

Texas Register

Volume 15, Number 72, September 21, 1990

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

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Governor-Appointments, executive orders, and proclamations

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

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

Proposed Sections-sections proposed for adoption

Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings-notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

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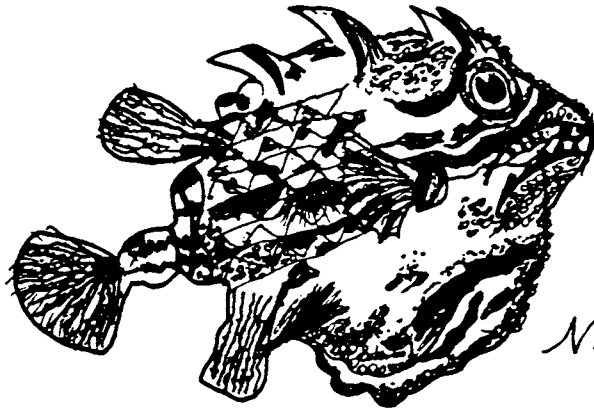
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Subscriptions-one year (96 regular issues), \$90; six months (48 regular issues and two index issues), \$70. Single copies of most issues are available at \$4 per copy.

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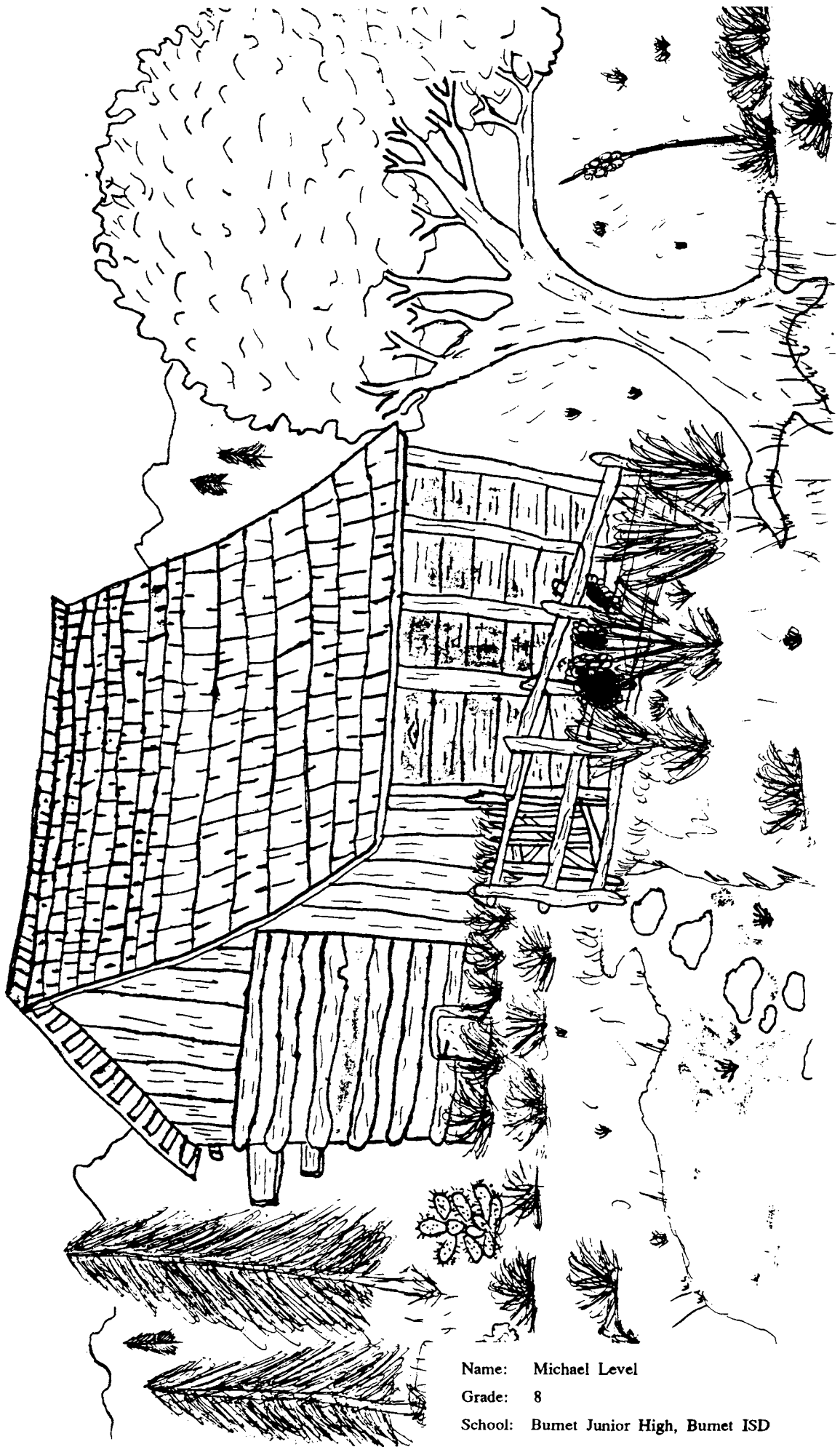


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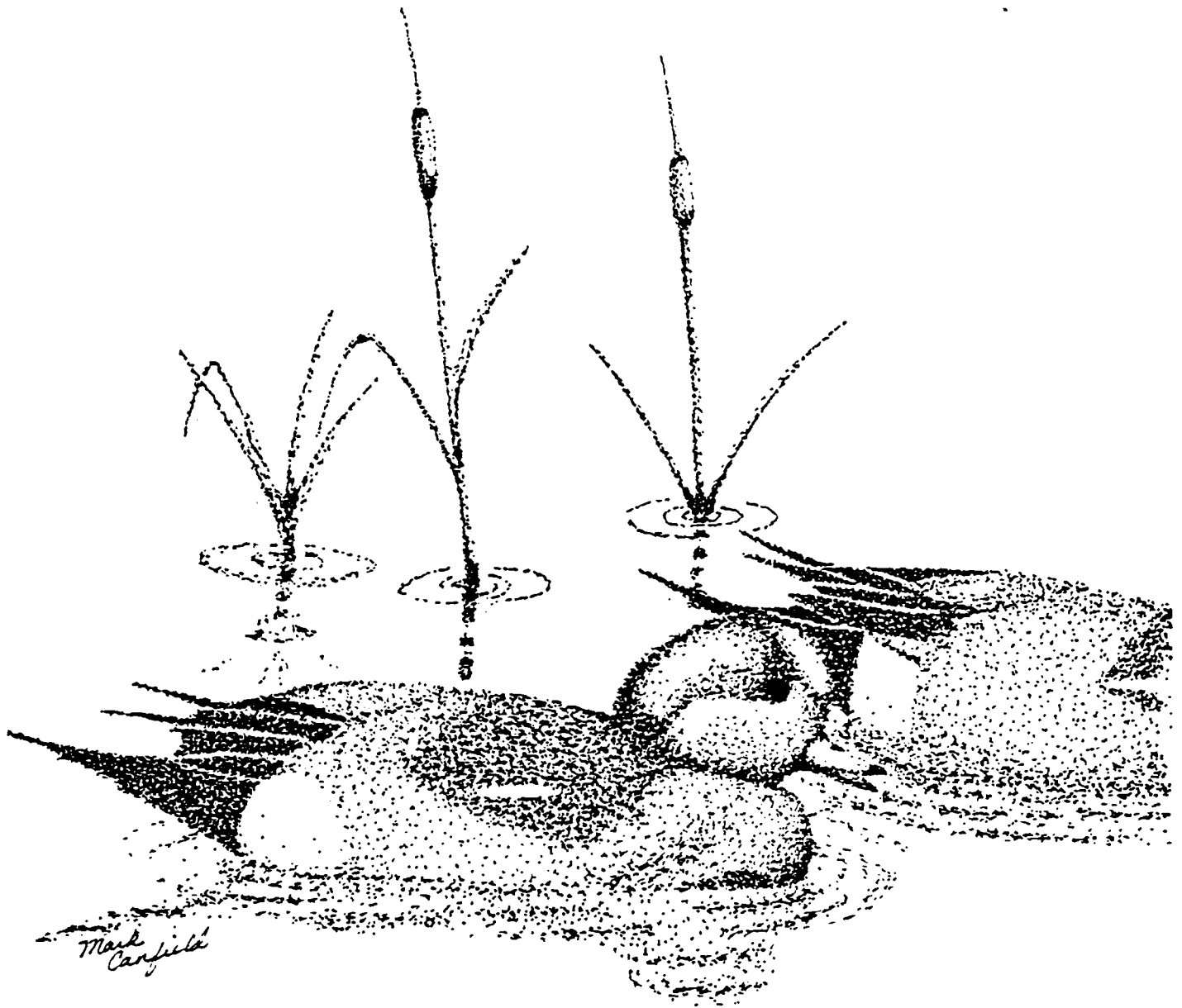
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TAC Titles Affected

