

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 August 2, 1990.

TRD-9007787 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
• 16 TAC §309.315

The Texas Racing Commission proposes new §309.315, concerning test area. The new section requires a pari-mutuel greyhound racetrack to provide an area for obtaining specimens from greyhounds to test for prohibited medications and other substances.

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 that pari-mutuel greyhound racing will be of the highest integrity. The cost of compliance for a

small business is expected to cost \$41, 112. 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 September 4, 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 to administer the Texas Racing Act.

§309.315. Test Area. An association shall provide and maintain a test area in a location approved by the commission for the purpose of obtaining for analysis specimens of greyhound body fluids and eliminations as required by Chapter 319 of this title (relating to Veterinary Practices and Drug Testing).

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 August 2, 1990.

TRD-9007786 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
• 16 TAC §309.316

The Texas Racing Commission proposes new §309.316, concerning emergency care facility. The new section requires a pari-mutuel greyhound racetrack to provide a facility for providing emergency veterinary care to greyhounds.

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 create a safe and humane environment for the greyhounds. The cost of compliance for a small business is expected to cost \$44,112. 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 September 4, 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 authorize the commission to adopt rules to administer the Texas Racing Act.

§309.316. Emergency Care Facility. An association shall provide a veterinary facility to provide emergency care to injured or stressed animals. The association shall equip and maintain the facility with the equipment and materials approved by the commission veterinarian.

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 August 2, 1990.

TRD-9007785 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
Operations

• 16 TAC §309.353

The Texas Racing Commission proposes an amendment to §309.353, concerning dismissal of kennel. The amendment authorizes an association to dismiss a kennel for repeated violations of the Act or a rule of the commission.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 authorize the commission to adopt rules to administer the Texas Racing Act.

§309.353. Dismissal of Kennel.

(a) An association may dismiss a kennel only:

(1) on revocation by the commission of the kennel owner's or the trainer's license; [or]

(2) for repeated violations of the Act or a rule of the commission; or

(3) for poor performance, as provided by subsection (b) of this section.

(b) A contract between an association and a kennel owner must provide a uniform dismissal clause. The clause must state that:

(1) the association shall dismiss a kennel that finishes in the bottom four positions at the end of a race meeting for two of the past three years and the association may not rebook the kennel for a period of five years;

(2) [during the first two years of a kennel contract,] the association may place a kennel on probation by written notice if the kennel's win record is in the lowest three positions during each of the three preceding months; and

(3) (No change.)

(c) (No change.)

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

Issued in Austin, Texas, on August 2, 1990.

TRD-9007784 Paula Cochran Carter
General Counsel
Texas Racing Commission

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

◆ ◆ ◆
• 16 TAC §309.355

The Texas Racing Commission proposes an amendment to §309.355, concerning grading system. The amendment clarifies the requirements for the grading of juvenile and maiden greyhounds.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 authorize the commission to adopt rules to administer the Texas Racing Act.

§309.355. Grading System.

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

(d) The racing secretary shall lower a greyhound to the next lower grade if the greyhound:

(1) (No change.)

(2) fails to finish better than third at least once in four consecutive starts; [or]

(3) fails to finish better than third at least twice in five consecutive starts; or

(4) fails, as a Grade J, to finish in the top four positions.

(e) (No change.)

(f) The racing secretary shall advance a greyhound that wins a maiden race to Grade J. The racing secretary shall advance a greyhound that wins a Grade J race to Grade C. On request by a kennel owner or trainer, the racing secretary may advance a greyhound that finishes second, third, or fourth in a maiden race [or a Grade J race] to Grade C. For a greyhound regarded on request under this subsection, an association shall place the letter "M" or "J" after the greyhound's name in the racing program.

(g)-(o) (No change.)

(p) If a maiden fails to finish in the top three positions in six consecutive starts, the maiden may not race again at the race meeting until it requalifies. If the maiden fails to finish in the top three positions in the two starts after requalifying, the maiden may not race again at the race meeting.

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

Issued in Austin, Texas on August 2, 1990.

TRD-9007783 Paula Cochran Carter
General Counsel
Texas Racing Commission

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

Operations

• 16 TAC §309.362

The Texas Racing Commission proposes an amendment to §309.362, concerning kennel account. The amendment requires an association to maintain a kennel account and employ a bookkeeper to maintain the records of the account.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. It is not possible to determine at this time the effect on small businesses, because the cost of employing a bookkeeper will vary. 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 September 4, 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 to administer the Texas Racing Act.

§309.362. Kennel Account [Payment of Purses].

(a) An association shall maintain a separate bank account known as the kennel account. The association shall maintain in the account at all times a sufficient amount to pay all money owed to kennel owners for purses, stakes, rewards, and deposits.

(b) An association shall employ a bookkeeper to maintain records of the kennel account.

(c) All transactions relating to the kennel account are subject to audit by the commission.

(d) Except as otherwise provided by these rules [Chapter 319 of this title (relating to Veterinary Practices and Drug Testing)], an association shall pay the purse money [purses] owed from a race to those who are entitled to the money not later than 10 [seven] days after the date of the race.

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 August 2, 1990.

TRD-9007782 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

• 16 TAC §309.364

The Texas Racing Commission proposes new §309.364, concerning official program. The new section requires an association to prepare and print an official program for each race day.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. The estimated cost of compliance by a small business is \$.75-\$1.00 per program. 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 September 4, 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 to administer the Texas Racing Act.

§309.364. Official Program.

(a) For each race day, an association shall prepare and print an official program. The official program must contain the order of the races on that day, the distance and track record for each race, and the names of the greyhounds scheduled to run in each race, in order of their post positions. The post positions must be designated by numbers placed at the left and in line with the names of the greyhounds.

(b) The official program must contain at least two past performances for each greyhound scheduled to race. The program must also contain, for each greyhound scheduled to race:

- (1) the name;
- (2) color;
- (3) sex;
- (4) date of whelping;
- (5) breeding;
- (6) established racing weight;
- (7) number of starts in official races;
- (8) number of times finishing first, second, and third;
- (9) name of owner and lessee, if applicable;
- (10) name of trainer; and
- (11) other information to enable the public to properly judge the greyhound's ability.

(c) If the name of a greyhound is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six times under the new 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 August 2, 1990.

TRD-9007780 Paula Cochran Carter
General Counsel
Texas Racing Commission

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

◆ ◆ ◆
• 16 TAC §309.365

The Texas Racing Commission proposes new §309.365, concerning identification system. The new section requires a pari-mutuel greyhound racetrack to maintain a card index system of identification for the greyhounds registered to race at the racetrack.

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 that pari-mutuel greyhound racing will be of the highest integrity. 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 before September 4, 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 to administer the Texas Racing Act.

§309.365. *Identification System.*

(a) An association shall maintain a card index system of identification for each greyhound racing for the association. An association may not permit a greyhound to be housed on association grounds unless the greyhound is identifiably tattooed in each ear.

(b) Each bertillion card must be legible and thoroughly identifiable for each greyhound. The card must show:

(1) the name of the kennel; and

(2) the color, sex, tattoo identifications located in each ear, and characteristic markings, scars, and other identification features of the greyhound.

(c) The paddock judge shall maintain the bertillion cards. For each greyhound removed from association grounds, the paddock judge shall maintain the bertillion card for the greyhound in an inactive file for the six-month period after the date of the greyhound's removal.

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 August 2, 1990.

TRD-9007781 Paula Cochran Carter
General Counsel
Texas Racing Commission

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

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

Subchapter B. Specific
Licensees

Licensees for Greyhound Racing

• 16 TAC §311.171

The Texas Racing Commission proposes an amendment to §311.171, concerning kennel owners. The amendment describes the duties of a kennel owner relating to the filing of an employee list, designating a representative, reporting illnesses and death of greyhounds, retiring greyhounds, and maintenance of kennel building.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 to administer the Texas Racing Act.

§311.171. *Kennel Owners [Workers' Compensation].*

(a) A kennel owner shall provide workers' compensation insurance for each of the kennel owner's employees.

(b) Not later than five days before the first day of a race meeting, a kennel owner shall file with the commission licensing office a list of all individuals to be employed by the kennel on association grounds. Not later than 24

hours after a change in personnel occurs, the kennel owner shall notify the commission licensing office of the change.

(c) If the kennel owner is not to be present on association grounds during racing, the kennel owner shall:

(1) appoint an individual to be responsible for greyhounds scheduled to race during the kennel owners absence; and

(2) shall notify the racing judges of the appointment.

(d) A kennel owner shall report to the commission veterinarian and the racing secretary of a greyhound in the kennel owner's care that is in poor physical condition, is not in racing form, or is a bitch in season.

(e) A kennel owner shall retire a greyhound that is not in racing form or is in poor condition. A greyhound that has been retired for conditioning must be brought back to racing weight before being entered in a race.

(f) Immediately after a greyhound on, or registered as being on, association grounds dies or is euthanized, the kennel owner shall notify the commission veterinarian and racing secretary. The kennel owner shall dispose of the remains of the greyhound in a manner that is approved by the commission veterinarian.

(g) The kennel owner shall maintain the kennel building to which the kennel owner is assigned in a safe and sanitary condition and in a condition that is conducive to the health, safety, and welfare of the greyhounds and the persons working in and around the kennel building.

(h) A kennel owner may not willfully or intentionally destroy or abuse a kennel building or the equipment or facilities in a kennel building.

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 August 2, 1990.

TRD-9007779 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
• 16 TAC §311.173

The Texas Racing Commission proposes new §311.173, concerning leadouts. The new section describes the duties of a leadout relating to attire, smoking in uniform, ownership of greyhounds, and eating and drinking on duty.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 to administer the Texas Racing Act.

§311.173. Leadouts.

(a) A leadout shall be dressed in a clean uniform for each performance, present a neat appearance, and behave in an orderly manner.

(b) A leadout may not smoke while in uniform.

(c) A leadout may not own an interest in a greyhound registered at the association for which the leadout is employed.

(d) Except in the leadouts' lounge, a leadout may not consume or carry food or beverages while the leadout is on duty.

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 August 2, 1990.

TRD-9007778 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

Chapter 315. Officials and Rules of Greyhound Racing

Subchapter A. Officials

The Texas Racing Commission proposes new §§315.1-315.5 and 315.31-315.42, concerning officials at greyhound racetracks. The new sections describe the officials that must be present to supervise a pari-mutuel greyhound race meeting and the duties of each official.

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 sections are in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel greyhound racing will be safe and humane for the greyhounds. There will be no effect on small businesses. It is not possible at this time to determine the effect on small businesses because the amount of compensation for the officials has not been determined. 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 September 4, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

Appointment of Officials

• 16 TAC §§315.1-315.5

The new sections are 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.

§315.1. Required Officials.

(a) The following racetrack officials must be present at each greyhound race conducted in this state:

- (1) a presiding racing judge;
- (2) a commission veterinarian;
- (3) a paddock judge;
- (4) a starter; and
- (5) a clerk of scales.

(b) The following association officials must be present at each greyhound race conducted in this state:

- (1) two racing judges;
- (2) a mutuel manager;
- (3) an association veterinarian;
- (4) a racing secretary;
- (5) an assistant racing secretary;
- (6) a chart writer;
- (7) a photofinish operator and timer;
- (8) a kennel master; and
- (9) a mechanical lure operator.

(c) An individual may not serve as an association official unless the individual has been approved by the commission. Not later than the 30th day before the first day of a race meeting, an association shall submit to the executive secretary a document containing the name of each individual appointed to serve as an association official at the race meeting. If the executive secretary determines that an

individual is qualified to perform the duties required of the official position for which the individual is submitted and may be issued a license by the commission, the executive secretary shall approve the appointment of the individual.

§315.2. Racing Judges.

(a) The executive secretary shall appoint the presiding racing judge, who shall be compensated by the commission. The association shall appoint two associate racing judges, with the approval of the executive secretary, who shall be compensated by the association.

(b) To be eligible for appointment as a racing judge, an individual must:

(1) have experience as an official at a pari-mutuel greyhound racetrack or demonstrate to the executive secretary's satisfaction that the individual has sufficient experience in a racing-related field to perform the duties of a racing judge;

(2) pass an optical examination conducted not more than 90 days before the appointment, indicating 20-20 vision, corrected, and the ability to distinguish colors;

(3) agree to a complete investigation into the individual's background to insure the individual's integrity is above reproach;

(4) pass a written examination prescribed by the executive secretary;

(5) participate in an oral interview conducted by the executive secretary; and

(6) demonstrate to the executive secretary's satisfaction that the individual's income from sources other than as a racing judge is unrelated to patronage of or employment by a licensee of the commission.

(c) The executive secretary shall administer the written examination required under this section. A passing grade for the examination is 85 on a scale of 100. The written examination consists of:

(1) 85 multiple choice questions; and

(2) three essay questions.

(d) The commission shall maintain a list of individuals who are qualified to be appointed as racing judges.

§315.3. Substitute Officials.

(a) The executive secretary may appoint a deputy presiding racing judge to serve in the absence of the presiding racing judge. The association may appoint a deputy racing judge to serve in the absence of one of the associate racing judges.

(b) To be eligible to be appointed as a deputy presiding racing judge or a deputy racing judge, an individual must be qualified to serve as a racing judge and must be approved by the executive secretary.

(c) If the deputy presiding racing judge or a deputy racing judge who is called to serve is unavailable or cannot be present at the designated time, the association may appoint a temporary racing judge from the licensed officials employed by the association, with the approval of the executive secretary. The association shall file a written report with the commission regarding each instance that a deputy or temporary racing judge serves. The appointment of a temporary racing judge is valid only for the day of the appointment.

(d) If an approved association official becomes unavailable to serve, the association may appoint a substitute official with the approval of the executive secretary. The substitute official must obtain a commission license before assuming his or her duties. Not later than seven days after an association official is removed or transferred, the association shall provide to the commission a written report describing in detail the circumstances of and the reasons for the removal or transfer.

(e) If a vacancy occurs among the racing officials other than the racing judges and the association has not appointed an approved substitute, or if a vacancy occurs after a performance has begun, the racing judges shall immediately appoint another qualified individual to fill the vacancy. To be eligible for appointment under this subsection, an individual must be licensed by the commission as an official. An appointment made under this subsection is valid only for the day of the appointment, unless the association fails to fill the vacancy on the following day and notify the racing judges not later than one hour before post time for the first race of the day. The racing judges shall immediately report to the executive secretary of all appointments made under this subsection.

§315.4. Dual Appointments.

(a) Except as otherwise provided by this section, a racing official may not be appointed to more than one position with an association unless written permission is obtained from the executive secretary at least 10 days before the beginning of the race meeting.

(b) If an emergency arises during a race meeting which necessitates the appointment of a racing official to more than one position, the association shall provide a written report to the executive secretary describing in detail the circumstances of the appointment. A report under this subsection must be delivered to the executive secretary not later than three days after the date of the appointment. If

the executive secretary does not approve the emergency dual appointment, the association shall make the necessary appointments for each position.

§315.5. General Duties.

(a) A racetrack official is directly responsible to the commission for the performance of the official's duties and shall exercise due diligence in the performance of those duties.

(b) An association official is directly responsible to the association for the performance of the official's duties and shall exercise due diligence in the performance of those duties.

(c) An official shall promptly report to the racing judges or the executive secretary any observed violation of the Act or a rule of the commission.

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

Issued in Austin, Texas, on August 2, 1990.

TRD-9007777

Paula Cochran Carter
General Counsel
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For further information, please call: (512) 476-7223

Duties

• 16 TAC §§315.31-315.42

The new sections are 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.

§315.31. Racing Judges.

(a) In addition to the duties described in Chapter 307 of this title (relating to Practice and Procedure), the racing judges shall supervise and exercise general authority over the conduct of the race meeting for which they are appointed and over the licensees participating in racing at that race meeting. If a question arises during a race meeting regarding the operations of a racetrack or the conduct of racing that is not addressed by the Texas Racing Act (Act) or a rule of the commission, the racing judges shall resolve the question in conformity with custom, precedent, justice, and the best interest of racing.

(b) The racing judges shall decide all questions before them by majority vote.

(c) The racing judges have the power to:

(1) interpret and enforce the Act and the rules of the commission and to determine all questions, disputes,

complaints, or objections relating to racing matters in accordance with the applicable laws;

(2) issue rulings, which supercede any orders of the association, on racing matters that may change the conduct of a race or a race meeting;

(3) review applications for individual licenses submitted at a racetrack and make recommendations to the commission regarding the issuance of individual licenses;

(4) enter and inspect all official's stands, weighing rooms, kennels, and all other areas on association grounds;

(5) supervise entries, declarations, scratches, and substitutions, and refuse an entry or transfer of entries;

(6) supervise the grading and schooling of greyhounds and place a greyhound on the schooling list;

(7) supervise weighing and starting procedures;

(8) order the examination of a greyhound or the ownership, registration, or identification papers of a greyhound;

(9) disqualify a greyhound or request proof that a greyhound is eligible to race; and

(10) perform any other duty necessary on behalf of the commission to ensure a race meeting is conducted in accordance with the Act and the rules of the commission.

(d) The racing judges shall prepare a report of actions taken and observations made during each performance. The report must contain the name of the racetrack, the date, a designation of matinee or night performance, the weather and track conditions, inquiries and objections, and any unusual circumstances or conditions. The report must be signed by each racing judge and be filed with the executive secretary on a weekly basis.

(e) The racing judges shall maintain a detailed log of the racing judges, official activities. The log must describe all questions, disputes, protests, complaints, or objections brought to the attention of the racing judges and all interviews, investigations, and rulings made by the judges. The log must be available at all times for inspection by the commission or a representative of the commission.

(f) A majority of the racing judges shall be present on association grounds not later than the weigh-in time for each performance.

(g) The racing judges shall determine the order of finish of a race by the relative position of the muzzles, or if a muzzle is lost or hanging, of the noses, of each greyhound. The racing judges shall immediately notify the mutuel department of the numbers of the first four greyhounds.

(h) The racing judges may not declare a race official until they have determined which greyhounds finished first, second, third, and fourth.

(i) On determining the official order of finish, the racing judges shall direct the order of finish to be announced to the public and the order of finish and the official sign to be displayed on the tote board.

(j) Except as otherwise provided by this section, if the racing judges decide to consult a photograph from the photofinish equipment, the racing judges may declare the placements of the greyhounds which they have determined to be unquestionable. The photofinish equipment required by these rules is to be merely an aid to the racing judges, and the racing judges' decision is final, subject only to appeal to the commission.

(k) The racing judges may correct an error before the official sign is displayed or may recall the official sign if it was displayed in error.

§315.32. Commission Veterinarian. The commission veterinarian shall supervise all veterinary practices on association grounds, advise the commission and the racing judges on all veterinary matters, and perform all other duties required by the commission or these rules.

§315.33. Paddock Judge.

(a) The paddock judge shall fully identify each greyhound and check against the card index system of identification maintained by the association. The paddock judge shall report promptly to the racing judges a greyhound that does not conform to the card index identification.

(b) The paddock judge shall supervise the inspection of the lock-out kennel before weigh-in to ensure the lock-out kennel and the crates are clean and in good repair.

(c) As each greyhound is weighed in, the paddock judge shall place on the greyhound's collar an identification tag that contains the number of the race in which the greyhound is entered and its post position. The tag may not be removed until the greyhound has been weighed out and blanketed.

(d) The paddock judge may not permit a greyhound to weigh in if the paddock judge knows that any person on whose behalf the greyhound is racing is not properly licensed by the commission.

(e) The paddock judge shall inspect each greyhound that leaves the paddock to ensure that each greyhound is equipped with a regulation muzzle and blanket. The paddock judge shall maintain a supply of extra muzzles, lead straps, and collars provided by the association.

(f) The paddock judge shall assign leadouts to post positions by lot before the race and shall maintain a record of the assignments.

(g) The paddock judge shall supervise the training of each leadout before a race meeting. The training must include the proper method for leading a greyhound, the handling of blankets, muzzles, and lashes, and general care and maintenance of the greyhound while in the leadout's custody. The paddock judge shall notify the racing judge when the training for each leadout has been completed.

§315.34. Starter.

(a) The starter shall issue orders and take measures necessary to ensure a fair start.

(b) The starter shall report the cause of a delayed starter to the racing judges.

(c) There is no start until, and there may be no recall after, the doors of the starting box have opened.

(d) A start hampered due to a malfunction of the starting box or other interference is void. If the starting box malfunctions, the greyhounds will be started as soon as practicable, or the racing judges may cancel the race.

§315.35. Clerk of Scales.

(a) The clerk of scales shall weigh greyhounds, with muzzled, collar, and leash, in and out of the lockout kennel, in a uniform manner, on a scale certified by the appropriate state official and shall display the weight of each greyhound on the weight board. The clerk of scales shall display promptly the established racing weight, weighing-in weight, and weighing-out weight of each greyhound on the weight board for the information of the patrons.

(b) Immediately after displaying the weights, the clerk of the scales shall record any overweight or variation from the weight appearing on the weight sheet. The clerk of scales shall deliver to the presiding racing judge a copy of the weight sheet before each performance.

(c) The clerk of scales shall report promptly any violation of these rules regarding weight or weighing.

(d) The clerk of scales shall require a greyhound to remain on the scales until there is not more than a one-quarter pound jump in scales action caused by motion of the greyhound being weighed.

(e) The clerk of scales shall require the lead-out for a greyhound being weighed to stand away from the scale to allow at least a six-inch sag in the lead-out leash.

(f) The clerk of scales shall keep a list of all greyhounds known as weight los-

ers and shall notify the racing judges as to the weight loss before each race.

§315.36. Mutuel Manager. The mutuel manager shall supervise the operations of the pari-mutuel department of the association and its employees. The mutuel manager shall ensure the accuracy of the amounts in all pools and the amounts to be paid on winning wagers.

§315.37. Racing Secretary.

(a) The racing secretary shall supervise the operations of the racing office and its employees. The racing secretary shall:

(1) maintain a complete record of all races;

(2) receive all stakes, entrance money, and arrears and pay all money collected to those entitled to receive the money;

(3) receive all entries and declarations;

(4) view the running or a videotape of each race;

(5) write the conditions of all races; and

(6) perform all other duties imposed on the racing secretary by these rules or the association.

(b) The racing secretary may delegate to the assistant racing secretary any duty imposed on the racing secretary.

(c) The racing secretary may demand and inspect owners, and trainers, licenses and all documents relating to trainers and owners, partnership agreements, the appointment of authorized agents, and the adoption of assumed names to satisfy the racing secretary of the validity of the documents.

(d) Immediately after the entries for a race are closed and compiled and the declarations have been made, the racing secretary shall post a list of the entries in a conspicuous place. Before accepting a greyhound entry, the racing secretary shall determine whether all relevant kennel owners, owners, and trainers have been properly licensed.

§315.38. Assistant Racing Secretary. The assistant racing secretary shall perform any duty assigned by the racing secretary and shall assist the racing secretary in the performance of the racing secretary's duties.

§315.39. Chart Writer. The chart writer shall compile the information necessary to prepare the program for each race day.

§315.40. Kennel Master.

(a) Under the supervision of the paddock judge, the kennel master shall unlock the lock-out kennel and the crates immediately before weigh-in time to ensure that the crates are in good repair and that nothing has been deposited in any of the crates for the greyhound's consumption.

(b) The kennel master shall ensure that the crates are sprayed, disinfected, and maintained in a proper sanitary condition.

(c) The kennel master shall receive a greyhound from its trainer, one at a time, and ensure that the greyhound is placed in its crate until removed for racing. The kennel master or the kennel master's assistant shall remain on guard in the paddock area from weigh-in time until the greyhounds are removed for the last race.

§315.41. Photofinish Operator And Timer.

(a) The photofinish operator and timer shall maintain the photofinish and timing equipment in proper working order and shall photograph each race.

(b) In addition to the time kept on the photofinish equipment, the photofinish operator and timer shall time each race by hand, using an accurate stopwatch, beginning when the doors of the starting box open.

(c) The photofinish operator and timer shall declare the time on the photofinish equipment as the official time of the race. If the photofinish operator and timer are not satisfied that time was accurate, the timer shall declare the stopwatch time as the official time and announce that fact to the patrons.

§315.42. Association Veterinarian. The association veterinarian shall perform all duties required by Chapter 319 of this title (relating to Veterinary Practices and Drug Testing), and all duties required by the commission veterinarian.

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 August 2, 1990.

TRD-9007776 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆ Subchapter B. Entries and Pre-race Procedures

• 16 TAC §§315.101-315.111

The Texas Racing Commission proposes new §§315.101-315.111, concerning entries

and pre-race procedures at greyhound racetracks. The new sections describe the requirements for registration, entry procedure, eligibility to enter or start, sales and transfers, sweepstakes, liability for entry fee, payments of entry money, qualifying time, declarations, scratches, and schooling at a pari-mutuel greyhound race meeting.

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

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

Comments on the proposal may be submitted before September 4, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The new sections are 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.

§315.101. Registration.

(a) Except as otherwise provided by this section, a greyhound may not enter a race, start, or be schooled on an association's grounds unless the greyhound is tattooed and registered in the stud book maintained by the National Greyhound Association. The commission may certify a greyhound that is not registered with the breed registry if the owner of the greyhound demonstrates to the commission that the greyhound's lack of registration is due to arbitrary, discriminatory, or other unreasonable action or inaction.

(b) The kennel owner for a greyhound that is to be schooled, entered, or raced at an association shall file a certificate of registration for the greyhound with the racing secretary, with the racing history and the last four performance lines for the greyhound, if applicable. The racing judges may inspect the certificates of registration at any time.

(c) A person transferring title to a lease or other interest in a greyhound schooled, entered, or racing on an association's grounds shall register and record the transfer with the National Greyhound Association.

(d) A person holding a lease or an assignment of lease in a greyhound schooled, entered, or racing on an association's grounds shall:

(1) register and record the lease or assignment with the National Greyhound Association; and

(2) provide certified copies of the record of the National Greyhound Association to the commission and the racing secretary.

§315.102. Entry Procedure.

(a) The racing secretary shall receive entries and declarations for a race. The racing secretary may refuse to accept an entry if the racing secretary reasonably believes that the entry is prohibited by these rules.

(b) An entry in a race must be in the name of the registered owner, lessee, or a kennel name and may be made in person, in writing, or by telephone or facsimile.

(c) A greyhound may not start in a race unless the greyhound has been entered in the race in accordance with these rules.

(d) An association may not charge a fee for entering a race unless a fee is clearly stated in the conditions of the race. If the conditions require an entry fee, the fee must accompany the entry.

(e) A joint subscription or entry may be made by one or more owners of a greyhound. If the ownership interests in a greyhound are equally divided, each owner is jointly and severally liable for all fees and forfeits.

(f) The racing officials may require a person in whose name a greyhound is entered to produce proof that the greyhound is not owned in any part by a person who is not eligible to participate in pari-mutuel racing or proof of the extent of the person's ownership in the greyhound. The racing judges may declare the greyhound out of a race if the person fails to comply with demand under this subsection.

(g) The racing secretary shall compile and conspicuously post the entries as soon as possible after entries close. After entries close, an entry may not be altered other than to correct an error.

(h) An association may withdraw or change a race for which entries have not closed.

(i) Except as otherwise provided by this subsection, entries for purse race shall close at the time indicated in the publication of the conditions. An association may grant additional time for entries for a race that does not fill by the indicated closing time. An association may not maintain a list of also eligible entries.

(j) A greyhound whose entry is ordered refused because of inconsistent racing or erratic racing performance for no apparent reason may not enter a race at any association grounds in this state.

(k) In a purse race, there may not be more than two double entries at a distance of 3/8 mile or more, nor more than one double entry at a distance of less than

3/8 mile. An owner or trainer may not enter more than two greyhounds in a race, except a stakes or sweepstakes race. A double entry may not be entered until all single interest eligible for the performance are used. A double entry shall be uncoupled for wagering purposes.

(1) If the number of entries exceeds the number of greyhounds that may start in the race, the racing secretary shall determine which greyhounds shall start in the race.

(m) If a race does not fill and is declared off, the racing secretary shall conspicuously post the names of the greyhounds that had entered the race not later than 9 p.m. of the day the race is declared off.

§315.103. Eligibility to Enter or Start.

(a) A greyhound that is entered in a purse race shall start in the race, unless the greyhound is declared or scratched.

(b) A greyhound may not enter or start in a race if:

(1) the greyhound is disqualified from entry or start;

(2) a person owning or controlling an interest in the greyhound, or the spouse of such a person, is not eligible to participate in pari-mutuel racing;

(3) the greyhound has not been conditioned by a licensed trainer; or

(4) the greyhound is on the official schooling list or the veterinarian's list.

(c) A greyhound may not start in a race unless each person owning an interest in the greyhound or accepting a trainer's percentage, or having an interest in its winnings, at the time of entry into the race is licensed by the commission and the name of each person is registered with the racing secretary. In a stakes race, each owning an interest in the greyhound or accepting a trainer percentage, or having an interest in its winnings, must be licensed at the time of the race.

(d) A greyhound may not start in a race unless the greyhound has been fully identified.

(e) Except as otherwise provided by this section, a greyhound may not start in a race if any entry money, stakes, or arrears is owed to the association for the greyhound. If the racing secretary permits a greyhound for which all money due has not been paid to start in a race, the racing secretary is liable for the payment.

(f) A greyhound that is less than 12 months old may not start in a race other than a race conditioned for greyhounds of the same age.

§315.104. Sales and Transfers.

(a) If a greyhound is sold with any of its engagements, the seller cannot strike

the greyhound out of the engagements. If the sale is made by private contract, the written acknowledgement of both parties that the greyhound is sold with the engagements is necessary to entitle the seller or buyer to the benefit of this section. If certain engagements are specified, only those are sold with the greyhound.

(b) If a greyhound is sold at public auction, the advertised conditions of the sale constitute the agreement of the parties, and if certain engagements are specified, only those are sold with the greyhound.

(c) If a greyhound is sold with its engagements, the greyhound may not start in a stakes race unless the documents of the transfer has been shown to the racing secretary.

(d) The seller of a greyhound with engagements is liable for stake or forfeit if the engagements are not kept.

(e) If a greyhound is sold to a person who is not eligible to participate in pari-mutuel racing in this state, the greyhound's engagements are void as of the date of the sale.

§315.105. Sweepstakes.

(a) Except as provided by the published notice of a sweepstakes, entries and declarations for a sweepstakes which close during or on the eve of a race meeting, close at the racing secretary's office. Entries and declarations for a sweepstakes that closes at another time close at the association's office.

(b) An entry or declaration for a sweepstakes may not be received after the hour designated for closing. If an hour is designated, an entry or declaration may be mailed or sent by facsimile before midnight of the day of closing, provided the entry or declaration is received by the racing secretary with adequate time to comply with all other conditions of the race.

(c) A nomination for a sweepstakes received and postmarked before midnight of the day of closing is valid if it is received by the racing secretary at least 24 hours before the close of overnight entries.

(d) If an entry or declaration for a sweepstakes that was sent by mail or facsimile is not timely received, the person sending the entry or declaration must present to the racing secretary proof of the mailing or facsimile not later than 24 hours after the deadline for receipt of the entry or declaration. The racing secretary may not accept an entry or declaration for which proof is not submitted in accordance with this subsection.

(e) An entry in a sweepstakes is a subscription and may not be withdrawn.

§315.106. Liability for Entry Fee.

(a) The nominator of a greyhound is liable for the nominating, sustaining, and

starting fees for a race. The death of a greyhound, failure to start, or mistake in its entry when eligible, does not release the nominator, subscriber, or transferee from liability for the applicable fees. If the nominator transfers the entry, the nominator is liable for the applicable fees only if the transferee defaults.

(b) If a person who sells a greyhound with engagements or a person who transfers entries is compelled to pay arrears through the default of the purchaser or transferee, the person may place the amount on the forfeit list as due to the person from the purchaser or transferee.

(c) If a person is prevented from entering or starting a greyhound in a race because of arrears for which the person would not otherwise be liable, the person may pay the arrears, enter or start the greyhound, and place the amount of the arrears on the forfeit list as due to the person.

(d) With the prior approval of the racing judges, the racing secretary may waive the obligation to pay arrears by a person who has sold a greyhound with engagements or transferred entries.

§315.107. Payments of Entry Money.

(a) The entry money and starting and subscription fees for a race shall be paid in accordance with the conditions of the race.

(b) Except as otherwise provided by these rules or by order of a court of competent jurisdiction, an association may not pay any percentage of purses, entry, nominating, or starting fees, winnings, or earnings to a person other than the owner or trainer in whose name the greyhound was entered.

(c) A person with a claim against a greyhound, such as a mortgage, bill or sale, or lien, must file the claim with the racing secretary to be entitled to receive a portion of the greyhound's winnings. A claim filed under this subsection may be satisfied only by winnings earned after the claim was filed with the racing secretary.

(d) If a stakes race is not run for any reason, the association shall refund all nominating, sustaining, and entry fees paid, if any.

(e) In an emergency, an association may postpone or declare off a race or stakes race after giving adequate public notice. The association shall refund all subscriptions and declaration money for a race postponed or declared off under this subsection.

§315.108. Qualifying Time.

(a) An association shall establish qualifying times for all distances.

(b) A greyhound may race at a distance at which it qualifies. A greyhound that fails to meet the qualifying times may

not start in a race other than a futurity or stakes race.

(c) An association shall notify the executive secretary at least three days before the first day of a race meeting of the qualifying times established by the association. The association shall continuously post the qualifying times in a conspicuous place. A new qualifying time established during a race meeting takes effect, after approval by the racing judges, on the third day after the date the association posts the new time.

(d) The period for race qualifications of greyhounds may not exceed the period from the beginning of official schooling to one week before the last day of the race meeting.

§315.109. Declarations.

(a) The declaration of a greyhound out of a race is irrevocable.

(b) A declaration in a sweepstakes must be made to the racing secretary in the same manner as entries. The racing secretary shall record the day and hour the declaration is received and promptly publicize the declaration.

(c) A declaration in a purse race must be made by the owner, trainer, or authorized agent to the racing secretary at least one-half hour before the time designated for the drawing of post positions or the time designated by the racing secretary.

§315.110. Scratches.

(a) A greyhound may be scratched from a race only with approval of the racing judges.

(b) A scratch that occurs as a result of a violation of a racing rule carries a penalty and/or suspension of the greyhound for six race days. The racing judges shall review the cause for a scratch and may take disciplinary action. If a greyhound is scratched because the owner or trainer of the greyhound fails to have the greyhound at the track at the appointed time for weighing in, the racing judges may impose a penalty on the person responsible.

(c) If three or more greyhounds are withdrawn or scratched from a race, the racing judges may cancel the race.

(d) The racing judges may scratch a greyhound from a race for sufficient cause.

(e) A greyhound that is withdrawn from a race after the overnight entries are closed is considered a scratch and must be examined by the commission veterinarian before the first race of the performance in which the greyhound was scheduled to start.

§315.111. Schooling.

(a) A greyhound must be properly schooled at least twice in the presence of

the racing judge and must, in the opinion of the racing judges, be sufficiently experienced before the greyhound may be entered in a race. A greyhound that has not started in a race in the 10-day period immediately preceding a race must be officially schooled at its established weight at least once to be eligible to enter the race.

(b) An official schooling race must be the distance nearest to 5/16 mile in use at the racetrack.

(c) A greyhound that transfers from another pari-mutuel racing jurisdiction may start in a race without schooling if the greyhound has raced in an official race or official schooling race in the 10-day period immediately preceding the date of the race.

(d) To be official, at least six greyhounds must race in a schooling race, except by permission of the presiding racing judge. Leadouts must be used in an official schooling race, and the greyhounds must race at their established racing weight and start from the box wearing blankets. The association shall provide photofinish equipment for official schooling races.

(e) Hand schooling is not official schooling.

(f) The racing judges may place a greyhound on the official schooling list at any time. A greyhound on the official school list must be schooled officially and satisfactorily before being eligible to enter.

(g) If the racing judges determine that a greyhound has fallen or been involved in a serious jam in a race, the racing judges may require the greyhound to be schooled officially and satisfactorily before being eligible to enter.

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 August 2, 1990.

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Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆ Subchapter C. Race Procedures

• 16 TAC §§315.201-315.211

The Texas Racing Commission proposes new §§315.201-315.211, concerning race procedures at greyhound racetracks. The new sections describe the requirements for racing weight, changes in established weight, placement in lock-out, paddock to post, equipment, operation of lure, leaving the course, interference, no race, prize distribution in dead heats, and objections at a pari-mutuel greyhound race meeting.

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

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

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

Comments on the proposal may be submitted before September 4, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The new sections are 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.

§315.201. Racing Weight.

(a) Before a greyhound may school or race at a racetrack, the owner or trainer must establish the racing weight for the greyhound with the clerk of scales.