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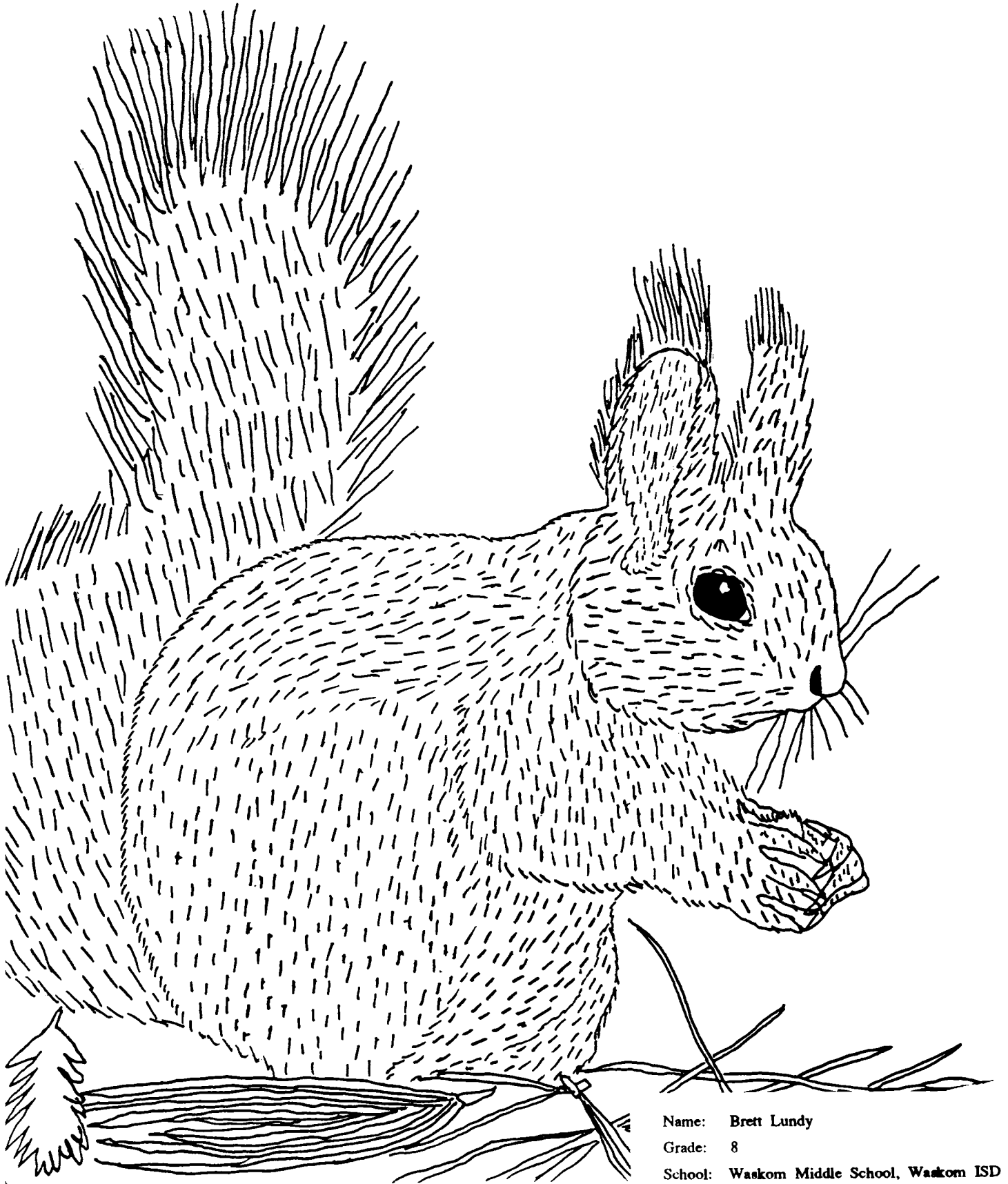
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◆ ◆ ◆



Name: Brett Lundy

Grade: 8

School: Waskom Middle School, Waskom ISD

The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made September 6, 1990

To be a member of the **Trinity River Authority Board of Directors** for a term to expire March 15, 1995: Joseph C. Gerard, P.O. Box 950, Malakoff, Texas 75148. Mr. Gerard will be filling the unexpired term of Fred Asmussen, III of Athens who resigned.

Issued in Austin, Texas on September 17, 1990

TRD-9009461

William P. Clements, Jr.
Governor of Texas



Appointments Made September 7, 1990

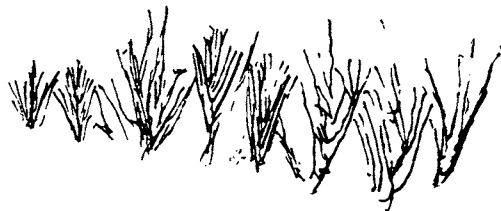
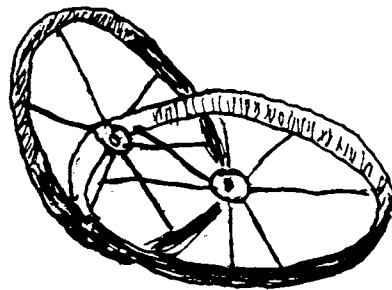
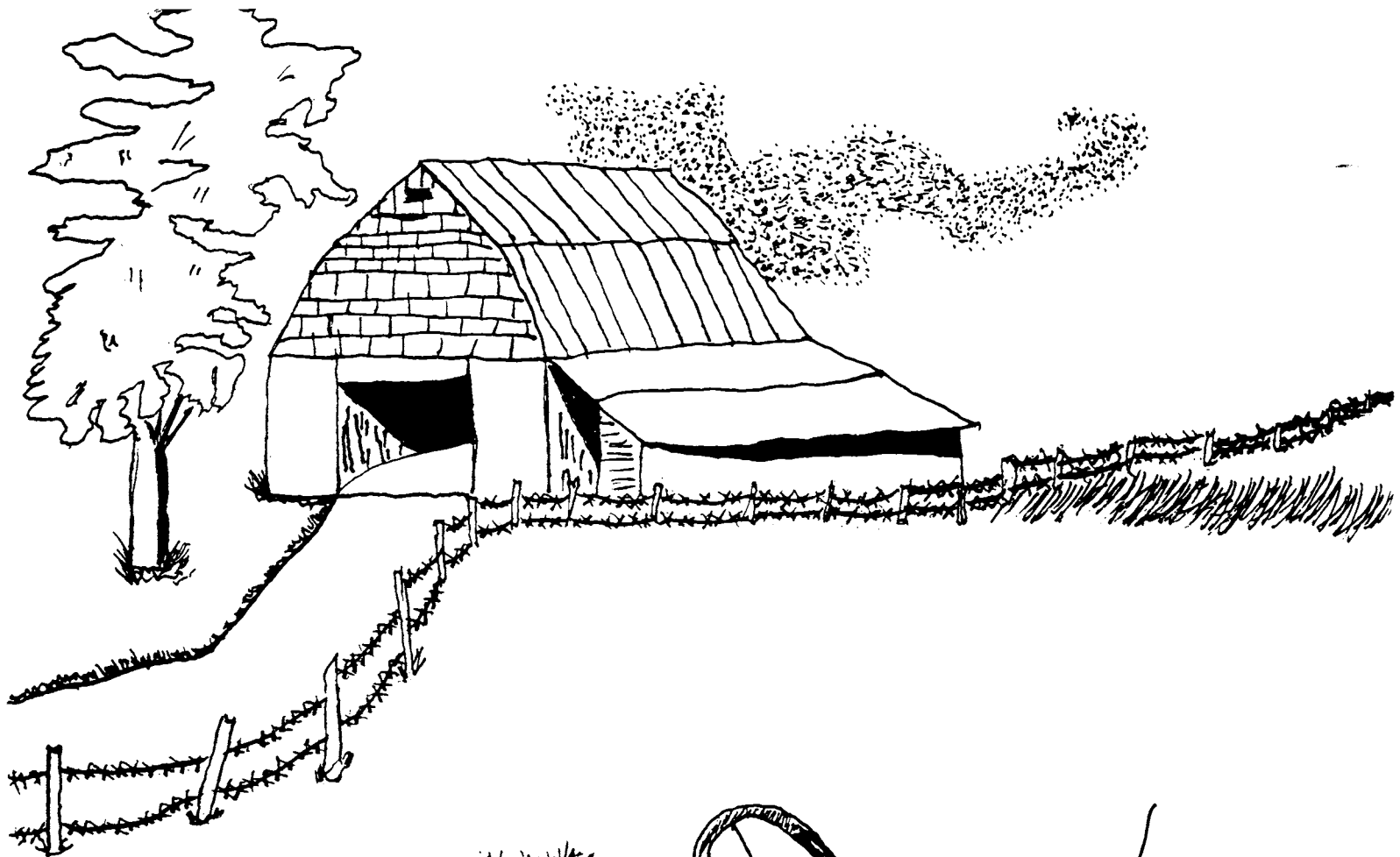
To be **District Attorney of the 143rd Judicial District, Reeves, Ward and Loving Counties** to be effective immediately until the next general election and until his successor shall be duly elected and qualified: David P. Zavoda, 310 South Allen, Monohans, Texas 79756. Mr. Zavoda will be replacing Hal Rhea Upchurch of Monohans who resigned.

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

TRD-9009462

William P. Clements, Jr.
Governor of Texas





Name: Nick Robles
Grade: 8
School: Burnet Junior High, Burnet ISD

Secretary of State

Under provisions of the Texas Election Code (Article 1.03), the secretary of state is authorized to issue opinions based on the election laws. Under provisions of Texas Civil Statutes (Article 6252-9c, §14A), the secretary of state is authorized to issue advisory opinions in response to written requests based on a real or hypothetical situation that relates to Article 6252-9c.

Questions on particular submissions should be addressed to the Office of the Secretary of State, Elections Division, P.O. Box 12887, Austin, Texas 78711, 1 (800) 252-9602 or (512) 463-5650.

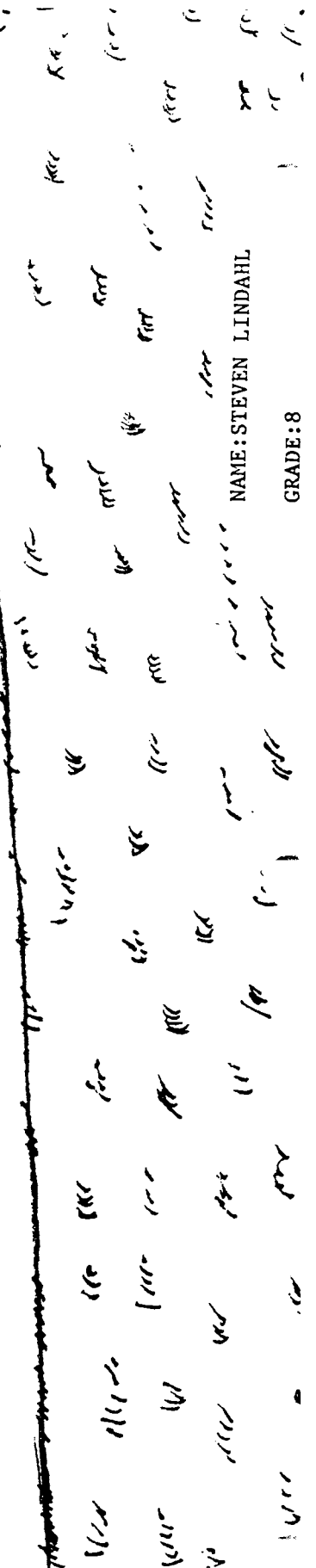
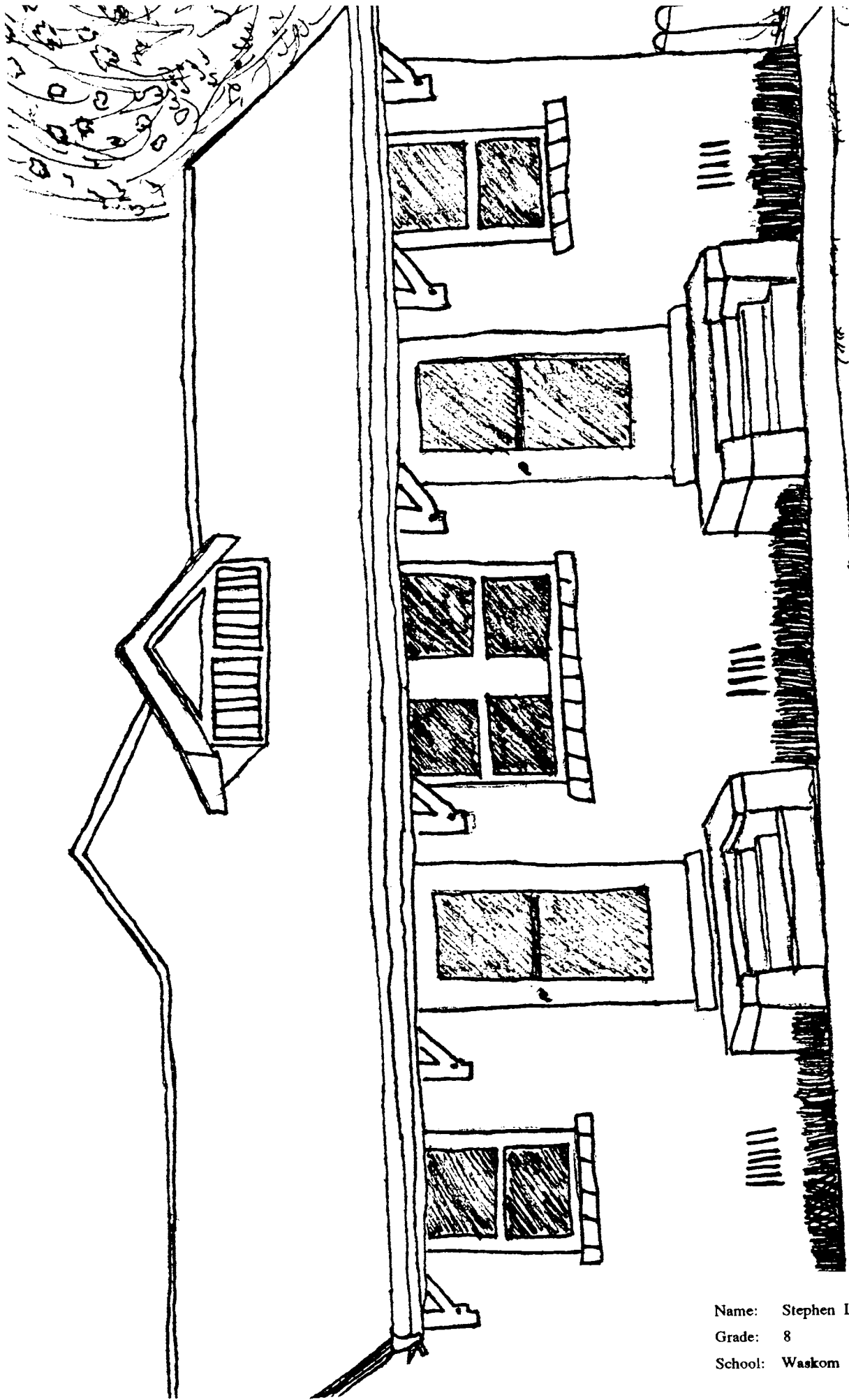
Election Law Opinion, September 13, 1990