(b) Each greyhound entered in a race in a performance must be weighed in at least one hour before the post time for the first race of that performance.

(c) The greyhound's kennel owner, trainer, assistant trainer, kennel helper, or authorized agent of the owner shall deliver the greyhound to the weighing-in room in sufficient time to have the greyhound weighed in in accordance with this section.

(d) If a greyhound's weight at weigh-in varies from the greyhound's established racing weight by more than 1 1/2 pounds, the racing judges shall scratch the greyhound.

(e) If a greyhound's weight at weigh-in varies by more than two pounds from the greyhound's weight at weigh in for the greyhound's previous race, the racing judges shall scratch the greyhound.

(f) Except as otherwise provided by this subsection, if a greyhound at weigh-out has lost more than two pounds while in the lock-out kennel, the racing judges shall scratch the greyhound. If the commission veterinarian certifies that the greyhound's weight loss does not impair the racing condition of the greyhound, the racing judges may permit the greyhound to race.

(g) A greyhound that is scratched from a race because of overweight or underweight shall be suspended for six race days and must officially school before starting in a race. A greyhound scratched under this subsection may school during the term of the suspension.

§315.202. Changes in Established Weight.

(a) A kennel owner or trainer for a greyhound may change the established racing weight for a greyhound by filing a written request by the change and obtaining written consent of the racing judges. The greyhound may not race at the new weight before the fourth day after the date the racing judges, consent.

(b) A greyhound that is granted a change of more than one pound in established racing weight must school at least once at the new weight, and more if ordered by the racing judges, before being eligible to start at the new weight.

(c) A greyhound that has not schooled officially or raced for at least three weeks may establish a new racing weight, with written consent of the racing judges, and may be officially schooled immediately on receipt of the consent.

(d) The racing judges may weigh a greyhound entered in a race at any time after entry until post time for the race.

§315.203. Placement in Lock-out. Immediately after being weighed in, a greyhound shall be placed in the lock-out kennel under the supervision of the paddock judge. Only the paddock judge, commission veterinarian, kennel master, clerk of scales, leadout, racing judge, representative of the commission, or the kennel owner or trainer for a greyhound in the lock-out kennel may enter the lock-out kennel.

§315.204. Paddock to Post.

(a) A greyhound must be exhibited in the paddock before post time of the race in which the greyhound is entered.

(b) A greyhound may be led from the paddock to the starting box only by a licensed leadout provided by the association. The leadout shall place the greyhound in the proper box and retire to the assigned place. The association shall provide one leadout for each greyhound in the race.

(c) While leading a greyhound from the paddock to the starting box or returning from the starting box, a leadout may not converse with a patron or another leadout about a matter that is inconsistent with the performance of the leadout's duties.

(d) After the greyhounds have left the paddock for the starting box, the track gates shall be closed and, until the racing judges order the gates re-opened, only racing officials and necessary attendants may enter the track.

§315.205. Equipment. During a race, a greyhound must wear a muzzle and a blanket displaying the official program number for the greyhound.

§315.206. Operation of Lure. The racing judges shall closely observe the operation of the lure and hold the lure operator strict accountable for inconsistency in operation.

§315.207. Leaving the Course.

(a) If a greyhound bolts the course, runs in the opposite direction, or does not run the entire prescribed distance for the race, the greyhound forfeits all rights in the race. The racing judges shall determine the official finish of the race as if the greyhound was not racing.

(b) Notwithstanding this section, a greyhound that bolts the course, runs in the opposite direction, or does not run the entire prescribed distance for the race is considered a starter.

§315.208. Interference.

(a) If the racing judges determine that a greyhound may interfere with the running of the race because of an accident, failure to leave the starting box, or another reason, the racing judges may authorize an individual stationed along the racetrack to remove the greyhound from the racetrack.

(b) A greyhound removed from a racetrack under this section is considered a starter.

(c) If a greyhound is cited for interference by the racing judges, all films of the race shall be made immediately available for viewing by the kennel owner or trainer.

§315.209. No Race.

(a) If a race is marred by jams, spills, or racing circumstances other than accident to the equipment while a race is being run, and three or more greyhounds finish, the racing judges shall declare the race finished and official. If less than three greyhounds finish in such a race, the racing judges shall declare no race and all money wagered on the race shall be refunded.

(b) During a race, if the lure does not remain in advance of all the greyhounds at all times, or if a greyhound catches or passes the lure during a race, the racing judges shall declare no race and all money wagered on the race shall be refunded.

(c) During the running of a race, if a greyhound bolts the course or runs in the opposite direction of the running of the race, and the racing judges determine that the greyhound interfered with another greyhound in the race, the racing judges shall declare no race and all money wagered on the race shall be refunded.

(d) The racing judges shall immediately report a no race to the executive secretary or a designee of the executive secretary, and include a detailed explanation of the cause. Not later than five days after the date of a no race, the association may apply to the commission for a make-up race to replace the no race.

§315.210. Prize Distribution In Dead Heats.

(a) If two or more greyhounds finish a race in a dead heat, the prize and money to which those greyhounds would have been entitled had they not finished in a dead heat shall be divided equally among the greyhounds.

(b) If the owners who are to divide a prize cannot agree as to which owner is to have a non-divisible prize, such as a trophy, the presiding racing judge shall distribute the non-divisible prize by lot.

§315.211. Objections.

(a) An objection regarding a race must be made by an owner or the authorized agent of the owner, a trainer of a greyhound engaged in the race, or an official. An objection must be made to the racing judges, who may require that the objection be made in writing with a copy sent immediately to the executive secretary.

(b) The racing judges may require a cash deposit to cover the costs and expenses of determining an objection. The deposit may be forfeited if the objection proves to be without foundation.

(c) Except as otherwise provided by this subsection, an objection must be made to the racing judges not later than 72 hours after the race is run. An objection regarding the conduct of a greyhound during a race must be made before the official finish is displayed on the tote board. An objection to a decision of the clerk of scales must be made before the greyhounds leave the paddock for the post.

(d) Pending a decision on an objection, any money or prize to which a greyhound that is the subject of the objection would be entitled, shall be held until the objection is decided.

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 August 2, 1990.

TRD-9007774

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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



Chapter 319. Veterinary
Practices and Drug Testing

Subchapter C. Treatment of
Greyhounds

Veterinary Practices

• 16 TAC §319.201

The Texas Racing Commission proposes an amendment to §319.201, concerning racing soundness examination. The amendment describes what the examination may consist of and deletes the requirement of a report of the examination. The amendment also requires the commission veterinarian to perform the examination.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 to administer the Texas Racing Act.

§319.201. *Racing Soundness Examination.*

(a) The commission veterinarian [or a veterinarian designated by the commission veterinarian] shall observe each greyhound as it enters the lockout kennel and examine the greyhound when it enters the paddock before the race to determine the greyhound's health and soundness for racing.

(b) The examination may [must] include:

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

[(c) The veterinarian conducting the examination shall make a written report of the results of the examination and file the report with the commission veterinarian. The report must be made on a form prescribed by the commission veterinarian.]

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 August 2, 1990.

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Paula Cochran Carter
General Counsel
Texas Racing Commission

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

◆ ◆ ◆
• 16 TAC §319.202

The Texas Racing Commission proposes an amendment to §319.202, concerning veterinarian's list. The amendment requires the commission veterinarian to post the veterinarian's list in a conspicuous place and clarifies the types of greyhounds who may be placed on the list. The amendment also requires a trainer to file a report regarding racing-related injuries.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 to administer the Texas Racing Act.

§319.202. *Veterinarian's List.*

(a) The commission veterinarian shall maintain a veterinarian's list of the greyhounds that are determined to be unfit to compete in a race due to physical distress, unsoundness, or infirmity. The commission veterinarian shall insure that the veterinarian's list is posted in a conspicuous place available to all kennel owners, trainers, and officials.

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

(d) The entry of any greyhound on the veterinarian's list may first be accepted on the third day after the animal has been placed on the list. The commission veterinarian may require any greyhound to school after being examined and removed from the list before an entry for said greyhound may be accepted.

(e) Bitches in season or coming in season during the race meet shall be placed on the veterinarian's list and shall not be accepted for entry until re-examination by the commission and removal from the list by the commission

veterinarian. Said greyhounds will not be eligible for reexamination until the 21st day after being placed on the list.

(f) Each trainer shall be responsible for submitting to the commission veterinarian, on a form prescribed by the commission, documentation of any racing-related injury sustained by an animal in his/her care.

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 August 2, 1990.

TRD-9007772

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
• 16 TAC §319.203

The Texas Racing Commission proposes an amendment to §319.203, concerning inspection of kennels. The amendment clarifies the required contents of the commission veterinarian's report on the condition of the kennel buildings.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 to administer the Texas Racing Act.

§319.203. *Inspection of Kennels.*

(a) The commission veterinarian shall inspect [periodically] each kennel on association grounds where greyhounds are housed.

(b) The commission veterinarian shall file a written report on each inspection with the executive secretary [commission], on a form prescribed by the commission]. The report must include a statement of the kennel conditions or practices regarding:

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

(4) the sanitary conditions of kennels and turn-out pens;

(5) management [the segregation] of bitches in season;

(6) management [the segregation] of sick greyhounds;

(7) (No change.)

(8) presence of ectoparasites; and

(9)[(8)] other matters that the commission veterinarian considers necessary for corrective action by the kennel owner [attention by the commission].

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

Issued in Austin, Texas, on August 2, 1990.

TRD-9007771 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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



Subchapter C. Treatment of Greyhounds

Veterinary Practices

• 16 TAC §319.204

The Texas Racing Commission proposes new §319.204, concerning vaccination requirements. The new section requires an association to require vaccinations of the greyhounds at its facility, to have its vaccination and compound entrance requirements approved by the commission veterinarian, to maintain vaccination records, and to prohibit the admittance to the facility of a greyhound without proof of vaccinations.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. 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 before September 4, 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 to administer the Texas Racing Act.

§319.204. Vaccination Requirements.

(a) Each association shall safeguard the health of all greyhounds at its licensed facility by requiring a periodic vaccination of each greyhound against diseases deemed by the commission veterinarian to be communicable to other greyhounds at the facility. The vaccination and compound entrance requirements of each association shall be approved by the commission veterinarian.

(b) Records of vaccinations of all greyhounds shall be maintained by the association and shall be made available to the commission veterinarian.

(c) Greyhounds without proof of vaccination shall not be permitted entrance to racing facilities under any circumstances.

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 August 2, 1990.

TRD-9007770 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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



Subchapter D. Drug Testing Provisions for Greyhounds

• 16 TAC §319.391

The Texas Racing Commission proposes an amendment to §319.391, concerning testing of greyhounds. The amendment clarifies the authority of the commission and the racing judges to obtain specimens of body fluids from greyhounds involved in pari-mutuel racing and to test the specimens for prohibited medications and other substances.

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 that pari-mutuel greyhound racing will be safe and humane for the greyhounds. It is not possible at this time to determine the effect on small businesses because the associations may use uncollected winnings to pay for drug testing. The amount of uncollected winnings will depend on the amount wagered at the racetrack. 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 September 4, 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 to administer the Texas Racing Act.

§319.391. Testing of Greyhounds.

(a) Urine, blood, or other specimens shall be taken and tested from any greyhounds the racing judges, commission veterinarian, or commission's representative may designate. The specimen shall be collected by the commission veterinarian or his/her designee. [The racing judges shall order specimens collected for testing under this subchapter in accordance with this section.]

(b) Nothing in these rules shall be construed to prevent:

(1) any greyhound in any race from being subjected by the order of a racing judge or the commission veterinarian to tests of body fluid samples for the purpose of determining the presence of any foreign substances;

(2) the judges or the commission veterinarian from authorizing the splitting of any sample; or

(3) the commission veterinarian from requiring body fluid samples to be stored in a frozen state for future analysis [A specimen shall be collected from each greyhound that finishes first or second in a race and, for each race, from a greyhound selected at random by the racing judges].

[(c) In addition to greyhounds designated under subsection (b) of this section, a specimen shall be collected from the following greyhounds:

[(1) a beaten favorite; and

[(2) any other greyhound designated for cause by the racing judges or the commission veterinarian.

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 August 2, 1990.

TRD-9007769 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: September 10, 1990

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



TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Chronically Ill and Disabled Children's Services

• 25 TAC §37.90

(Editors Note: Due to technical difficulties the subitems contained in §37.90 were not printed in the July 17, 1990, issue of the Texas Register (15 TexReg 4090). Therefore, this proposed new section is being reprinted in its entirety for clarification purposes.)

The Texas Department of Health proposes new §37.90, concerning chronically ill and disabled children's services. The section covers approved providers and facilities. The new section amends existing criteria and procedures for program cleft/craniofacial centers/teams for program reimbursement; and will add the criteria and procedures for bone marrow transplant centers and cardiac outreach clinics to become approved for program reimbursement.

Stephen Seale, Chief Accountant III, 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. Seale also has determined that for each year of the first five years that the section will be in effect the public benefit will be that the program is able to recognize bone marrow transplant centers, cardiac outreach clinics, and cleft/craniofacial centers/teams which are designated for program use for diagnosis and treatment of program specified diagnoses. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. There also will be no effect on local employment.

Comments on the proposal may be submitted to John E. Evans, Chief, Bureau of Chronically Ill and Disabled Children's Services, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7355. Public comments will be accepted for 30 days after this proposed section has been published in the *Texas Register*.

The new section is proposed under Health and Safety Code, §35.005, which provides the Texas Board of Health with the authority to adopt rules concerning medical, financial, and other criteria for eligibility to receive services under the Chronically Ill and Disabled Children's Services Program; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§37.90. *Approved Providers and Facilities.* All approved providers must agree to abide by program rules and regulations, to accept program fees as payment in full, and not to discriminate against patients on the basis of insurance or Medicaid status. The following groups of providers must be processed through an application process to determine their desire to participate within the program's rules as approved by the board and to determine their qualifications in relation to the criteria for participation as decided by the board.

(1) Physicians, dentists, and podiatrists. To be approved for program participation the person must submit a fully completed application and attach the documents as requested on the form.

(A) Criteria. To be approved for program participation, a person must:

(i) have a Texas medical/dental/podiatric practice license;

(ii) have practiced in Texas for a minimum of one year;

(iii) be certified by the American Board of Medical Specialties, the American Osteopathic Association Specialty Boards, or by American Dental Specialty Boards, or American Board of Pediatric Surgery in the specialty area in which the physician/dentist/podiatrist will participate in the chronically ill and disabled children's (CIDC) services;

(iv) an active provider with the Texas Medicaid program and agree to accept Medicaid payment;

(v) agree to abide by the rules of the CIDC Services;

(vi) agree to allow on-site visits and/or audit privileges to program staff; and

(vii) accept responsibility for actions of their staff performed in behalf of the provider.

(B) Procedures.

(i) Applications will be reviewed by the program to assure that:

(I) all parts of the application form have been completed, including a signature and date;

(II) all of the eligibility criteria have been met;

(III) copies of documents verifying the applicant's American board or sub-board certification and state practice license are attached; if no sub-board exists for a specialty area, documentation of the applicant's training and curriculum vitae must be attached.

(ii) Review of the application will result in approval or denial. An incomplete application will be returned to the applicant with explanation of information required. The program may consider a temporary approval status when geographic need for services exists. The one-year practice requirement may be waived in extenuating circumstances.

(I) Physicians/dentists/podiatrists who are board eligible, but not yet board certified must meet the following criteria in order for a temporary approval to be considered:

(-a-) have completed their specialty training; and

(-b-) are fully eligible for certification by the American specialty boards but are awaiting completion of board examinations.

(II) Temporary approval shall be granted for a 12-month period and may be renewed pending satisfactory progress, as determined by the program, toward completion of the board examination.

(iii) Within 15 days of the program's receipt of the provider application, a letter will be sent to the applicant stating the result of the review process.

(iv) Any physician/dentist/podiatrist who disagrees with the result of the program's review may appeal the decision through one of the following processes:

(I) administrative review;

(II) review by the program's General Advisory Committee; and/or

(III) due process hearing as set forth in §37.96(a)(2) of this title (Relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(C) Update activities. In an effort to maintain the accuracy and currency of provider information, the program will formally update its listing of approved providers at least once every year. Those providers that have not received any program payment for services rendered during the previous two-year period will be given the option of withdrawing from program approved status, becoming inactive, or updating information to remain active. If updated information is not received within 60 days of the date of notification, the provider will be considered inactive. This action will not remove a provider's approval, but reinstatement to active status

will be made at the provider's request as soon as current information is given to the program.

(i) Updated information may include, but is not limited to, the following:

(I) current address, telephone number, and state comptroller's vendor identification number;

(II) name(s) of those hospitals where current privileges are held;

(III) notification of any additional specialty medical or dental board certifications with supporting documents attached; and

(IV) a copy of the current license to practice medicine or dentistry in Texas.

(ii) The provider will be given a current copy of program rules to review at the time reinstatement is requested.

(2) Hospitals.

(A) Criteria. The criteria for hospital approval includes, but is not limited to:

(i) current approval by the Joint Commission on Accreditation of Health Care Organizations;

(ii) location within Texas, unless as provided in §37.86(g) of this title (relating to Authorization of Services);

(iii) program approved medical staff sufficient to meet anticipated program case load;

(iv) a definable pediatric unit or facilities, equipment, and qualified staff necessary to meet the special needs of program eligible patients, as determined by the program;

(v) on-site visits and/or audit privileges to program staff.

(B) Procedures.

(i) Applications will be reviewed by the program to assure that:

(I) all parts of the application form have been completed including a signature and date;

(II) all of the eligibility criteria have been met; and

(III) copies of documents have been provided verifying program approved medical staff as well as facilities available at the hospital to meet approval criteria.

(ii) Review of the application will result in approval or denial. An incomplete application will be returned to the applicant with explanation of information required. The application may be resubmitted with required documentation for reconsideration.

(iii) Within 15 days of the program's receipt of the provider application, a letter will be sent to the applicant stating the result of the review process.

(iv) Any hospital that disagrees with the result of the program's review, may appeal the decision through one of the following processes:

(I) administrative review; or

(II) review by the program's General Advisory Committee; and/or

(III) a due process hearing as set forth in §37.96(a)(2) of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(C) Update activities. In an effort to maintain the accuracy and currency of provider information, the program will formally update its listing of approved hospitals at least once every year. Those providers that have not received any program payment for services rendered during the previous two-year period will be given the option of withdrawing from program approved status, becoming inactive, or updating information to remain active. If updated information is not received within 60 days of the date of notification, the provider will be considered inactive. This action will not remove a provider's approval, but reinstatement to active status will be made at the provider's request as soon as current information is given to the program.

(i) Updated information may include, but is not limited to, the following:

(I) current address, telephone number, state comptroller's vendor identification number, and current administrator;

(II) additional program approved medical staff;

(III) additional qualified staff or facilities available; and

(IV) updated approval by Joint Commission on Accreditation of Health Care Organizations.

(ii) The provider will be given a current copy of program rules to review at the time reinstatement is requested.

(3) Ambulatory surgical care (ASC) facilities.

(A) Ambulatory surgery services may be utilized by the program as a cost efficient means as long as quality of care is assured. Any hospital approved for program participation whose Joint Committee on Accreditation of Health Care Organizations accreditation includes hospital-sponsored ambulatory care services may be utilized for ambulatory surgery. However, freestanding facilities, even if governed or affiliated with an approved hospital, must apply for program approval. The program may contract with a limited number of facilities to assure program cost containment. For approval to participate in the CIDC Program, a freestanding ambulatory surgical care facility must meet the following criteria.

(i) State licensure requirements. Facilities must meet state licensure requirements in accordance with for ambulatory surgical centers in accordance with §§135.1-135.27 of this title (relating to Operating Requirements for Ambulatory Surgical Centers).

(ii) Medicare certification. Facilities must meet Medicare standards in accordance with Part II, Department of Health and Human Services, Health Care Financing Administration, 42 Code of Federal Regulations, Parts 405 and 416, relating to Medicare Program; Ambulatory Surgical Services, published in the *Federal Register*, Volume 47, Number 151, August 5, 1982.

(iii) Pediatric equipment. Pediatric facilities must have available all necessary pediatric equipment including operating room, surgical tools, resuscitation apparatus, pharmaceutical services, beds, and other supplies that are appropriate for children.

(iv) Staff requirements. Staff must be as follows.

(I) CIDC approved surgical staff must perform the surgical procedures.

(II) A board certified anesthesiologist must be in the operating room and present for the induction of anesthesia and at the time of completion of anesthesia, on the premises (immediately available) at the time of surgical procedure and until the patient leaves the facility.

(III) An R.N. with documented clinical pediatric experience must be on the premises at all times while the patient is in the facility.

(v) Risk management principles. The facility must apply risk management principles to all patient care.

(vi) Patient transfer. The facility must have patient transfer agreements with CIDC approved hospitals in the area.

(B) Centers are required to submit documentation of the criteria, as set out in subparagraph (A)(i)-(v) of this paragraph, in writing to the CIDC Bureau through an application process in accordance with subparagraph (D) of this paragraph.

(C) CIDC reimbursement for care at freestanding ambulatory surgical care facilities will be limited to:

(i) children 24 months of age or older; and

(ii) surgical procedures designated as ASA (American Society of Anesthesiologists) Level I and II.

(D) Application procedures will be as follows.

(i) Applications will be reviewed by the program to assure that:

(I) all parts of the application form have been completed including a signature and date;

(II) all of the criteria for program participation have been met; and

(III) copies of documents have been provided verifying facility state licensure, Medicare certification, and patient transfer agreements with CIDC approved hospitals.

(ii) Review of the application will result in approval or denial. An incomplete application will be returned to the applicant with explanation of information required. The application may be resubmitted with required documentation for reconsideration.

(iii) Within 15 days of the program's receipt of the provider application, a letter will be sent to the applicant stating the result of the review process.

(iv) Any ambulatory surgical care facility who disagrees with the result of the program's review may appeal the decision through one of the following processes:

(I) administrative review; or

(II) review by the program's General Advisory Committee; and/or

(III) a due process hearing in accordance with the requirements in §37.96 of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(E) In an effort to maintain the accuracy and currency of provider information, the program will formally update its listing of approved ambulatory surgical care facilities at least once every year. Those providers that have not received any program payment for services rendered during the previous two-year period will be given the option of withdrawing from program approved status, becoming inactive, or updating information to remain active. If updated information is not received within 60 days of the date of notification, the provider will be considered inactive. This action will not remove a provider's approval but reinstatement to active status will be made at the provider's request as soon as current information is given to the program.

(i) Updated information may include, but is not limited to, the following:

(I) current address, telephone number, state comptroller's vendor identification number, and current administrator;

(II) current listing of program approved medical staff;

(III) current listing of qualified staff or facilities available; and

(IV) Medicare certification status.

(ii) The provider will be given a current copy of program rules to review at the time reinstatement is requested.

(4) Specialty centers. Such facilities must meet specific criteria as set forth by the program. Lists of facilities which are approved for program participation may be obtained from the program.

(A) Inpatient rehabilitation centers.

(i) Criteria. The criteria for inpatient rehabilitation facility approval includes, but is not limited to, the following.

(I) The facility will have current accreditation by either the

Joint Commission on Accreditation of Health Care Organizations (JCAHCO) as a comprehensive physical rehabilitation program or Commission on Accreditation of Rehabilitation Facilities (CARF) as a comprehensive inpatient rehabilitation program.

(II) The facility will be located within Texas.

(III) CIDC Program staff will have on-site visits and/or audit privileges.

(IV) A physician as medical director who is CIDC approved and demonstrates experience in rehabilitation will be available.

(V) For units with patients less than 14 years old, a designated pediatrician will be available to participate in direct patient care and consultation regarding the rehabilitation unit's pediatric patients. This physician will be either certified or eligible for certification by the American Board of Pediatrics.

(VI) When pediatric patients (patients less than 14 years old) are receiving inpatient treatment, the unit will have at least one registered nurse with pediatric training or experience available to the unit at all times.

(VII) For units with patients less than 14 years old, a nutritionist (minimum registered dietitian) preferably with experience in evaluation and counseling children with chronic illness, will be on staff or available for consultation in order to provide nutrition services.

(VIII) For units with patients less than 14 years old, the unit-facility will have at least one recreational area or playroom with age appropriate and safe materials for patients who are at different stages in rehabilitation; the play area should be bed and wheelchair accessible.

(IX) For units with patients less than 14 years old, the unit will have specialized age-appropriate equipment necessary for day-to-day provision of care.

(X) The facility will make arrangement for/provide appropriate educational services for children in the rehabilitation unit.

(XI) It is recommended that psychological services be available.

(ii) Procedures.

(I) Applications will be reviewed by the program to assure that:

(-a-) all parts of the application form have been completed including a signature and date;

(-b-) all of the eligibility criteria have been met; and

(-c-) copies of documents have been provided verifying program approved medical staff as well as facilities available at the hospital to meet approval criteria.

(II) Review of the application will result in approval or denial. An incomplete application will be returned to the applicant with explanation of information required. The application may be resubmitted with required documentation for reconsideration.

(III) Within 15 days of the program's receipt of the provider application, a letter will be sent to the applicant stating the result of the review process.

(IV) Any facility who disagrees with the result of the program's review, may appeal the decision through one of the following processes:

(-a-) administrative review; or

(-b-) a due process hearing as set forth in §37.96(a)(2) of this title (relating to Development and Improvement of Standards and Services).

(iii) Update activities. In an effort to maintain the accuracy and currency of provider information, the program will formally update its listing of approved facilities at least once every year. Those providers that have not received any program payment for services rendered during the previous two-year period will be given the option of withdrawing from program approved status, becoming inactive, or updating information to remain active. If updated information is not received within 60 days of the date of notification, the provider will be considered inactive. This action will not remove a provider's approval but reinstatement to active status will be made at the provider's request as soon as current information is given to the program.

(I) Updated information may include, but is not limited to, the following:

(-a-) current address, telephone number, state comptroller's vendor identification number, and current administrator;

(-b-) additional program approved medical staff;

(-c-) additional qualified staff or facilities available; and

(-d-) updated approval by JCAHCO or accreditation from CARF.

(II) The provider will be given a current copy of program rules to review at the time reinstatement is requested.

(B) Cleft/craniofacial (C/C) centers. To assure that eligible children with craniofacial anomalies, including cleft lip palate, receive quality comprehensive services, the following minimum standards for C/C teams have been established. The standards are based on guidelines recommended by the American Cleft Palate Association and draft material developed by the North Carolina Crippled Children's Program and the Illinois Department of Health. These standards must be met by C/C teams requesting approval from the CIDC Program.

(i) Approval process. All C/C teams must submit a completed CIDC C/C provider application form as specified by the CIDC Program. Applicants meeting the criteria outlined in the guidelines of this subparagraph will receive CIDC Program approval for a maximum of three years. Applications may include an application form, provider agreements, resumes of active team participants, and a description of team composition and process.

(ii) Administrative responsibilities of the C/C team.

(I) Coordination. The administrator of the C/C team is clearly identified and must assure that the following activities are accomplished:

(-a-) specify the mechanism for accepting referrals and providing community and patient education;

(-b-) schedule meetings of the C/C team members and scheduling patient appointments;

(-c-) summarize the C/C team's decisions;

(-d-) assist patients with CIDC Program eligibility requirements;

(-e-) assure confidentiality;

(-f-) submit an annual report with content as specified by the CIDC Program (due 30 days after the end of the state fiscal year);

(-g-) request required authorization for covered services from the CIDC Program;

(-h-) maintain centralized records;

(-i-) maintain communication (including C/C team reports) with the patient's local physician/dentist and other local resources involved in order to facilitate interim and follow-up care; and

(-j-) assure that the team abides by the CIDC Program rules and regulations.

(II) Records management. A system for maintaining a centralized record for each eligible CIDC patient must be in place. Each patient's record must include:

(-a-) a medical history and physical;

(-b-) a social assessment;

(-c-) other C/C team member assessments;

(-d-) a summary of the C/C team's decisions; and

(-e-) a treatment plan including all planned C/C team procedures and any follow-up procedures to be provided by other professionals and agencies.

(III) C/C team patient reviews.

(-a-) Frequency. Each child must be discussed by the C/C team in a joint meeting at least one time per year; on the recommendation of the C/C team, some single cases, after six or seven years of age, may be seen every other year.

(-b-) Location. The team will physically meet in a clearly identified location for patient review meetings.

(-c-) Required attendance. A representative from surgery, dentistry, and speech pathology must be present at team patient review meetings but reports from all involved team members (a minimum of all required active participants for comprehensive C/C teams) should be available.

(iii) Rights of patients. A CIDC Program approved C/C team recognizes the rights of eligible patients. All members of the C/C team are expected to:

(I) inform parents/guardians or adult patients of the complete information concerning diagnosis, treatment, and prognosis; and

(II) insure that parents/guardians or adult patients participate in decisions involving the patient's care including development of the treatment plan.

(iv) Composition of a comprehensive C/C team.

(I) Required active participants.

(-a-) A comprehensive C/C team must be composed of the following active participants (only active participants representing surgery, dentistry, and speech pathology are required to attend C/C team patient review meetings):

(-1-) a plastic surgeon and/or an oral surgeon;

(-2-) an otolaryngologist;

(-3-) a primary care physician designated by the patient/family;

(-4-) an orthodontist and/or a pediatric dentist (one of these team members should have experience in prosthodontics);

(-5-) a licensed speech language pathologist (master's level);

(-6-) a case manager (either a social worker (MSW) or a registered nurse); and

(-7-) a patient educator (the case manager may also assume this role).

(-b-) The required active team participants must be able to see patients in the same city with the exception of the primary care physician who may or may not see the patient in the same city as the other active C/C team participants. Despite this exception, the primary care physician is still required to attend and/or submit reports to the C/C team patient review meeting(s).

(-c-) Although there may be several health care providers in the same category designated as active C/C team participants (e.g. more than one plastic surgeon, more than one case manager), each patient seen by the C/C team should be seen by a group of C/C team members who consistently interact with the patient and who are responsible for monitoring and coordinating the patient's treatment plan and follow-up.

(II) The following team participants/services must be readily available to serve patients in the same city as the required active participants. These C/C team participants or participants providing these services must agree to ac-

tively participate with the C/C team as required according to individual patient needs. These participants must attend and/or submit reports to the C/C team patient review if they have involvement with the patient:

(-a-) a pediatric dentist (if not already designated as a team member);

(-b-) a licensed audiologist (master's level);

(-c-) neurology;

(-d-) neurosurgery;

(-e-

) ophthalmology;

(-f-) radiology (should be board certified but CIDC Program approval not required);

(-g-) genetic counseling;

(-h-) nutritional

counseling; and

(-i-) psychology.

(III) Physicians and dentists must be approved as CIDC Program providers, with the exception of radiologists.

(v) Diagnostic procedures. An approved C/C team must have available the following diagnostic procedures:

(I) multiview videofluoroscopy;

(II) fibroptic nasopharyngoscopy;

(III) cephalometrics;

and

(IV) CT and three-dimensional reconstruction (only required for C/C teams managing craniofacial anomalies).

(vi) Case coordination.

(I) Each member of the C/C team, in cooperation with other members of the C/C team, shall be responsible for his/her specific area of management.

(II) The case manager will be responsible for the coordination of services for each patient. Each patient should have only one case manager. The case manager should assure that the focus of the service is patient and family oriented and that a comprehensive treatment plan is jointly developed by the patient/family and C/C team. A copy of the plan shall be given

to the family, referring physician, and upon request, to the TDH regional social worker. The plan should include specific treatments and time frames for all disciplines and agencies involved. The case manager must assure that the patient is seen by only one team.

(III) When appropriate, a CIDC Program approved physician, in the child's home community, should be designated for follow-up and emergencies.

(IV) Some care, other than surgery, may be delivered by providers other than the named C/C team members. These providers may be from a different geographic area than the C/C team. However, there must be communication between the independent providers and the C/C team, and services must be consistent with the C/C team treatment plan. All providers must meet CIDC Program guidelines in accordance with this section. The plan should be monitored by the C/C team who will provide appropriate follow-up.

(V) Communication, including C/C team reports, must be maintained with the patient's local physician/dentist and other local resources involved in order to facilitate interim and follow-up care. If a patient moves to another part of the state, the C/C team should inform the patient and his/her family of the C/C team closest to the family's new place of residence and inform the C/C team of the patient's relocation in order to assure continuity of care.

(vii) Statewide coverage.

(I) Affiliated C/C team approval.

(-a-) To facilitate statewide coverage, affiliated C/C teams may be approved. An affiliated C/C team must meet the criteria in clauses (i)-(iii), (vi), and (viii) of this subparagraph. All of the members must meet the CIDC Program provider enrollment requirements of this section. Affiliated C/C teams must be composed of a minimum of:

(-1-) a surgeon specializing in plastic surgery, oral surgery, or otolaryngology;

(-2-) an orthodontist or a pediatric dentist;

(-3-) a licensed speech language pathologist (master's level); and

(-4-) a case manager (either a social worker (MSW) or a registered nurse).

(-b-) An affiliated C/C team must consult with and coordinate treatment plan development with a comprehensive C/C team(s) according to individual patient needs. This coordination for comprehensive care must be documented in the patient's record.

(-c-) In the application process, an affiliated C/C team must specify the comprehensive C/C team(s) with which it is linked. A letter of agreement between the two or more C/C team(s) must accompany the application. The letter must verify the linkage between the two or more C/C teams and must specify the following:

(-1-) the method of communication and consultation; and

(-2-) the arrangements for provision of the diagnostic procedures specified in clause (v) of this subparagraph.

(II) Corresponding members.

(-a-) Any CIDC Program provider can be a corresponding member of a C/C team for the purpose of interim and follow-up care.

(-b-) A corresponding member must work in full compliance with the treatment plan established by the comprehensive C/C team.

(-c-) Regular communication between the C/C team and the corresponding member must occur.

(viii) Implementation.

(I) Comprehensive C/C teams and affiliated C/C teams shall be designated by October 1, 1990. After January 1, 1991, only approved C/C teams will be reimbursed for invasive procedures by the CIDC Program. Corresponding members may be reimbursed by the CIDC Program for non-invasive follow-up and interim care only.

(II) The final decision regarding approval will only be made when the CIDC Program has carefully reviewed the documentation submitted, and has been convinced that the applying C/C team is capable of meeting the standards in this subparagraph. For C/C teams with one or more deficiencies noted in their application a time frame will be specified for the correction of the deficiencies. C/C team approval and interim reimbursement will be dependent on the nature of the deficiency

and the ability of the C/C team to correct it within the time frame specified. Once the C/C team has been approved, its ongoing approval will only depend on its demonstrated ability to continue to maintain the high standards expected. This ability will be verified through CIDC Program required reports and documentation. In addition to required reports and documentation, the CIDC Program may verify compliance with standards in this subparagraph through site visits.

(C) Cardiac outreach clinic guidelines. These guidelines are subject to review and periodic revision by CIDC Program staff and the Cardiovascular Advisory Committee (CVAC).

(i) Definition and purpose of a CIDC Program approved cardiac outreach clinic.

(I) A cardiac outreach clinic is a primary or secondary level health care facility adequately equipped and staffed by local and secondary or tertiary level (outreach) staff who perform the following functions:

(-a-) assessment and screening of patients for cardiac disease;

(-b-) identification and referral of patients with cardiac disease to the appropriate closest tertiary center for definitive diagnostic procedures and, if needed, surgery; and

(-c-) clinic management of patients with heart disease to include development of a care/service plan, tracking, and periodic follow-up and coordination with local case management services providers if available.

(II) The clinic must meet a recognized need of the community and surrounding geographic area. The clinic must be located a significant distance from tertiary centers of health care. The distance is such that routine travel to the tertiary center(s) for the services described in subclause (I) of this clause is an unreasonable expectation for the volume of local patients in need of such services; thus, the distance represents a barrier to quality health care for the community.

(ii) Staff.

(I) The outreach clinic must have the following staff as a minimum:

(-a-) a coordinator who shall be capable of processing referrals, scheduling appointments, coordinating clinics if more than one exists, and tracking patients if follow-up is necessary. It is strongly encouraged that the coordinator be locally based. If the clinic coordinator is not

locally based, the clinic coordinator must communicate regularly (more frequently than the clinic frequency) with all local clinic staff involved with the cardiac clinic to insure that all of the coordinator's functions/responsibilities are fulfilled;

(-b-) an outreach physician who shall be a CIDC Program approved pediatric cardiologist who is responsible for supervising the cardiac outreach clinic, conducting the patient assessment, screening, developing the patient's individualized care plan, making appropriate recommendations for referral when necessary, sending a follow-up letter to the referral source, and maintaining appropriate medical records on the patients. The CIDC Program CVAC will review any request for exception to the preceding criteria for the outreach physician. It is strongly recommended that outreach physicians come from secondary or tertiary centers in closest geographic proximity to the community for ease of access;

(-c-) a nurse who shall be a minimum LVN with at least one year of clinical pediatric experience, either locally based or outreach. The nurse must be on site at the time of the physician exam; and

(-d-) a social worker (optional but strongly encouraged) who shall be certified by the Texas Department of Human Services, and is either locally based or outreach. If the outreach clinic does not have a social worker, the clinic must identify patients in need of social work services and refer them to local case management services providers, if available, or the Texas Department of Health regional social work staff. The social worker, if available, must be on site at the time of the physician exam.