Election Law Opinion GSB-4. Request from Bob Bullock, Comptroller of Public Accounts, regarding whether, by virtue of consolidation elections held pursuant to the Texas Local Government Code, Chapter 61, the entire City of Fair Oaks Ranch is included in the VIA Metropolitan Transit Authority.

Summary of Opinion. Texas Civil Statutes, Article 1118x, §6A(b), which governs the VIA Metropolitan Transit Authority (VIA), requires an election on the question of whether a city may be annexed to VIA. A consolidation election held pursuant to the Texas Local Government Code, Chapter 61, is a separate and distinct type of election, and does not result in a city's being annexed to VIA. Annexation, and not consolidation, is the only mechanism whereby a city's territory may be added to VIA. The area of the City of Fair Oaks Ranch located in Comal and Kendall Counties is not a part of the VIA Metropolitan Transit Authority.

TRD-9009527





Name: Stephen Lindahl
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NAME: STEVEN LINDAHL

GRADE: 8

Proposed Sections

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

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

TITLE 1. ADMINISTRATION

Part III. Office of the Attorney General

Chapter 53. Municipal Securities

The Office of the Attorney General proposes new §§53.181-53.184, 53.193-53.200, 53.211-53.217, 53.227-53.233, and 53.244-53.250, concerning general transcript submission requirements for certain municipal securities. Due to the enactment of Texas Civil Statutes, Article 717k-8, certain types of government obligations must now be reviewed and approved by the attorney general. The proposed rules specify the documentation and other guidelines necessary to receive attorney general approval.

Jim Thomassen, chief of the Public Finance Section of the Attorney General's Office, 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. Thomassen 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 providing guidelines regarding the documentation necessary to receive attorney general approval for certain types of bonds. 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 Jim Thomassen, Chief, Public Finance Section, 411 West 13th Street, Eighth Floor, Austin, Texas 78701 or P.O. Box 12548, Austin, Texas 78711-2548.

Subchapter L. General Requirements for Nonprofit Corporation Bonds

• 1 TAC §§53.181-53.184

The new sections are proposed under Texas Civil Statutes, Article 6252-13a and Article 717k-8, §§3.001-3.005, which provide the Office of the Attorney General with the authority to adopt rules necessary to implement the review process for certain bonds.

§53.181. Form of Documents. All documents and certificates submitted to the public finance section of the Attorney General's office are to be dated, fully ex-

ecuted originals, unless otherwise indicated in this chapter. Undated certificates shall be accompanied by authorization from the appropriate party to the attorney general to complete the date of such certificate upon approval of the bonds and to rely upon such information unless notified otherwise.

§53.182. Governing Law. The governing law provisions for letter of credit and reimbursement agreements, bond purchase agreements, remarketing agreements, and similar agreements may be that of the state of domicile of the bank or financial institution, but the rights, duties, and liabilities of the issuer of the bonds must be governed by Texas law. The trust indenture must be governed by Texas law, but the rights, duties, and obligations of the trustee may be interpreted and construed according to the laws of the trustee's state of domicile. Except as provided in this section, all other documents to which the issuer of the bonds is a party shall contain a provision to the effect that such document shall be governed by and construed in accordance with the laws of the State of Texas.

§53.183. Closings.

(a) Basic financing documents are to be submitted to the Public Finance Section of the Attorney General's Office a minimum of 12 working days prior to the proposed bond closing along with the appropriate examination fee as required by Texas Civil Statutes, Article 717k-6. One of the 12 days is needed in order to transmit approved bonds to the Comptroller of Public Accounts for registration. Under extraordinary circumstances, a shorter review period will be considered, but only upon preclearance with the Public Finance Section. Certificates and other documentation should be submitted with, or as soon as possible after, the submission of the basic financing documents. It is highly recommended that closings not be scheduled prior to contacting the Public Finance Section.

(b) If documents cannot be executed in time to meet submittal requirements, it is acceptable to submit unexecuted documents in substantially final form. If any changes are made to the documents after they are first submitted, blacklined copies showing all changes must also be submitted. Any substantive changes may delay approval.

(c) The attorney general will send a representative to out-of-town closings only if truly necessary and only if pre-cleared with the Public Finance Section.

§53.184. General Submission Requirements. The following transcript items are to be submitted for all nonprofit corporation bonds.

(1) index of all documents comprising the bond transaction, with appropriate notation of those documents submitted to the attorney general;

(2) certification with respect to all bond proceedings held in compliance with Texas Civil Statutes, Article 6252-17, if applicable;

(3) certification that due notice of meetings has been given to the directors of the issuer, in accordance with the by-laws;

(4) transcripts for refunding of bonds which should contain additional items. Even though a current refunding under federal tax law allows redemption of the bonds within 90 days from the closing, for state law purposes the delay of redemption of the refunded bonds until after closing would be treated as an advance refunding and must comply with applicable requirements, including:

(A) escrow agreement or other document governing disposition and investment of bond proceeds pending redemption of the refunded bonds;

(B) verification of the sufficiency of the escrow, if applicable;

(C) copy of refunded bond resolution(s) or indenture(s); and

(D) authorization and instruction to call bonds for redemption.

(5) all other certificates or documents requested by the attorney general or otherwise relevant to the attorney general's approval of the financing.

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-9009364

Lou McCreary
Executive Assistant
Attorney General, State
of Texas
Attorney General's Office

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 463-2040

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**Subchapter M. Development
Corporation Bonds**

• 1 TAC §§53.193-53.200

The new sections are proposed under Texas Civil Statutes, Article 6252-13a and Article 717k-8, §§3.001-3.005, which provide the Office of the Attorney General with the authority to adopt rules necessary to implement the review process for certain bonds.

§53.193. Generally. In addition to the requirements of Subchapter L of this chapter (relating to General Requirements for Non-profit Corporation Bonds), this subchapter outlines the minimum transcript requirements prerequisite to approval of bonds issued pursuant to Texas Civil Statutes, Article 5190.6, as amended, Development Corporation Act of 1979 (the Act). Unless otherwise indicated in this subchapter, terms not defined herein have the meanings assigned to them in the Act.

§53.194. Basic Financing Documents. The following shall constitute basic financing documents:

(1) loan agreement or other financing document between the corporation and the user;

(2) trust indenture, bond resolution, or other document, which shall include the following provisions:

(A) terms of the sale of the bonds, i.e., negotiated, competitive or otherwise, identification of the purchaser, whether sold at par or discount;

(B) place and manner of payment for the bonds;

(C) title, aggregate amount, denomination, bond number(s), and purpose of the bonds;

(D) maturity schedule;

(E) payment date(s), interest rate(s), and/or method or formula for setting the interest rate(s);

(F) redemption provisions, if any;

(G) designation of registrar and provisions for registration and transfer of the bonds;

(H) form of bond, including on the face of all bonds a statement to the effect that neither the State of Texas, the unit, nor any other political corporation, subdivision, or agency of the State of Texas shall be obligated to pay the bonds or the interest thereon and that neither the faith and credit nor the taxing power of the State of Texas, the unit, or any other political corporation, subdivision, or agency thereof is pledged to the payment of the principal of or interest on the bonds;

(I) pledge and source of payment of the bonds and disposition of the bond proceeds;

(J) creation and designation of all funds relating to the disposition of bond proceeds and the payment and security for the bonds;

(K) authorization to use official seal on the bonds and for the appropriate officers to sign the bonds and the form of such signature and seal (manual and/or facsimile); and

(L) specific description of the project to be financed or refinanced which includes a general, functional description of the type and use of the facility; the owner, operator, or manager of the facility and the prospective location of the facility by its street address or, if none, by a general description of its specific location;

(3) credit agreement or other documents such as tender agent agreement, remarketing agreement, or other agreements which provide or facilitate credit enhancement for the bonds, if any, or govern provisions of the bonds. If the corporation is not a party to such agreements, they need only be submitted in substantially final form, unexecuted;

(4) guarantee agreement or other documents guaranteeing the bonds, if any;

(5) official statement (or preliminary official statement if the official statement is not available) or other offering document and official notice of sale, if any;

(6) bond purchase agreement, if any;

(7) deed of trust or other mortgage documents, if any, in substantially final form, unexecuted.

§53.195. Documentation of Approving Governing Body. The following shall constitute documentation of the approving governing body:

(1) resolution of the governing body approving the resolution of the corporation providing for the issuance of the bonds which resolution shall not be adopted more than 60 days prior to the delivery date of the bonds. Such resolution shall include:

(A) approval of issuance of the bonds;

(B) statement of the purpose and amount of the bonds; and

(C) identification of the user;

(2) undated general certificate of the governing body, executed by at least two officers of the governing body, which includes certifications and provisions with respect to:

(A) incumbency of the governing body and directors of the corporation;

(B) approval of all programs and expenditures of the corporation;

(C) approval of the initial by-laws and articles of incorporation of the corporation and all amendments to the corporation's articles of incorporation, if any; and

(D) no-litigation pending or threatened against the unit or governing body with respect to the issuance or approval of the bonds, the creation of the corporation, or the title or authority of the governing body or directors of the corporation.

§53.196. Documentation of Corporation. The following shall constitute documentation of the corporation:

(1) undated general certificate of the corporation, executed by at least two officers of the corporation, which includes certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) incumbency of the officers and directors;

(B) due incorporation, valid existence, and good standing;

(C) official seal;

(D) appointment of authorized representative, if any;

(F) signature identifications;

(G) no-litigation pending or threatened against the corporation with respect to the issuance of the bonds, or the title or authority of the officers and directors of the corporation;

(H) bond documents submitted were properly executed by the corporation, have not been amended or rescinded, and due performance thereof has been authorized by the corporation;

(I) the terms and performance of the bond documents by the corporation are not in conflict with the articles of incorporation or by-laws of the corporation or any other instrument or restriction to which the corporation is a party or subject to;

(J) documents submitted are in substantially the form approved by or on behalf of the corporation; and

(K) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy) :

(i) copy of the articles of incorporation as certified by the secretary of state of Texas and by-laws or, alternatively, a certification that there have been no amendments to the articles of incorporation or by-laws since the last submission of bonds or copies of any amendments;

(ii) copy of certificate of continued existence from the secretary of state of Texas and copy of certificate of good standing from the comptroller of public accounts of Texas, both dated within 60 days of transcript submission; and

(iii) copy of the department's approval;

(2) resolution authorizing issuance of the bonds, including the following provisions:

(A) title of bonds;

(B) legal citation for authority to issue bonds;

(C) specific purpose for which the bonds are issued;

(D) identification of the user; and

(E) total principal amount of bonds to be issued.

§53.197. Documentation of User. The following shall constitute documentation of the user:

(1) undated general certificate of the user, executed by at least two officers or authorized representatives of the user, including certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) due incorporation or creation, valid existence, and good standing;

(B) incumbency of officers executing bond documents;

(C) appointment of authorized representative, if any;

(D) signature identifications;

(E) the bond documents submitted were properly executed by the user, have not been amended or rescinded, and due performance thereof has been authorized by the user;

(F) the terms and performance of the bond documents by the user are not in conflict with the articles of incorporation, by-laws, partnership, or other agreement, of the user or any other instrument or restriction to which the user is a party or subject to;

(G) receipt of all necessary permits and approvals of governmental bodies or agencies with respect to the issuance and sale of the bonds and the user has received or expects to receive and has applied or shall apply with due diligence for all necessary permits and approvals with respect to the construction or operation of the project;

(H) no event has occurred since the date of the user's application to the department that would result in a material adverse change in the financial condition of the user or in the user's ability to perform its obligations under the bond transaction documents;

(I) no default under any agreement to which the user is a party which would have a material adverse effect on the user, or a certification that the corporation has been provided with a complete description of the facts and circumstances of such default;

(J) location of project facilities (whether within the limits of the unit);

(K) no-litigation pending or threatened against the user with respect to the authority of the user to enter into the bond transaction or to perform its obligations thereunder;

(L) documents submitted are in substantially the form approved by or on behalf of the corporation;

(M) all documents, including counsel opinions, are in substantially the form submitted to the department and approved by or on behalf of the corporation or, alternatively, a letter from bond counsel containing a certification to such effect; and

(N) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy):

(i) copy of articles of incorporation or other evidence of creation as certified by the appropriate state official;

(ii) copy of by-laws, partnership, or other agreement;

(iii) copy of certificate from appropriate state official of state of incorporation or creation of continued existence and good standing, dated within 60 days of transcript submission;

(iv) for a user created outside the State of Texas, copies of certificate of good standing from the comptroller of public accounts of Texas and certificate of the secretary of state of Texas evidencing authority to do business in the State of Texas, both dated within 60 days of transcript submission; and

(v) if a project is to be financed within the limits of a unit different from that of the corporation issuing the bonds, a copy of the request(s) for financing from such unit(s);

(2) resolution or other evidence approving the bond financing and related documents.