(II) All clinic staff must coordinate (share information) as requested with local case management services providers, if available.

(iii) Facility/equipment.

(I) The outreach clinic facility must have the ability to obtain adequate supplies, space, and equipment for the following:

(-a-) measuring vital signs on the smallest to largest child. An electronic blood pressure device must be available;

(-b-) performing weights and measures on all children; and

(-c-) obtaining acceptable EKG's and chest x-rays on all children.

(II) The clinic must be able to obtain routine lab work. It is encouraged that local resources for equipment be used when available.

(III) The clinic should be held where adequate examination facilities and record processing and storage facilities are available. Details on clinic setting standards may be obtained from the document titled "Generic Standards for Health Care" developed by the Texas Department of Health in June, 1988, which the department adopts by reference. These standards are available from the Texas Department of Health Associateship for Community and Rural Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. The key criteria for clinic setting as described in the department publication entitled "Generic Standards for Health Care" are as follows.

(-a-) The clinic shall be accessible to the target population.

(-b-) Clinic services shall be provided in a setting designed to ensure comfort, safety, and privacy of the patient, and to expedite the work of the staff.

(iv) Services.

(I) Routine outreach clinic services must include history and physical exam, standard lab, EKG, and chest x-ray. Echocardiography may be performed if the results are of acceptable quality for pediatric patients and reviewed and interpreted by the cardiologist responsible for the clinic. In addition, each patient identified with heart disease and referred by the clinic to a secondary or tertiary center shall have an individualized care plan developed. The outreach clinic staff shall work in conjunction with the patient, family, the referral source, and the secondary or tertiary center to develop the plan. The clinic staff are responsible for tracking patients if follow-up is required in the plan of care. Clinic services shall be integrated into the patient's overall service needs through clinic staff cooperation and sharing of information with local case management services providers (if available). The clinic must address Spanish speaking/bilingual needs and, in general, be culturally sensitive in the provision of services.

(II) The following clinical services shall not be approved or reimbursed by the CIDC Program at cardiac outreach clinics; echocardiography (unless clinic approval is given, see subclauses (III) and (IV) of this clause); exercise testing; catheterization; and surgery.

(III) For echocardiograms to be considered for approval and reimbursement, the following information must be submitted with the clinic proposal/application (see clause (xi) of this subparagraph):

(-a-) the names and credentials of who will review and interpret the echocardiograms; and

(-b-) the type of echocardiography equipment that will be used and its suitability for pediatric patients.

(IV) Echocardiography should be used selectively for well defined indications and must not be used as routine screening. CIDC Program approval and reimbursement for echocardiography services are subject to periodic review.

(v) Patient volume/percent of patient volume that is CIDC Program eligible. The anticipated outreach clinic patient volume must be projected when documenting the need for the clinic (see clause (xi) of this subparagraph). A minimum of 50% CIDC Program eligibles must be projected. Clinic referrals may be accepted from all sources, including self-referral.

(vi) Records management. The clinic shall have an organized patient record system. The records shall be confidential and secure and available to the patient upon request with a signed release of information. A complete and accurate record of each patient's health care shall be maintained. The clinic shall implement a policy which delineates guidelines for the release of confidential information. Information collected for reporting purposes shall be disclosed only in summary, statistical, or other forms which do not identify particular individuals. The clinic shall have a written policy regarding retention and proper disposal of patient records. Further details on these standards may be obtained from the department publication entitled "Generic Standards for Health Care."

(vii) Patient's rights. The outreach clinic shall assure confidentiality of patient information. Facilities within the clinic will be arranged or designed so that services shall be provided in a manner that protects the dignity and privacy of the patient. The clinic will provide services in a timely manner. The clinic shall provide services in a non-discriminatory manner. Services for patients not CIDC Program eligible may be billed on a sliding scale according to income guidelines. The clinic shall have a written policy that guarantees services to patients regardless of their ability to pay. Individuals may not be coerced into services, nor must participation in one service/program be an eligibility requisite for another. The clinic shall provide services in such a way that they can be understood by the patient. Further details on these standards may be obtained from the department publication entitled "Generic Standards for Health Care."

(viii) Tracking/follow-up.

(I) Tracking of patients who require follow-up visits must be done at the local outreach clinic level. This tracking process involves updating of information on the patients' location and compliance record. This information must be communicated to the base center of the outreach physician. Tracking of patients' whereabouts and compliance must be a concerted effort of the clinic in order to ensure continuity of care. Should a patient move out of the service area of the clinic, an attempt should be made to provide the patient and family with information on what services are available in the area where they are relocating. Follow-up on services provided is also an important aspect of the clinic service delivery. The clinic should have a system in place for the active determination of the effectiveness of services provided and adjustment of the plan of care when needed to maximize the patient's benefit.

(II) The clinic will have an organized tracking system to monitor patients' health status and use of the health care system. The following tracking system requirements are adapted from the department publication entitled "Generic Standards for Health Care." The system shall:

(-a-) schedule patient contacts at regular intervals according to program guidelines/protocols, and coordinate with other services/opportunities needed;

(-b-) monitor broken appointments and put in place a system to follow-up for rescheduling;

(-c-) alert staff for follow-up of conditions identified as priorities for care; and

(-d-) track referrals made to other providers/agencies.

(ix) Community interaction.

(I) For CIDC Program approval/funding of the clinic, the local community, including the local/county medical society, must support the need for the clinic (see clause (xi) of this subparagraph). Within the first three months of CIDC Program funding, the local community, including local physicians, community service groups, and the general public, must be informed about the clinic setup and availability. The clinic must be integrated into the local health care system. The clinic staff must submit a report (to include patient numbers, services rendered, diagnoses, etc.) at least annually to the local/county medical group.

(II) The outreach clinic physician must communicate with the local/primary physician or referral source

concerning the patient's history, physical exam, and diagnosis and must involve the local physician in the development of the patient's treatment/service plan. Local physicians must be encouraged to participate in the clinic.

(III) The outreach clinic physician and cardiac clinic staff should provide continuing education in the areas of diagnosis, evaluation, and treatment of patients with suspect and confirmed cardiovascular disease for local physicians and other community professionals involved with the clinic patient population.

(IV) The outreach clinic will coordinate its services with other community activities in an effort to facilitate the public's access to the clinic and other community services and to prevent duplication of services.

(V) If local pediatric cardiology expertise becomes available which meets the needs expressed in the outreach clinic proposal and is community supported, then the outreach clinic staff should plan and implement a phasing out of their services in coordination with the local providers.

(x) Evaluation (these criteria are adapted from the department's publication entitled "Generic Standard for Health Care").

(I) The outreach clinic will have a plan for internal review and evaluation of its services to assure the provision of quality services in compliance with the CIDC Program/clinic standards.

(II) The outreach clinic will submit reports to the CIDC Program (at least annually). The format and content of these reports will be specified by the CIDC Program and will be used as a paper audit to assure that the clinic is performing in accordance with this subparagraph. The CIDC Program will be permitted to conduct on-site visits to evaluate the clinic's adherence to the guidelines in this subparagraph. The on-site visits will be conducted when deemed necessary by the CIDC Program. The outreach clinic staff will typically be given two weeks notice and will be consulted for scheduling purposes.

(xi) Outreach clinic application process for initial and continued approval. The CIDC Program will use the following process to determine initial approval of cardiac outreach clinics. Every three years a CIDC Program approved cardiac outreach clinic must resubmit an application proposal for consideration of continued approval. In addition to the

application proposal, the CIDC Program will review the clinic's annual reports and any on-site visit information available. If the clinic no longer meets the guidelines, approval may be discontinued. If concerns exist regarding quality of care, staff, facility, or justification issues, CIDC, with input from the CVAC, shall decide the status of the clinic until corrective action is taken; the recommended corrective action; the time frame for corrective action to occur; and the re-evaluation process. The CIDC Program will inform the clinic as to whether or not approval is continued.

(I) Proposal/application. Physicians of the local community to which outreach is planned must submit the proposal for the outreach clinic to the CIDC Program through the Texas Department of Health (TDH) regional office. The proposal must be submitted on an application form developed by CIDC Program. The proposal shall include the following information:

(-a-) a list of physicians and other staff who will participate in the clinic operation and service delivery (local and outreach);

(-b-) the estimated volume of patients (CIDC and non CIDC) in the area in need of outreach;

(-c-) the frequency of clinics;

(-d-) the estimated number of patients (CIDC and non CIDC) per clinic;

(-e-) the medical condition(s) of patients to be seen;

(-f-) the comments, support, and recommendations from the local pediatric and/or family/general practitioners medical society in the area receiving outreach services;

(-g-) a justification for the outreach clinic to the area which includes the following:

(-1-) availability of appropriate facilities with emphasis placed on utilization of existing facilities; and

(-2-) unmet needs/specific need for the outreach clinic as follows. If there are local CIDC Program approved physicians practicing in the specialty of the proposed outreach clinic, the CIDC Program will not consider approval/funding of the outreach clinic without specific justification of the community's "unmet need" and a written plan of coordination with the local physicians. If controversy exists in the community regarding the need for the outreach clinic, the proposal must address the controversy, the steps taken to seek resolution, and why the outreach clinic is still justified. and

(-3-) cost effectiveness.

(-h-) a plan to coordinate the clinic with the TDH regional office;

(-i-) the specifications of other outreach clinics in the area and efforts made to coordinate with them;

(-j-) an agreement to allow audit privileges to the CIDC Program when deemed necessary by the CIDC program staff;

(-k-) a signed statement/form indicating that the outreach clinic shall meet and uphold the guidelines of this subparagraph.

(-l-) information on procedures/services requiring special approval for CIDC Program coverage. For echocardiograms to be considered for approval and reimbursement at cardiac outreach clinics the information specified in clause (iv)(III) of this subparagraph must be submitted with the clinic proposal/application.

(-m-) a proposed budget for CIDC Program funding, including the estimated overall clinic costs for personnel, facility, physician/clinic services, laboratory, radiology, supplies, equipment, travel, and other, and the percentage/amount of these costs requested to be funded by the CIDC Program; and

(-n-) a signed agreement by the outreach clinic physician that the outreach clinic staff will comply with §37.83 of this title (relating to Eligibility for Patient Services) in regard to CIDC Program eligibles seen at the clinic.

(II) TDH regional office review. The proposal will be reviewed by the TDH regional office staff (medical director with input from social workers, nurses, nutritionists).

(-a-) The TDH regional office review staff shall submit the following information to the CIDC Program:

(-1-) comments and recommendations on the clinic proposal;

(-2-) a statement supporting or not supporting the proposal;

(-3-) verification of local physician support and effort of clinic staff to coordinate with the TDH regional office; and

(-4-) the plan to coordinate the clinic with the TDH regional health department activities.

(-b-) If controversy exists in the community regarding the need for the outreach clinic the TDH regional office review staff shall submit the following information to the CIBC Program:

(-1-) a statement regarding what steps that have been or can be taken to resolve the controversy; and

(-2-) a statement regarding whether the clinic is justified despite this controversy.

(III) CIBC review. The proposal and TDH regional review staff information will be submitted to the CIBC Program for review. The proposal and regional information (and annual reports and on-site visit information if the review is for continued approval) will be shared with the CVAC. The CIBC Program will determine outreach clinic approval/disapproval based on proposal content, the input from the regional staff, and the recommendations of the CVAC. The CIBC Program funding of the clinic will depend upon the clinic's budget request and CIBC availability of funds in accordance with clause (xii) of this subparagraph.

(xii) CIBC Program funding of approved outreach clinics. Those outreach clinics approved by the CIBC Program may receive funding on a contract or fee for service basis for the outreach physician's/team members' travel to the clinic site, the salaries of local and/or outreach staff necessary for administration of the clinic or provision of clinic services, physician services, facility use fees, laboratory, radiology, EKGs, and other procedures necessary for assessment and screening of patients. The CIBC Program will reimburse fee for service for covered services provided CIBC Program eligibles only if the providers of services are not otherwise funded by the CIBC Program. The CIBC Program will not fund rental of facility space. The specific reimbursement arrangement will depend upon budget needs specified in the clinic proposal and CIBC Program availability of funds.

(D) Bone marrow transplant center guidelines. The following minimum guidelines for bone marrow transplant centers have been established to assure that children and young adults, whose medical conditions justify the need of bone marrow transplantation, receive quality comprehensive services. Bone marrow transplant centers in Texas must meet the guidelines of this subparagraph to be approved by the CIBC Program for funding.

(i) Approval as a chronically ill and disabled children's (CIBC) services bone marrow transplant center.

(1) Initial approval process.

(-a-) All bone marrow transplant centers must submit to the CIBC Program a completed CIBC bone marrow transplant center (center) application form. Information required shall include:

(-1-) provider agreements;

(-2-) resumes of active team participants;

(-3-) caseload history from the previous three years; and

(-4-) copies of program treatment protocols.

(-b-) The CIBC Program will conduct an initial on-site visit if deemed necessary to assess quality of care and determine if the bone marrow transplant center meets the criteria in this subparagraph. Initial approval would then be based on the information obtained from the application and the on-site visit.

(-c-) Applicants meeting the guidelines as set forth in this subparagraph will receive CIBC Program approval for a maximum of three years.

(-d-) For those centers that meet the guidelines of this subparagraph yet have been in existence for only one year (i.e. only six transplants performed) or whose caseload history over the prior three years does not demonstrate six transplants per year, the CIBC Program may approve the center yet require a site visit after one year to determine continuing approval.

(II) Continuing approval process.

(-a-) The bone marrow transplant center's approval for an additional three years shall be based on qualitative and quantitative assessments. Quality and quantity shall be assessed by annual reports, and on-site visits. The annual reports must document that the requirements in the guidelines in this subparagraph are met. The reports must list caseload information and patient outcomes. The CIBC Program shall specify the report format. If the bone marrow transplant center no longer meets the guidelines in this subparagraph, approval shall be discontinued.

(-b-) If the on-site visit generates concerns regarding the cen-

ter's quality of care, staff, or facility, the annual reports and on-site review team report(s) will be submitted to the CIBC General Advisory Committee. The committee will make a recommendation which shall include: the status of the center until corrective action is taken; the recommended corrective action; the time frame for corrective action to occur; and the re-evaluation process.

(-c-) The CIBC Program will inform the center as to whether or not approval is to be continued.

(ii) On-site visits. On-site visits made by the CIBC Program will assess a center's quality of care and adherence to the guidelines of this subparagraph. At the time of the site visit the center must submit documentation that the guidelines of this subparagraph are met.

(I) On-site review team composition. The CIBC Program will select the on-site review team to consist of:

(-a-) two Texas licensed pediatric hematologist/oncologists (adult hematologist/oncologists with board certification in hematology/oncology may be substituted for review of "adult" bone marrow transplant centers), sub-board certified in pediatric hematology-oncology or eligible for sub-board certification by the American Board of Medical Specialties; and

(-b-) one CIBC Program staff member.

(II) Frequency of on-site visits. On-site visits may be made by the CIBC Program site review team prior to determination of initial approval. For continuation of approved centers, on-site visits will be made every three years, or more often if deemed necessary by the CIBC Program, to determine if the guidelines of this subparagraph are being maintained.

(III) On-site review process. During the on-site visit a chart review will be conducted. For initial approval the on-site review team will review at least five consecutive bone marrow transplantations performed over the last year at the center. For continuing approval the site on-site review team will review 18 consecutive bone marrow transplantations performed over the last three years at the center. The chart review will serve to assess competency of staff; quality of the therapeutic measures; and outcome of short and long-term follow-up of patients. In addition to the chart review, the quality of the facility and records documentation shall be evaluated on-site.

(IV) Written report. The on-site review team shall submit a written report to the CIBC Program in a

format specified by the CIDC Program. The CIDC Program shall share the report with the center and the CIDC General Advisory Committee.

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

(I) "Pediatric" bone marrow transplant centers--Those centers which the CIDC Program approves and reimburses for bone marrow transplants performed on patients ages 0-20.

(II) "Adult" bone marrow transplant centers--Those centers which the CIDC Program approves and reimburses for bone marrow transplants performed on young adult patients ages 18-20 only.

(iv) Case load requirements.

(1) Initial approval. For initial approval a bone marrow transplant center must have performed a minimum of six transplants over the last year. To be designated as a CIDC Program approved "pediatric" bone marrow transplant center the six transplants must be performed on patients ages 0-17. The center should demonstrate the ability to perform both allogeneic and autologous transplants unless the center elects to limit the scope of its approval to only one type of transplant. The center must have the capability of providing total body irradiation.

(II) Continued approval. For continued approval, a center should perform at least six bone marrow transplants a year to maintain proficiency. To be continued as a CIDC Program approved "pediatric" bone marrow transplant center the six transplants must be for patients ages 0-17. The center must maintain and demonstrate the ability to perform both allogeneic and autologous transplants unless the center elects to limit the scope of its approval to only one type of transplant. The center must maintain the capability of providing total body irradiation.

(v) Bone marrow transplant center staff requirements (for "adult" centers the equivalent CIDC Program approved specialists and nurses without pediatric specialization may be substituted). "Pediatric" centers must meet the following staff requirements.

(I) Pediatric hematologist/oncologist. The director of a CIDC pediatric bone marrow transplant center must be a CIDC Program approved pediatric hematologist/oncologist. The

director must be certified or eligible for certification in the sub-board of pediatric hematology/oncology and must have experience in bone marrow transplantation that includes having performed at least 25 bone marrow transplants demonstrating a consistent high quality of procedural and patient management skills when submitted to peer review.

(II) Other medical staff.

(-a-) The "pediatric" bone marrow transplant center, directed by a CIDC Program approved pediatric hematologist/oncologist must assure that there is adequate professional coverage 24 hours a day to manage all complications and emergencies. Professional coverage may include pediatric residents under the supervision of attending pediatricians.

(-b-) A CIDC Program approved "pediatric" bone marrow transplant center has available physicians in the following specializations for consultation:

(-1-) pediatric infectious disease;

(-2-) pediatric radiology;

(-3-) pediatric surgery; and

(-4-) intensive care.

(III) Nursing staff. A CIDC Program approved "pediatric" bone marrow transplant center has one to two registered nurses experienced in pediatrics per patient per shift. The head nurse must be experienced in pediatrics and have at least one year's clinical experience in bone marrow transplantation in children.

(IV) Social work staff. A CIDC Program approved "pediatric" bone marrow transplant center must have available a certified social worker for referrals for family social assessments and for coordination of community resources.

(V) Case management staff. At the time of informed consent for the bone marrow transplant, an individual must be designated as case manager who is assigned to the patient's family and who will assist the family in designing and implementing an individualized service plan which will coordinate the services needed to accomplish the rehabilitation of the patient. This plan must take into account the stated medical goals and the family's specific needs to attain those goals. The

case manager may be a member of the center's nursing or social work staff or may be another individual identified as such by the center who is capable of performing the stated responsibilities.

(vi) Administration/facilities requirements.

(I) Administration. Hospital support systems and service delivery must be sufficiently integrated to manage all complications and emergencies.

(II) Nursing training. A continuing education nursing inservice training program on bone marrow transplantation must be developed and in place and is required for nurses assigned to the bone marrow transplant program.

(III) Infection control. Infection control procedures must be in place and in compliance with the Joint Commission on Accreditation of Health Care Organization requirements. Transplant patients must be assigned to private rooms with the capability for standard reverse isolation.

(IV) Treatment protocols.

(-a-) The program director must assure that all bone marrow transplantation protocols are approved by the hospital's internal review board.

(-b-) To be designated as a CIDC Program approved "pediatric" bone marrow transplant center, the center and staff must be active participants in one of the national pediatric research protocol groups.

(-c-) Donor match criteria for reimbursement will be designated by the CIDC Program and will track the National Marrow Donor Program histocompatibility criteria.

(V) Intensive care facilities. A CIDC approved "pediatric" bone marrow transplant center must have available a pediatric intensive care unit (adult intensive care unit for "adult" centers).

(VI) Laboratory facilities. A CIDC Program approved bone marrow transplant center must have documented evidence of an affiliation/agreement with an HLA (histocompatibility antigens) typing laboratory. The laboratory must be accredited by American Association of Blood Banks or the American Society of Histocompatibility and Immunogenetics. The center must have laboratory facilities available with capacity and experience in cryopreserving bone marrow in liquid nitrogen for autologous transplants.

(VII) Blood components supply. A CIDC Program approved bone marrow transplant center must have a written agreement with a blood bank to provide adequate blood component support. If the blood bank does not have the ability to irradiate blood, the center's radiation therapy department or the associated radiation therapy facility must have that ability. (see subclause (VIII) of this clause).

(VIII) Radiation therapy. A CIDC Program approved bone marrow transplant center must have capacity for single or double-source total body irradiation by an experienced radiation therapist either through its own facility or through documented association with an independent radiation therapy facility. A radiation therapy quality assurance program must be in place which requires an external review process.

(IX) Records management. A CIDC Program approved bone marrow transplant center must maintain a medical records system permitting prompt retrieval of information. Medical records must be legible, accurately documented in a timely manner, and accessible to the CIDC site review team.

(X) Responsibility to the CIDC Program. A CIDC Program approved bone marrow transplant center shall agree to abide by CIDC rules and regulations which include, but are not limited to, utilizing all third party resources available to patients prior to requesting payment; accepting program payment as payment in full; submitting program required documentation; and submitting an annual report due 30 days after the end of the state fiscal year (August 31).

(XI) Rights of patients. A CIDC Program approved bone marrow transplant center is responsible for assuring that all members of the transplant team recognize the rights of eligible patients.

(-a-) The responsible physician is expected to inform parents or guardians or adult patients of the complete information concerning treatment and prognosis. He or she should provide opportunities for parents or adult patients to participate in discussion involving the patient's care and provide a written follow-up plan for parents or guardians or adult patients and referring physicians. Communication should occur between the center physician and a local physician (preferably CIDC Program approved) in the child's home community for follow up care.

(-b-) As a part of the qualification for a CIDC bone marrow

transplant center, all facilities must disclose to CIDC Program present methods of priority selection of patients for bone marrow transplantation. This is to include priorities for selection of both allogenic and autologous grafts and the use of any randomized patient selection methods. Selection procedures will be reviewed for their fairness and consistency with the following CIDC Program policy statement. It is the policy of the Chronically Ill and Disabled Children's Bureau that once a CIDC patient is recognized as in need of a bone marrow transplant and meets both the criteria for the center's transplant protocol and the CIDC Program eligibility standards, that fair selection procedures should be employed to expedite the necessary care needed without deference to the client's nationality, race, religion, creed, or socioeconomic standards.

(vii) Priority medical conditions for CIDC Program reimbursement for bone marrow transplantation. The CIDC Program will determine which medical conditions with levels of severity may be eligible for reimbursement as well as coverage policies for bone marrow transplants.

(E) Other types of centers. The CIDC Program may recognize other types of centers in various localities in the state which may be designated for program use for diagnosis and treatment of certain conditions needing specialized evaluation and treatment, and comprehensive planning and follow-up.

(5) Other approved providers and facilities. With changes in the health delivery system and in consideration of cost effectiveness and efficiency, the CIDC Program may, with the approval of the board, establish other areas of approved providers and facilities.

(6) Provider application for program approval.

(A) Applications may be obtained from the CIDC Program on request. A copy of the CIDC Program's rules and regulations and a provider's manual will be mailed to the applicant to provide current information regarding the program. The completed application will be reviewed by CIDC Program staff for correctness and to verify that all professional criteria have been met, including required documentation. Notification of the status of the application will be made within 15 days of CIDC Program receipt of the application.

(B) Any provider may withdraw from program participation at any time by notifying the CIDC Program in writing of its desire to do so.

(7) Denial/modification/suspension/termination of provider or facility approval.

(A) The CIDC Program may deny, modify, suspend, or terminate the approval of providers or facilities for due cause. Any provider or facility submitting false or fraudulent claims, failing to provide and maintain quality services or medically acceptable standards, or not adhering to the agreement signed at the time of application or renewal for CIDC Program participation is subject to review, fraud referral, and/or administrative sanctions which include suspension of payment. The CIDC Program may cancel or suspend a physician's/dentist's/podiatrist's approved provider status based on the CIDC Program's knowledge of disciplinary action taken against the provider by the Texas State Board of Medical Examiners, the provider's peers, or by professional medical association or society (local, regional, or national in scope).

(i) The CIDC Program will notify the provider or facility in writing of the proposed action to be taken, the date of the action, and the reasons for the action.

(ii) The provider has the right of appeal as described in §37.96(a) of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(iii) The CIDC Program must give the provider at least 30 days written notice prior to final action.

(B) A due process hearing is available to any provider for the resolution of conflict between the CIDC Program and the provider.

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 July 24, 1990.

TRD-9007431

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

Proposed date of adoption: September 22, 1990

For further information, please call: (512) 458-7355

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TITLE 28. INSURANCE

Part I. State Board of Insurance

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

Subchapter T. Minimum Standards for Medicare Supplement Policies

• 28 TAC §§3.3306-3.3309, 3.3317, 3.3319-3.3321

The State Board of Insurance proposes amendments to §§3.3306-3.3309, and 3.3317 and proposes new §§3.3319-3.3321, concerning minimum standards for Medicare supplement policies. The amendments and new sections are necessary to comply with federal requirements concerning Medicare supplement policies following passage of the Medicare Catastrophic Coverage Repeal Act of 1989, Public Law 101-234. The amendments will assure orderly implementation, conversion, and effective disclosure of Medicare supplement insurance benefits and premiums by licensed insurers, companies subject to the Insurance Code, Chapter 20, and by health maintenance organizations. The amendment to §3.3306 creates benefit conversion requirements and establishes a prohibition against pre-existing conditions waiting periods, elimination periods, and probationary periods in replacement policies or certificates. The amendment to §3.3307 changes the language to be consistent throughout the section. The amendment to §3.3308 brings the section into compliance with the NAIC model. The amendment to §3.3309 changes the requirements for replacement of Medicare supplement policies and includes a new form of notice for use in replacing policies. The amendment to §3.3317 implements standards for permitted compensation arrangements. New §3.3319 establishes marketing procedures to assure fair and accurate comparison of policies, prevention of excessive issuance of insurance, analysis of the benefits of replacing a policy, and prevention of duplication of coverage. New §3.3320 requires an agent recommending the purchase or replacement of a Medicare supplement policy to determine the appropriateness of the purchase or replacement. New §3.3321 requires insurers providing Medicare supplement insurance policies to report certain information to the board about each policy for every individual who has more than one Medicare supplement policy in force with that insurer. In §3.3321, the board proposes to adopt by reference a form for use in complying with the section. The board has filed with the Office of the Secretary of State, Texas Register Division, copies of the form proposed for adoption by reference. This form is published by the State Board of Insurance, and persons desiring copies of the form may obtain copies from the Market Conduct Division, Mail Code 016-4, State Board of Insurance, P.O. Box 149091, Austin, Texas 78714-9091. Amendments to §§3.3306-3.3309 and 3.3317 and new §§3.3319-3.3321 are to be effective on December 1, 1990, and shall apply to all Medicare Supplement

policies and certificates delivered, issued for delivery, or renewed on or after December 1, 1990.

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

Ms. Simonton 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 implementing the sections is more effective regulation of Medicare supplement insurance products and benefits in Texas by implementing federal standards for consumer protection that have developed from the Medicare Catastrophic Coverage Repeal Act of 1989. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections other than costs already necessitated by state and federal legislation.

Comments on the proposal may be submitted to Kay Simonton, Deputy Insurance Commissioner, Life Group, State Board of Insurance, Mail Code 830-0, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendments and new sections are proposed under the Insurance Code, Article 3.74, §2(c), 2(f), 8, and 10, and Texas Civil Statutes, Article 6252-13a, §§4 and 5. The Insurance Code, Article 3.74, §2(c), provides that the State Board of Insurance shall issue reasonable rules to establish specific standards for provisions of Medicare supplement policies, including requirements that are at least equal to those required by federal law, rules, regulations, and standards. Article 3.74, §2(f), further provides that the State Board of Insurance must adopt rules that are at least equal to those required by federal law. Article 3.74, §8, provides that the State Board of Insurance shall issue reasonable rules concerning compensation to agents or other producers of Medicare Supplement insurance coverage. Article 3.74, §10, provides that the State Board of Insurance may adopt rules in accordance with federal law and other rules that are reasonable to carry out Article 3.74. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures; §5 prescribes the procedures for adoption of rules by a state administrative agency.

§3.3306. Minimum Benefit Standards. No insurance policy, subscriber contract, or evidence of coverage may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy unless the policy, contract, or evidence of coverage meets the standards in paragraphs (1)-(3) [(1) and (2)] of this section. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(1) General standards. The following standards apply to Medicare supplement policies and are in addition to all other requirements of this subchapter, the Insurance Code, Article 3.74, and any other applicable law.

(A) A Medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a pre-existing condition. The policy may not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage. **If a Medicare supplement policy replaces another Medicare supplement policy, the replacing insurer shall waive any time periods applicable to pre-existing condition waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy for similar benefits to the extent such time was spent under the original policy** [A Medicare supplement policy issued by an insurer which replaces an existing Medicare supplement policy within the first 24 months of the date of issue of the existing policy shall provide that any time periods already satisfied or partially satisfied for pre-existing conditions under the replaced policy shall be considered satisfied or partially satisfied under the new policy, except that if new or additional benefits are included in the succeeding insurer's policy, such policy may include appropriate waiting periods as a condition of payment for such new or additional benefits].

(B)-(E)(No change.)

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

(5) **Cancellation and Non-renewal.**

(A) **Except as authorized by the State Board of Insurance, an insurer shall neither cancel nor fail to renew a Medicare supplement policy or certificate for any reason other than non-payment of premium or material misrepresentation.**

(B) **If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in Subparagraph (D) of this paragraph, the insurer shall offer certificate holders an individual Medicare supplement policy. The insurer shall offer the certificate holder at least the following choices:**

(i) **an individual Medicare supplement policy which provides for continuation of the benefits contained in the group policy, subject to any provision where the group policy**

contains incentives of providing greater levels of benefits when certain providers and/or facilities are utilized, in which case the continuation of benefits must be at least equivalent to the lower level of benefits provided for utilization of non-preferred providers in the group policy being terminated; and

(ii) an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards.

(C) If membership in a group is terminated, the insurer shall:

(i) offer the certificate holder such conversion opportunities as are described in Subparagraph (B) of this paragraph; or

(ii) at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(D) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

§3.3307. Loss Ratio Standards.

(a)-(c) (No Change.)

(d) Annual filing required. Every insurance entity providing Medicare supplement policies or benefits in this state shall file annually its rates, rating schedule, and supporting documentation, including ratios of incurred losses to earned premiums for the most recent calendar year broken down by calendar year of issue, for purposes of demonstrating that the insurance entity is in compliance with the loss ratio standards. The annual filing requirements in this subsection shall be as follows:

(1) the NAIC Medicare supplement experience exhibit which summarizes the experience of each [all] individual form [forms] with business in force in Texas;

(2) the NAIC Medicare supplement experience exhibit which summarizes the experience of each [all] group form [forms] with business in force in Texas;

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

(e) -(f) (No change.)

(g) Maintenance of data. Incurred claims and earned premium experience shall be maintained for each policy form with credible business in force in Texas, by calendar year of issue, and shall be made available to the State Board of Insurance [upon request]. Experience data for policy forms with noncredible business in force in Texas may be combined and maintained with other forms.

§3.3308. Required Disclosure Provisions.

(a) General rules.

(1) Medicare supplement policies shall include a renewal, continuation, or nonrenewal provision. The language or specifications of such provision must be consistent with the type of contract [to be] issued. Such provisions shall be appropriately captioned, and shall appear on the first page of the policy [and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed].

(2)-(7) (No change.)

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

(e) Conspicuous reminder concerning duplicate coverage. The language provided in subsection (c)(10) [(c)(11)] of this section must be included in the outline of coverage in a conspicuous manner in at least 10-point type in all capital letters.

§3.3309. Requirements for Application Forms and Replacement Coverage.

(a) Application forms shall include the following questions [a question] designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed

by the applicant and agent, except where the coverage is sold without an agent, containing such questions [a question] may be used.

(1) Do you have another Medicare supplement insurance policy or certificate in force (including health care service contract or health maintenance organization contract)?

(2) Did you have another Medicare supplement policy or certificate in force during the last 12 months?

(A) If so, with which company?

(B) If that policy lapsed, when did it lapse?

(3) Are you covered by Medicaid?

(4) Do You intend to replace any of Your medical or health insurance coverage with this policy (certificate)?

(b) Agents shall list the following:

(1) policies sold to the applicant which are still in force; and

(2) policies sold to the applicant in the past five years which are no longer in force.

(c) [(b)] Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness coverage. One copy of such notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy [signed by the applicant] shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of accident and sickness coverage. [In no event, however, will such a notice be required in the solicitation of "accident only" and "single premium nonrenewable" policies.]

(d)[(c)] The notice required by Subsection (c) [(b)] of this subsection for an insurer, other than a direct response insurer, shall be provided, in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT [ACCIDENT AND SICKNESS] INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement [accident and sickness] insurance and replace it with a policy to be issued by (Company Name) Insurance Company. Your new

policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT (BROKER OR OTHER REPRESENTATIVE):
(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(1) (No change.)

(2) State law provides that your replacement policy or certificate may not contain new pre-existing conditions waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to pre-existing conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you [You] may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) [(3)] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, read it carefully to be certain that all information has been properly recorded.

Signature of Agent, Broker or other Representative

Typed Name and Address of Agent or Broker

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

(e)[(d)] The notice required by Subsection (e) [(b)] of this section for a direct response shall be provided in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF MEDICARE SUPPLEMENT [ACCIDENT AND SICKNESS] INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement [accident and sickness] insurance and replace it with the [a] policy delivered herewith [to be] issued by (Company Name) Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

(1) (No change.)

(2) State law provides that your replacement policy or certificate may not contain new pre-existing conditions waiting periods, elimination periods, or probationary periods. Your insurer will waive any time periods applicable to pre-existing conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you [You] may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) [(3)] (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

§3.3317. Permitted Compensation Arrangements [Restrictions upon Replacement].

(a) An insurer or other entity designated in the Insurance Code, Article 3.74, §1(a), may provide commission or other compensation to an agent for the sale of a Medicare supplement policy or certificate only if the first-year commission or other first-year compensation is no more than 200% of the commission or other compensation paid for selling or servicing the policy or certificate in the first renewal year or period.

(b) The commission or other compensation provided in the second and subsequent renewal periods must be the same as that provided in the first renewal period and must be provided for a reasonable number of renewal periods but not less than six years following the inception of the first renewal period.

(c) No entity [designated in the Insurance Code, Article 3.74, §1(a), which provides Medicare supplement insurance or coverage to a resident of this state.] shall provide compensation to its agents and no agent shall receive compensation [or other producers that is] greater than the renewal compensation payable by the replacing insurer on renewal policies or certificates if an existing policy or certificate is replaced unless benefits of the new policy or certificate are clearly and substantially greater than the benefits under the replaced policy [which would have been paid on an existing policy or coverage, if that existing policy or coverage is replaced by another policy or coverage with the same entity, and if the new policy benefits or coverage benefits are substantially similar to the benefits under the old policy or coverage and the old policy was issued by the same insurer, insurer group, or entity. For a policy replaced within the first policy year, an agent shall be entitled to receive the pro rata unpaid portion of commission attributable to that original policy year and a commission not greater than renewal compensation thereafter].

(d) For purposes of this section, "compensation" includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards, and finders fees.

§3.3319. Standards for Marketing.

(a) Every insurer, health care service plan, or other entity marketing Medicare supplement insurance coverage in this state, directly or through its agents, shall establish marketing procedures to ensure that:

- (1) any comparison of policies

by its agents will be fair and accurate;

(2) excessive insurance is not sold or issued;

(3) a mechanism or formula exists and is being used to determine whether a replacement policy or certificate contains benefits clearly and substantially greater than the benefits under the replaced policy for purposes of triggering first-year commissions as authorized in §3.3317 of this title (relating to Permitted Compensation Arrangements);

(4) every reasonable effort and inquiry is made to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance; and

(5) auditable procedures for verifying compliance with §3.3314 of this title (relating to Standards for Facilitating Comparison Among Policies) are established.