§53.198. Bank/Credit Facility Documentation. The following shall constitute documentation of the bank/credit facility:

(1) if a bank or other entity is involved as trustee or escrow agent, evidence of the entity's corporate authority to act as such.

(2) if a credit or similar agreement is to be submitted in executed form pursuant to §53.194(3) of this title (relating to Basic Financing Documents), evidence of the credit facility's corporate authority to act as such;

(3) authority for specified officers to execute transcript documents and signature identification of such officers.

§53.199. Documentation of Guarantor. If the bonds are guaranteed by another entity, such entity must furnish the same documentation as the user, to the extent applicable.

§53.200. *Miscellaneous.*

(a) Any agreement relating to any project shall contain a provision that in the event of a default in the payment of the principal of or the interest or premium on the bonds or in the performance of any agreement contained in such proceedings, mortgage, or instrument, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with such resolution, mortgage, or instrument.

(b) If a corporation finances projects in enterprise zones designated under Texas Civil Statutes, Article 5190.7, the Texas Enterprise Zone Act, as amended, please contact the Public Finance Section for additional transcript 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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Lou McCreary
Executive Assistant
Attorney General, State
of Texas
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For further information, please call: (512) 463-2040

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Subchapter N. Health Facilities
Development Corporation
Bonds

• 1 TAC §§53.211-53.217

The new sections are proposed under Texas Civil Statutes, Article 6252-13a and Article 717k-8, §§3.001-3.005, which provide the Office of the Attorney General with the authority to adopt rules necessary to implement the review process for certain bonds.

§53.211. *Generally.* In addition to the requirements of Subchapter L of this chapter (relating to General Requirements for non-profit Corporation Bonds), this subchapter outlines the minimum transcript requirements prerequisite to approval of bonds issued pursuant to the Health and Safety Code, Title 4, Chapter 221, as amended, Health Facilities Development Act (the Act). Unless otherwise indicated in this subchapter, terms not defined herein have the meanings assigned to them in the Act.

§53.212. *Basic Financing Documents.* The following shall constitute basic financing documents:

(1) loan agreement or other financing document between the corporation and the user;

(2) trust indenture, bond resolution, or other document, which shall include the following provisions:

(A) terms of the sale of the bonds, i.e., negotiated, competitive or otherwise, identification of the purchaser, whether sold at par or discount;

(B) place and manner of payment for the bonds;

(C) title, aggregate amount, denomination, bond number(s), and purpose of the bonds;

(D) maturity schedule;

(E) payment date(s), interest rate(s), and/or method or formula for setting the interest rate(s);

(F) redemption provisions, if any;

(G) designation of registrar and provisions for registration and transfer of the bonds;

(H) form of bond, including on the face of all bonds a statement to the effect that neither the State of Texas, nor a political subdivision or agency of the State of Texas, including the sponsoring entity is obligated to pay the bonds or the interest thereon and that neither the faith and credit nor the taxing power of the State of Texas, the sponsoring entity, nor any other political subdivision, or agency of the State of Texas is pledged to the payment of the principal of or interest or any redemption premium on the bonds;

(I) pledge and source of payment of the bonds and disposition of the bond proceeds;

(J) creation and designation of all funds relating to the disposition of bond proceeds and to the payment and security for the bonds;

(K) authorization to use official seal on the bonds and for the appropriate officers to sign the bonds and the form of such signature and seal (manual and/or facsimile); and

(L) specific description of the health facility to be financed or refinanced which includes a general, functional description of the type and use of the health facility; the owner, operator, or manager of the health facility and the prospective location of the health facility by its

street address or, if none, by a general description of its specific location;

(3) credit agreement or other documents such as tender agent agreement, remarketing agreement, or other agreements which provide or facilitate credit enhancement for the bonds, if any, or govern provisions of the bonds. If the corporation is not a party to such agreements, they need only be submitted in substantially final form, unexecuted;

(4) guarantee agreement or other documents guaranteeing the bonds, if any;

(5) official statement (or preliminary official statement if the official statement is not available) or other offering document and official notice of sale, if any;

(6) bond purchase agreement, if any;

(7) deed of trust or other mortgage documents, if any, in substantially final form, unexecuted.

§53.213. *Documentation of Governing Body.* The following shall constitute documentation of the governing body:

(1) certificate of receipt of notice from the corporation to the governing body of intent to issue bonds, with notice attached, which includes the description of the health facilities, projected cost and necessity for the health facility, name of proposed user of the facility, or a cash flow forecast, as applicable;

(2) undated general certificate of the governing body including certifications and provisions with respect to:

(A) approval of the by-laws and articles of incorporation of the corporation and all amendments thereto;

(B) incumbency of the directors of the corporation; and

(C) whether any action has been taken pursuant to the Health Facilities Development Act, §221.035, or otherwise to limit the effectiveness of the bond resolution or affect the bond transaction.

§53.214. *Documentation of Corporation.* The following shall constitute documentation of the corporation:

(1) undated general certificate of the corporation, executed by at least two officers of the corporation, including certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) incumbency of the officers and directors;

(B) due incorporation, valid existence, and good standing;

(C) official seal;

(D) appointment of authorized representative, if any;

(E) signature identifications;

(F) no-litigation pending or threatened against the corporation with respect to the issuance of the bonds, or the title or authority of the officers and directors of the corporation;

(G) the bond documents submitted were properly executed by the corporation, have not been amended or rescinded, and due performance thereof has been authorized by the corporation;

(H) the terms and performance of the bond documents by the corporation are not in conflict with the articles of incorporation or by-laws of the corporation or any other instrument or restriction to which the corporation is a party or subject to; and

(I) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy):

(i) a copy of the corporation's articles of incorporation as certified by the secretary of state of Texas and by-laws, or, alternatively, a certification that there have been no amendments to the corporation's articles of incorporation or by-laws since the last submission of bonds or copies of any amendments;

(ii) copy of certificate of continued existence from the secretary of state of Texas and copy of certificate of good standing from the comptroller of public accounts of Texas, both dated within 60 days of transcript submission;

(2) resolution designating management committee(s), if any;

(3) resolution authorizing issuance of the bonds, including the following provisions:

(A) title of bonds;

(B) legal citation for authority to issue bonds;

(C) specific purpose for which the bonds are issued;

(D) identification of the user; and

(E) total principal amount of bonds to be issued.