(b) Every insurer, health care service plan, or other entity marketing Medicare supplement insurance coverage in this state, directly or through its agents, shall ensure that the following notice is prominently displayed by type, stamp, or other appropriate means on the first page of both the policy and the outline of coverage: "Notice to buyer: This policy may not cover all of the costs associated with medical care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(c) In addition to the practices prohibited in the Insurance Code, Article 21.21, the following acts and practices are prohibited in the marketing of Medicare supplement policies or coverages in this state.

(1) Twisting—Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) High pressure tactics—Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold lead advertising—Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

This requirement is in addition to other regulations applicable to lead card advertising.

§3.3320. Appropriateness of Recommended Purchase and Excessive Insurance.

(a) In recommending the purchase or replacement of any Medicare supplement policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(b) Any sale of Medicare supplement coverage which will provide an individual more than one Medicare supplement policy or certificate is prohibited; provided, however, that additional Medicare supplement coverage may be sold if, when combined with that individual's health coverage already in force, it would insure no more than 100% of the individual's actual medical expenses covered under the combined policies.

§3.3321. Reporting of Multiple Policies.

(a) Every insurer or other entity providing Medicare supplement insurance coverage in this state shall report annually, on or before March 1, the following information to the State Board of Insurance for every individual resident of this state for whom the insurer or entity has more than one Medicare supplement insurance policy or certificate in force:

- (1) policy and/or certificate number; and
- (2) date of issuance.

(b) The items set forth in subsection (a) of this section shall be grouped by individual policyholder and reported on a form substantially similar in layout, design, and wording to the form entitled Form for Reporting Multiple Medicare Supplement Insurance Policies, which the State Board of Insurance adopts and incorporates herein by reference. Copies of this form are available from and on file at the office of the Market Conduct Division, Mail Code 016-4, of the State Board of Insurance, P.O. Box 149091, Austin, Texas 78701-9091.

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 August 6, 1990.

TRD-9007854
Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: September 10, 1990

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



Chapter 9. Title Insurance

Subchapter A. Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas

• 28 TAC §9.1

The State Board of Insurance proposes an amendment to §9.1, concerning the adoption by reference of the **Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas** (the manual). The amendment to §9.1 is necessary to reflect amendments which the Board is proposing to the manual, which the section adopts by reference. The amendments to the manual are necessary for facilitation of the administration of regulation of title insurance in this state, for clarification and standardization of rules and forms in the regulation of title insurance, and for establishing, in accordance with the Insurance Code, Article 9.30(B)(2), of percentages of the premium for payments for services actually performed by a title insurance company, a title insurance agent, or a direct operation, in connection with closing the transaction, furnishing of title evidence, or title examination. The amendments to the manual would amend Procedural Rule P-1 by adding section aa which would be a definition of a Directly Issued Policy, and would add new Procedural Rule P-31 to describe the authorized execution of a Directly Issued Policy. The amendments to the manual would cause all policies issued by a title insurance company in a county where the company does not have a licensed abstract plant to be executed only by bona fide officers or employees of the title insurance company. Further, the definition of a Directly Issued Policy will limit the location where such a policy may be executed to a single designated address. The amendments to the manual would amend Procedural Rule P-24 to change the premium split percentages at the following maximum percentages: 50% for furnishing of title evidence, 20% for title examination, and 30% for closing the transaction. In addition, the amended rule would clarify that the premium split is applied to the premium remaining after payment of the amount due the title insurance company underwriting the title policy. The amendments to the manual would add new Procedural Rule P-32 to require each title insurance company to compile and submit a report of all directly issued policies, on an annual basis or as otherwise required by the board. The new rule would promulgate a form for reports concerning directly issued policies. The amendments to the manual would amend Insuring Form T-00 by clarifying the wording and format of the report form to comply with the intent of Procedural Rule P-22(F). The form would also be amended to allow insertion of a percentage figure for the amount paid, or to be paid, rather than a specific amount, to comply with the intent of Procedural Rule P-24. The board has filed with the Secretary of State's Office, Texas Register Division, copies of the proposed amendments to the manual. Persons desiring copies of the proposed amendments to the manual can obtain copies from the Title Insurance

Section, Mail Code 012-7, of the State Board of Insurance at 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

Fabian S. Gomez, manager of Title Insurance, has determined that, for the first five-year period the proposed amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section, and there will be no effect on local employment or local economy.

Mr. Gomez also has determined that, for each of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the section will be clarification and standardization of rules and forms in the regulation of title insurance and an increase in the availability of title insurance coverage to the consumer. In addition to the revision of percentages of the premium for payments for services actually performed, the cost for small businesses of compliance with the amendment will be an increase of not more than \$25 in expenses for completion of any form required by the amendment. On the basis of cost per hour of labor, there will be no difference in cost of compliance between small businesses and larger businesses. The anticipated economic cost to persons who are required to comply with the proposed amendment will be the same as the cost of compliance for small businesses.

Comments on the proposal may be submitted to Fabian S. Gomez, Manager of Title Insurance, Mail Code 012-7, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment is proposed under the Insurance Code, Articles 1.04, 9.07, 9.21, and 9.30, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine policy and rules. The Insurance Code, Article 9.07, authorizes and requires the board to promulgate or approve forms for policies of title insurance, to require title insurance companies and agents to submit information material for the board's consideration, and otherwise to provide for the regulation of the business of title insurance. The Insurance Code, Article 9.21, authorizes the board to promulgate and enforce rules and regulations prescribing underwriting standards and practices, and to promulgate and enforce all other rules and regulations necessary to accomplish the purposes of the Insurance Code, Chapter 9, concerning the regulation of title insurance. The Insurance Code, Article 9.30, provides for establishment by the board of maximum amounts or percentages of the premium for payments for services actually performed by a title insurance company, a title insurance agent, or a direct operation in connection with closing the transaction, furnishing of title evidence, or title examination. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures. Section 5 prescribes the procedure for adoption of rules by a state administrative agency.

§9.1. Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in

the State of Texas. The State Board of Insurance adopts by reference the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas as amended effective **September 10** [March 1], 1990. The document is published by and is available from Hart Forms and Services, 11500 Metric Boulevard, Austin, Texas 78758, and is available from and on file at the Title Insurance Section, Mail Code 012-7, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

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

Issued in Austin, Texas, on August 3, 1990.

TRD-9007855 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Earliest possible date of adoption: September 10, 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

The Texas Water Development Board (board) proposes amendments to §§363.1, 363.2, 363.31, 363.32, 363.35, 363.52-363.54, 363.57, 363.58, 363.81, 363.83, 363.84, 363.104-363.106, and 363.125. The proposed amendments would enable the board to provide financial assistance for the construction of municipal solid waste facilities, as authorized under the water quality enhancement program, and would make changes to conform the rules to legislative changes.

The proposed amendments to §363.2 would add definitions for the following terms: "department;" "garbage;" "hazardous waste;" "industrial solid waste;" "license;" "municipal solid waste;" "municipal solid waste facility;" "municipal solid waste management;" "permit application, part B;" "putrescible waste;" "registration;" "rubbish;" "sanitary landfill;" "site development plan;" and "solid waste." The proposed amendments would also modify the definitions of "permit," "project," and "regional facility."

Amendments are proposed to §363.31 and §363.32 to present the board's policy regarding the eligibility of municipal solid waste facilities. The proposed amendment to

§363.35 clarifies the board's policy regarding acquisition of permits and other authorizations prior to the release of funds.

Changes are proposed to §363.52(b)(6)(C) to include the description of a proposed municipal solid waste facility in the general application requirements and to §363.52(b)(10) to correct a typographical error. An amendment is proposed to §363.53 to include provision for environmental review of municipal solid waste facilities. Section 363.54(h)(2) is proposed for amendment to include information on garbage collection and tipping fees in the required fiscal data. The proposed amendment to §363.57(a) and (b) requires the submittal of engineering feasibility information for municipal solid waste projects; and the proposed amendment to §363.58(d) and (h) describes additional legal data which must be submitted in support of an application for a municipal solid waste project.

Amendments are proposed to §363.81 to add new subsections (c) and (d) which contain the requirements for submission of engineering design data for a municipal solid waste facility, to re-number subsections (e) and (f), and to clarify in subsection (e) additional requirements for submittal of engineering design documents for municipal solid waste projects. Section 363.83 is proposed to be amended to include a requirement for obtaining permits and other authorizations for municipal solid waste projects prior to loan closing. An amendment is proposed to §363.84 to require submittal of contracts for provision of services in paragraph (10), to include a requirement in paragraph (13) for providing evidence of issuance of permits or other authorizations prior to closing a loan for a municipal solid waste facility, and to re-number paragraphs (10)-(17).

Sections 363.104-363.106 are proposed to be amended to provide requirements for inspection of municipal solid waste projects during construction in §363.104, for alterations to approved plans and specifications in §363.105, and for inspection of materials and conducting a pre-opening inspection in §363.106.

The board also proposes amendments to §§363.1, 363.2, 363.31, 363.32, 363.57, 363.83, and 363.125 to clarify and to conform with legislative changes. Sections 363.1 and 363.2, in the definitions of "development funds," "water development bonds," "water quality enhancement bonds," and "water quality enhancement funds," are proposed to be amended to include references to additional bonding authorizations in the Texas Constitution, Article III, §§49-d-6 and 49-d-7. The definition of "change order" in §363.2 is proposed for amendment in order to clarify the definition. The definition of "project" in §363.2 is proposed to be amended to eliminate the restriction against providing funds for retail water transportation facilities. This restriction was removed as a result of amendments to the Texas Water Code, §17.001(7). The definition of "project" in §363.2 is also proposed to be amended to include conservation projects, in accordance with amendments to the Texas Water Code, §17.121.

Section 363.31(a) and (b) is proposed to be amended to clarify existing language and to eliminate out dated references to legislative

intent. An amendment is proposed to §363.32(a) and (c) to remove the restriction against supplying funds for retail water transportation systems to conform with amendments to the Texas Constitution and Texas Water Code, §17.001(7). Also, §363.32(a) is proposed to be amended to include conservation projects as eligible to conform with amendments to the Texas Water Code, §17.121.

An amendment is proposed to §363.57(a)(5) to require a cost effective analysis of innovative and nonconventional treatment systems as a result of amendments to the Texas Water Code, §17.189.

Section 363.83 is proposed to be amended by deleting subsection (b) in accordance with amendments to the Texas Water Code, §17.123.

An amendment is proposed to §363.125 to modify the requirement for retainage as amended by the Texas Water Code, §17.183.

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

Ms. Taylor also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the clarification of program requirements and the financial assistance application process for eligible local governments of the state. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the sections as proposed. The agency has determined the proposal would not have an effect on local economies.

A public hearing to receive oral and written comments will be held at 10 a.m. on August 28, 1990, in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue in Austin. Written comments on the proposal may be submitted to C. R. Miertschin, Director of the Engineering Division, P.O. Box 13231, Austin, Texas 78711. Comments will be accepted for 30 days following publication.

Introductory Provisions

• 31 TAC §363.1, §363.2

The amendments are proposed under the Texas Water Code §6.101, which provides the board with the authority to adopt rules necessary to carry out its powers and duties.

§363.1. Scope of Rules. These sections, adopted pursuant to the Texas Water Code, §6.101, shall govern the board's Water Loan Assistance program, Water Development Program, Water, Wastewater, and Storage Facilities Acquisition Program, Water Quality Enhancement Program, and Flood Control Program as authorized by the constitution of the State of Texas, Article III, §§49-c, 49-d, 49-d-1, 49-d-2, [and] 49-d-3, 49-d-6, and 49-d-7 and the Texas Water Code, Chapters 15, 16, and 17.

§363.2. Definitions of Terms. The following words and terms, when used in

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

Change order—The documents issued by the participating political subdivision, [with concurrence of the contractor upon recommendation of the project engineer and with the approval and consent of the executive administrator, development fund manager, board and/or commission, as may be appropriate,] authorizing a change, alteration, or variance in previously approved engineering plans and specifications, including, but not limited to, additions or deletions of work to be performed pursuant to the contract or a change in costs for work performed pursuant to the contract.

Department—The Texas Department of Health.

Development funds—Such monies as are accumulated in the treasury of the State of Texas from the sale of Texas water development bonds authorized by the Texas Constitution, Article III, §49-c and §49-d and from bonds dedicated to use for the purposes of those sections under the Texas Constitution, Article III, §§[§]49-d-2, 49-d-6, and 49-d-7.

Garbage—Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

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

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

License—The formal written approval issued to the applicant by the county for a municipal solid waste facility.

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

Municipal solid waste facility—All structures, appurtenances, equipment, and improvements, including land and sanitary landfills, necessary for management of municipal solid waste or any other solid waste, excluding hazardous waste, for which state law authorizes management in municipal solid waste facilities regulated by the department.

Municipal solid waste management—The systematic control of

the activities of generation, source separation, collection, handling, storage, transportation, processing, treatment, recovery, or disposal of municipal solid waste.

Permit—Includes any one of the following:

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

(E) the formal written approval issued to the applicant by the department for a municipal solid waste facility.

Permit application, Part B—The technical information required for landfill sites serving less than 5,000 persons as described by 25 TAC §325.73 (relating to Technical Information Required for Landfill Sites Serving Less Than 5,000 Persons—Permit Application, Part B).

Project—Any engineering undertaking, acquisition or construction for the purpose of any one or more of the following, as applied to the Water Loan Assistance Program, water Development Program, Water, Wastewater, and Storage Facilities Acquisition Program, Water Quality Enhancement Program, or Flood Control Program, as may be appropriate:

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

(C) transportation of water, including any system necessary for the transporting of water to filtration and treatment plants or from filtration and treatment plants to storage, including facilities for transporting waters from such storage or plants to [wholesale] purchasers;

(D)-(F) (No change.)

(G) municipal solid waste facilities, including any land, and structures, other appurtenances, equipment, and improvements on the land used for processing, treating, storing, or disposing of municipal solid waste.

(H) conservation, involving those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and re-use of water so that a water supply is made available for future or alternative uses.

Putrescible waste—Solid wastes which are capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for, or attracting, birds and disease vectors.

Regional facility—A water supply, wastewater collection and treatment, municipal solid waste facility, or other system which incorporates multiple service areas or

drainage areas into an areawide service facility, thereby reducing the number of required facilities, or any system which serves an area that is other than a single county, city, special district, or other political subdivision of the state, the specified size of which is determined by any one or combination of population, number of governmental entities served, and/or service capacity. Regional wastewater treatment facilities may also include those identified in the approved state water quality management plan and the annual updates to that plan.

Registration—The act of filing information for specific solid waste management activities as determined by the department.

Rubbish—Nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags, cartons, food, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and the like materials which will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

Sanitary landfill—A controlled area of land upon which solid waste is disposed in accordance with standards, rules, or orders established by appropriate state and federal agencies.

Site development plan—A document prepared by the design engineer, which provides a detailed design with supporting calculations and data for the development and operation of a municipal solid waste facility as described in 25 TAC §325.74 (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan).

Solid waste—Garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Water Code, Chapter 26.

(B) soil, dirt, rock, sand, and other natural or manmade inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or

(C) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under the Natural Resources Code, §91.101.

Water development bonds—Bonds authorized by the Texas Constitution, Article III, §49-c, and §49-d, and bonds dedicated to use for the purposes under Texas Constitution, Article III, §§[§] 49-d-2, 49-d-6, and 49-d-7.

Water quality enhancement bonds—The Texas water development bonds authorized by the Texas Constitution, Article III, §49-d-1, and bonds dedicated to use for the purposes of that section by the Texas Constitution, Article III, §§[§] 49-d-2, 49-d-6, and 49-d-7.

Water quality enhancement funds—The proceeds from the sale of Texas water development bonds issued under the authority of the Texas Constitution, Article III, §49-d-1, and proceeds from bonds dedicated to use for the purposes of that section by the Texas Water Constitution, Article III, §§[§] 49-d-2, 49-d-6, and 49-d-7.

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 August 3, 1990.

TRD-9007797

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption: September 10, 1990

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

Policy Declarations

• 31 TAC §§363.31, 363.32, 363.35

The amendments are proposed under the Texas Water Code, §6.101, which provides the board with the authority to adopt rules necessary to carry out its powers and duties.

§363.31. General Policies.

(a) In accordance with constitutional and statutory directives, the goal of the Texas Water Development Board is to provide financing, where appropriate and in the public interest; to implement projects and programs necessary to further orderly development and management of the states water resources; to maintain and enhance, where feasible, the quality of this resource; to reduce flood damages; and to promote measures designed to achieve conservation of the waters of the state in accordance with the intent of the Texas legislature and the people of Texas as expressed through enactment and voter approval of House Joint Resolution 6 and House Bill 2, 69th

referred to as hardship loans), as the water development fund has done in the past, and will further the orderly development of regional municipal solid waste facilities, water and wastewater facilities, and flood control measures through loans, and through state participation, where applicable, in water and wastewater projects.

(b) The [In accordance with the provisions of House Bill 2, 69th Legislature, 1985, the] board will encourage local political subdivisions of the state to implement regional [water supply and wastewater treatment] facilities, consistent with the Texas Water Plan and the State Water Quality Management Plan, and flood management measures, where such facilities and measures are appropriate, more efficient and more cost-effective, and/or environmentally sound. Amendments to the Texas Constitution approved by the voters on November 5, 1985, authorize a substantial increase in the amount of state bonds which may be issued by the board to provide funds for state participation in projects, and also expand the types of water-related projects and measures eligible for state participation. Orderly planning and implementation of regional facilities will hopefully mitigate existing problems which have resulted from proliferation of multiple, commonly inefficient, and generally more costly water and wastewater systems in urban areas of the state, and may also prevent such problems from occurring in rapidly developing areas.

(c)-(d) (No change.)

§363.32. Eligible Facilities.

(a) It is the policy of the board to finance water supply projects involving reservoirs, [wholesale] storage and distribution systems, wells, and filtration and water treatment plants, including any system necessary to transport water, and projects initiated for the sole purpose of conservation as defined in the Texas Water Code, §17.001(21)(B) [from storage to points of retail distribution or from source or storage to filtration and treatment plants, or points of retail distribution].

(b) (No change.)

(c) It is the policy of the board not to finance [retail water distribution systems or] routine internal drainage facilities for cities, counties, towns, districts, or any other political subdivisions.

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

(g) It is the policy of the board to finance municipal solid waste projects, including the cost of land, and structures, other appurtenances, equipment, and improvements on the land. Only hardship loans will be made for facilities not determined to be regional in scope.

§363.35. Permits. The board will require an applicant seeking assistance under the Water, Wastewater, and Storage Facilities Acquisition Program to obtain appropriate state permits before the board will extend a commitment for financial assistance. The board may make commitments for loan-assisted projects prior to the applicant receiving all appropriate [state] permits or other authorizations from the commission, department, and/or county, [being received,] if the applicant demonstrates that it expects to receive said permits or authorizations and close the loan within the loan commitment period established in §363.38 of this title (relating to Lending Rate). The board [but] will not deliver financial assistance funds under any of the authorized financial programs until an applicant for financial assistance has obtained all appropriate [state] permits or authorizations.

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 August 3, 1990.

TRD-9007796

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆ Applications to the Board

• 31 TAC §§363.52-363.54, 363.57, 363.58

The amendments are proposed under the Texas Water Code §6.101, which provides the board with the authority to adopt rules necessary to carry out its powers and duties.

§363.52. Required General Information.

(a) (No change.)

(b) Forty copies of an application shall be filed with the board. The following information is required on all applications to the board for financial assistance:

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

(6) brief description of project including, but not limited to, the following:

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

(C) the total estimated cost and allocation of cost to each purpose such as municipal solid waste, water supply, recreation, flood control, transportation, or sewage treatment;

(D)-(G) (No change.)

(7)-(13) (No change.)

§363.53. Required Environmental Data. The application shall address the environmental effects of the project in accordance with the requirements of §§341.21-341.26 of this title (relating to Environmental Impact Statements) and §§341.41-341.43 of this title (relating to Guidelines on the Preparation of Environmental, Social, and Economic Impact Statements). Prior to taking an application to the board, the executive administrator shall determine if a complete environmental impact statement should be prepared, or if an environmental assessment following §§341.42-341.43 of this title (relating to Guidelines for the preparation of Environmental, Social, and Economic Impact Statements) will be sufficient. For municipal solid waste projects the executive administrator will review the environmental information contained in the site development plan or permit application, Part B, and the comments and documentation of coordination with the appropriate state and federal agencies. Normally, environmental impact statements will be required for major facilities, such as reservoirs and regional flood control projects. After reviewing the submitted environmental information, the executive administrator shall determine if sufficient environmental data have been supplied to forward the application to the board. The executive administrator shall recommend to the board whether the proposed project is environmentally sound, based on the criteria and guidelines of the board and full consideration of the views and comments of other agencies and persons.

§363.54. Required Fiscal Data.

(a)-(g) (No change.)

(h) If project for which state participation is desired is for purpose of extending, enlarging, or improving an existing system or facility, the following shall be submitted for each of the five preceding years to the extent available:

(1) (No change.)

(2) schedule of water or sewer rates or service charges, or garbage collection and facility tipping charges; and

(3) (No change.)

(i)-(n) (No change.)

§363.57. Required Engineering Feasibility Data for Water Quality Enhancement [Wastewater] Projects.

(a) For wastewater projects exclusive of municipal solid waste projects the [The] applicant shall submit for approval four copies of an engineering feasibility report. Prior to submission of the report in the application, the applicant's engineer shall have met with the board's

engineering staff to discuss the scope of the feasibility report. The report, as presented in the application, shall include the information regarding design criteria for sewerage systems listed under §317.1(b) of this title (relating to General Provisions) and the following general information:

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

(3) type of treatment plant being proposed. The selection of a treatment process must take into account the cost-effectiveness and environmental compatibility of various processes; [and]

(4) cost breakdown. A detailed cost estimate for all work shall be submitted, including operation and maintenance; and[.]

(5) the identification, selection, and evaluation of alternatives, including the preparation of a cost-effective analysis of the alternatives for wastewater facilities. This cost-effective analysis must consider innovative, non-conventional methods of treatment such as rock reed, root zone, ponding, irrigation, or other technologies that may have been developed by NASA and the Tennessee Valley Authority.

(b) For municipal solid waste facility projects, the applicant shall submit four copies of the site development plan or permit application, Part B, and the general or other technical information required and accepted by the department as part of an administratively complete application or registration. In addition to the technical data contained therein, the reports shall include the following information:

(1) legal name of applicant;

(2) name and address of project engineer;

(3) a detailed cost estimate for all work to be performed, including all land, equipment, all fees for professional services, and projected operation and maintenance costs;

(4) the comments of and documentation of coordination with the appropriate state and federal agencies; and

(5) any additional information or data which the executive administrator may require.

§363.58. Required Legal Data.

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

(d) The applicant shall submit a copy of any actual or proposed contract under which any portion of the applicant's water supply is purchased or transported, [or] under which sewer service is provided, or under which municipal solid waste collection and disposal services are provided. Before a loan is closed, a

certified copy of such contract shall be required.

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

(h) The applicant shall submit a copy of any existing proposed construction contract.

(1) All proposed contracts shall have provisions assuring compliance with the board's rules and all relevant statutes, including the Texas Water Code, Chapters 15-17, as appropriate. Further, the contract shall provide that failure to construct the project according to the plans and specifications; site development plan; permit application, Part B; permit; and/or registration approved by the executive administrator, development fund manager, board, department, and/or the commission, as is appropriate, for any and all modifications, amendments, or changes to such engineering plans, regardless of the nature, character, or extent of such changes; failure to construct the project in accordance with sound engineering principles; or failure to comply with any term or terms of the construction contract, shall be considered by the development fund manager as grounds for refusal to give a certificate of final approval for any construction contract. Such contract shall also require the contractor to observe all rules of the board. The provisions of the contract shall constitute an agreement for the benefit of the board under principles applicable to third party beneficiary contracts; however, such provisions are not intended nor shall they be in such form as to constitute an agreement for the benefit of any other third party or parties other than the board.

(2) The participating political subdivisions shall be represented by a registered professional engineer who shall inspect the project at each phase of construction to assure construction in substantial compliance with the plans and specifications; site development plan; permit application, Part B; permit; and/or registration and in accordance with sound engineering principles and the terms and provisions of the construction contracts.

(3) (No change.)

(i)-(m) (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 August 3, 1990.

TRD-9007795
Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption: September 10, 1990

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

Prerequisites to Release of State Funds

• 31 TAC §§363.81, 363.83, 363.84

The amendments are proposed under the Texas Water Code, §6.101, which provides the board with the authority to adopt rules necessary to carry out its powers and duties.

§363.81. Engineering Design Data Prerequisites.

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

(c) An applicant seeking financial assistance for a municipal solid waste project pursuant to the Water Quality Enhancement Program shall submit three copies of plans and specifications, or other appropriate engineering design documents each of which conform to the representations made in the loan application. The plans and specifications must be as detailed as would be required for submission to contractors bidding on the work. In addition, the applicant shall submit a draft copy of the construction contract bid documents for each construction contract to be let.

(d) If the applicant chooses to construct the project using its own employees and material (use force account) the applicant must certify that:

(1) the applicant and personnel who will perform the work possess the necessary competence required to perform the work and can schedule and accomplish the force account work in a timely manner;

(2) the applicant will maintain insurance that is adequate and customary for construction or project work, including, but not limited to, fire and casualty, worker's compensation, liability, and all risk insurance as required by local or state law; and

(3) the applicant either has or will establish a proper record keeping system to assure that all materials, supplies, equipment, and labor costs charged to the project are actually used in connection with the project.

(e)[(c)] All applicants shall comply with the following.

(1) The plans, specifications, and the engineering [engineer] report shall be signed and sealed by a professional engineer registered in the State of Texas in accordance with the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a. The engineering report and/or site development plan or permit application, Part B shall not be dated more than six months prior to filing with the executive administrator or development fund manager.

(2)-(5) (No change.)

(f)(d) The board, executive administrator, or development fund manager may require the submission of additional engineering data and information, if deemed necessary.

§363.83. Resolutions, Permits, and other Authorizations as Prerequisites [Commission permits and Resolution Prerequisite].

(a) Prior to the release of state funds for any financial assistance, the applicant must obtain all required permits or other authorizations from the commission, department, and/or county to appropriate, impound, divert, use or transport state waters, or to construct municipal solid waste or wastewater facilities as may be appropriate under the circumstances, or submit any other permit or approval that may be required by other state agencies [the commission].

(b) In addition to furnishing the board with certified copies of appropriate permits, the applicant shall furnish the board a resolution adopted by the commission certifying that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water the project will provide and/or that an applicant proposing underground water development has the right to use water that the project will provide.]

(b)(c) For a water or storage facilities acquisition project, the board may, at its discretion, become a co-applicant for a commission permit.

§363.84. Legal and Fiscal Document Prerequisites. The documents which shall be required prior to the release of state funds shall include the following as appropriate:

(1)-(9) (No change.)

(10) a certified copy of each contract under which revenues from the project will accrue;

(11)(10) a proposed act of assurance in a form acceptable to the board to be executed by the contractor which shall warrant compliance by the contractor with all laws of the State of Texas and all rules and published policies of the board;

(12)(11) a certified copy of appropriate commission permits for those projects involving the appropriation, impoundment, use, diversion, or transportation of state water or for discharge of waste into or adjacent to water in the state;

(13) for a municipal solid waste project, evidence of issuance of a municipal solid waste permit or other authorization by the department or county;

(14)(12) for a wastewater project, evidence of commission approval of plans and specifications;

(15)(13) any further proposed leases or other agreements transferring any interest in land acquired for the project subsequent to those furnished under §363.58(1) of this title (relating to Required Legal Data);

(16)(14) such other instruments or documents as the board may determine to be in the public interest and containing such terms and conditions as the resolution of conditional approval may require; and

(17)(15) approval of project plans and specifications. Water projects funded by the water loan assistance fund or water development fund, water or storage facilities acquisition projects, or structural flood control projects shall not be eligible for state participation in the event engineering plans and specifications have not been approved by the development fund manager or executive administrator, as appropriate, prior to closing the loan. A water quality enhancement project shall not be eligible for state participation in the event engineering plans and specifications have not been approved by the executive administrator and/or commission, as is appropriate, prior to closing the loan.

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 August 3, 1990.

TRD-9007794

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
Construction Phase for Water Assistance Fund, Water Development, Flood Control, and Water Quality Enhancement Projects

• **31 TAC §§363.104-363.106**

The amendments are proposed under the Texas Water Code, §6.101, which provides the board with the authority to adopt rules necessary to carry out its powers and duties.

§363.104. Inspection During Construction. After the construction contract is awarded, the participating political subdivision shall provide for adequate inspection of the project by the project engineer and require his assurance that the work is being performed in a satisfactory manner in accordance with the approved plans and specifications; other engineering design documents; site development plan or permit application, Part B; approved

alterations;[,] and in accordance with sound engineering principles and construction practices. The executive administrator is authorized to inspect the construction of any project at any time in order to assure that plans and specifications; other engineering design documents; and site development plan or permit application, Part B are being followed and that the works are being constructed in accordance with sound engineering principles and construction practices, but such inspection shall never subject the State of Texas to any action for damages. The executive administrator shall bring to the attention of the participating political subdivision and the project engineer any variances from the approved site development plan or permit application, Part B; other engineering design documents; or plans and specifications. The participating political subdivision and the project engineer shall immediately initiate necessary corrective action.

§363.105. Alterations in Approved Plans and Specifications.

(a) For water supply, flood control, and wastewater projects, if[,] after the executive administrator or development fund manager approves engineering plans and specifications it becomes apparent that changes in such plans and/or specifications are necessary or appropriate, a change order and justification therefore shall be submitted for approval, well in advance of the construction alteration when possible. The executive administrator or development fund manager may approve and authorize a change, alteration, or variance in previously approved engineering plans and specifications, including, but not limited to, additions or deletions of work to be performed pursuant to the contract, if such change, alteration, or variance does not change, vary, or alter the basic purpose or effect of a project, is not a substantial or material alteration in the plans and specifications, and does not increase the loan commitment of the board for the project. Any change, alteration, or variance in the previously approved plans and specifications, which involves an alteration in the basic purpose or effect of a project, substantially or materially alters the previously approved plans and specifications of the project, or which involves an increase in the loan commitment of the board for the project, must be approved and authorized by the board. If there is an immediate danger to life or property, tentative approval of change orders may be secured from the executive administrator or development fund manager via telephone and confirmed by letter or telegraph. A request for a change order should contain sufficient information, with plans or drawings and cost estimates, to enable the executive administrator or development fund manager to review the proposal. Engineering computations shall be

included if structural changes are involved. After approval of the proposed alterations by the board, executive administrator, or development fund manager, as is appropriate, copies of the approved change order shall be forwarded to the project engineer. If commission approval of plans for a wastewater treatment plant or other facility has been required, commission approval also must be obtained before any substantial or material alteration is made in those plans.

(b) For municipal solid waste projects, if after the department approves the site development plan or permit application, Part B, it is determined that a deviation is necessary and the loan recipient has obtained department approval in accordance with 25 TAC §325.111 (relating to General Requirements), a copy of the revised plan and documentation of department approval will be submitted to the executive administrator, along with any necessary change orders and justification for the change orders. If it is determined that changes to approved plans and specifications or other engineering design documents are necessary or appropriate and do not require a revision to the site development plan or permit application, Part B, a change order, with justification, will be submitted to the executive administrator. All requests for changes shall be submitted well in advance of the construction alteration, when possible. The executive administrator may approve and authorize a change, alteration, or variance in previously approved engineering plans and specifications, or other design documents including, but not limited to, additions or deletions of work to be performed pursuant to the contract, if such change, alteration, or variance does not change, vary, or alter the basic purpose or effect of a project; is not a substantial or material alteration in the plans and specifications; and does not increase the loan commitment of the board for the project. Any change, alteration, or variance in the previously approved plans and specifications or engineering design documents which involves an alteration in the basic purpose or effect of a project; substantially or materially alters the previously approved plans and specifications or design documents of the project; or which involves an increase in the loan commitment of the board for the project, must be approved and authorized by the board. In addition, the executive administrator, at his option, may require the loan recipient to obtain written approval by the department of any change not previously approved by the department. Emergency situations may be addressed to the executive administrator by telephone. A request for a change order or deviation from the site development plan or permit application,

Part B, should contain sufficient information, with plans or drawings and cost estimates, to enable the executive administrator to review the proposal. Engineering computations shall be included if structural changes are involved. After approval of the proposed alterations by the board or executive administrator, as is appropriate, copies of the approved change order shall be forwarded to the project engineer.

§363.106. *Inspection of Materials.*

(a) (No change.)

(b) In the event construction procedures or materials are determined by the executive administrator to be standard or otherwise unsatisfactory and/or not in conformity with approved plans and specifications, other engineering design documents, site development plan or permit application, Part B, the executive administrator may order the participating political subdivision to take such action through the project engineer in the manner provided for in the construction contract to correct any such deficiency.

(c)-(d) (No change.)

(e) The executive administrator or development fund manager is authorized to conduct engineering and financial audits of ever project which is financed in whole or in part by Texas water development funds. For purposes of this section, the following definitions are applicable:

(1) (No change.)

(2) Engineering audit—An engineering audit consists of a physical inspection of the project to analyze and compare the project with the approved plans and specifications, other engineering design documents, site development plan or permit application, Part B, resulting in the issuance of a technical report which itemizes any variances from the construction contract and approved plans and specifications, other engineering design documents, site development plan or permit application, Part B, and recommends corrective action.

(f) (No change.)

(g) The participating political subdivision shall notify the executive administrator of the date for conducting the pre-opening inspection as required by 25 TAC §325.112(b) (relating to Meetings and Inspections Prior to Constructing and Opening New Facilities) to enable representatives of the board to be present. Prior to accepting any municipal solid waste, the participating political subdivision shall forward to the executive administrator a copy of the department's written confirmation that construction is in compliance with the approved site development plan, or permit application, Part B.

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 August 3, 1990.

TRD-9007793

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption: September 10, 1990

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

◆ ◆ ◆
Water, Wastewater, and Storage Facilities Acquisition Program Construction Phase

• 31 TAC §363.125

The amendment is proposed under the Texas Water Code, §6.101, which provides the board with the authority to adopt rules necessary to carry out its powers and duties.

§363.125. *Disbursement of State Funds.* State funds expended for the acquisition and/or development of facilities in a nonfederal project shall be disbursed in accordance with the provisions of the master agreement and any other contracts by the board pursuant thereto, subject to the following: in projects involving the acquisition of land, the board shall not pay or agree to pay any of the costs of land acquisition in advance, but may pay or agree to pay its pro rata portion of such costs as they accrue or on any other reasonable basis agreed to by the board; provided, that if construction is to be paid for as work progresses, the board shall not pay or agree to pay more than 95[90]% of its pro rata portion of the amount due at the time of each progress payment, as certified to by the project engineer; and provided further that the remaining 5.0[10]% thereunder shall be paid only after approval by the project engineer and, in addition, upon final certification by the development fund manager that work to be performed under the terms of the construction contract has been completed in a satisfactory manner and in accordance with:

(1)-(2) (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 August 3, 1990.

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Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption: September 10, 1990

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 13. Controlled Substances Regulations

Precursor Chemical and Laboratory Apparatus Regulations

• 37 TAC §§13.71, 13.73-13.82, 13.84-13.88

The Texas Department of Public Safety proposes amendments to §§13.71, 13.73-13.82, 13.84-13.88, concerning precursor chemical and laboratory apparatus regulations. The amendments include adding language regarding laboratory apparatus to the undesignated head and affected sections. Additional language is added to §13.79 regarding instructions for completing the NAR-22 form when distributing laboratory apparatus. Language is also deleted for re-formatting of subsection (a). Language is added to the title of §13.82, regarding laboratory apparatus. The text of §13.82 is re-formatted by designating subsection (a) with paragraphs (1)-(4), applicable to chemical precursors and subsection (b) with paragraphs (1)-(4), applicable to laboratory apparatus. Statutory reference is added to the sections where applicable.

Melvin C. Peeples, assistant chief of fiscal affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

B. C. Lyon, captain, narcotics service, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to ensure a greater protection of the public's health and welfare by the control of chemical precursors and laboratory apparatus used in the illicit manufacture of a controlled substance or controlled substance analogue. Preparation of the report form (NAR-22) should not have major impact to any business whether prepared manually or by automation. 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 John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, (512) 465-2000.

The amendments are proposed under the Health and Safety Code, §§481.007(b), 481.078(b)(e), 481.080(c), and 481.081(b)(e), which provides the Department of Public Safety with authority to file rules with the secretary of state, regarding named chemical precursors and laboratory apparatus, reporting of sales or transfers, required permitting, required inventories, and authorizing peace officers to conduct inspections, audits, and copying any and all records.