§53.215. Documentation of User. The following shall constitute documentation of the user:

(1) undated general certificate of the user, executed by at least two officers or authorized representatives of the user, including certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) due incorporation or creation, valid existence, and good standing;

(B) incumbency of officers executing bond documents;

(C) appointment of authorized representative, if any;

(D) signature identifications;

(E) the bond documents submitted were properly executed by the user, have not been amended or rescinded, and due performance thereof has been authorized by the user;

(F) the terms and performance of the bond documents are not in conflict with the articles of incorporation, by-laws, partnership, or other agreement, of the user or any other instrument or restriction to which the user is a party or subject to;

(G) receipt of all necessary permits and approvals of governmental bodies or agencies with respect to the issuance and sale of the bonds and the user has received or expects to receive and has applied or shall apply with due diligence for all necessary permits and approval with respect to the construction or operation of the project;

(H) no event has occurred since the date of the user's application to the corporation to issue the bonds that would result in a material adverse change in the financial condition of the user or in the user's ability to perform its obligations under the bond transaction documents or certification that the corporation has been provided with a complete description of the facts and circumstances of such event;

(I) no default under any agreement to which the user is a party which would have a material adverse effect on the user or certification that the corporation has been provided with a complete description of the facts and circumstances of such default;

(J) location of health facilities (whether located within limits of sponsoring entity);

(K) no-litigation pending or threatened against the user with respect to the authority of the user to enter into the bond transaction or to perform the obligations thereunder;

(L) documents submitted are in substantially the form approved by or on behalf of the corporation; and

(M) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy):

(i) copy of articles of incorporation or other evidence of creation as certified by the appropriate state official;

(ii) copy of by-laws, partnership, or other agreement;

(iii) copy of certificate from appropriate state official of state of incorporation or creation of continued existence and good standing, dated within 60 days of transcript submission;

(iv) for a user created outside this state, copies of certificate of good standing from the comptroller of public accounts of Texas and certificate of the secretary of state of Texas evidencing authority to do business in the State of Texas, both dated within 60 days of transcript submission; and

(v) if a health facility is to be financed within the limits of a sponsoring entity different from that of the corporation issuing the bonds, a copy of the consent of such sponsoring entity;

(2) resolution or other evidence approving the bond financing and related documents.

§53.216. Bank/Credit Facility Documentation. The following shall constitute documentation of the bank/credit facility:

(1) if a bank or other entity is involved as trustee, escrow agent, or credit facility, evidence of the entity's corporate authority to act as such;

(2) if a credit or similar agreement is to be submitted in executed form pursuant to §53.212(3) of this title (relating to Basic Financing Documents), evidence of corporate authority to act as such;

(3) authority for specified officers to execute transcript documents and signature identification of such officers.

§53.217. Documentation of Guarantor. If the bonds are guaranteed by another entity, such entity must furnish the same documen-

tation as the user, to the extent applicable.

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-9009362

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For further information, please call: (512) 463-2040

Subchapter O. Housing Finance Corporation Bonds

• 1 TAC §§53.227-53.233

The new sections are proposed under Texas Civil Statutes, Article 6252-13a and Article 717k-8, §§3.001-3.005, which provide the Office of the Attorney General with the authority to adopt rules necessary to implement the review process for certain bonds.

§53.227. Generally.

(a) In addition to the requirements of Subchapter L of this chapter (relating to General Requirements for Nonprofit Corporation Bonds), this subchapter outlines the minimum transcript requirements prerequisite to approval of housing finance corporation bonds issued pursuant to the Local Government Code (the Act), Title 12, Chapter 394, Housing Finance Corporation Act. Unless otherwise indicated in this subchapter, terms not defined herein have the meanings assigned to them in the Act.

(b) Unless otherwise indicated, the following requirements apply to single family and multifamily housing bonds issued by a housing finance corporation (the issuer).

§53.228. Basic Financing Documents. The following shall constitute basic financing documents:

(1) loan agreement or other financing document;

(2) trust indenture, bond resolution or other document which shall include the following provisions:

(A) terms of the sale of the bonds, i.e., negotiated, competitive or otherwise, identification of the purchaser, whether sold at par or discount;

(B) place and manner of payment for the bonds;

(C) title, aggregate amount,

denomination, bond number(s), and purpose of the bonds;

(D) maturity schedule;

(E) payment date(s), interest rate(s) and/or method or formula for setting interest rate(s);

(F) redemption provisions, if any;

(G) designation of registrar and provisions for registration and transfer of the bonds;

(H) form of bond, including on the face of all bonds a statement to the effect that such bonds have been issued under the Act and do not constitute, within the meaning of any statutory or constitutional provision, an indebtedness, an obligation, or a loan of credit of the State of Texas, the local government, or any other municipality, county, or other municipal or political corporation or subdivision of the State of Texas;

(I) pledge and source of payment of the bonds and disposition of the bond proceeds;

(J) creation and designation of all funds relating to the disposition of bond proceeds and the payment and security for the bonds;

(K) authorization to use of official seal on the bonds and for the appropriate officers to sign the bonds and the form of such signature and seal (manual and/or facsimile); and

(L) specific description of the project to be financed or refinanced which includes a general, functional description of the type and use of the facility; the owner, operator, or manager of the facility and the prospective location of the facility by its street address or, if none, by a general description of its specific location;

(3) credit agreement or other documents such as tender agent agreement, remarketing agreement, or other agreements which provide or facilitate credit enhancement for the bonds, if any, or govern provisions of the bonds. If the corporation is not a party to such agreements, they need only be submitted in substantially final form, unexecuted;

(4) guarantee agreement or other documents guaranteeing the bonds, if any;

(5) official statement (or preliminary official statement if the official statement is not available) or other offering document and official notice of sale, if any;

(6) bond purchase agreement, if any;

(7) deed of trust or other mortgage documents, if any, in substantially final form, unexecuted;

(8) lender documents for single family bonds, including:

(A) invitation to originate mortgage financing;

(B) offer to originate mortgage financing;

(C) origination, sale, and servicing agreement executed by the servicer and the issuer;

(D) evidence of receipt by the issuer of the commitment fee from participating lenders along with the allocation of mortgage loans to be originated by participating lenders; and

(E) a corporate authority and signature identification certificate of the servicer.

§53.229. Documentation of Governing Body. The following shall constitute documentation of the governing body: undated general certificate of the governing body, including certifications and provisions with respect to:

(1) incumbency of the directors of the issuer;

(2) whether the governing body has created a joint housing finance corporation (a joint issuer) and if so, that the governing body has not created any other joint issuer with powers as provided in the Local Government Code (the Act), §394.012(c);

(3) approval of all amendments to the issuer's articles of incorporation, if any; and

(4) whether any action has been taken pursuant to the Act, §394.016(c) or otherwise to limit the effectiveness of the bond resolution or affect the bond transaction.

§53.230. Documentation of Issuer. The following shall constitute documentation of the issuer:

(1) undated general certificate of the issuer, executed by at least two officers of the issuer, which includes certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) incumbency of the officers and directors;

(B) due incorporation, valid existence, and good standing;

(C) official seal;

(D) for single family bonds only, compliance with the Local Government Code, §394.005;

(E) appointment of authorized representative, if any;

(F) signature identifications;

(G) no-litigation pending or threatened against the issuer with respect to the issuance of the bonds or the title or authority of the officers and directors of the issuer;

(H) the bond documents submitted were properly executed by the issuer, have not been amended or rescinded, and due performance thereof has been authorized, by the issuer;

(I) the terms and performance of the bond documents by the issuer are not in conflict with the articles of incorporation or by-laws of the issuer or any other instrument or restriction to which the issuer is a party or subject to;

(J) if a joint issuer, that such issuer is not operating in more than one state planning region;

(K) the directors of the issuer are residents of the local government or if a joint issuer that the directors reside in a sponsoring local government;

(L) if the proceeds of the bonds are used for a residential development, that such development is located within the local government;

(M) the issuer's articles of incorporation, most recent annual report, and all other filings have been delivered to the Texas Department on Aging;

(N) documents are in substantially the form approved by or on behalf of the issuer; and

(O) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy):

(i) copy of the articles of incorporation as certified by the secretary of state of Texas and by-laws or, alternatively, a certification that there have been no

amendments to the articles of incorporation or by-laws since the last submission of bonds or copies of any amendments; and

(ii) copy of certificate of continued existence from the secretary of state of Texas and certificate of good standing from the comptroller of public accounts of Texas, both dated within 60 days of transcript submission.