§13.71. General Information.

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

(1) (No change.)

(2) Annual permit—A permit issued by the department to a person authorizing the distribution or purchase of a precursor or apparatus inside or outside the state for one year from the date of issue.

(3)-(4) (No change.)

(5) Distributor—A manufacturer, wholesaler, retailer, or a person who otherwise furnishes or transfers a precursor or apparatus.

(6) Lawful possession—The possession of a precursor or apparatus in compliance with state or federal law.

(7) (No change.)

(8) One-time permit—A permit issued by the department to a person authorizing a single distribution or purchase of a precursor or apparatus inside or outside the state.

(9) Otherwise furnish—To initiate a transaction resulting or intending to result in the distribution of a precursor or apparatus to any person in this state, regardless of whether the person initiating the transaction is the owner or possessor of the item or merely a broker.

(10)-(11) (No change.)

(12) Purchaser—A person who seeks or obtains the distribution of or who otherwise receives a precursor or apparatus, whether through purchase, lease, loan, gift, or other transfer.

(13)-(16) (No change.)

(17) Report for sales or transfers—A report made on a NAR-22 form that is provided by the department to record each distribution or purchase of a precursor or apparatus or a report made after department approval on a computer-generated report form which contains the same information in the same format.

(18) Waiver letter—A notice issued by the department that permits, when accompanied by a letter of authorization, the distribution of a precursor or apparatus to the purchaser named in the letter of authorization and that waives the required 21-day waiting period before distribution or delivery.

(b) (No change.)

(c) Department information. For information relating to precursor or apparatus items, for questions about required reports, or for other needs:

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

§13.73. Persons Required to Obtain a Permit.

(a) Unless otherwise exempted by law or by these sections, a person who is located inside the state must obtain a permit from the department if:

(1) the person distributes a precursor or apparatus to another person who is located inside the state; or

(2) the person purchases a precursor or apparatus from another person who is located inside or outside the state.

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

§13.74. Persons Exempt From the Permit Requirements.

(a) A person is exempt from the permit requirements who:

(1) distributes a precursor or apparatus to an educational or research program of a private school, a school district, or a public or private institution of higher education;

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

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

§13.75. Requirements for Issuance of a Permit.

(a) The director shall issue a one-time permit to an applicant to distribute or purchase a precursor or apparatus if the applicant:

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

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

(d) The director shall issue an annual permit to an applicant to distribute or purchase a precursor or apparatus if the applicant meets all of the requirements of a one-time permit and the applicant represents a legitimately established business.

§13.76. Letter of Authorization From a Purchaser.

(a) In lieu of a permit, a legitimately established business may purchase a precursor or apparatus from a distributor within this state by presenting or providing to the distributor a letter of authorization that contains the following:

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

(5) a complete description of how the precursor or apparatus will be used; and

(6) (No change.)

(b) A purchaser who orders a precursor or apparatus through an automated ordering system without a permit must provide a letter of authorization to the distributor.

(c)-(d) (No change.)

§13.77. Distribution Requirements and Letter of Waiver.

(a) The Health and Safety Code, Chapter 481, §481.077(f), requires a 21-day waiting period before delivery of a precursor and §481.080(h) requires the same for an apparatus. Except as provided by these sections [this section], a distributor may not distribute any such item before the required waiting period has passed.

(b) If a purchaser has met the permit, exception, or letter of authorization requirements of this chapter, a distributor may distribute a precursor or apparatus:

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

(c) (No change.)

(d) The director will issue a letter of waiver if:

(1) there is a pattern or history of regular supply and purchase of a precursor or apparatus between the distributor and the purchaser; or

(2) the purchaser has established a record or history of utilizing the precursor or apparatus solely for a lawful purpose.

(e)-(f) (No change.)

§13.78. Reporting Sales or Distributions.

(a) Except as provided by this section, a NAR-22 form will be used by all distributors to report sales or distributions of a precursor or apparatus at least 21 days before delivery.

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

(g) A manufacturer or wholesaler of a precursor or apparatus will be deemed to be in compliance with the reporting requirements of these sections if:

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

(h) (No change.)

§13.79. Instructions for Completing the NAR-22 Form.

(a) Part I contains information required from or about the distributor and must be completed by the distributor. [Section H is completed by recording the measured amount of precursor distributed in the space beside that precursor.]

(1) Section H is completed by recording the measured amount of precursor distributed in the space beside that precursor.

(2) Section I is completed by recording the number of items distributed in the space beside that apparatus.

(3) Line 8 of Section I will be used if a separate apparatus category has not been provided.

(b)-(e) (No change.)

§13.80. Reporting Discrepancy, Loss, or Theft.

(a) The Health and Safety Code, Chapter 481, §481.077(i) and §481.080(k), require [requires] the department to be notified not later than the third day after the date that:

(1) a purchaser learns of a discrepancy in the amount of a precursor or apparatus ordered and the amount received, if not back ordered; or

(2) (No change.)

(b)-(e) (No change.)

§13.81. Reporting Receipt of a Precursor or Apparatus Without a Permit.

(a) Every person located in this state who, without proper permit under these sections, purchases or obtains by whatever means a precursor or apparatus from a distributor inside or outside this state must, within three days of receipt of such item, submit a report to the department containing the following information:

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

(b) (No change.)

§13.82. Regulated Chemical Precursors and Laboratory Apparatus.

(a) Chemical precursors.

(1)[(a)] Paragraphs (2)-(4) of this subsection [These sections] are intended to apply to the chemical precursors most commonly used in clandestine laboratory operations.

(2)[(b)] The list of precursor chemicals covered by these sections will not change unless future enforcement activities reveal a change in the widespread use of other chemical precursors in clandestine laboratory operations. The director may by rule add or delete chemical precursors to the list.

(3)[(c)] These sections do not apply to a precursor that has been mixed or combined with other non-controlled chemicals or substances in the manufacture or production of a substance used for legitimate purposes, provided the precursor could only be reclaimed through a distillation or extraction process.

(4)[(d)] Inquiries about a particular precursor should be resolved by contacting the department as provided in §13.71(c)[(b)] of this title (relating to General Information).

(b) Laboratory apparatus.

(1) Paragraphs (2)-(4) of this subsection are intended to apply to the laboratory apparatus most commonly used in clandestine laboratory operation.

(2) The department will

provide pictorial brochures of most of the apparatus covered by these sections as a guide to assist persons that distribute or receive these types of apparatus within this state.

(3) The items covered will not change unless future enforcement activities reveal a change in the widespread use of other types of apparatus in clandestine laboratory operations. In such event, the director may, by rule, add or delete those additional type of apparatus to the definition.

(4) Inquiries about a particular apparatus should be resolved by contacting the department as provided in §13.71(c) of this title (relating to General Information).

§13.84. Record Keeping Requirements for Distributors.

(a) The Health and Safety Code, Chapter 481, §481.077(a) and §481.080(b), require [requires] every distributor of a precursor or apparatus to make an accurate and legible record of each distribution and to maintain the record for at least two years after the date of transaction.

(b)-(e) (No change.)

(f) These requirements apply only to a distributor and do not apply to an individual purchaser, a legitimately established business purchaser, or an exempt agency purchaser who has lawful possession of a precursor or apparatus and who does not re-distribute the precursor or apparatus. The precursor or apparatus may be re-distributed:

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

§13.85. Inventory Requirements of Distributors.

(a) The Health and Safety Code, Chapter 481, §481.077(k) and §481.080(m), require [requires] every distributor of a precursor or apparatus to maintain inventory records in accordance with rules established by the director.

(b) Every distributor shall conduct an initial inventory to include each precursor or apparatus [all precursors] covered by these sections that are in stock at the time of inventory. Another inventory [of precursors] must be conducted at least once each two years after the initial inventory.

(c) If the distributor is a business that routinely conducts an annual inventory of all items, this inventory will meet the inventory requirements, provided that each precursor or apparatus covered by these sections is identified by an asterisk, red-line, high-light, or in some other similar manner readily distinguished from all other items appearing on the inventory.

§13.86. Audits and Inspections of Distributors.

(a) The Health and Safety Code, Chapter 481, §481.077(k) and §481.080(m), allow [allows] a peace officer to conduct an audit and to inspect all records of distributors.

(b)-(e) (No change.)

§13.87. Revocation, Denial, or Modification of a Permit.

(a) The director may revoke, deny, or modify a permit to distribute or purchase a precursor or apparatus in this state for a violation of the Act or these sections.

(b) (No change.)

§13.88. Permit Holder Required to Update Information.

(a) (No change.)

(b) Notification must be in writing to the address or by telephone at the telephone number found in §13.71(c)[(b)] of this title (relating to General Information).

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 July 25, 1990.

TRD-9007741

Joe E. Milner
Director
Texas Department of
Public Safety

Earliest possible date of adoption: September 10, 1990

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



Chapter 33. All-terrain Vehicle Operator Education and Certification Program

• 37 TAC §§33.1-33.6

The Texas Department of Public Safety proposes new §§33.1-33.6, concerning an all-terrain vehicle operator education and certification program. These new sections promulgate requirements for the administration of the All-terrain Vehicle Education and Certification Program, to include the Education Program, program sponsor and instructors, notice and hearing requirements, safety certification requirements, and the Consumer Product Safety Commission.

Melvin C. Peoples, assistant chief of fiscal affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Henry Palma, Sr., manager, motorcycle safety bureau also has determined that for

each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the all-terrain vehicle education requirements will be known and available to all-terrain vehicle purchasers. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections will be a maximum fee of \$35 for course enrollment for purchasers of a new ATV prior to December 30, 1986.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, (512) 465-2000.

The new sections are proposed under Texas Civil Statutes, Article 6701c-5, which provide the Texas Department of Public Safety with the authority to adopt rules to effectively administer the All-terrain Vehicle Education and Certification Program.

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

All-terrain vehicle (ATV)—A motor vehicle having a saddle for the use of the rider, designed to propel itself with three or four tires in contact with the ground, designed by the manufacturer for off-highway use by the operator only and not designed by the manufacturer for farming or lawn care.

All-Terrain Vehicle Safety Institute (ASI)—A not-for-profit operating division of the Specialty Vehicle Institute of America (SVIA), which was formed in 1988 to implement an expanded national program of ATV safety education and awareness. SVIA was founded in 1983 by the four leading United States distributors of all-terrain vehicles to promote the safe and responsible use of specialty vehicles.

Consent decree—Final consent decree filed April 28, 1988, between major ATV manufacturers and the United States Department of Justice and approved by the United States District Court, District of Columbia, in Civil Action Number 87-3525 GAG. The consent decree outlines requirements for the ATV manufacturers to address the safety concerns of the Consumer Product Safety Commission to reduce ATV-related deaths and injuries. The consent decree established the administrative framework for ATV safety training.

Department—Texas Department of Public Safety.

Director—The executive director of the Texas Department of Public Safety.

Program—The ATV Operator Education and Certification Program providing basic training and safety skills for ATV operation.

Program sponsor—The entities with which the Department of Public Safety enters into an agreement to administer the ATV Operator Education and Certification Program.

Public Property—Property owned or leased by the State of Texas or a political subdivision of the state.

§33.2. Operator Education Program.

(a) The all-terrain vehicle operator education course curriculum shall consist of the Texas Department of Public Safety's approved training program. The department approves and adopts the most current version of the ATV Safety Institute's seven-hour hands-on ATV ridercourse which meets the requirements set forth in the consent decree.

(b) Copies of the course curriculum may be obtained from the ATV Safety Institute, Education Department, 2 Jenner Street, Suite 150, Irvine, California, 92718. The course curriculum may be reviewed at Texas Department of Public Safety Headquarters, Motorcycle Safety Bureau, 5805 North Lamar Boulevard, Austin.

(c) Classes attended by children under age 16 shall be modified for class size and composition according to the most current standards set out by the ATV Safety Institute.

(d) All all-terrain vehicles used for training shall be no greater than the recommended size for the individual in accordance with the age recommendations contained in the consent decree.

(e) A parent or guardian of children under the age of 18 must provide his or her signed written consent granting his or her permission for the child to participate as a student in the course on a form which includes the Consumer Product Safety Commission injury and accident statistics and the appropriate age recommendations for ATVs consistent with the age recommendations contained in the consent decree.

(f) The course will be offered at no charge to all persons and members of their immediate families who have purchased a new ATV since December 30, 1986; provided, however, that such persons meet the minimum age required for the vehicle purchased. A fee of not more than \$35 or the amount approved by the department, whichever is more, may be charged other persons. The program sponsor will be notified of the amount approved by the department if the fee is modified.

(g) The course locations will be determined by the program sponsor in accordance with the consent decree.

§33.3. Operator Education Program Sponsor and Instructors.

(a) The department will enter into an agreement with the All-terrain Vehicle Safety Institute (ASI), which represents the manufacturers who must conform to the requirements which have been mandated in the consent decree to operate the training

program, to serve as program sponsor, to administer the program, and to train and license instructors.

(b) The department approves and adopts the most current version of the ATV Safety Institute's instructor preparation curriculum and standards as identified in the most current edition of the *ATV Safety Institute ATV RiderCourse Chief Instructor's Guide*. Persons successfully completing the approved all-terrain vehicle instructor preparation course and meeting the minimum qualifications set therein will be approved to teach the course in Texas for the period stated in their license.

(c) The program sponsor will provide the department, on a quarterly basis, with a current list of instructors licensed to teach in Texas.

§33.4. Notice of Hearing Requirements.

(a) The department may deny, suspend, or cancel its approval for a program sponsor to conduct a course or for an instructor to teach courses offered under this chapter if the applicant, instructor, or program sponsor:

(1) does not meet the requirements established under Texas Civil Statutes, Article 6701c-5, to receive or retain approval;

(2) permits fraud or engages in any fraudulent practices with reference to an application to the department, induces or countenances fraud or fraudulent practices on the part of any application for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee or the public;

(3) does not comply with the rules and regulations of the department; or

(4) is convicted under the laws of this state, another state, or the United States, of any felony or offense involving moral turpitude, tampering with a governmental record, driving while intoxicated or driving under the influence of drugs, or an offense committed as a result of the person's criminally negligent operation of a motor vehicle.

(A) These particular crimes relate to the conducting and teaching courses because the program sponsor and instructors are required to be of good reputation, character, moral conduct, and to deal honestly with members of the public. Program sponsors and instructors are required to keep records on behalf of the department and are required to recognize the importance of, encourage, and practice safe driving techniques.

(B) A conviction for an offense other than a felony will not be considered by the department, under this

paragraph, if a period of more than five years has elapsed since the date of the conviction or of the release of the person from the confinement or supervision imposed for that conviction, whichever is the later date. For the purposes of this section, a person is convicted of an offense when an adjudication of guilt on an offense is entered against the person by a court of competent jurisdiction, whether or not:

(i) the sentence is subsequently probated and the person is discharged from probation;

(ii) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

(C) In determining the present fitness of a person who has been convicted of a crime and in determining whether a criminal conviction directly relates to an occupation, the department shall consider those factors stated in Texas Civil Statutes, Article 6252.13c and Article 6252-13d.

(b) When there is cause to deny, suspend, or cancel the approval of a program sponsor or instructor, the director shall, no less than 30 days before refusal, suspension, or revocation action is taken, notify the person in writing, in person, or by certified mail at the last address supplied to the department, of the impending refusal, suspension, or revocation, the reasons for taking this action, the effective date of the action, and of his/her right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the director.

(c) The director, without a hearing, may suspend, revoke, or refuse to issue approval for a program sponsor to conduct a course or for an instructor to teach courses if, within 20 days after actual notice or the notice has been deposited in the United States mail, the person has not made a written request to the director for this administrative hearing.

(d) On receipt by the director of a written request for an administrative hearing within the 20-day period, an opportunity for an administrative hearing shall be afforded as early as is practicable.

(e) The administrative hearing shall be before the director or his designee.

(f) On the basis of the evidence submitted at the hearing, the director, acting for himself or upon the recommendation of his designee, may refuse or revoke the approval.

(g) A program sponsor or instructor may waive the right to an administrative hearing in writing by completing Form MSB-ATVI, Voluntary Waiver of Administrative Hearing.

(h) The procedure of the administrative hearing shall comply with §§29.1-29.49 of this title (relating to Practice and Procedure), except where otherwise provided.

§33.5. Operator Certification Requirements.

(a) The program sponsor will provide names to the department, in a format which meets the department's approval, of all persons who successfully complete the course no later than 45 days after the date of completion of the course.

(b) The department shall issue an all-terrain vehicle safety course completion certificate within 75 days of the date of completion of the course to persons the instructor determines have successfully met the minimum standard and completed the approved course. The All-terrain Vehicle Safety Institute (ASI) completion card, issued by the instructor immediately following completion of the class, shall serve as a temporary completion certificate to meet the requirements for operation on public land for 75 days after the date of completion of the course.

(c) Upon proof that a person has completed an ASI approved course between January 1, 1988, and the adoption of this chapter, the department shall issue a safety course completion certificate. Said certificate will be issued within 90 days of the adoption of this chapter. Acceptable proof will be written documentation from ASI indicating the person's name, address, and date of class.

(d) A person who resides in a county in which the course is not being offered is exempted from the requirement to hold a safety certificate for operation on public land while operating the all-terrain vehicle in that county until such times as the course is available in that county.

(e) If an all-terrain vehicle safety certificate is lost, mutilated, or destroyed, the department will issue a duplicate certificate. The person to whom the certificate was issued must make a request for a duplicate certificate in writing to the department including his or her name, address, and date of class. There is no fee required.

§33.6. Consumer Product Safety Commission. Any modifications made to the consent decree agreement of the Consumer Product Safety Commission and approved by United States District Court, District of Columbia, are incorporated into the all-terrain vehicle operator education and training course requirement contained in this chapter.

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 July 25, 1990.

TRD-9007740

Joe E. Milner
Director
Texas Department of
Public Safety

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

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

Chapter 263. Life Safety

The Texas Commission on Jail Standards proposes the repeal of §§263.1-263.4, 263.11-263.24, 263.31-263.34, 263.41-263.45, 263.51-263.58, 263.71, 263.72, 263.81-263.84 and 263.91, concerning life safety of jail staff, inmates, and visitors in county jails from fire and like emergencies. The repeal of these sections is necessary to allow for major revision to these requirements.

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

Mr. Crump, also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be allowing adoption of rules which will provide a higher degree of life safety in jail facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Jack E. Crump, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

General

• **37 TAC §§263.1-263.4**

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.1. Life Safety.

§263.2. General Purpose.

§263.3. Equivalency.

§263.4. Adequacy of Plans, Drills, Etc.

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 July 25, 1990.

TRD-9007833

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

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For further information, please call: (512) 463-5505

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The Texas Commission on Jail Standards proposes new §§263.1-263.4, 263.10-263.17, 263.30-263.33, 263.40-263.44, 263.50-263.57, 263.70, 263.71, 263.80-263.83 and 263.90, concerning life safety of jail staff, inmates, and visitors in county jails from fire and like emergencies. The new sections have been developed during a year long review of life safety needs in Texas jails.

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

Mr. Crump, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a higher degree of life safety in jail facilities which will benefit the welfare and safety of local communities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jack E. Crump, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

• **37 TAC §§263.1-263.4**

The new sections are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.1. Life Safety. This portion of these rules deals with life safety of jail staff, inmates, and visitors in county jails from fire and like emergencies.

§263.2. General Purpose. All jail and lockup facilities shall be designed, constructed, maintained, staffed, and operated to:

(1) provide for proper compartmentation and for the classification of the

hazards of contents in each area of the building;

(2) provide for the prompt detection, alarm and extinguishing of fires and the avoidance of any explosion;

(3) provide for the control of smoke movement from each area of the facility by a combination of compartmentation and a mechanical smoke management system;

(4) provide (and file with the commission) plans, programs, drills and training for adequate:

(A) fire prevention;

(B) emergency evacuation of inmates (including those not ambulatory) to areas of refuge;

(C) notification of and access for fire department and emergency personnel;

(D) suppression and extinguishment of fires; and

(E) protection of custodial personnel during fires, riots, or other emergencies.

§263.3. Equivalency. Nothing in these rules is intended to prevent the use of new systems, new methods, new devices, or systems, methods or devices of equivalent quality, strength, fire-resistance effectiveness, durability, and safety to those set forth in these rules, providing technical data is submitted to the commission demonstrating the equivalency of such systems, methods or devices.

§263.4. Adequacy of Plans, Drills, etc. The commission shall determine the compliance of each facility's exits, emergency plans, programs, drills, procedures, equipment and the other measures for life safety in accordance with these rules. Variances from the strict requirements of these rules may be granted by the commission in accordance with the variance procedures set forth in Chapter 299 of these rules, but only when it is clearly evident that reasonable life safety is thereby secured.

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

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Design and Materials

• 37 TAC §§263.10-263.17

The new sections are proposed under the Government Code, Title 4, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.10. Removal of Occupants. Because doors are locked and windows are secured in jails, provisions shall be made for the rapid removal of occupants by such reliable means as the remote control of doors or by keying all locks to keys readily available to jail staff who are continually on duty and have undergone emergency drills.

§263.11. Separation. Jails in buildings serving other functions shall be completely separated from such other functions or occupancies by construction having a fire-resistive rating of at least two hours. This section applies to existing jails as well as new construction.

§263.12. Additions/New Construction. New jails, new additions to existing jails, and major renovations to existing jails shall:

(1) be of fire-resistive, noncombustible materials. Single story low risk facilities may use framing which is not fire retardant treated, provided exterior walls, interior walls and ceilings are of fire resistive materials. All interior finishes shall be Class A materials; roof materials shall meet Class C criterion unless superseded by local code requirements;

(2) have dividing fire and smoke partitions between floors, between compartments, and in corridors with self-closing fire doors;

(3) have inter-connected smoke and fire detection and audible alarm or audible communication systems, with provisions for manually operated fire alarms; the alarm system should be designed to automatically transmit an alarm to the nearest fire department;

(4) have Class A interior finish materials on all interior surfaces (flame spread zero-25, smoke developed zero-450 in accordance with National Fire Protection Agency (NFPA) 255, "Method of Test of Surface Burning Characteristics of Building Materials");

(5) be designed for isolation of fires, riots or other emergencies;

(6) incorporate the requirements of the Life Safety Code NFPA 101 (current edition) §14-2. This section of NFPA 101 includes the following subjects:

(A) 14-2.1 General;

(B) 14-2.2 Means of Egress Components;

(C) 14-2.3 Capacity of Means of Egress;

(D) 14-2.4 Number of Exits;

(E) 14-2.5 Arrangement of Means of Egress;

(F) 14-2.6 Travel Distance to Exits;

(G) 14-2.7 Discharge From Exits;

(H) 14-2.8 Illumination of Means of Egress;

(I) 14-2.9 Emergency Lighting;

(J) 14-2.10 Marking of Means of Egress;

(K) 14-2.11 Special Features (Door Release).

§263.13. Emergency Illumination System. A reliable emergency lighting system capable of repeated automatic operation without manual intervention for one and one-half hours shall be available in the event of a failure on normal lighting. Such system shall be tested no less frequently than that recommended by its manufacturer or on calendar quarterly intervals, whichever is less. A record of such periodic tests shall be maintained to include date and result of test and the signature of the person testing the equipment.

§263.14. Hazardous Area Protection.

(a) Areas used for general storage, boiler or furnace rooms, fuel storage, janitor's storage rooms, maintenance shops including woodworking and painting areas, laundries, and kitchens, shall be separated from other parts of the building with two-hour fire resistive construction with openings protected with automatic or self-closing 1-1/2 hour fire rated assemblies. When the hazardous area is protected by automatic sprinkler protection, the separa-

tion may be of one-hour fire resistive construction with openings protected with automatic or self closing 20 minute fire rated assemblies.

(b) Cooking facilities producing grease-laden vapors shall have approved automatic fire extinguishing systems protecting cooking surfaces and hood and duct systems serving the cooking equipment in accordance with National Fire Protection Agency 96 (current edition).

§263.15. Hazardous Operations. Where hazardous processes or storage are of such a character as to introduce an explosion potential, explosion venting, or an explosion suppression system specifically designed for the hazard shall be provided unless the hazardous operation is conducted in a sufficiently remote building. The use of combustible supplies and permitting of hazardous material and trash to collect shall be minimized and avoided where possible.

§263.16. Duct Dampers. Air-conditioning and ventilation ductwork in new facilities and new additions shall contain dampers designed to resist the passage of smoke at each point a duct penetrates a smoke partition or floor level; such ducts shall close automatically upon the detection of smoke, but may be operated manually in existing facilities. (Exception: this rule does not apply for ductwork which is part of a smoke detection or smoke management system).

§263.17. Construction Materials and Furnishings. Construction materials, furnishings, and fittings shall consist of noncombustible or low-hazard content material only. Fire resistant and non-toxic mattresses (pillows where furnished), to include the core and ticking, shall be used and maintained in serviceable condition. Single story low risk facilities may use framing which is not fire retardant treated, provided exterior walls, interior walls and ceilings are of fire resistive materials. All interior finishes shall be Class A materials; roof materials shall meet Class C criterion unless superseded by local code requirements.

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

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Jack E. Crump
Executive Director
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Standards

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Design and Materials

• 37 TAC §§263.11-263.24

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.11. *Removal of Occupants.*

§263.12. *Separation.*

§263.13. *Additions/New Construction.*

§263.14. *Prompt Release Means.*

§263.15. *Number of Exits.*

§263.16. *Width of Exits.*

§263.17. *Illumination of Exits.*

§263.18. *Emergency Illumination System.*

§263.19. *Exit Marking.*

§263.20. *Exit Stairways.*

§263.21. *Exit Doors.*

§263.22. *Hazardous Area Protection.*

§263.23. *Duct Hampers.*

§263.24. *Construction Materials and Furnishings.*

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

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Detection and Alarm Systems

• 37 TAC §§263.30-263.33

The new sections are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.30. *General.* An automatic fire detection and alarm system shall be provided for all jails. The system shall include:

(1) automatic fire detection for all areas of the facility;

(2) manual fire alarm initiation for jail staff use;

(3) annunciation of all automatic fire detection devices and fire extinguishing systems;

(4) alarm system which provides effective warning to jail staff from all areas of the jail sufficient to allow evacuation of the affected area.

§263.31. *Smoke Detection.* Fire detection for inmate occupied areas shall be by means of approved smoke detectors. The detectors shall be so located to meet the smoke detection testing criterion of §263.53 of this title (relating to Standpipes and Hoses).

§263.32. *Periodic Testing.* The alarm systems should be tested in accordance with the manufacturer's recommendation, but shall be tested at least on calendar quarterly intervals and test results made a matter of record to include date and results of test, and signature of the person testing the equipment.

§263.33. *Notification of Others.* The alarm system in a jail should be arranged to permit the automatic transmission of an alarm to the municipal fire department, other law enforcement departments, or the emergency medical/ambulance service as such need for such other available assistance may arise.

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

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Detection and Alarm Systems

• 37 TAC §§263.31-263.34

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Government Code, Title 4, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.31. *Alarm Initiation.*

§263.32. *Installation.*

§263.33. *Periodic Testing.*

§263.34. *Notification of Others.*

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

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Plans and Drills for Emergencies

• 37 TAC §§263.40-263.44

The new sections are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.40. *Plans.* The sheriff shall have a written plan for emergencies, developed after consultation with the other local appropriate fire department, emergency medical, and law enforcement personnel, which plan shall provide for:

(1) use of alarms;

(2) transmission of alarm to:

(A) fire department;

(B) emergency medical service; or

(C) other law enforcement officials;

(3) response to alarms;

(4) isolation of fires, disturbances;

(5) prompt release and evacuation of area;

(6) prevention of escape during evacuation;

(7) fire extinguishment, rendering of prompt medical aid, or quelling riot;

(8) coordination of fire suppression, medical, or quelling efforts; and

(9) daily visual inspections of all hazardous areas, exits, and life safety equipment.

§263.41. Drills. Fire exit drills and emergency evacuation drills shall be held with sufficient frequency by competent persons to familiarize jail staff with procedures. Such drills shall be conducted for each shift of personnel and not less frequently than each calendar quarter, and upon the employment of new or additional personnel. The actual movement of inmates to other areas or outside the building is not required.

§263.42. Emergency Directions. Directional exit signs and emergency evacuation diagrams which are clearly visible shall be posted in each cell exit hallway and corridor.

§ 263.43. Use of Equipment. At least once each calendar quarter all custodial personnel shall review the location, purpose, and means of using each piece of emergency or life safety equipment in the jail.

§263.44. Fire Prevention Plan. The sheriff, together with local fire department personnel, shall develop a written fire prevention and fire hazard inspection plan and checklist which shall be reviewed and checked at least once each calendar quarter.

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

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• 37 TAC §§263.41-263.45

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Government Code, Title 4, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.41. Plans.

§263.42. Drills.

§263.43. Emergency Directions.

§263.44. Use of Equipment.

§263.45. Fire Prevention Plan.

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

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Executive Director
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Life Safety and Emergency Equipment

• 37 TAC §§263.50-263.57

The new sections are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.50. Emergency Electrical Power. New facilities and new additions to existing facilities shall be equipped with an emergency back-up electrical power system designed to operate both manually and automatically upon interruption of the primary electrical power source. Back-up electrical power shall be provided for necessary equipment and life safety system including, but not limited to:

(1) emergency illumination system;

(2) exit lights;

- (3) smoke management system;
- (4) fire detection and alarm systems;
- (5) audible communication systems;
- (6) security/control systems.

§263.51. Manual Release of Doors. Power-operated locks shall be of the type that can be opened manually with a key.

§263.52. Smoke Management.

(a) General. All jails shall have a sufficient means of managing smoke from a fire to permit orderly movement of inmates from the area of a fire incident. Smoke management shall limit the exposure of jail staff to untenable conditions when responding to a fire emergency. The means of smoke management shall be a combination of compartmentation, control of smoke migration from the affected area, and means of removing smoke to the exterior of the building. The smoke management system shall include the consideration of:

- (1) automatic and manual fire detection;
- (2) automatic and manual fire alarm;
- (3) automatic and manual smoke control system activation;
- (4) automatic and manual fire suppression;
- (5) maintenance of safe means of egress;
- (6) movement of inmates from affected area to an area of safety;
- (7) containment of smoke to space of fire origin;
- (8) removal of smoke.

(b) Coverage. Smoke management shall be provided throughout all detention areas of the facility, including support areas within the security perimeter.

(c) Compartmentation. Smoke barriers shall be provided in accordance with the Life Safety Code, National Fire Protection Agency (NFPA) 101 (current edition) §14.3.7.

(d) Control of smoke migration.

(1) The fire detection system shall promptly detect smoke within the affected area.

(2) Upon detection, an alarm system shall automatically alert the central station(s) and initiate the automatic smoke control system.

(3) The smoke control system shall automatically, by pressure differential and/or air flow, contain smoke in the area of fire origin. Under no circumstances shall

and/or air flow, contain smoke in the area of fire origin. Under no circumstances shall smoke be allowed to enter the means of egress.

(e) Smoke removal.

(1) The smoke management system shall have the ability to remove smoke from the affected area to the exterior of the building using fixed mechanical equipment. (Existing facilities may apply for a variance from this requirement when portable equipment is provided.)

(2) During smoke removal, smoke shall not migrate from the affected area to other areas of the building.

(f) Affected compartment. The affected compartment is defined as a cell, dayroom, dormitory, or special purpose cell or other spaces in which inmates are confined, where the fire incident originates.

(g) Testing.

(1) General. Testing of the smoke management systems in all jails shall be in compliance with the requirements of this section.

(2) Functional testing.

(A) Prior to any other testing of new smoke management systems, an air balance report prepared in accordance with nationally recognized practices shall be submitted to the county. Such report shall bear the statement that the mechanical air handling systems meet the Engineer of Record's design requirements with respect to pressure differentials achieved or air flow rates necessary to meet smoke management system operation. An air balance report on an existing system may be required by the Texas Commission on Jail Standards when there is evidence that the smoke management system has been impaired due to modifications to the system or inadequate maintenance.

(B) Upon acceptance of the air balance report, a test of smoke management systems's initiating devices and control systems, output shall be performed. Such testing shall verify that, upon activation of a smoke detector, water flow indicating device, manual fire alarm station, or other smoke management system initiating device, the smoke management system components will automatically commence operation. The Engineer of Record shall provide a cause and effect chart to indicate the appropriate smoke management operating mode for all affected equipment based on the operation of each initiating device. Acceptance of functional testing shall be predicated upon all input and output devices performing as indicated by the cause and effect chart.

(3) Smoke testing. After successful completion of the functional testing, smoke testing of the smoke

management systems shall be accomplished in accordance with this section.

(A) Smoke detection. A rated smoke candle shall be ignited in the space to be tested. Within 60 seconds of the beginning of full candle burn, the automatic smoke detection system shall alarm and initiate the operation of the smoke management system. The area to be tested shall be measured to determine the appropriate smoke candle to be used. Single cells and spaces up to 2,000 cubic feet in volume shall be subjected to a 30 second smoke candle. Multi-occupancy cells, special purpose cells and dormitories exceeding 2,000 cubic feet in volume shall be subjected to a smoke candle(s) having a rated smoke production of two times the volume of the space to be tested. For purposes of this test the following smoke candle ratings shall be used:

(i) thirty second candle-4,000 cubic feet;

(ii) one minuted candle-8,000 cubic feet.

(B) Smoke migration. The smoke management system shall be controlling smoke migration if smoke from the detection test does not migrate from the affected area for a period of 10 minutes from the time of detection and activation of the smoke control system.

(C) Smoke removal. Following successful completion of the smoke migration test, smoke removal shall be completed in the affected area within 15 minutes.

(4) Maintenance and retesting. The smoke management systems shall be regularly maintained to assure consistent performance. The smoke management systems shall be functionally tested quarterly and shall be tested in accordance with the smoke testing requirements for the Texas Commission on Jail Standards inspector on an annual basis.

(5) Exceptions.

(A) Fully sprinklered low risk facilities may be exempt from these requirements if approved by the sheriff and the local fire marshal, however, smoke detection and alarm systems shall be provided for all facilities.

(B) Facilities that meet the requirements for smoke and fume removal requirements of the December 16, 1985, edition of these rules may continue in operation provided the systems are maintained and continue to function in accordance with those requirements.

§263.53. *Standpipes and Hoses.* Each jail shall be furnished with an approved National Fire Protection Association Class III standpipe and hose system (located to permit quick deployment to inmate living areas) for use by fire department personnel and jail staff. Jails equipped with complete automatic fire sprinkler protection can reduce the system to a National Fire Protection Association, Class I system. A one inch red line hose and reel system may be used in lieu of the one and one-half inch braided hose when approved by local fire officials. Existing facilities may request a variance from this requirement.

§263.54. *Portable Fire Extinguishers.* Portable fire extinguishers of the number, size and type, and in the locations recommended in writing by local fire department personnel (or in accordance with National Fire Protection Association 10) shall be provided.

§263.55. *Equipment.* All life safety equipment shall be out of reach of inmates, or otherwise secured from unauthorized tampering. At least one self-contained breathing apparatus shall be available and maintained in or near each facility control station. All jail staff shall be trained and quarterly drills conducted in the use of this equipment.

§263.56. *Inspections, Maintenance, Testing.* All life safety equipment shall be inspected, maintained and tested by persons qualified to do so (whether under vendor contract, by state or private agency or otherwise) in order that such equipment shall be safe, secure, and fully operative at all times.

§263.57. *Testing Emergency Power Equipment.* Emergency power equipment shall be tested at least once each week and the electric load transferred to the circuits at least monthly.

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

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TRD-9007843 Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

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• 37 TAC §§263.51-263.58

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

The repeals are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.51. Emergency Electrical Power.

§263.52. Manual Release of Doors.

§263.53. Smoke and Fume Removal.

§263.54. Standpipes and Hoses.

§263.55. Portable Fire Extinguishers.

§263.56. Equipment.

§263.57. Inspections, Maintenance, Testing.

§263.58. Testing Emergency Power Equipment.

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

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Records and Reports

• 37 TAC §263.70, §263.71

The new sections are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.70. Records. Adequate records of all required life safety plans, drills, and inspection of equipment shall be maintained and shall be readily available for inspection.

§263.71. Fire Reports. Complete reports of all fire incidents shall be made and

include cause of fire, ignition source, material ignited, fire material aiding in spread of fire, performance of smoke management system, damage resulting, and injuries and shall be sent to commission.

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

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TRD-9007842 Jack E. Crump Executive Director Texas Commission on Jail Standards

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• 37 TAC §263.71 §263.72

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.71. Records.

§263.72. Fire 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.

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TRD-9007838 Jack E. Crump Executive Director Texas Commission on Jail Standards

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Additional Information/Recommendations

• 37 TAC §§263.80-263.83

The new sections are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.80. Common Emergencies. The commission has found that most emergency problems faced by jails involve the following: drunks aspirating vomit, assaults; willful setting of fires, attempted suicides; heart attacks; permitting smoking or incendiary materials in padded cell areas; smoke inhalation; and delays from the lack of planning in getting emergency personnel and vehicles to the scene at the facility (small elevators, locked doors, arrival at wrong entrance, etc.). Particular attention should be directed to these problem areas in planning for emergencies and in the training of personnel to handle them, and to coordinate efforts with emergency vehicles and personnel.

§263.81. Resuscitation Training/Equipment. Research and experience has indicated that clinical death (loss of vital functions of breathing or circulation or both) precedes biological death or permanent brain damage by eight to 10 minutes, and that biological death may at times be avoided through prompt reaction and proper procedures such as clearing of airway obstructions, mouth-to-mouth resuscitation (where breathing and circulation has stopped). Accordingly, where cardiopulmonary resuscitation (CPR) courses are available to custodial personnel through local Red Cross or hospital programs, enrollment and training through such courses of jail staff is strongly recommended. Facilities in the more populated areas should purchase and have on hand resuscitation equipment and personnel trained in its use.

§263.82. Emphasis on Fire Training. The State Fire Marshall's office has pointed out that the primary danger from institutional fires is smoke inhalation and has suggested that the primary reactions to fires should place emphasis not on the extinguishment of the fires, but personnel should first immediately evacuate persons from the affected area and notify local authorities, then direct attention to smoke removal and extinguishment.

§263.83. Meaning of "Jails" or "Facilities". The use of the terms "jails" or "facilities" in these Life Safety Rules shall include lockups, low-risk facilities, and county correctional centers.

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 July 25, 1990.

TRD-9007841 Jack E. Crump Executive Director Texas Commission on Jail Standards

Earliest possible date of adoption: September 10, 1990

For further information, please call: (512) 463-5505



• 37 TAC §§263.81-263.84

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.81. Common Emergencies.

§263.82. Resuscitation Training/Equipment.

§283.83. Emphasis in Fire Training.

§263.84. Meaning of "Jails" or "Facilities."

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 July 25, 1990.

TRD-9007839 Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: September 10, 1990

For further information, please call: (512) 463-5505

Submission with Architectural Plans

• 37 TAC §263.90

The new section is proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.90. Submission. Drawings of adequate detail indicating all life safety and emergency equipment and the proposed function thereof shall be submitted with new construction or renovation plans in accordance with §257. 3 of this title (relating to Information Submissions).

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 July 25, 1990.

TRD-9007832 Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: September 10, 1990

For further information, please call: (512) 463-5505

• 37 TAC §263.91

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§263.91. Submission.

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 July 25, 1990.

TRD-9007829 Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: September 10, 1990

For further information, please call: (512) 463-5505

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 56. Family Planning

Subchapter B. Client Rights and Eligibility

The Texas Department of Human Services (DHS) proposes to repeal §56.205 and §56.601, and proposes new §56.205 and §56.601, concerning eligibility for family planning services and eligibility determination, in its family planning chapter. The purpose of the repeals and new sections is to conform to federal regulations. New §56.205 explains the income eligibility limit methodology for family planning Title XX services. The new level will be at 150% of the federal poverty guidelines. The new rule also consolidates complete information concerning family planning eligibility determination and re-determination. The information includes identification of groups of clients who are eligible under Titles XIX and XX, definition of family members, eligibility determination being based on the information provided by the client (self-declaration), and the time frame for re-determining eligibility. New §56.601 is an administrative requirement for agencies to properly

determine eligibility in accordance with §56.205.

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

Mr. Raiford also has determined that for each year of the first five years the repeals and new sections are in effect the public benefit anticipated as a result of enforcing the repeals and new sections will be to enable family planning services to reach a broader range of high-risk clients and to enhance coordination and consistency between the Texas Department of Health and DHS family planning programs as well as between day care and family planning Title XX services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals and new sections as proposed.

Questions about the content of this proposal may be directed to Beth Weber, Unit Leader, Family Planning/Genetic Services Program, at (512) 338-6460. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services Section-442, Texas Department of Human Services 454-W, P. O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

• 40 TAC §56.205

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

§56.205. Eligibility.

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

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

TRD-9007851 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: October 15, 1990

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

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

§56.205. Eligibility for Family Planning Services.

(a) The following are eligible for family planning services.

(1) Individuals who receive Medicaid are eligible for family planning medical, counseling, and education services provided under Title XIX family planning services.

(2) Individuals, who live in an aid for families with dependent children (AFDC) household, are current applicants for AFDC or who within the last three months received or applied for AFDC are eligible for Title XX family planning services without regard to income.

(3) Individuals age 19 and younger are eligible without regard to income for group presentations and discussions about family planning provided under Title XX.

(4) Individuals whose total gross family income is equal to or less than the Department of Human Services (DHS) determined percentage level of the applicable federal poverty income guidelines based on family size are eligible for family planning medical, counseling, and educational services provided under Title XX. The current income level is identified on DHS's family planning eligibility code card. For unmarried individuals age 19 or younger, income eligibility is based on their own income only, not their family's income. The teen's own income is applied to the size of the family as recorded on the eligibility form.

(5) Documented refugees or entrants, and legalized aliens, are eligible for family planning services if they are Medicaid clients or if they meet the income eligibility criteria for Title XX family planning services as specified in paragraph (4) of this subsection.

(6) Individuals who receive non-public assistance food stamps are eligible for family planning services provided under Title XX.

(b) For Title XX eligibility purposes, family members are any combination of the following:

(1) an adult, age 18 or older;
(2) the adult's spouse, including common-law;

(3) minor children for whom either adult is legally responsible.

(c) An adult living alone is a one-person family.

(d) A minor and any children or siblings of the minor who live alone or with people who are not legally responsible for them are considered an all-minor family.

(e) Title XX eligibility is based on information provided by the client. Agency providers are not required to verify the information provided, but they may do so as long as the methods of verification do not jeopardize the client's right to confidentiality.

(f) Clients are responsible for reporting changes in their income or family size.

(g) Eligibility for Title XIX family planning services must be certified at each visit.

(h) Eligibility for Title XX family planning services must be re-determined at least annually or whenever changes in the client's circumstances may affect eligibility status. Eligibility is re-determined as specified in subsection (e) of this section.

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 August 6, 1990.

TRD-9007849 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: October 15, 1990

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



Subchapter F. Administrative Requirements for Agency Providers

• 40 TAC §56.601

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

§56.601. Eligibility Determination.

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 August 6, 1990.

TRD-9007850 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: October 15, 1990

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



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

§56.601. Eligibility Determination. Agency providers are responsible for determining and documenting eligibility for family planning services as specified in §56.205 of this title (relating to Eligibility for Family Planning Services).

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

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

TRD-9007866 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: October 15, 1990

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



Withdrawn Sections

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

TITLE 28. INSURANCE

Part I. State Board of Insurance

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

Subchapter Y. Minimum Standards for Benefits for Long-term Coverage Under Individual and Group Policies

• 28 TAC §3.3820

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed §3.3820, submitted by the State Board of Insurance has been automatically withdrawn, effective August 3, 1990. The withdrawal as proposed appeared in the February 2, 1990, issue of the *Texas Register* (15 TexReg 535).

TRD-9007895



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter G. Hospital Services

• 40 TAC §29.601

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed amendment to §29.601. The text of the proposed amendment appeared in the May 29, 1990, issue of the *Texas Register* (15 TexReg 2997). The effective date of the withdrawal is *date of filing*.

Issued in Austin, Texas, on August 3, 1990.

TRD-9007800

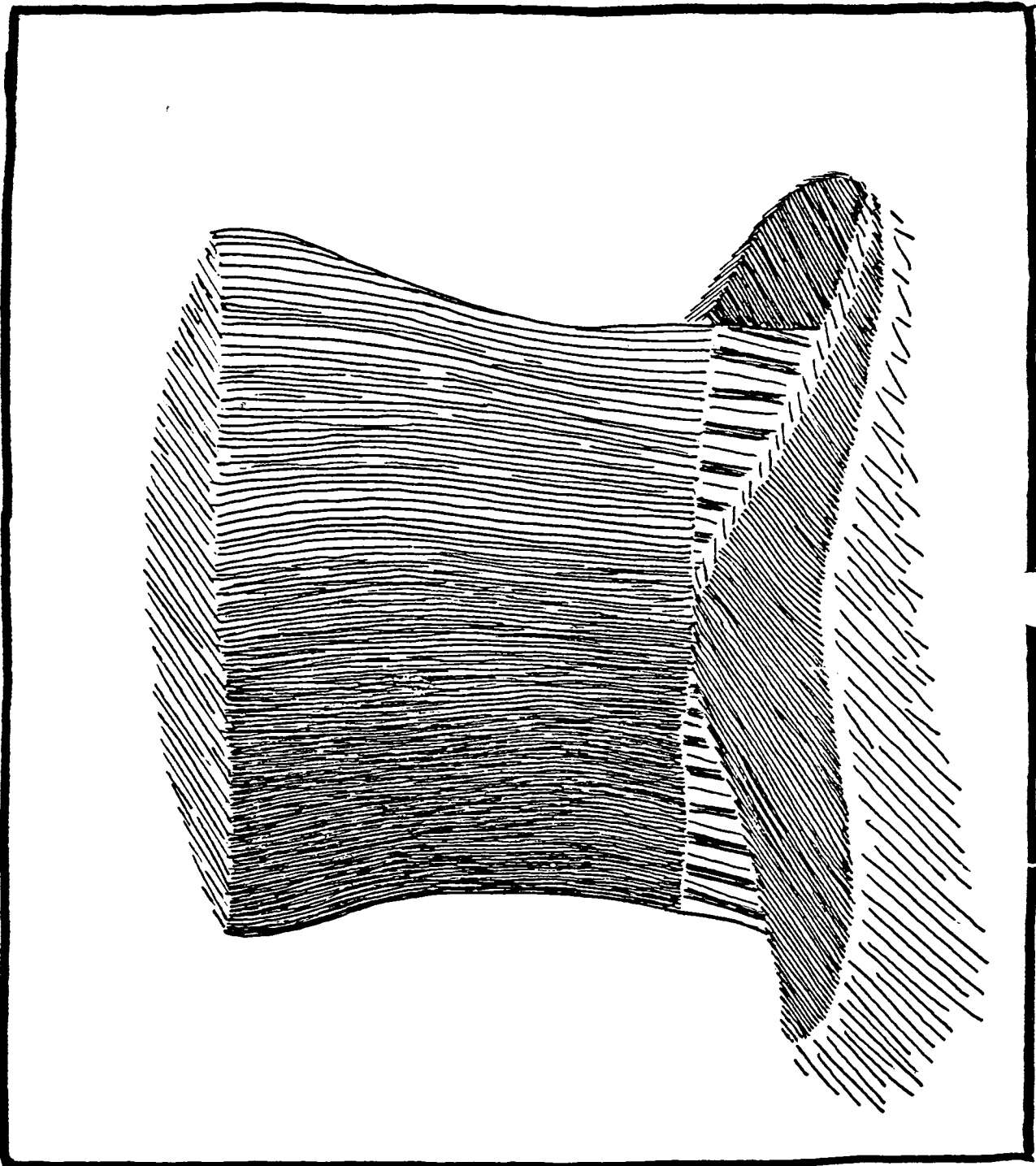
Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: August 3, 1990

Proposal publication date: May 29, 1990

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





Name: Leslie Doughty

Grade: 10

School: Richardson High School, Richardson I.S.D

Adopted Sections

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

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

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 1. Library Development

• 13 TAC §§1.42, 1.72, 1.77

The Texas State Library and Archives Commission adopts amendments to §§1.42, 1.72, and 1.77. Section 1.42 is adopted with changes to the proposed text as published in the May 1, 1990, issue of the *Texas Register* (15 TexReg 2480). Section 1.72 and §1.77, are adopted without changes and will not be republished.

Amendments to §1.42, concerning boundaries of system, move Childress County from the North Texas Library System to the Texas Panhandle Library System which keeps the library system boundaries coterminous with the boundaries of councils of government. The number of counties in the Texas Panhandle Library System is corrected to 26, rather than 27 as was incorrectly proposed. The amendment to §1.72, Public Library Service, permits public libraries to charge for telefacsimile services; this is a new technology for public libraries. Amendments to §1.77, concerning public library: local tax support, clarify language which has proven to be ambiguous to the public. The wording has been changed to indicate that the section refers to all local general revenue, not only that from tax sources.

Public libraries in Texas are assigned to one of ten regional library systems from which they receive services. Childress County Public Library will receive services from the Texas Panhandle Library System. Public libraries will be able to charge users for transmittal of documents by telefacsimile. Public libraries must have at least half of their minimum required per capita operating expense from city, county, or school district general revenue to receive system services.

Representatives of Childress Public Library requested that they remain in the North Texas Library System because they preferred the services that system provides.

Childress County Library commented against the amendments.

The agency feels that public libraries should belong to the system which corresponds to the council of governments that their local government has chosen. System services are determined by system member libraries and are funded at substantially the same level for each system.

The amendments are proposed under the Government Code, Chapter 441, §136, which provides the Texas State Library and Archives Commission with authority to adopt rules for administration of the Library Systems Act.

§1.42. *Boundaries of System.* External boundaries of a major resource system or regional library system shall be coterminous with the boundaries of councils of government, unless permission to vary is granted by the governor's office at the request of the state librarian. The state shall be organized into 10 regions a follows:

(1) (No change.)

(2) Texas Panhandle Library System (26 counties): Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler;

(3)-(6) (No change.)

(7) North Texas Library System (20 counties): Archer, Baylor, Clay, Cottle, Denton, Erath, Foard, Hardeman, Hood, Jack, Johnson, Montague, Palo Pinto, Parker, Somervell, Tarrant, Wichita, Wilbarger, Wise, Young.

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 August 1, 1990.

TRD-9007734

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Effective date: August 23, 1990

Proposal publication date: May 1, 1990

For further information, please call: (512) 463-5440

• 13 TAC §1.97

The Texas State Library and Archives Commission adopts new §1.97, without changes to the proposed text as published in the May 1, 1990, issue of the *Texas Register* (15 TexReg 2480).

In order to receive federal Library Services and Construction Act Title I funds, the Library and Archives Commission must expend each year for specified purposes an amount of

general revenue equal to the amount expended in the second preceding fiscal year. The new section will increase assurance that the state will meet the federal financial maintenance of effort requirements and continue to qualify for federal funds.

Major resource center libraries which receive system operation grants for the provision of services to public libraries in their areas will have six months after the end of the fiscal year to expend funds.

No comments were received regarding adoption of the new section.

The new section is adopted under the Government Code, Chapter 441, §136, and Senate Bill 222, 71st Legislature, Article 1-194, which provides the Texas State Library and Archives Commission with the authority to adopt rules for the administration of the Library Systems Act and to adopt rules creating an exception to the Uniform Grants and Contract Management Act.

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

Issued in Austin, Texas, on August 1, 1990.

TRD-9007703

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Effective date: August 22, 1990

Proposal publication date: May 1, 1990

For further information, please call: (512) 463-5440

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part IX. Texas Commission on Jail Standard

Chapter 271. Classification and Separation of Inmates

• 37 TAC §§271.1-271.3

The Texas Commission on Jail Standards adopts the repeal of §§271.1-271.3, without changes to the proposed text as published in the June 22, 1990, issue of the *Texas Register* (15 TexReg 3623).

The repeal of the sections is required to allow adoption of new requirements.

The repeals are necessary to allow for the adoption of new sections which provide for objectivity in the classification system.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

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

Issued in Austin, Texas, on July 25, 1990.

TRD-9007743 Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Effective date: August 23, 1990

Proposal publication date: June 22, 1990

For further information, please call: (512) 463-5505

◆ ◆ ◆
The Texas Commission on Jail Standards adopts new §§271.1-271.3. Section 271.1 and §271.2, are adopted with changes to the proposed text as published in the June 22, 1990, issue of the *Texas Register* (15 TexReg 3623). Section 271.3 is adopted without changes and will not be republished.

The new sections provide for the classification and separation of inmates utilizing objectives criteria.

The new sections require an initial risk assessment evaluation of inmates based on objective criteria to be completed prior to housing inmates in other than maximum security housing.

Several favorable comments were received. Adverse comments were received concerning additional work loads and record keeping required by the new sections.

Kerr County Sheriff's Department and Bexar County Sheriff's Department commented in favor of the new sections. El Paso County Sheriff's Department and Young County Sheriff's Department commented against the new sections.

Substantial modifications were made to the new sections to allow counties the latitude needed to perform required procedures without undue hardships.

The new sections are adopted under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

§271.1. Inmate Safety. A person arrested shall be confined or separated in a facility in the following manner.

(1) Prior to and during processing into a facility, arrested persons shall be under direct staff supervision.

(2) Following processing, housing separation shall be provided to assure the health and safety of each detained.

(3) A person confined to a detoxification cell shall be moved to a general housing area as soon as he can properly care for himself.

(4) A custody level shall be assessed each individual consistent with public safety and available information when other than high risk housing is utilized.

(A) A custody assessment system shall be developed, when appropriate by each sheriff using the following information and format or a similar system subject to approval of the classification plan:

- (i) charge/conviction—(one to 10 points);
- (ii) offense history—(one to 10 points);
- (iii) escape of violence—(one to 10 points);
- (iv) history of violence—(one to 10 points);
- (v) length of incarceration—(one to 10 points);
- (vi) other factors—(one to 10 points).

(B) The lowest figure is a positive indicator while the highest figure is a negative indicator. Known stability factors may affect the assessment by reducing the number indicator for each scored area.

(C) This assessment shall determine low risk or high risk custody status. Inmates with a custody assessment of 24-60 shall be considered high risk inmates. Inmates with a custody assessment of 0-23 may be considered low risk inmates. A similar assessment system may be used; however, scoring guidelines shall be comparable with this subparagraph.

(D) After custody level assessment has been resolved, high risk inmates shall be classified according to §271.2 of this title (relating to Classification Plan). Low risk inmates do not require further classification except the separation of male and female inmates. Inmates transferred directly to a low risk facility shall be assessed by the sheriff or his designee upon arrival. Those not qualifying as low risk inmates shall be immediately transferred to a high risk facility.

§271.2. Classification Plan. Each sheriff shall develop and implement a written classification plan, approved by the commission, which shall provide for the

protection of inmates, staff, and the community. The plan shall contain the following provisions:

(1) a classification and a risk assessment made prior to assignment to housing other than maximum security level;

(2) separation and assignment of inmates to living areas and activities shall be based upon the following factors:

(A) gender. Male inmates shall be separated from the sight and sound of female inmates, except that, when under direct, visual, and proximate supervision, males and females may simultaneously dine together and attend together church services, education programs, counseling programs, recreation and exercise programs, and work programs;

(B) age. If juveniles are detained, they shall be separated by sight and sound from adult inmates. Age shall be a consideration when any inmate is assigned to inmate housing;

(C) witnesses. Witnesses not charged with a crime shall be separated from all other inmates;

(D) health. Inmates with communicable disease shall be separated from all other inmates unless recommended otherwise by the local health official. All inmates possessing mental health concerns to include homicidal or suicidal tendencies, shall be housed to provide for more frequent observation;

(E) severity of charges/conviction. Violent or assaultive crimes, crimes against persons, and crimes involving use of a weapon or deadly force shall be considered;

(F) first offenders awaiting trial shall be separated from all inmates 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;

(G) known institutional behavior. All available incident reports shall be considered;

(H) criminal sophistication;

(I) assaultive or passive tendencies;

(J) the separation of trustees, inmates sentenced to work release, weekend detention, or alternative programs which could lead to breach in security or introduction of contraband;

(K) all other available information;

(3) an appeals process of one's classification and/or assessment to the sheriff;

(4) the maintenance of records of inmates, classifications, appeals, reviews, and disposition.

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 July 25, 1990.

TRD-9007742 Jack E. Crump
Executive Director
Texas Commission on Jail Standards

Effective date: August 23, 1990

Proposal publication date: June 22, 1990

For further information, please call: (512) 463-5505



Chapter 48. Community Care for Aged and Disabled

Eligibility

• 40 TAC §48.2911, §48.2918

The Texas Department of Human Services (DHS) adopts amendments to §48.2911 and §48.2918, without changes to the proposed text as published in the June 26, 1990, issue of the *Texas Register* (15 TexReg 3694).

Justification for the amendments is to allow a client to receive less than the required six hours of family care (FC) or primary home care (PHC) per week, if he receives congregate or home-delivered meals, day activity and health services, or special services to handicapped adults, whether or not any of the services are provided by DHS. As exceptions under which a client may receive less than six hours of family care or primary home care per week, the amendments also include the client's receipt of aid-and-attendant benefits from the Veterans' Administration and DHS-funded in-home and family support services. Also, if a PHC client receives services through DHS's Waiver Program for Medically Dependent Children, he will be able to receive less than six hours of PHC per week.

The amendments will function by coordinating services and using resources efficiently.

No comments were received regarding adoption of the amendments.

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

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

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

TRD-9007867 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: September 1, 1990

Proposal publication date: June 26, 1990

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



Chapter 54. Family Violence Program

Contracting Requirements

• 40 TAC §54.403

The Texas Department of Human Services (DHS) adopts an amendment to §54.403, without changes to the proposed text as published in the June 12, 1990, issue of the *Texas Register* (15 TexReg 3411).

The amendment is justified to maintain or increase shelter center services to victims of family violence when a shelter center faces a substantial loss of income from other sources than DHS or when it has an opportunity to accept a substantial increase in state income.

The amendment will function by giving family violence shelter centers time to adjust to substantial changes in income.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 51, which authorizes the department to contract for family violence shelter-center services and to adopt rules to implement them.

This agency hereby certifies that the section 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 August 3, 1990.

TRD-9007801 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: August 31, 1990

Proposal publication date: June 12, 1990

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



State Board of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.)

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has adopted a filing submitted by the Insurance Services Office, Inc (ISO), of new and revised rules

and rate tables for the Commercial Crime Insurance Program.

In accordance with the provisions of the Texas Insurance Code, Article 5.97, a text of the proposed filing has been filed in the Office of the Chief Clerk of the State Board of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The rules and rate tables have been revised to incorporate adopted changes in the forms and to reduce the complexity of various rating rules. Many of the proposed revisions were necessitated by the development of Coverage Form Q, which provides coverage for loss of money or securities, caused by robbery or safe burglary. The coverage is substantially similar to coverage currently provided by attaching endorsement CR 15 35 (Include As Covered Property or Changed

Covered Property To Money and Securities), to Coverage Form D, Robbery and Safe Burglary. The premium computation is substantially the same as the method used to calculate the premium when using endorsement CR 15 35. ISO indicated that there is no overall change in rates for this coverage.

A rate table has been added to the Country Wide Rate pages and the Territorial Multipliers have been revised to indicate rates and multipliers for Coverage Form Q. All rules, rate tables, and other references to providing coverage for money and securities using Coverage Form D have been deleted.

Coverage Forms D and H have been retitled to specifically state that the coverage applies to property other than money and securities. All references to Coverage Forms D and H have been amended to reflect the revised titles.

The board adopted additional rule changes that are not directly related to the development of Coverage Form Q. The rules for Coverage Plan 4, Storekeepers Burglary and Robbery, and Coverage Plan 5, Office Burglary and Robbery, have been amended. This will enable an insured to schedule the premises that will be covered under the crime policy. The Special Limit of Insurance for Specified Property has been increased from \$1,000 to \$5,000 and this change is reflected in the rating rules for Coverage Forms D and E.

The Country Wide Rate Pages pertaining to Coverage Form D (CR-CWR-4, 5) have been revised to include a discount when covered property is transported by an armored motor vehicle. This discount, currently available for Coverage Form C, has been extended to Coverage Form D.

The board adopted various revisions to the General Rules section of the commercial crime insurance rules. A few rules have been combined, others have been restructured, and some provisions have been deleted. The Texas Exception to General Rule 9, Special Exposure Minimum Premiums, has been deleted. The revisions to the General Rules attempt to eliminate ambiguities, to facilitate use of the rating rules with automated systems, and to increase consistency and uniformity throughout the Commercial Lines Manual.

The final area of changes involved the informational references in the rules section of the manual. The pages indicating the Coverage Forms and Coverage Plans that are available under the Commercial Crime Insurance Program have been updated. The updated pages reflect the addition of Coverage Form Q and the revised titles of Coverage Forms D and H. The pages also reflect the addition of Coverage Plan 11 and Coverage Forms O and P, which were filed by the Surety Association of America and were approved by the State Board of Insurance after the last revision of these commercial crime manual pages.

The Alarm Systems Appendix has been withdrawn. The appendix lists the alarm system standards set by Underwriters Laboratories, Inc. The appendix has been withdrawn because the information is readily obtainable from Underwriters Laboratories, Inc.

The filing becomes effective February 1, 1991, under the following rule of application: These changes are applicable to all policies effective on or after February 1, 1991. No policy effective prior to February 1, 1991, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts

it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas, on August 1, 1990.

TRD-9007738

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: February 1, 1991

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



The State Board of Insurance has adopted a filing submitted by the Insurance Services Office, Inc. (ISO), of new and revised forms for the Commercial Crime Insurance Program.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the Office of the chief clerk of the State Board of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The State Board of Insurance adopted a new Coverage Form designated Coverage Form Q and titled "Robbery and Safe Burglary Coverage Form-Money and Securities." Coverage Form Q replaced endorsement CR 15 35 (Include as Covered Property Change Covered Property To Money and Securities). CR 15 35 has been withdrawn by this filing. The new form does not represent a change in coverage.

Coverage Form D has been retitled to specifically state that the coverage applies to property other than money and securities. The title of Coverage Form H, "Premises Theft and Robbery Outside The Premises", has been similarly retitled. The changes distinguish the coverage provided under Forms D and H from the coverage provided under Form Q.

The board adopted several changes to the Safe Depository General Provisions (SDGP). The definitions of "Occurrence" and "Property Other Than Money and Securities" have been revised to make the SDGP consistent with the other commercial crime forms. The filing also contained revisions made to eliminate a conflict between General Condition 1, of the SDGP, concerning "Coverage Extensions and Supplementary Payments" and the Supplementary Payments provision of Coverage Form M. General Condition 1 has been deleted from the SDGP and a qualifying statement has been added to the Coverage Extension Provision (§(A) (3)) of Coverage Form N. In addition, a general condition regarding "Other Insurance" has been added to the SDGP. This amendment seeks to

streamline the insuring forms; therefore, the similar provisions contained in Coverage Forms M and N have been deleted. The "Other Insurance" provision has been amended to specifically limit the insurer's liability under the provision to the limit of insurance shown in the Declarations. The amendatory language was also added to the Crime General Provisions.

The board also adopted changes to the coverage forms. The deductible provision of each Coverage Form has been amended to indicate that only the highest deductible amount will apply when more than one deductible amount is applicable to a loss. The "Special Limit of Insurance for Specified Property" in Coverage Forms D, E, F, and H (§D(2)(b)), has been increased from \$1,000 to \$5,000. This will expand coverage and account for inflation. The "Defense, Investigation and Settlement" provision of Coverage Forms K, L, and M, (§C(2) (b)), has been revised to clarify the application of the provision. The remaining amendments pertain to Coverage Form G, exclusively.

The applicability of the Loss Participation provision, §(B)(2) of Coverage Form G, has been clarified. An editorial revision has been made to Additional Condition D(2)(b), "Territory." Also, an omission has been corrected in Additional Condition D(2)(c), Valuation of Securities and Property Other Than Money and Securities.

Various endorsements have been revised to reflect the changes noted above. Primarily, endorsements have been revised to reflect their application to Coverage Form Q and to incorporate the revised titles of Coverage Forms D and H.

The new and revised forms for Commercial Crime insurance become effective February 1, 1991, under the following rule of application: These changes are applicable to all policies effective on or after February 1, 1991. No policy effective prior to February 1, 1991, shall be endorsed or canceled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas, on August 1, 1990.

TRD-9007737

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: February 1, 1991

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



Open Meetings

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

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

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

Texas Board of Chiropractic Examiners

Saturday, August 4, 1990, 9 a.m. The Texas Board of Chiropractic Examiners met at the Wyndham Greenspoint Hotel, 12400 Greenspoint Drive, Houston. According to the emergency revised agenda summary, the board, pursuant to Section 3A(h) of Article 6252-17, provide additional notice that action may be taken, among other things, on the item "enforcement cases: Brian Crosser, D.C., Michael J. Hill, D.C., R. W. Bratcher, D.C., C. M. Lewis, D.C., Anthony Kunce, D. C., David Phipps, D.C., W. C. LaRock, D.C., and Charles Votzmeyer, D.C." The reason for the emergency is that the continued practice of Chiropractic by these doctors, in particular the first four, presents an immediate threat to the public health safety and welfare in that they have engaged in grossly unprofessional conduct.

Contact: Jennie Smetana, 8716 Mopac Expressway North, Austin, Texas, (512) 343-1895.

Filed: August 3, 1990, 4:26 p.m.

TRD-9007814

Texas Department of Commerce

Tuesday, August 14, 1990, 11:30 a.m. The Board of Directors of the Texas Department of Commerce will meet at 816 Congress Avenue, Suite 1100, Austin. According to the complete agenda, the board will call the meeting to order and recess into executive session pursuant to V.A.T.S. Article 6252-17, sections 2(e)(g) and (r). At 12:45 p.m. the meeting will reconvene; adoption of June 15, 1990 minutes; consideration of Small Business Incubator Loan Program; consideration of fourteen enterprise project applications; presentation of FY's 1992-1993 commerce budget; presentation of status of product development fund; introduction of David Dewhurst, Chairman of Advisory Committee; status and discussion of senior managing underwriter selection; presentation of future agenda for foreign

offices; presentation from Gulf Intracoastal Canal Association; and board member resignation.

Contact: Bruce W. Anderson, 816 Congress Avenue, Austin, Texas 78711, (512) 320-9666.

Texas Commission for the Deaf

Friday, August 3, 1990, 9 a.m. The Board for Evaluation of Interpreters (BEI) of the Texas Commission for the Deaf met at the Texas Commission for the Deaf Conference Room, 510 South Congress Avenue, Austin. According to the emergency revised complete agenda, the board heard approved previous meeting minutes; heard Board for Evaluation of Interpreters financial report; discussed the Board for Evaluation of Interpreters calendar; evaluator scheduling and evaluator training; and had election of officers. An executive session addressed certificate recommendations; revocations, reviews, and recommendations for new evaluators. Final open session items were recommended from the executive session, staff report and chairperson's report. The emergency was necessary due to an election of officers was required at the meeting.

Contact: Larry D. Evans, 510 South Congress Avenue, Suite 300, Austin, Texas 78704, (512) 321-9891.

Filed: August 2, 1990, 10:36 a.m.

TRD-9007735

Texas State Board of Dental Examiners

Sunday, August 12, 1990, 1 p.m. The Texas State Board of Dental Examiners will meet at the Stouffer Hotel, 9721 Arboretum Boulevard, Austin. According to the complete agenda, the board will hear committee reports.

Contact: Crockett Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

Filed: August 3, 1990, 11:04 a.m.

TRD-9007768

Advisory Commission on State Emergency Communications

Monday, August 13, 1990, 9:30 a.m. The Public Education and Training Committee of the Advisory Commission on State Emergency Communications will meet at 1101 Capital of Texas Highway South, Suite B-100, Austin. According to the complete agenda, the committee will review and finalize 9-1-1 day itinerary and support assignments; discuss TCLEOSE proposed rule for the emergency communications career path; discuss public information materials for system implementation; consider any new business; and hear public comment.

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

Filed: August 3, 1990, 5:11 p.m.

TRD-9007847

Texas Employment Commission

Tuesday, August 14, 1990, 8:30 a.m. The Texas Employment Commission will meet at the Texas Employment Commission Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will review prior meeting notes; consideration and approval of interior renovation of Dallas Regional Office; consideration and approval of purchase of lot adjacent to agency-owned office in Bryan; consideration and approval of bid for chain link fence, gates and electric gate opener for agency-owned building on Austin Street in Houston; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 33; and set date of next meeting.

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

Filed: August 6, 1990, 4:18 p.m.

TRD-9007892

Texas Funeral Service Commission

Tuesday-Thursday, August 21-23, 1990, 8:30 and 9 a.m. respectively. The Texas Funeral Service Commission will meet at the Austin Airport Hilton, 6100 Middle Fiskville Road, Austin. According to the agenda summary, on August 21, the commission will approve minutes; hold formal hearings on actions of licensees; review complaints; hear executive director's report; committee reports; discussion of proposed rules; discuss proposed legislative changes; and elect commission officers. On August 22 and 23, the commission will hold formal hearings on actions of licensee, and any items not considered on previous days.

Contact: Larry A. Farrow, 8100 Cameron Road, Building B, Suite 550, Austin, Texas 78753.

Filed: August 2, 1990, 2:33 p.m.

TRD-9007739

Texas Grain Sorghum Pro- ducers Board

Tuesday-Wednesday, August 14-15, 1990, 1:30 p.m. and 8:30 a.m. respectively. The Texas Department of Agriculture of the Texas Grain Sorghum Producers Board will meet at the DFW Hilton, Executive Conference Center (securities room), 1800 Highway 26 East, Grapevine. According to the agenda summary, the board will review and discuss financial report; 1990-1991 budget approval; discussion and/or action on Texas Grain Sorghum Producers Board executive officers report; GATT report; research and promotion; office renovations; and other business.

Contact: Jack Eberspacher, P.O. Box 530, Abernathy, Texas 79311-0530, (806) 298-2543.

Filed: August 3, 1990, 2:47 p.m.

TRD-9007802

Texas Department of Health

Friday, August 10, 1990, 3 p.m. The Alternate Care Committee of the Texas Board of Health will meet at Tapatio Springs, Fawn Room, Boerne. According to the agenda summary, the committee will approve composition of kidney health program advisory committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 2, 1990, 4:33 p.m.

TRD-9007752

Friday, August 10, 1990, 4 p.m. The Budget Committee of the Texas Board of Health will meet at Tapatio Springs, Fawn Room, Boerne. According to the agenda summary, the committee will consider chronically ill and disabled children's services program financial update for fiscal year 1989 and program transfer for fiscal year 1989; transfer of funds to maternal and child health; transfer of funds for fiscal year 1991 in the department's legislative appropriation request.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 2, 1990, 4:26 p.m.

TRD-9007749

Friday, August 10, 1990, 4 p.m. The Hospitals Committee of the Texas Board of Health will meet at Tapatio Springs, Fawn Room, Boerne. According to the agenda summary, the committee will consider report on South Texas Hospital and San Antonio State Chest Hospital.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 2, 1990, 4:31 p.m.

TRD-9007750

Friday, August 10, 1990, 5 p.m. The Environmental Health Committee of the Texas Board of Health will meet at Tapatio Springs, Fawn Room, Boerne. According to the agenda summary, the committee will consider final rules on minimum standards for approved narcotic drug treatment programs, including repeal of existing rules; final rules on special waste from health care related facilities; final rules on disposal of special wastes and management of medical waste; proposed rules on annual fees and related reports and the transportation and storage of medical waste.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 2, 1990, 4:32 p.m.

TRD-9007751

Saturday, August 11, 1990, 8 a.m. The Executive Committee of the Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Men's Card Room, Boerne. According to the agenda summary, the committee will consider the report on board committee involvement items of procedure for the board meeting on August 11, 1990.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:23 p.m.

TRD-9007822

Saturday, August 11, 1990, 9 a.m. The

Personnel Committee of the Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Fawn Room, Boerne. According to the agenda summary, the committee will consider in executive session and open session appointment to chronically ill and disabled children's services cardiovascular advisory committee; and selection of department's assistant deputy for administration.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:24 p.m.

TRD-9007815

Saturday, August 11, 1990, 9 a.m. The Public Health Promotion Committee of the Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Garden Room, Boerne. According to the agenda summary, the committee will consider public information plan update; proposed rules on model policies for handling, care and treatment of HIV/AIDS infected persons in custody of correctional facilities, law enforcement agencies, fire departments, emergency medical service providers, and district probation departments.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:24 p.m.

TRD-9007816

Saturday, August 11, 1990, 10 a.m. The Chronically Ill and Disabled Children's Services/Maternal and Child Health Committee of the Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Fawn Room, Boerne. According to the agenda summary, the committee will consider continuing the Texas Children's Hospital in Houston as a CIDC cardiovascular diagnostic and treatment center.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:24 p.m.

TRD-9007817

Saturday, August 11, 1990, 10 a.m. The Nursing Homes Committee of the Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Garden Room, Boerne. According to the agenda summary, the committee will consider final rules on long term care facility requirements for licensure and medicaid certification; final rules on minimum licensing standards for personal care facilities, including repeal of existing rules.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:23 p.m.

TRD-9007819

Saturday, August 11, 1990, 11 a.m. The Disease Control Committee of the Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Fawn Room, Boerne. According to the agenda summary, the committee will consider proposed rules on sites serving medically underserved populations; final rules on HIV medication program, HIV education grant program, and HIV service grants.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:24 p.m.

TRD-9007818

Saturday, August 11, 1990, noon. The Legislative Committee of the Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Garden Room, Boerne. According to the complete agenda, the committee will consider draft legislation for 72nd Legislature.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:23 p.m.

TRD-9007820

Saturday, August 11, 1990, 1 p.m. The Texas Board of Health of the Texas Department of Health will meet at Tapatio Springs, Cibolo Ballroom, Johns Road, Boerne. According to the agenda summary, the board will approve minutes from previous regular and special meetings; hear commissioner's report; AIDS update; consider memorandum of understanding between the department and Texas Workers' Compensation Commission; rules (long term care facility requirements for licensure and medicaid certification; sites serving medically underserved populations; HIV programs concerning medications, service grants, education grants, and handling of HIV/AIDS infected persons in custody of correctional facilities, etc., narcotic drug treatment; special wastes); composition of kidney health program advisory committee; chronically ill and disabled children's services (CIDC program financial update and program transfer; transfer of funds (maternal and child health; department legislative appropriation request); continuing Texas Children's Hospital as a CIDC cardiovascular diagnostic and treatment center; appointment to CIDC advisory committee; selection of assistant deputy for administration; draft legislation; committee reports; announcements and comments; and department financial overview.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: August 3, 1990, 4:23 p.m.

TRD-9007821

Friday, August 17, 1990, 9 a.m. The Texas Emergency Medical Services Advisory Council of the Texas Board of Health will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the council will approve minutes of previous meeting; act on certification rules; legislative recommendations; committee appointments; first responder rule; hear information items (status of provider licensing; status of transfer committee appointment); reports from council chairman, department's chief of bureau of emergency management, and department's associate commissioner for community and rural health; consider other items not requiring council action.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550.

Filed: August 2, 1990, 4:23 p.m.

TRD-9007748

Friday, August 17, 1990, 2:30 p.m. The Home Health Services Advisory Council of the Texas Board of Health will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the council will approve minutes of previous meeting; consider proposed rules on home health aide training, test and registry; Senate Bill 46 and memorandum of understanding between board of nurse examiners and board of vocational nurse examiners for administration of medications by exempt persons; request to change home health licensing regulations regarding branch offices; implementation of HIV education for home health agency employees; letter from Texas Association of Home Health Agencies; home health aide skills assessment test; announcements and discussion not requiring council action.

Contact: Nancy Kerrigan, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245.

Filed: August 2, 1990, 4:21 p.m.

TRD-9007747

◆ ◆ ◆ State Board of Insurance

Tuesday, August 14, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Rex Arnold Lewis, Beaumont, for a Group II, Insurance Agent's license. Docket Number 10921.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:50 p.m.

TRD-9007891

Tuesday, August 14, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Gilbert C. Castillo, San Antonio, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number 10922.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:50 p.m.

TRD-9007890

Wednesday, August 15, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider the approval of amendment to the Articles of Agreement of Hanover Lloyds Insurance Company, Dallas, changing the Attorney-in-fact, substituting the under writers, and changing the principal office. Docket Number 10920.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:51 p.m.

TRD-9007889

Wednesday, August 15, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Ernest A. Pisko, El Paso, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II, Insurance Agent's license. Docket Number 10862.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:51 p.m.

TRD-9007888

Wednesday, August 15, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider revocation of the Certificate of Authority for Presbyterian Village North, Inc., doing business as Presbyterian Village North, Dallas. Docket Number 10910.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:51 p.m.

TRD-9007887

Wednesday, August 15, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Charles Ralph Hines, Fort Worth, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 10888.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:51 p.m.

TRD-9007886

Wednesday, August 15, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Paula Ann Tarno Allen, Kemp, for a solicitor's license. Docket Number 10914.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:53 p.m.

TRD-9007885

Monday, August 20, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Arthur Lee Kingsby, Longview, also referred to as Arthur Lee Kingsby doing business as Kingsby Insurance Agency, Kingsbys Insurance Agency, and/or Kingsby's, who holds a Group I, Legal Reserve Life Insurance Agent's license, a Group II, Insurance Agent's license and a Local Recording Agent's license. Docket Number 10925.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:54 p.m.

TRD-9007884

Monday, August 20, 1990, 9:30 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the complete agenda, the board will consider proposals from staff for needed changes in existing law and for new laws.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: August 7, 1990, 9:38 p.m.

TRD-9007898

Monday, August 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 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Elizabeth Smith, El Paso, who holds a Group II, Insurance Agent's license and a Local Recording Agent's license. Docket Number 10906.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: August 6, 1990, 3:54 p.m.

TRD-9007883

Wednesday, August 22, 1990, 9:30 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will conduct a public hearing to consider proposal of possible adoption of amendments to the rules of the board under various sections of Chapter 5, Subchapter E, of Title 28 of the Texas Administrative Code. These amendments would concern regulation of property insurance.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: August 7, 1990, 9:38 a.m.

TRD-9007897

Wednesday, August 29, 1990, 9:30 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will conduct a public hearing to consider revision of fire and allied Lines, commercial multi-peril, homeowners, and farm and ranch owners insurance rates and manual rules, classification plans, forms, clauses, permits, warranties, classes, rating plans, an amendments to the general basis schedules.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: August 7, 1990, 9:38 a.m.

TRD-9007896

Lamar University System/Board of Regents

Thursday, August 14, 1990, 9:30 a.m. The Board of Regents of Lamar University System will meet at the John Gray Institute, Map Room, 855 Florida, Beaumont. According to the agenda summary, the board will meet at 9:30 a.m., personnel committee; 10 a.m., building and grounds committee; 10:30 a.m., finance and audit committee; 11 a.m., executive session; and 1 p.m., Board of Regents Full Board.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: August 3, 1990, 10:15 a.m.

TRD-9007759

Legislative Audit Committee

Friday, August 24, 1990, 9 a.m. The Legislative Audit Committee will meet at the Old Supreme Court Room, State Capitol, Austin. According to the complete agenda, the committee will discuss the budget; status of Texas Southern University; fiscal year 1989 statewide financial report; 1990 audit plan; and other issues.

Contact: Lawrence F. Alwin, P.O. Box 12067, Austin, Texas 78711, (512) 463-5860.

Filed: August 6, 1990, 11:09 a.m.

TRD-9007859

Texas Department of Licensing and Regulation

Monday, August 13, 1990, 9 a.m. The Air Conditioning and Refrigeration Section of the Texas Department of Licensing and Regulation will meet in an emergency meeting at 920 Colorado Street, E. O. Thompson Building, 10th Floor Conference Room, Austin. According to the complete agenda, the section will consider the assessment of an administrative penalty and revocation of license for violations of Texas Civil Statutes, Articles 6252-13a and 8861 for James Lee Smith. The emergency was necessary due to hearing date set and posting needing.

Contact: Imelda Martinez Escobar, 920 Colorado Street, Austin, Texas 78711, (512) 463-7332.

Filed: August 6, 1990, 4 p.m.

TRD-9007882

Wednesday, August 29, 1990, 9 a.m. The Business and Occupational Programs, Auctioneer of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, 10th Floor Conference Room, Austin. According to the complete agenda, the committee will consider denial of license for violation of Texas Civil Statutes, Articles 8700, Section 7(A)(5) and 6252-13a for Mary Housh Reinier.

Contact: Imelda Martinez Escobar, 920 Colorado Street, Austin, Texas 78711, (512) 463-7332.

Filed: August 6, 1990, 4 p.m.

TRD-9007881

Friday, August 17, 1990, 10 a.m. The Texas Commission of Licensing and

Regulation of the Texas Department of Licensing and Regulation will meet at the Jungman Branch of the Houston Public Library, 5830 Westheimer, Houston. According to the agenda summary, the commission will take roll call and certification of quorum; approve minutes of May 30-31, 1990 meeting; contested cases: James Stiles doing business as Stiles Refrigeration, Infinity Modeling Agency, William Ware Agency, and Stars Over Texas; public comment; old business; new business; Homeowners Recovery Fund; executive session to discuss and possibly act on Edmundo Couder versus TDLS, Gerri Tillis versus TDLS, George Foster versus TDLS, Karen Clayborne versus TDLR, Ricky Henderson versus Houston Boxing Association, et al, Jack Lucious, Jr. versus TDLS, Bob Reed versus TDLR, Miguel Monoz versus TDLR, Faces International versus TDLR, Adair versus HORF, Jones versus HORF, Baker versus HORF; and time and date of next meeting.

Contact: Larry E. Kosta, 920 Colorado Street, Austin, Texas 78711, (512) 463-3173.

Filed: August 3, 1990, 11:04 a.m.

TRD-9007767

◆ ◆ ◆
Texas Department of Mental Health and Mental Retardation

Friday, August 10, 1990, 9 a.m. The Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation will meet at the Central Office, the Auditorium, 909 West 45th Street, Austin. According to the revised agenda summary, the board will hear citizens' comments (limited to three minutes); and issues. If deaf interpreters required, notify Texas Department Mental and Health Mental Retardation, (512) 465-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 454-3761.

Filed: August 2, 1990, 2:50 p.m.

TRD-9007744

◆ ◆ ◆
Midwestern State University

Thursday, August 9, 1990, 3 p.m. The Board of Regents Executive Committee of Midwestern State University met at the Hardin Administration Building, Midwestern State University, Wichita Falls. According to the complete agenda, the committee discussed board meeting dates and holiday schedule 1990-1991; professional engineers, 1990-1991; five year strategic master plan approval; renovation of Mercantile Building; additional funding, Daniel

Building; CBA contract information; discussion of acquisition of property in closed session.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: August 3, 1990, 2:29 p.m.

TRD-9007810

Thursday, August 9, 1990, 3:30 p.m. The Board of Regents Finance Committee of Midwestern State University met at the Hardin Administration Building, Midwestern State University, Wichita Falls. According to the complete agenda, the committee discussed recommendations made for employee health insurance coverage; 1990-1991 operating budget (personnel discussion in closed session); and ratify items \$15,000 and under. The board will establish guidelines for TPEG and tuition and fee loans at Midwestern State University.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: August 3, 1990, 2:30 p.m.

TRD-9007809

Thursday, August 9, 1990, 4:30 p.m. The Board of Regents Personnel and Curriculum Committee of Midwestern State University met at Hardin Administration Building, Midwestern State University, Wichita Falls. According to the complete agenda, the committee discussed changes in FY 1989-1990 budget; enrollment and small class reports for 1990 summer sessions; last day enrollment report for spring 1990 semester; selection of Director, Division of Political Science and Public Administration; optional retirement program carriers; and policy manual revisions.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Thursday, August 9, 1990, 4:45 p.m. The Board of Regents Student Affairs Committee of Midwestern State University met at the Hardin Administration Building, Midwestern State University, Wichita Falls. According to the complete agenda, the committee reviewed information concerning Marchman Hall renovations and housing.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: August 3, 1990, 2:30 p.m.

TRD-9007807

Thursday, August 9, 1990, 5 p.m. The Board of Regents University Development Committee of Midwestern State University met at the Hardin Administration Building, Midwestern State University, Wichita Falls. According to the complete agenda, the committee reviewed summary of gifts, grants and pledges, September 1, 1989-July 13,

1990; and resolution of appreciation for retiring board member.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: August 3, 1990, 2:30 p.m.

TRD-9007806

Thursday, August 9, 1990, 5:15 p.m. The Board of Regents Athletics Committee of Midwestern University met at the Hardin Administration Building, Midwestern State University, Wichita Falls. According to the complete agenda, the committee reviewed the athletics update report.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: August 3, 1990, 2:30 p.m.

TRD-9007805

Friday, August 10, 1990, 9 a.m. The Board of Regents of Midwestern State University will meet at the Hardin Administration Building, Midwestern State University, Wichita Falls. According to the agenda summary, the board will approve minutes and accept financial reports; accept recommendations and reports from Executive, Finance, Personnel and Curriculum and University Development Committees; reports presented by Student Affairs and Athletics Committees and president. Executive session will be held to discuss personnel in operating budget; and acquisition of land and any items legally justified under Texas open meetings act.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: August 3, 1990, 2:30 p.m.

TRD-9007804

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Texas Department of Criminal Justice Board of Pardons and Paroles

Monday-Friday, August 13-17, 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 (composed of 3 board members) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releaseses 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: August 3, 1990, 11 a.m.

TRD-9007762

Texas State Board of Public Accountancy

Monday, August 13, 1990, 2 p.m. The Examination Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will review sections of the Public Accountancy Act of 1979 as amended, in 1989, which have a direct relationship to the Uniform CPA examination.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 454-0241.

Filed: August 3, 1990, 11:05 a.m.

TRD-9007766

Tuesday, August 14, 1990, 8 a.m. The Ad Hoc Committee on the search for a general counsel of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will meet in executive session to interview applicants for the general counsel position.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 454-0241.

Filed: August 3, 1990, 11:05 a.m.

TRD-9007763

Wednesday, August 15, 1990, 9 a.m. The Licensee Education Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will review exemption requests and forms which have been submitted to the committee; review of CE hours submitted by licensees who have received a board sanction for non-compliance with CE requirements; requests for additional credit for published articles and books; sponsor registrations; requests for CE credit from unregistered sponsors; review of statistical report concerning CE; proposed AICPA policies and standards for the continuing education requirement; review of responses to questionnaire mailed to other state boards; requests for grace period; feasibility of auditing five percent of 1991 license notices; and review of dates for the next committee meeting.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 454-0241.

Filed: August 3, 1990, 11:05 a.m.

TRD-9007764

Thursday, August 16, 1990, 9:30 a.m. The Licensing Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will review ratification of approved applications for registration of partnerships and professional corporations; consideration

of applications for reinstatement of CPA certificates; ratification of previously approved applications under Sections 12, 13, and 14; consideration of non-routine applications under Sections 12, 13, and 14; informal conferences for individuals requesting an appearance before the committee; review of convictions reported by licensees on their 1990 renewal notices; information relating to Department of Public Safety criminal background investigation reports; request for surrender of CPA certificates under Section 21(a) of the Act; review of plans for the November, 1990 swearing-in ceremony; licensing statistics; and other.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 454-0241.

Filed: August 3, 1990, 11:05 a.m.

TRD-9007765

Public Utility Commission of Texas

Wednesday, August 22, 1990, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. This is rescheduled from Friday, August 17, 1990, 3 p.m. According to the complete agenda, the division will conduct a prehearing conference on Docket Number 9471-application of E.N.M.R. Telephone Cooperative, Inc., for exemption from filing the earnings reports required by Public Utility Commission Subst. R. 23.11 and 23.12.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 6, 1990, 3:42 p.m.

TRD-9007878

Wednesday, August 22, 1990, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. This is rescheduled from Friday, August 17, 1990, 3 p.m. According to the complete agenda, the division will conduct a prehearing conference on Docket Number 9476-application of Southwest Arkansas Telephone Cooperative, Inc. for exemption from filing the earnings reports required by Public Utility Commission Subst. R. 23.11 and 23.12.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 6, 1990, 3:43 p.m.

TRD-9007877

State Purchasing and General Services Commission

Thursday, August 16, 1990, 8:30 a.m. The Texas School Bus Committee of the State Purchasing and General Services Commission will meet at the Wyndham Southpark Hotel, Ballroom D, 4140 Governor Row, Austin. According to the complete agenda, the committee will discuss school bus bodies, chassis, engines, options, safety items, various accessories, and the approved products list.

Contact: Troy C. Martin, 1711 San Jacinto, Austin, Texas 78711, (512) 463-3415.

Filed: August 6, 1990, 3:32 p.m.

TRD-9007875

Texas Real Estate Commission

Monday, August 13, 1990, 9:30 a.m. The Texas Real Estate Commission will meet in Conference Room 235, Second Floor, TREC Headquarters Office, 1101 Camino La Costa, Austin. According to the agenda summary, the commission will approve minutes of July 16, 1990; hear staff reports for month of June; discussion and possible action to approve for publication proposed amendments to 22 TAC §535.92 concerning renewals to §535.17 concerning appraisals, to §541.1 concerning criminal offenses, and proposed repeal of §§531.1-531.17 concerning minimum appraisal standards; discussion of proposed new 22 TAC §§544.1-544.9 relating to appraiser certification, and §537.11 relating to computer reproduction of forms, and §535.164, and §535.165 relating to agency disclosure; discussion and possible action to approve MCE providers, courses, or instructors; discussion of participation of members or staff in MCE courses; discussion of participation of members or staff in MCE courses; discussion of federal and state fair housing matters and possible action to enter into fair housing agreement with HUD; request for authorization to conduct an investigation on complaint information concerning Charles Joseph Staniwalis; executive session to discuss pending litigation and personnel matters pursuant to §2(e) and §2(g), Article 6252-17, Texas Civil Statutes; authorization for payment of claims against the Real Estate Recovery Fund without contest; motions for rehearing and/or probation; entry of orders in contested cases.

Contact: Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: August 2, 1990, 3:56 p.m.

TRD-9007746

Office of the Secretary of State

Friday, August 10, 1990, 10 a.m. The Elections Advisory Committee of the Secretary of State will meet at the House Appropriations Committee Room #309, State Capitol Building, Austin. According to the complete agenda, the committee will hear welcoming remarks; introductory remarks; review of March 13th, and April 10th elections; general election: review of operations manual, programming, review of screens; charges for election night returns services; committee vote on operations manual; and closing remarks.

Contact: Tom Harrison, P.O. Box 12060, Austin, Texas 78711.

Filed: August 2, 1990, 5:12 p.m.

TRD-9007757

Texas State Soil and Water Conservation Board

Wednesday, August 15, 1990, 5 p.m. The Texas State Soil and Water Conservation Board will meet at the Sheraton-Mockingbird West Hotel, 1893 West Mockingbird Lane, Executive I Room, Dallas. According to the complete agenda, the board will review and take appropriate action on the following: District Director appointments; proposals for recommendation to the 72nd Legislature; draft 1990 agricultural and silvicultural nonpoint source assessment; uniform statewide accounting system status report; 1992-1993 legislative appropriation request; and reports from agencies and guests.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250.

Filed: August 6, 1990, 11:05 a.m.

TRD-9007860

The Texas A&M University System

Friday, August 10, 1990, 1:30 p.m. The Board of Regents of the Texas A&M University System will meet at the Board of Regents Annex, College Station. According to the complete agenda, the board will participate in a workshop on the relationships and functions of a board with its chief executive officers with Dr. Lawrence Fouraker.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843-1122, (409) 845-9603.

Filed: August 7, 1990, 9:50 a.m.

TRD-9007900

Board of Regents, Texas State University System

Thursday, August 30, 1990, 8 a.m. The Board of Regents of the Texas State University System will meet at Sul Ross State University, Second Floor Conference Room, Administration Building, Alpine. According to the complete agenda, the board will discuss any and all matters relating to the employment of a president for Sul Ross State University, including those candidates recommended by the presidential selection advisory committee: Dr. John P. Carrier, Dr. William D. Carr, Dr. R. Vic Morgan and Dr. William A. Webb. (Where appropriate and permitted by law, executive sessions may be held for the above listed subject).

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808.

Filed: August 3, 1990, 3:03 p.m.

TRD-9007811

University of Texas System

Thursday, August 9, 1990, 10:30 a.m. The Board of Regents and Standing Committees of the University of Texas System met at the Center for Energy and Economic Diversification, Intersection of Farm to Market 1788 and State Highway 191, Room 1314, Odessa. According to the agenda summary, the board and committees will consider amendments to RRR; policy regarding contracts with minority/female-owned small businesses; four-installment payment plan for tuition and fees; Chancellor's Docket (submitted by System Administration); appointments to endowed academic positions; fees; U.T. Austin-Undergraduate Admissions Policy; U.T. Dallas-Constitution of the Student Association; agreements; 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: August 3, 1990, 1:28 p.m.

TRD-9007799

Thursday, August 9, 1990, 10:30 a.m. The Board of Regents and Standing Committees of the University of Texas System met at the Center for Energy and Economic Diversification, Intersection of Farm to Market 1788 and State Highway 191, Odessa. According to the complete emergency revised agenda, the board and committees considered restructuring of escrow funds in whole or in part with Resolution Funding

Corporation Securities for selected refunded bond issues of the board. The emergency was necessary due to information received since the original posting of the agenda required that the board consider this matter at this meeting.

Contact: Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: August 6, 1990, 2:24 p.m.

TRD-9007873

University of Texas Health Science Center at San Antonio

Wednesday, August 15, 1990, 3 p.m. The Institutional Animal Care and Use Committee of the University of Texas Health Science Center at San Antonio will meet at the Dental Dean's Conference Room 4.320R, 7703 Floyd Curl Drive, San Antonio. According to the agenda summary, the committee approved the minutes; protocols for review; semi-annual review of programs; and other business.

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7722, (512) 567-3717.

Filed: August 6, 1990, 2:24 p.m.

TRD-9007872

University Interscholastic League

Wednesday, August 8, 1990, 9:30 a.m. The UIL Standing Committee on Music met at the Austin Airport Hilton, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the committee heard proposals for amendments to the University Interscholastic League; and discussed constitution and contest rules.

Contact: Dick Floyd, Box 8028, Austin, Texas 78712, (512) 471-5883.

Filed: August 2, 1990, 3:28 p.m.

TRD-9007745

Texas Water Commission

Wednesday, August 8, 1990, 3 p.m. The Texas Water Commission met at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the emergency revised agenda summary, the commission considered various items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

The emergency was necessary to meet State Purchasing and General Services Commission's deadlines for lease space.

Contact: Gloria Barrera, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: August 6, 1990, 3:34 p.m.

TRD-9007876

Tuesday, September 4, 1990, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 1028A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on application for rate increase by Raywood Water Supply Corporation, Docket Number 8494-W.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: August 3, 1990, 4:27 p.m.

TRD-9007828

Wednesday, September 5, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on consideration of standby fees for Southwest Travis County MUD Number 1.

Contact: Brenda W. Foster, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: August 3, 1990, 4:28 p.m.

TRD-9007825

Wednesday, September 5, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, rescheduled from August 15, 1990, (15 TexReg 4237) TRD-9007214, the commission will consider a temporary order for Mobay Corporation to authorize the discharge of effluent from its wastewater treatment facility located east of Cedar Bayou, approximately 1/2 mile south of the intersection of FM 565 in Chambers County.

Contact: Margaret A. Kirick, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: August 2, 1990 4:42 p.m.

TRD-9007755

Thursday, September 6, 1990, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 1149A, 1700 North Congress Avenue, Austin. According to the complete agenda, the commission will conduct a hearing on application of Mrs. H. J. Harris to discontinue water utility service to Harris Subdivision in Tarrant County, Docket Number 8373-Q.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: August 3, 1990, 4:27 p.m.

TRD-9007827

Wednesday, September 17, 1990, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 618, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing for the adoption of standby fees for Hunterwood Municipal Utility District.

Contact: Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: August 3, 1990, 4:27 p.m.

TRD-9007826

Wednesday, September 26, 1990, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Environmental Pollution Control, 7411 Park Place, (one mile south of Loop 610 at the intersection of Telephone Road), Houston. According to the agenda summary, the examiner will consider application by Houston Lighting and Power Company for renewal of Permit Number 01050 for a discharge of condenser cooling water and previously monitored effluents into a two (2.0) mile long discharge canal to Galveston Bay, Segment Number 2421 of the Bays and Estuaries Basin.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: August 3, 1990, 4:28 p.m.

TRD-9007823

Wednesday, September 26, 1990, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Environmental Pollution Control, 7411 Park Place, (one mile south of Loop 610 at the intersection of Telephone Road), Houston. According to the agenda summary, the examiner will consider application by Piper Pipe Rentals and Sales, Inc., for proposed Permit Number 03134 authorizing a discharge of equipment washwater and work area washdown into a county drainage ditch along Highway 35; thence to Cowart Creek; thence to Clear Creek, Segment Number 1102 of the San Jacinto-Brazos Coastal Basin.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: August 3, 1990, 4:28 p.m.

TRD-9007824

Wednesday, October 10, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the complete agenda, the commission will discuss notice of application by Ross W. and Peggy H. Rotzler, application number 5302, for a Water Use Permit to impound water in an exempt reservoir on an unnamed tributary of Holly Creek, tributary Deboldin Creek, tributary of Haggarty Creek, tributary of

Cypress Creek, Cypress River Basin for in-place recreational purposes in Harrison County, approximately nine miles southeast of Marshall.

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 371-6385.

Filed: August 2, 1990, 4:42 p.m.

TRD-9007754

Wednesday, October 10, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the completed agenda, the commission will discuss notice of application by Dale B. and Marsha G. Elmore, application number 18-2439A to amend certificate number 18-2439 by including an existing 20 acre-foot reservoir for recreational purposes on the North Fork of the Guadalupe River, Guadalupe River Basin in Kerr County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6385.

Filed: August 2, 1990, 4:42 p.m.

TRD-9007753

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**Texas Workers'
Compensation Commission**

Wednesday, August 8, 1990, 9 a.m. The commission met at the Bevington A. Reed Building, 200 East Riverside Drive, Second Floor, Room 255, Austin. According to the agenda summary, the commission will approve minutes; discuss report to the commission on the rules process and schedule; discussion of contract for review of hearings rules; discussion and consideration of emergency rules to effect the transfer of program as outlined in Section 17.02(e) of SB1: Chapter 162 and 166, Workers Health and Safety; revised rules, Chapter 102, general provisions; Chapter 120 and 122 Compensation Procedure; Chapter 126, benefits; Chapter 156, Republican parties before agency; new rule, Chapter 122, company procedure; Chapter 132 death benefits; tabled rules, Chapter 110, General Provision; Chapter 126, Benefits; progress report on Texas Workers' Compensation Commission reorganization; and discussion of future public meetings and agenda.

Contact: George E. Chapman, 200 East Riverside Drive, Austin, Texas 787704, (512) 448-7962.

Filed: August 3, 1990, 4:11 p.m.

TRD-9007813
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Regional Meetings

Meetings Filed August 2, 1990

The Dallas Area Rapid Transit Budget and Finance Committee met at 601 Pacific Avenue, Dallas, August 7, 1990, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Planning and Development Committee met at 601 Pacific Avenue, Dallas, August 7, 1990, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Education Service Center Region 10 Board of Directors met at Chandler's Landing Yacht Club, 501 Yacht Club Drive, Rockwall, August 8, 1990, at 1:15 p.m. Information may be obtained from Joe Farmer, 400 East Spring Valley, Richardson, Texas 75083, (214) 231-6301.

The Region 14 Education Service Center Board of Directors will meet at 1850 State Highway 351, Abilene, August 16, 1990, at 5:30 p.m. Information may be obtained from Taressa Huey, Route 1, Box 70-A, Abilene, Texas 79601, (915) 675-8608.

TRD-9007736

Meetings Filed August 3, 1990

The Barton Springs/Edwards Aquifer Conservation District Regular Board of Directors Meeting was held at A 1124 Regal Row, Austin, August 6, 1990, at 7 p.m. Information may be obtained from Bill Couch, 1124 A Regal Row, Austin, Texas 78748, (512) 282-8441.

The Dallas Central Appraisal District Board of Directors met at 1420 West Mockingbird Lane, #500, Dallas, August 8, 1990, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, #500, Dallas, Texas 75247, (214) 631-0520.

The Denton Central Appraisal District Board of Directors' Meeting will be held at 3911 Morse Street, Denton, August 23, 1990, at 4 p.m. Information may be obtained from Joe Rogers, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904.

The Fisher County Appraisal District Appraisal Review Board will meet at the Commissioners Courtroom, Fisher County Courthouse, Roby, August 10, 1990, at 9 a.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 776-2733.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, August 9, 1990, at 5 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Hays County Appraisal District Board of Directors met at 632 "A" East Hopkins Street, Municipal Building, San Marcos, August 9, 1990, at 3 p.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins Street, San Marcos, Texas 78666, (512) 754-7400.

The Hays County Appraisal District Board of Directors met at 632 "A" East Hopkins Street, Municipal Building, San Marcos, August 9, 1990, at 4 p.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins Street, San Marcos, Texas 78666, (512) 754-7400.

Hays County Appraisal District Appraisal Review Board will meet at 632 "A" East Hopkins Street, Municipal Building, San Marcos, August 13, 1990, at 8:30 a.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins Street, San Marcos, Texas 78666, (512) 754-7400.

The Lampasas County Appraisal District Board of Directors met in a revised agenda at 109 East Fifth Street, Lampasas, August 8, 1990, at 8:30 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Lower Colorado River Authority Retirement Benefits Committee met at 3700 Lake Austin Boulevard, Austin, August 9, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Region VIII Education Service Center Regional Advisory Committee Meeting will meet at the Day's Inn Restaurant, Mt. Pleasant, August 15, 1990, at 6:30 p.m. Information may be obtained from Scott Ferguson, Farm to Market 1734, Mt. Pleasant, Texas 75455, (214) 572-8551.

The Sulphur-Cyress Soil and Water Conservation District #419 met at 1603 North Jefferson Street, Mt. Pleasant, August 8, 1990, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1603 North Jefferson Street, Mt. Pleasant, Texas 75455, (214) 573-5411.

The Texas Municipal Power Agency (TMPA) Board of Directors Special Meeting was held at the Garland City Hall, Fourth Floor Conference Room, 200 North Fifth Street, Garland, August 8, 1990, at 6 p.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013.

TRD-9007756

Meetings Filed August 6, 1990

The Callahan County Appraisal District Board of Directors Public Hearing will be held at the Callahan County Appraisal District Office 130 West Fourth Street, Baird, August 20, 1990, at 7:30 p.m. Information may be obtained from Jane

Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165.

The Callahan County Appraisal District Board of Directors Public Hearing will be held at the Callahan County Appraisal District Office 130 West Fourth Street, Baird, August 20, 1990, at 7:45 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165.

The Hale County Appraisal District Board of Directors will meet at 302 West Eighth Street, Plainview, August 16, 1990, at 8 p.m. Information may be obtained from Linda Jaynes, P.O. Box 29, Plainview, Texas 79072, (806) 293-4226.

The Hickory Underground Water Conservation District Number One met at 2023 South Bridge, Brady, August 9, 1990, at 6 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785.

The Hickory Underground Water Conservation District Number One met at 2023 South Bridge, Brady, August 9, 1990, at 7 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785.

The North Plains Groundwater Conservation District Number Two Board of Directors will meet at the District Office, 603 East First Street, Dumas, August 10, 1990, at 10 a.m. Information may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029, (806) 935-6401.

The Nortex Regional Planning Commission Executive Committee will meet at the Wichita Falls Activities Center, Room 214, 10th and Indiana Streets, Wichita Falls, August 16, 1990, at noon. Information may be obtained from Dennis Wilde, 2101 Kemp Boulevard, Wichita Falls, Texas 76307, (817) 322-5281.

The North Texas State Planning Region Consortium will meet at the Activities Center, 10th and Indiana, Room 214, Wichita Falls, August 16, 1990, at 1 p.m. Information may be obtained from Judge Bobbie Owen, Jacksboro, Texas 76046, (817) 567-2241.

The Palo Pinto Appraisal District Board of Directors Budget Hearing will meet at the Palo Pinto County Courthouse, Palo Pinto, August 15, 1990, at 3 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The Palo Pinto Appraisal District Board of Directors Budget Hearing will meet at the Palo Pinto County Courthouse, Palo Pinto, August 15, 1990, at 3:15 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The Region III Education Service Center Board of Directors will meet at 1905 Leary Lane, Victoria, August 13, 1990, at 2 p.m.

Information may be obtained from Dr. Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731.

The Region 18 Education Service Center Board of Directors will meet at 2811 La Force Boulevard, Midland, August 16, 1990, at 7:30 p.m. Information may be obtained from Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 463-2380.

The Sabine Valley Regional Mental Health Mental Retardation Center Board of Trustees met in an emergency revised agenda at Cace's Seafood and Steakhouse Restaurant, 1501 East Marshall Avenue, Longview, August 6, 1990, at 7 p.m. Information may be obtained from Jack Coston or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (214) 758-2471.

The San Antonio River Authority Board of Directors will meet at the San Antonio River Authority General Offices, 100 East Guenther Street, Bexar County, San Antonio, August 15, 1990, at 2 p.m.

Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027.

The Trinity River Authority of Texas Executive Committee will meet at 5300 South Collins Street, Tarrant County, Arlington, August 10, 1990, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, 5300 South Collins Street, Arlington, Texas 76004, (817) 467-4343.

The West Central Texas Council of Governments Ombudsman Task Force will meet at 1025 East North 10th Street, Abilene, August 10, 1990, at 2 p.m. Information may be obtained from James Walls, 1025 East North 10th Street, Abilene, Texas 79604, (915) 672-8544.

TRD-9007852

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Meetings Filed August 7, 1990

The Region IV Education Service Center Board of Directors Meeting will be held at

the Board Room, Region IV Education Service Center, 7145 West Tidwell Street, Houston, August 14, 1990, at 6 p.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell Street, Houston, Texas 77092, (713) 462-7708.

The Trinity River Authority of Texas Resources Development Committee will meet at 5300 South Collins Street, Tarrant County, Arlington, August 13, 1990, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343.

The West Central Texas Council of Governments Law Enforcement Training Committee will meet at 1125 East North 10th Street, Abilene, August 14, 1990, at 10:30 a.m. Information may be obtained from Les Wilkerson, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

TRD-9007893

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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 Agriculture Request for Consultant Proposal

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Agriculture invites proposals on consultant services.

Objective. The Texas Department of Agriculture is seeking a consultant to assist in designing alternative solutions to the department's immediate information resource needs and in developing a long range plan to meet the department's future information systems management needs. The department is requesting proposals that are structured to prioritize the most critical aspects of the practical and which can be performed for an amount not to exceed \$50,000.

Current Environment. A Burroughs B1955 (now Unisys) mainframe data processing operation supports primarily high-volume, batch processing systems for purchasing, personnel/payroll, financial management, inventory and property management, and billing/collecting/licensing functions. The mainframe computer is used primarily for maintenance, utilization, and storage of high-volume databases. There are currently over 40 different application systems on the mainframe system, most of which entail batch processing. Approximately 40 users utilize on-line inquiry to access mainframe files during the day using Burroughs terminals or microcomputer with emulation, all of which are hardwired to the mainframe. The department has approximately 230 microcomputers in the Austin offices, nine laboratories, 14 district offices and two satellite offices. Local area networks in Regulatory, Marketing, and Executive/Administrative offices permit networked microcomputers to share peripherals and databases, and to access programs, memory, and disk storage of other microcomputers. Thirty microcomputers in Austin have file transfer and emulation capabilities with the mainframe.

The department will make available a more detailed description of the current environment. Don Shilling, Director of Management Information Center (MIC) may be contacted at (512) 463-7410 for further information.

Scope of Consulting Work. The objective of the consulting engagement is determination of the most cost-effective hardware and software strategy considering costs of staff, capital, and other resources necessary to ensure successful implementation of the selected strategy. The results of the study will include a written report documenting the following: an assessment of the department's current systems and resources; a determination and prioritization of critical areas needing improved automation capabilities; recommendations regarding infrastructural changes including the development of standards that improve the department's information systems manageability; a recommended work plan and schedule to improve performance, reliability and productivity in all system areas; recommendations for development of alternative hardware, software and application solutions; and a plan for implementing those solutions.

Proposal Format. The bidder's proposal should include: a proposal summary which specifies how the proposal meets the description of the project and the selection criteria listed below; a plan for completion of the tasks and report described in the description of the project, including: a job description of each consultant employee to be engaged; and identification of the agency personnel and the resources which must be committed by the contractor for successful completion of the proposal; a work plan and timeline for completion of the tasks, including the approximate number of hours required of the bidder; a budget and plan for all items showing a schedule for all deliverables; a statement disclosing any current or former memberships of the contractor that might bid on one or more portions of any procurement solutions recommended; resumes of any individuals who may participate in this project on behalf of the contractor; a list of other state agencies in Texas for whom similar services have been provided including services performed, names and telephone numbers of agency liaisons, and copies of work products.

Selection Criteria. Proposals will be evaluated on the following criteria: the bidder's demonstrated knowledge of statewide financial systems and ability to advise the department on how to integrate its financial systems in the most cost effective way (10%); the bidder's experience with regulatory information systems including licensing/permitting applications (10%); the bidder's experience or familiarity with Texas state agency administration and with the information resources and computer acquisition process for state government (10%); the bidder's experience with providing consultation and support to automation planning processes that foster in-depth understanding of the plan, the recommendations, and the planning process without requiring continuing support from the Contractor (10%); the bidder's knowledge of industry trends (15%); the bidder's experience and expertise with telecommunications planning (15%); the consultant's resource and cost estimate should be done without regard to cost limitations. However, if the proposal exceeds \$50,000, the agency is requesting that the proposal be structured to prioritize the most critical aspects of the proposal and which can be determined for an amount not to exceed \$50,000.

Due Date. Five copies of the proposal and attachments should be delivered to Ben Delgado, Associate Deputy Commissioner for Administration, 9th Floor, Stephen F. Austin Building, 1700 North Congress Avenue no later than 5 p. m. on September 12, 1990. A bidder's conference will be held on Tuesday, August 28th, at 1:30 p.m. at TDA headquarters, Ninth Floor, Stephen F. Austin Building, 1700 North Congress Avenue, Austin.

Evaluation. Proposals will be reviewed by an agency evaluation team. Selection will be based on adequacy of the proposals meeting the criteria described. The department reserves the right to contract any bidder for explanations regarding its proposal, to accept or reject all or any part of a proposal, to use for comparison or clarification any materials from any proposal, and to make an award for all or part of the requirements stated.

Issued in Austin, Texas, on August 3, 1990.

TRD-9007761 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of Agriculture

Filed: August 3, 1990

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

**Texas Committee on Purchases of
Products and Services of Blind and
Severely Disabled Persons**

List of Suitable Products

The purpose of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons is to further the state's policy of encouraging and assisting disabled citizens to achieve maximum personal independence. This purpose is carried out by employing disabled persons in activities which provide products and services to state and local governments. As required by Title 40, Texas Administrative Code, §189.14, the committee has published a list of suitable products selected by the committee for placement in a catalog. This listing contains information regarding the products, delivery schedules, freight, and packaging.

The listing is available for public inspection at the Texas Commission for the Blind, 4800 North Lamar Boulevard, Administrative Building, Suite 320, Austin (Attention: Michael T. Phillips) and at the Texas State Purchasing and General Services Commission, L.B.J. State Office Building, 111 East 17th Street, 9th Floor, Austin (Attention: Ron Arnett).

Issued in Austin, Texas, on August 3, 1990.

TRD-9007758 Michael T. Phillips
Deputy Director, Administration and
Finance
Texas Commission for the Blind

Filed: August 3, 1990

For further information, please call: (512) 459-2603

**Comptroller of Public Accounts
Local Sales Tax Changes Effective
October 1, 1990**

In addition to the local sales tax changes published in the July 27, 1990, issue of the *Texas Register* (15 TexReg 4329), the City of Rotan passed a 1/2% increase, effective October 1, 1990, for economic and industrial development tax only. The sales tax rate was also increased an additional 1/2 % for property tax relief. The combined state and city sales tax rate will be 8 1/4%.

Issued in Austin, Texas, on August 3, 1990.

TRD-9007798 Bob Bullock
Comptroller of Public Accounts

Filed: August 3, 1990

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

**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽³⁾/Agricultural/ Commercial ⁽⁴⁾ thru \$250,000</u>	<u>Commercial ⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	08/06/90-08/12/90	18.00%	18.00%
Monthly Rate - Art. 1.04 (c) ⁽¹⁾	08/01/90-08/31/90	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 ⁽³⁾	07/01/90-09/30/90	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) ⁽³⁾	07/01/90-09/30/90	15.62%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	07/01/90-09/30/90	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	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	08/01/90-08/31/90	10.00%	10.00%

⁽¹⁾For variable rate commercial transactions only. ⁽²⁾Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. ⁽³⁾Credit for personal, family or household use. ⁽⁴⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas this the 30th day of July, 1990.

Al Endsley
Al Endsley, Commissioner

Issued in Austin, Texas, on July 30, 1990.

TRD-9007708 Al Endsley
Consumer Credit Commissioner

Filed: August 1, 1990

For further information, please call: (512) 479-1280

Texas Education Agency

Request for Proposal

This notice is filed pursuant to Texas Civil Statutes, Article 6252-11C. Development of an inventory for public school facilities in Texas.

Description. The Texas Education Agency invites proposals for Development of an Inventory for Public School Facilities in Texas, RFP 701-91-024, to develop a methodology for an inventory of the educational and instructional facilities in the Texas public school and the educational technology in the schools; and serve as manager and coordinator of the overall project, according to the provisions of Senate Bills 1019 and 650, 71st Legislature, Regular Session, and Senate Bill 11, 71st Legislature, Sixth Called Session. The contractor chosen for this project must demonstrate evidence of competency in the management of an inventory and knowledge of school facilities and educational technology, and the Texas public school system. There is no maximum bid for the project management contract, however, the cost of the entire project, including project management, data collection and data base development will not exceed \$5 million inclusive of all expenses. The contractor will be expected to meet with the School Facilities Advisory Committee and respond to committee requests. This project must be completed no later than August 31, 1991. This will not be a fixed price contract.

Dates of Project. The planned contract starting date is September 17, 1990. The contract ending date will be August 31, 1991.

Evaluation Procedure. The proposals will be evaluated by a review team consisting of agency staff and selected external reviewers. Proposers receiving the most favorable ratings during the first round of selection may be asked to make an oral presentation. Proposals may be rated again after oral presentations. The recommendations of the review panel will be assembled and presented to the Commissioner of Education, or his designee who will, as authorized by the State Board of Education, either approve the proposal in whole or in part, disapprove the proposal, or defer action on the proposal for such reasons as a requirement for further evaluation.

Closing Date. Proposals are due in the Document Control Center at the address below, by 5 p.m., on September 7, 1990.

Further Information. A copy of the complete Request for Proposal may be obtained by writing or calling: Document Control Center, Room 6.108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

For further information about the Request for Proposal, please contact Joe Wisnoski, Director, Resource Planning Division, Texas Education Agency, (512) 463-9704.

Issued in Austin, Texas, on August 1, 1990.

TRD-9007862 W. N. Kirby
Commissioner of Education

Filed: August 6, 1990

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

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 name change by Union Standard Insurance Company, a domestic casualty insurance company. The home office is in Dallas. The proposed new name is GAN North American Insurance Company.
2. Application for name change by Royal Exchange Assurance of America, Inc., a foreign casualty insurance company. The home office is in New York, New York. The proposed new name is Fortress Insurance Company of America.
3. Application for admission to do business in Texas of Annapolis Life Insurance Company, a foreign life insurance company. The home office is in Baltimore, Maryland.
4. Application for admission to do business in Texas of Seguros Chapultepec, S.A., a foreign casualty insurance company. The home office is in Mexico.
5. Application for name change by U.S. Lloyds Insurance Company, a domestic lloyds plan insurer. The home office is in Dallas. The proposed new name is Britannia Lloyds Insurance Company.
6. Application for admission to do business in Texas of Consolidated Group Claims, Inc., a foreign third party administrator. The home office is in Framingham, Massachusetts.
7. Application for incorporation in Texas of LOA Administrators Inc., a domestic third party administrator. The home office is in Houston.
8. Application for incorporation in Texas of GreenTree Administrators, Inc., a domestic third party administrator. The home office is in Beaumont.

Issued in Austin, Texas, on July 30, 1990.

TRD-9007677 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: July 31, 1990

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

Notice of Public Hearings

Notice is hereby given that hearings under Docket Number 1774 and Docket Number 1779 will be held before the State Board of Insurance beginning at 9:30 a. m. on Wednesday, August 29, 1990. The hearings will begin in Room 460 at the State Insurance Building at 1110 San Jacinto Boulevard in Austin, and may continue each day thereafter from time to time and from place to place as designated by the Board and will probably continue at least through Thursday, August 30, 1990. The purpose of the hearings will be consideration of revision of the Fire and Allied Lines, Commercial Multi-Peril, Homeowners, and Farm and Ranch Owners insurance rates and manual rules, classification plans, forms, clauses, permits, warranties, classes, rating plans, amendments to the General Basis Schedules, and all other matters pertaining to the writing of Fire and Allied Lines, Commercial Multi-Peril, Homeowners, and Farm and Ranch Owners insurance.

Consideration will include insurance for both commercial and residential property. Consideration of Agenda Items 1-90 through 31-90 under Docket Number 1774 will begin at 9:30 a.m. on Wednesday, August 29, 1990. Consideration of Agenda Item 32-90 under Docket Number 1779 will begin immediately upon conclusion of Docket Number 1774.

The State Board of Insurance has jurisdiction over the promulgation and revision of Fire and Allied Lines, Commercial Multi-Peril, Homeowners, and Farm and Ranch Owners rates and rules, forms, clauses, permits, warranties, classes, rating plans, amendments to the General Basis Schedules, and all other matters pertinent to the writing of Fire and Allied Lines, Commercial Multi-Peril, Homeowners, and Farm and Ranch Owners insurance in the state of Texas pursuant to the Insurance Code, Articles 1.02, 1.04, 5.25, 5.26, 5.81, 5.96, and 21.49, as well as the Texas Insurance Code, Chapter 5, Subchapter C and Subchapter I.

The Rules of Practice and Procedure before the State Board of Insurance applicable to contested cases (28 TAC Chapter 1, Subchapter A) and the contested case provisions of Texas Civil Statutes, Article 6252-13a (the Administrative Procedure and Texas Register Act) will govern the procedural aspects of Agenda Item 32-90 which deals exclusively with the revision and promulgation of rates.

Agenda Items 1-90 through 31-90 are subject to the Rules of Practice and Procedure before the State Board of Insurance applicable to rulemaking and to the Texas Insurance Code, Article 5.96, and the hearing relating to those agenda items will be conducted in accordance with the provisions of that article and of the 28 TAC §§5.8001-

5.8004, except to the extent that testimony and data are received for the promulgation of a rate in connection therewith. To that extent the contested case provisions of the Administrative Procedure and Texas Register Act and of the Rules of Practice and Procedure before the State Board of Insurance may apply.

Reference is further made to statutes and rules cited in other paragraphs of this notice, to each section of the Texas Insurance Code, Chapter 5, Subchapter C, beginning with Article 5.25 concerning Board Shall Fix Rates, and continuing through Article 5.52 concerning provisions governing lightning, windstorm, hail, invasion, riot, vandalism, strikes, lockouts and other insurance; 'explosion' defined; to the Insurance Code, Article 554 concerning associations, excepted; to the Insurance Code, Chapter 5, Subchapter I, Article 5.81 concerning multi-peril policies; premium and rate adjustment plans, powers of board; to the Insurance Code, Article 21.49 concerning Texas Catastrophe Property Insurance Pool Act, and to the Insurance Code, Article 5.96 concerning promulgated lines, and the General Basis Schedules adopted thereunder, as well as to other Articles of the Texas Insurance Code and to other sections of Title 28, Part I, of the Texas Administrative Code as particular sections of statutes and rules which may be involved.

Please direct inquiries relating to Agenda Item 32-90 to Gaylon Daniel, Statistical and Rate Development, Mail Code 000-2, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 475-3017, and inquiries relating to Agenda Items 1-90 through 31-90 to Lyndon Anderson, Deputy Insurance Commissioner for Property Insurance, Mail Code 011-1, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 322-2235.

AGENDA FOR FIRE AND ALLIED LINES ANNUAL HEARING
OF
STATE BOARD OF INSURANCE

ITEM NO.

- 1-90 Consider the following changes to the Texas Businessowners Policy:
- A. Amending the rule on Page TBOP-4 of the Texas General Basis Schedules to allow the Texas Businessowners Policy to be written for a term of three years. By Independent Insurance Agents of Texas.
 - B. Providing a rule in the Texas Businessowners section of the Texas General Basis Schedules to clarify that the liability coverage written on a Texas Businessowners policy for a church includes coverage for a church parsonage. By Independent Insurance Agents of Texas.
 - C. Amending the Texas Businessowners Policy Special Form to provide theft coverage for live animals, birds, fish, live plants and flowers when held for sale or sold but not delivered. By Independent Insurance Agents of Texas.
 - D. Amending the Texas Businessowners Policy eligible classifications to add association offices, consulting firms, mortgage brokers, title companies and travel agencies as eligible office classifications. By Independent Insurance Agents of Texas.

- E. Amending Form No. TBOP-22, Business Liability Exclusion, to remove the words "Paragraph 3. of" from the form. By Texas Insurance Advisory Association.
- F. Amending the Texas Businessowners Policy Special Form to include "outdoor awnings or canopies of fabric or slat construction including their supports" as part of the Property Not Covered section of the property coverage form. By Texas Insurance Advisory Association.
- G. Amending the Texas Businessowners Policy to provide replacement cost coverage for leased property in the insured's care, custody, or control. By Professional Insurance Agents of Texas.
- H. Approving an optional endorsement for use with the Texas Businessowners Policy Special Form to delete the wind driven rain exclusion applicable to the interior of the building for an additional premium. By Independent Insurance Agents of Texas.
- I. Consider amending the Texas Businessowners Special Form to remove the wind driven rain exclusion and add a limitation to exclude rain damage to the interior of buildings.

2-90 Consider the following changes to the Texas Standard Policy:

- A. Amending the Texas Standard Policy to provide replacement cost coverage for leased property in the insured's care, custody, or control. By Professional Insurance Agents of Texas.
- B. Approving an optional endorsement for use with the Texas Standard Policy to delete the wind driven rain exclusion applicable to the interior of the building for an additional premium. By Independent Insurance Agents of Texas.
- C. Adopting a new endorsement for use with the Texas Standard Policy to simplify the insuring of contents or household goods for individual condominium unit owners. By Professional Insurance Agents of Texas.
- D. Amending the rules on page EC 31 of the Texas General Basis Schedules to allow the Additional Extended Coverage Endorsement to be attached to policies insuring individual condominium or townhouse units. By Professional Insurance Agents of Texas.
- E. Adopting an optional endorsement to extend coverage under Form 136, Office Contents Special Form, to cover sample inventory or stock located in an office occupancy. By Independent Insurance Agents of Texas.
- F. Adopting an endorsement for use with the Texas Standard Policy to provide coverage for water which backs up through sewers and drains. By Independent Insurance Agents of Texas.

- G. Amending Form 321, Special Townhouse Property Form, to delete the exclusion of wind driven rain damage to personal property. By Independent Insurance Agents of Texas.
- H. Amending the deductible applicable to the Texas Standard Policy to an across the board deductible, similar to the homeowners deductible. By Independent Insurance Agents of Texas.
- I. Amending Form 222, Special Extended Coverage Endorsement, to provide coverage for the interior of buildings, caused by rain, snow, sand or dust whether wind driven or not if the loss results from any peril not otherwise excluded under the policy which causes the building to sustain an actual damage to the roof or walls. By Independent Insurance Agents of Texas.
- J. Appointing a study committee to review amending Form 222, Special Extended Coverage Endorsement, to clarify that the form supercedes specific coverage conditions related to Extended Coverage perils as shown in Section III "Specific Coverage Conditions" of the Texas Standard Policy. By Independent Insurance Agents of Texas.
- K. Amending Form 222C, Special Extended Coverage Optional Amendatory Theft Endorsement, to include an exclusion for voluntary parting with title or possession of any property by the insured or others to whom the property may be entrusted if induced to do so by any fraudulent scheme, trick, device or false pretense. By Houston General Insurance Company.

- 3-90 Consider the possibility of allowing the combination of personal lines policies in a package format. By Professional Insurance Agents of Texas.
- 4-90 Consider amending Form 81F, Mobile Agricultural Machinery and Equipment Endorsement, to provide coverage for unscheduled farm machinery, implements and supplies. By Independent Insurance Agents of Texas.
- 5-90 Consider amending the replacement cost coverage of the Texas Homeowners forms and Form 148, Physical Loss Form, to allow for repairs and/or replacement within one year with an extension upon request of the insured of an additional 180 days. By Independent Insurance Agents of Texas.
- 6-90 Consider adding a note to rule 6.1 in the Homeowners section of the Texas General Basis Schedules to state that this rule does not apply to additional residences insured under a separate Homeowners or Personal Liability Policy. By State Board of Insurance Staff.
- 7-90 Consider amending the Special Limits of Liability for Jewelry, Watches and Furs under Homeowners Form C to \$500 for loss by theft or mysterious disappearance, and amend rule No. 5.3.4.1 in the Homeowners section of the Texas General Basis Schedules to clarify intent. By State Board of Insurance Staff.

- 8-90 Consider amending Endorsement No. HO-101, Replacement Cost for Personal Property, to clarify the terms of when replacement cost is payable. By Texas Insurance Advisory Association.
- 9-90 Consider amending liability exclusion 1.a of the Texas Homeowners policy to exclude Bodily Injury or Property Damage which is caused intentionally by or at the direction of "the insured," rather than which is caused intentionally by or at the direction of "an insured." By Independent Insurance Agents of Texas.
- 10-90 Consider adopting a new endorsement for use with the Texas Homeowners Policy to provide loss assessment coverage for members of a neighborhood homeowners association. By Independent Insurance Agents of Texas.
- 11-90 Consider providing an optional change endorsement for the Texas Homeowners Policy for changes that occur without premium consideration. By Independent Insurance Agents of Texas.
- 12-90 Consider providing a rule in the Homeowners section of the Texas General Basis Schedules to allow specific types of information to be shown on the Homeowners Declarations page. By State Board of Insurance Staff.
- 13-90 Consider adopting a Proof of Loss endorsement for use with the Texas Homeowners Policy and amend the proof of loss requirements in the Homeowners Policy. By Proof of Loss Advisory Committee.
- 14-90 Consider amending the rules in the Texas General Basis Schedules to allow individually owned townhouse units to be insured under a Texas Homeowners Policy. By Texas Townhouse Advisory Committee.
- 15-90 Consider appointing a committee to determine applicable credits for the Texas Homeowners Policies for insureds who have installed a central station alarm system. By Independent Insurance Agents of Texas.
- 16-90 Consider providing a rule in the Texas General Basis Schedules to allow a new location to be added to blanket coverage at its specific rate when written under a reporting form. By Independent Insurance Agents of Texas.
- 17-90 Consider allowing the attachment of the Electronic Equipment Protection Policy to the Texas Commercial Package Policy as a separate coverage part. By Independent Insurance Agents of Texas.
- 18-90 Consider amending Form 222C, Special Extended Coverage Optional Amendatory Theft Endorsement, and Form 221A, Business Personal Property Extension Endorsement, to add a provision stating that when there is contributing insurance, the company shall not be liable for more than its pro rata share of the loss. By Independent Insurance Agents of Texas.
- 19-90 Consider amending the rules in the Texas Commercial Package section of the Texas General Basis Schedules to allow package modification

- for insurance written and rated by the Surety Association. By Independent Insurance Agents of Texas.
- 20-90 Consider providing a rule in the Texas General Basis Schedules to eliminate the requirement of attaching Form 200, One Hundred Dollar Deductible Clause, when Form 65, Large Deductible Endorsement, is attached. By Independent Insurance Agents of Texas.
- 21-90 Consider amending the rules in the Texas General Basis Schedules to allow one or two unit buildings that are a part of a condominium association to be included on a condominium association master policy. By Independent Insurance Agents of Texas.
- 22-90 Consider amending the rules on page 40 of the Texas General Basis Schedules to allow Form 300, Agreed Amount Endorsement, to be attached to three year policies. By Independent Insurance Agents of Texas.
- 23-90 Consider adopting a new endorsement and rating rule for use with the Texas Standard Policy to provide coverage against damage to golf course greens and tee boxes. By Zurich American Insurance Group.
- 24-90 Consider adopting a new endorsement and rating rule for use with the Texas Standard Policy to provide golf facility operators coverage for loss to personal property of golfers in their care, custody or control. By Zurich American Insurance Group.
- 25-90 Consider adopting a new endorsement and rating rule for use with the Texas Standard Policy to provide extensions of coverage for restaurants at golf clubs, country clubs, or athletic clubs. By Zurich American Insurance Group.
- 26-90 Consider elimination of experience class 041 for mercantile risks with dwelling occupancies and allow those risks to use experience class 043. By Texas Property Rating Advisory Committee.
- 27-90 Consider amending the fraction rule on page 106 of the Texas General Basis Schedules to specify that each calculation, except in determining the key rate charge, will be performed by using the complement of the factors shown in the Texas General Basis Schedules with the result to three decimal places and no rounding. By Texas Property Rating Advisory Committee.
- 28-90 Consider amending the whole dollar rule on page 114 of the Texas General Basis Schedules to read: "Round the premium for each item under a schedule of coverage where a separate premium is calculated to the nearest whole dollar. For this purpose, fifty cents (50¢) or more shall be rounded to the next higher whole dollar." By Texas Property Rating Advisory Committee.
- 29-90 Consider amending the rating rules in the Texas General Basis Schedules to provide a consistent method of calculating "all risks"

rates. By Texas Property Rating Advisory Committee.

- 30-90 Consider amending item F under Section IV of Form 281, Special Condominium Property Form, to delete the wording "swimming pools and related equipment." by Texas Apartment Association.
- 31-90 Consider recommended changes for the Texas Petroleum Policy including endorsements and manual rates. By Texas Petroleum Advisory Committee.
- 32-90 Consider Fire and Allied Lines experience for rate adjustment purposes including expense provisions in rating formulae for Fire and Allied Lines, Homeowners and Farm and Ranch Owners Insurance.

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

TRD-9007856 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Filed: August 6, 1990

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



Notice is hereby given that a public hearing under Docket Number 1782 will be held before the State Board of Insurance beginning at 9:30 a.m. on Wednesday, August 22, 1990. The purpose of the hearing will be consideration of proposal or possible adoption of amendments to 28 TAC Chapter 5 of the rules of the board and such other matters as may properly be brought before the board. These amendments would concern regulation of property insurance. The hearing will be in Room 460 of the State Insurance Building, at 1110 San Jacinto Boulevard in Austin.

As Item 1, the board will consider possible adoption of amendments to §5.4602 and §5.4603, concerning the windstorm inspection manual for windstorm and hail insurance coverage by the Texas Catastrophe Property Insurance Association (the TCPIA). Additional information including proposed language for these amendments appeared in the June 19, 1990, issue of the *Texas Register* (15 TexReg 3555)

As Item 2, the board will consider amending the Texas Catastrophe Property Insurance Policy-Windstorm and Hail to allow for a 60-day binder in lieu of the current 30-day binder. This item from the TCPIA, would be a proposed amendment to 28 TAC §5.4101.

As Item 3, the board will consider a new endorsement for attachment to the Texas Catastrophe Property Insurance Policy-Windstorm and Hail to provide coverage on dwellings similar to that provided on a Homeowners policy or Fire Form 148 with regard to replacement cost coverage and the dwelling extension. This item, from the Independent Insurance Agents of Texas, would be a proposed amendment to 28 TAC §5.4201.

As Item 4, the board will consider two new endorsements for attachment to the Texas Catastrophe Property Insurance Policy-Windstorm and Hail, to provide special provisions when insuring condominium buildings. This item, from the Independent Insurance Agents of Texas, would be a proposed amendment to 28 TAC §5.4201.

As Item 5, the board will consider amendment to the TCPIA Plan of Operation which will increase the current maximum limit of insurance for residential property in the

pool. This item, from the Independent Insurance Agents of Texas, would be a proposed amendment to 28 TAC §5.4001 and §5.4501.

As Item 6, the board will consider amending the rules of the TCPIA section of the Texas General Basis Schedules to remove the additional 25% coastal and 100% beach rate surcharges approved by the board on March 15, 1985, and applied to properties insured through the TCPIA. This item, from the Galveston Windstorm Action Committee, would be a proposed amendment to 28 TAC §5.4501.

This hearing will be held in accordance with the legal authority and jurisdiction provided in the Insurance Code, Chapter 5, Subchapter C and Subchapter I, Article 1.04, and Article 21.49. The hearing and procedure will be governed by the rulemaking provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the Rules of Practice and Procedure before the State Board of Insurance (28 TAC, Chapter 1, Subchapter A).

Please direct all inquiries regarding this hearing to Lyndon Anderson, Deputy Commissioner for Property Insurance, Mail Code Number 011-1, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, or telephone (512) 322-2235.

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

TRD-9007857 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Filed: August 6, 1990

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



Texas Commission on Law Enforcement Officer Standards and Education Correction of Error

The Texas Commission on Law Enforcement Officer Standards and Education submitted proposed sections which contained errors as published in the July 17, 1990, issue of the *Texas Register* (15 TexReg 4104).

In §211.98, the word "administration" in the preamble should not be hyphenated.

In subsection (h), the word "declaration" should not be hyphenated.

In §213.1, the definition for Graduate Management Institute should read as follows. "Graduate Management Institute-a program of instruction, including research, lead-

ing to the designation, GMI." The definition for Management Institutes should read as follows. "Graduate Institute-The Law Enforcement Management Institute."

In §213.10(b) the comma following the word "Graduate", is new language and should be in boldface.

In §213.10(e) the word "satisfactory" should not be hyphenated.

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Legislative Budget Office

Joint Budget Hearing Schedule (For the period of August 13-17, 1990)

The Legislative Budget Office has scheduled the following hearings for the period of August 13-17, 1990.

Texas Water Development Board, August 13-9:30 a.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Texas National Guard Armory Board, August 13-10 a.m., Camp Mabry, Building 64, Austin.

Physical Therapy Examiners, August 13-1:30 p.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Adjutant General's Department, August 13-1:30 p.m., Camp Mabry, Building 64, Austin.

Funeral Service Commission, August 13-4 p.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

The University of Texas System (including Available University Fund), August 14-9 a.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

The University of Texas at Austin, August 14-9 a.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

Water Well Driller's Board, August 14-9:30 a.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Veterans Commission, August 14-10 a.m., Room 102, John H. Reagan Building, 15th and North Congress Avenue, Austin.

The University of Texas at El Paso, August 14-1 p.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

The University of Texas of the Permian Basin, August 14-1 p.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

The University of Texas at San Antonio, August 14-1 p.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

Optometry Board, August 14-2 p.m., Room 102, John H. Reagan Building, 15th and North Congress Avenue, Austin.

The University of Texas-Pan American, August 15-9 a.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

The University of Texas-Pan American-Brownsville, August 15-9 a.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

The University of Texas Health Science Center at Houston (including Harris County Psychiatric Center), August 15-9

a.m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

The University of Texas Health Science Center at San Antonio, August 15-9 a. m., Ashbel Smith Hall, Second Floor, Conference Room 208, 201 West 7th Street, Austin.

Commission on Judicial Conduct, August 15-10 a.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Office of the Attorney General, August 15-2 p.m., Room 101, John H. Reagan Building, 15th and North Congress Avenue, Austin.

San Antonio State Chest Hospital, August 16-9 a.m., Texas Department of Health, 1100 West 49th Street, Austin.

South Texas Hospital, August 16-9 a.m., Texas Department of Health, 1100 West 49th Street, Austin.

Texas Department of Health, August 16-10:30 a.m., Texas Department of Health, 1100 West 49th Street, Austin.

Office of the Consumer Credit Commissioner, August 16-2 p.m., Room 102, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Texas River Compact Commissioners, August 17-9 a.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin; Red River Compact Commission, Rio Grande Compact Commission, Sabine Compact Commission, Canadian River Compact Commission, Pecos River Compact Commission.

Texas Cancer Council, August 17-10 a.m., Room 215, State Capitol Building, Austin.

Office of Public Utility Counsel, August 17-10 a.m., Room 102, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Interagency Council on Early Childhood Intervention, August 17-11 a.m., Room 215, State Capitol Building, Austin.

****Note:** Please confirm above dates, times and locations in the event you plan to attend a hearing, since experience has shown that some rescheduling always occurs. Hearings schedule may be checked on PROFS.

Issued in Austin, Texas, on August 2, 1990.

TRD-9007760 Larry Kopp
 Assistant Director for Budgets
 Legislative Budget Office

Filed: August 3, 1990

For further information, please call: (512) 463-1200

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Nortex Regional Planning Commission Request For Proposal

This request for proposal of consultant services by the Nortex Regional Planning Commission is filed under the provisions of Texas Civil Statutes, Article 6252-11c. NRPC is seeking consultant services for the development of a regional landfill feasibility study which will serve the Nortex Regional Planning Commission's area of North Texas.

Background. NRPC intends to develop a regional landfill plan which will assist the governmental entities within this region in complying with the impending Subtitle D regulations being finalized by the Environmental Protection Agency. The consultant will assist the Nortex region in devising a regional landfill plan which will

provide the local governmental entities with the feasible solution of operating a regional landfill within the Nortex region. The landfill study must comply with the impending Subtitle D regulations.

Contact Person. Individuals or firms interested in submitting a proposal may obtain a proposal package by writing Dennis Wilde at the NRPC offices, P.O. Box 5144, Wichita Falls, Texas, 76307 or by phoning Mr. Wilde at (817) 322-5281. Proposals are due at the NRPC offices by 5 p.m. on Friday, August 31, 1990. Late proposals will not be accepted.

Contract Award Procedures. The firm selected to assist in the development of this regional landfill study will be recommended by the Nortex Solid Waste Task Force to the entities expressing an interest to participate in a regional landfill. Final approval of consultant selection will be given by the participating entities. Final consideration will be based upon the firm's demonstrated experience in solid waste issues, regional solid waste planning expertise, demonstrated knowledge of the optional solid waste disposal techniques available, and an evaluation of the cost for this planning assistance. Nortex Regional Planning Commission reserved the right to reject all proposals.

Nortex Regional Planning Commission in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 United States Code 2000d-2000d-4, will affirmatively ensure that no firm or individual will be discriminated against on the grounds of their race, color, sex, age, or national origin in regards to participation in this proposal process nor in the consideration of the eventual award of this project.

Issued in Wichita Falls, Texas, on August 1, 1990.

TRD-9007803 Dennis Wilde
Executive Director
Nortex Regional Planning Commission

Filed: August 3, 1990

For further information, please call: (817) 322-5281

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Texas Southern University

Request To Hire Consultant

The Thurgood Marshall School of Law hired an educational consultant to access the testing skills of first year law students.

Mr. Stephen Klein was hired as the consultant. Consultant fees were estimated to be about \$10,000, however due to additions in the testing plan, fees have escalated to about \$18,000.

We request that the statement listed below be published in the *Texas Register* so that additional funds due the present consultant can be dispersed.

The Thurgood Marshall School of Law at Texas Southern University, State Agency #737, requests the hiring of a consultant to develop a work-plan to access the testing skills and measure the growth of first year law students. The consultant will complete all computer programming, select questions to be asked on multiple choice tests, prepare summary scores, grade reports, and prepare a written report that describes the project's procedures and results.

In working with the consultant Thurgood Marshall School of Law (TMSL) will give five multiple choice tests. Each test will have about 70 items. There will be one test in each of the following five areas: Civil Procedure,

Contracts, Criminal Law, Property, and Torts. All of the approximately 200 first year students are supposed to take each test.

The five topic areas above correspond to five different first year courses. There are three sections per course with about 67 students per section. All sections are not necessarily taught by the same professor.

The consultant will convert the professor's grades to a score distribution that has the same mean and standard deviation at the students scaled multiple choice scores.

The consultant will provide score reports, statistical analyses, and a summary written report of analyses.

Issued in Houston, Texas, on August 2, 1990.

TRD-9007848 Everett O. Bell
Executive Assistant, Board Relations
Texas Southern University

Filed: August 6, 1990

For further information, please call: (713) 527-7900

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Texas Veterans Land Board

Request for Proposal for Paying Agent/Registrar For College Savings Bonds

On or about September 17, 1990, the Veterans Land Board (the Board) expects to sell its Veterans Land Refunding bonds, Series 1990 or its Veterans Land Bonds, Series 1990, in the original par amount of \$44,960,000. Of this amount, approximately \$5,000,000 will be designated College Savings Bonds. The College Savings Bonds will be tax-exempt, registered, general obligations bonds of the State of Texas, and will be dated on the initial date of delivery. The maturity schedule of the issue will consist of serial capital appreciation bonds maturing 2004-2010. Therefore, both principal and interest on the College Savings Bonds will be payable at maturity.

Proposals concerning the provision of Paying Agent/Registrar services for \$5,000,000 of College Savings Bonds only, will be accepted by the board until 10 a. m., on August 21, 1990. The board will select a Paying Agency/Registrar at its August 21, 1990, meeting.

For a detailed copy of the request for proposals, call or write Bruce R. Salzer, 1700 North Congress Avenue, Room 620, Austin, Texas 78701-1496, (512) 463-5198.

The board will determine in its sole discretion which bid constitutes the lowest and best bid. The right is reserved for the board to waive irregularities and to reject any and all proposals.

Issued in Austin, Texas, on August 1, 1990.

TRD-9007812 Garry Mauro
Chairman
Veterans Land Board

Filed: August 3, 1990

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

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Texas Water Commission

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of July 30-August 3, 1990.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

AMOCO Chemical Company; Texas City; an aromatic solvent manufacturing plant; on South Sixth Street, approximately seven blocks south of Texas Avenue in the City of Texas City, Galveston County; 00451; renewal.

ARCO Chemical Company, Bayport Facility; Pasadena; plant manufacturing organic chemicals; 10801 Choate Road in the City of Pasadena, Harris County; 02756; renewal.

Columbian Chemicals Company; Atlanta; Conroe Carbon Black Plant adjacent to FM Road 1485, at a site approximately 1.5 miles southeast of the State Highway 105/FM Road 1485 intersection and approximately five miles east of the City of Conroe, Montgomery, County; 01154 amendment.

Gates Molded Products Company, A Division of Gates Rubber Company; Houston; 13601 Spencer Road (FM 529), about three miles west of the intersection of FM 529 and U.S. Highway 290, Harris County; 01222; renewal.

John Hays, John's Wash Out; Plainview; a cattle truck trailer washing facility approximately 0.5 mile northeast of

the intersection of Interstate Highway 27 and U.S. Highway 87 (Business), Hale County; 03215; new.

International Paper Company; Henderson; Henderson Lumber Mill; 609 Industrial Drive in the City of Henderson, Rusk County; 03252; new.

Mobay Synthetics Corporation and Texas Petrochemical Corporation; Houston; plant manufacturing industrial chemicals and polychloroprene rubber; 8701 Park Place Boulevard, Houston, Harris County; 00587; amendment.

Orange County Water Control and Improvement District Number 1; Vidor; Cloverleaf Wastewater Treatment Facilities; approximately 3/4 mile southwest of the intersection of State Highway 105 and the Southern Pacific Railroad and 1/4 mile east of the intersection of Willow Drive and Dogwood Drive in Orange County; 10875-05; new.

Warren and Bobby Owen; Hereford; a cattle feedlot; on Progressive Road, approximately 0.5 mile south of the intersection of U.S. Highway 60 and Progressive Road in Deaf Smith County; 03232; new.

City of Port Arthur; Sabine Pass Wastewater Treatment Facilities; on a site bounded by Second, Fourth, Smith and Sweet Streets in the City of Port Arthur in Jefferson County; 10364-10; amendment.

City of Presidio; North Wastewater Treatment Plant; approximately two miles northwest of the northern intersection of U.S. Highway 67 and FM Road 170 in Presidio County; 12955-01; renewal.

Southwest Energy Distributors, Inc., National Truck Stop-Longview; Odessa; wastewater treatment facilities; south side of the intersection of IH-20 and FM 968, approximately 1,500 feet east of Loop 281, Harrison County; 03068; amendment.

Special Camps For Special Kids; Dallas; wastewater treatment facility; approximately six miles east of Meridian and approximately thirteen miles north of Clifton in Bosque County; 13536-01; new.

Issued in Austin, Texas, on August 3, 1990

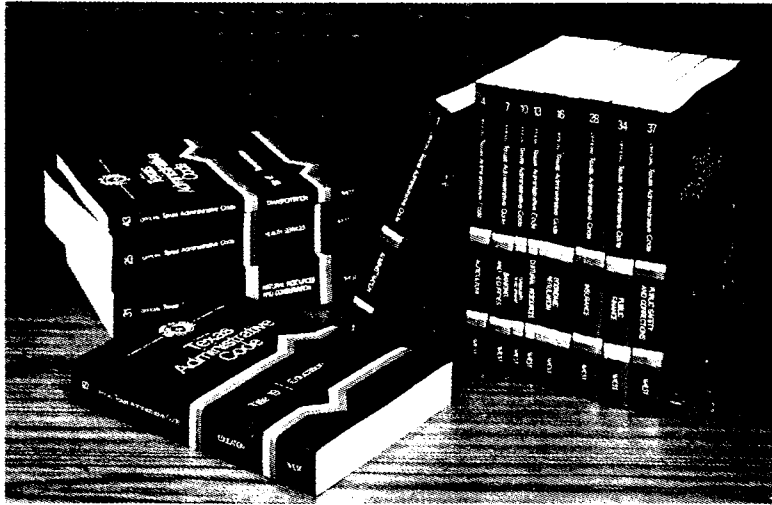
TRD-9007846 Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: August 3, 1990

For further information, please call: (512) 463-7906

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