(2) resolution authorizing issuance of the bonds, including the following provisions:

(A) title of bonds;

(B) legal citation for authority to issue bonds;

(C) specific purpose for which the bonds are issued;

(D) identification of the developer; and

(E) total principal amount of bonds to be issued.

§53.231. *Documentation of Developer (Multifamily Bonds Only)*. The following shall constitute documentation of the developer:

(1) undated general certificate of the developer, executed by at least two officers or authorized representatives, including certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) due incorporation or creation, valid existence and good standing;

(B) incumbency of officers executing bond documents;

(C) appointment of authorized representative, if any;

(D) signature identifications;

(E) the bond documents submitted were properly executed by the developer, have not been amended or rescinded, and due performance thereof has been authorized by the developer;

(F) the terms and performance of the bond documents by the developer are not in conflict with the articles of incorporation or by-laws, partnership, or other instrument, of the developer or any other instrument or restriction to which the developer is a party or subject to;

(G) receipt of all necessary permits and approvals of governmental bodies or agencies with respect to the issuance and sale of the bonds and the developer has received or expects to receive and has applied or shall apply with due diligence for all necessary permits and approvals with respect to the construction or operation of the project;

(H) no event has occurred since the date of the developer's application to the issuer to issue the bonds that would result in a material adverse change in the financial condition of the developer or in the developer's ability to perform its obligation under the bond transaction documents or certification that the issuer has been provided with a complete description of the facts and circumstance of such event;

(I) no default under any agreement to which the developer is a party which would have a material adverse effect on the developer or certification that the issuer has been provided with a complete description of the facts and circumstance of such default;

(J) no-litigation pending or threatened against the developer with respect to the authority of the developer to enter into the bond transaction or to perform its obligations thereunder;

(K) documents submitted are in substantially the form approved by or on behalf of the issuer; and

(L) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy):

(i) copy of articles of incorporation or other evidence of creation as certified by the appropriate state official;

(ii) copy of by-laws, partnership, or other agreement;

(iii) copy of certificate from appropriate state official of state of incorporation or creation of continued existence and good standing, dated within 60 days of transcript submission; and

(iv) if a developer created outside the State of Texas, certificate of good standing from the comptroller of public accounts of Texas and certificate of the secretary of state of Texas evidencing authority to do business in the State of Texas, both dated within 60 days of transcript submission;

(2) resolution or other evidence approving the bond financing and related documents;

(3) evidence of compliance with the Local Government Code (the Act), §394.902, if applicable (compliance is not required for refunding bonds):

(A) certification by the developer of reservation of the units in compliance with the Act, §394.902(a), and certificate of design engineer for the development that the reserved units meet the standards of the Texas Department on Aging; or

(B) form of receipt or other evidence from the issuer or the trustee acknowledging payment of the required fee pursuant to the Act, §394.902(b) (executed receipt to be submitted post-closing).

§53.232. Bank/Credit Facility Documentation. The following shall constitute documentation of the bank/credit facility:

(1) if a bank or other entity is involved as trustee or escrow agent, evidence of the entity's corporate authority to act as such;

(2) if a credit or similar agreement is to be submitted in executed form pursuant to §53.228(3) of this title (relating to Basic Financing Documents), evidence of the credit facility's corporate authority to act as such;

(3) authority for specified officers to execute transcript documents and signature identification of such officers.

§53.233. Documentation of Guarantor. If the bonds are guaranteed by another entity, such entity must furnish the same documentation as the developer, to the extent applicable.

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 September 13, 1990.

TRD-9009361

Lou McCreary
Executive Assistant
Attorney General, State
of Texas
Attorney General's Office

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 463-2040

◆ ◆ ◆
Subchapter P. Other Corporation Bonds

• 1 TAC §§53.244-53.250

The new sections are proposed under Texas Civil Statutes, Article 6252-13a and Article 717k-8, §§3.001-3.005, which provide the Office of the Attorney General with the authority to adopt rules necessary to implement the review process for certain bonds.

§53.244. Generally.

(a) In addition to the requirements of Subchapter L of this chapter (relating to General Requirements for Nonprofit Corporation Bonds), this subchapter outlines the minimum transcript requirements prerequisite to approval of bonds issued for certain corporation financings pursuant to statutes other than Texas Civil Statutes, Article 5190.6, as amended, the Health and Safety Code, Title 4, Chapter 221, and Local Government Code, Title 12, Chapter 394. Unless otherwise indicated in this subchapter, terms not defined herein have the meanings assigned to them in Texas Civil Statutes, Article 5190.6.

(b) The nature of the financing and the statutory authority used will dictate the specific transcript requirements. The minimum requirements that can be expected are outlined in this subchapter. The issuing corporation (the issuer) or its representative is encouraged to contact the Public Finance Section prior to taking official action with respect to the financing in order to determine the additional documentation that will be necessary for approval of the bonds.

§53.245. Basic Financing Documents. The following shall constitute basic financing documents:

(1) loan agreement or other financing document;

(2) trust indenture, bond resolution, or other document, which shall include the following provisions:

(A) terms of the sale of the bonds, i.e., negotiated, competitive or otherwise, identification of the purchaser, whether sold at par or discount;

(B) place and manner of payment for the bonds;

(C) title, aggregate amount, denomination, bond number(s), and purpose of the bonds;

(D) maturity schedule;

(E) payment date(s), interest rate(s), and/or method or formula for setting interest rate(s);

(F) redemption provisions, if any;

(G) designation of registrar and provisions for registration and transfer of the bonds;

(H) form of bond;

(I) pledge and source of payment of the bonds and disposition of the bond proceeds;

(J) creation and designation of all funds relating to the disposition of bond proceeds and to the payment and security for the bonds;

(K) authorization to use official seal on the bonds and for the appropriate officers to sign the bonds and the form of such signature and seal (manual and/or facsimile); and

(L) specific description of the project to be financed or refinanced which includes a general, functional description of the type and use of the facility; the owner, operator, or manager of the facility and the prospective location of the facility by its street address or, if none, by a general description of its specific location;

(3) credit agreement or other documents such as tender agent agreement, remarketing agreement, or other agreements which provide or facilitate credit enhancement for the bonds, if any, or govern provisions of the bonds. If the issuer is not a party to such agreements, they need only be submitted in substantially final form, unexecuted;

(4) guarantee agreement or other documents guaranteeing the bonds, if any;

(5) official statement (or preliminary official statement if the official statement is not available) or other offering document and official notice of sale, if any;

(6) bond purchase agreement, if any;

(7) deed of trust or other mortgage documents, if any, in substantially final form, unexecuted.

§53.246. Documentation of Governing Body. The following shall constitute documentation of the governing body: undated general certificate of the governing body, including certifications and provisions with respect to incumbency of the officers and directors of the issuer.

§53.247. Documentation of Issuer. The following shall constitute documentation of the issuer.

(1) undated general certificate of the issuer, executed by at least two officers of the issuer, which includes certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) incumbency of the officers and directors;

(B) due incorporation, valid existence, and good standing;

(C) official seal;

(D) documents are in substantially the form approved by or on behalf of the issuer;

(E) appointment of authorized representative, if any;

(F) signature identifications;

(G) the bond documents were properly executed by the issuer, have not been amended or rescinded, and due performance thereof has been authorized by the issuer;

(H) the terms and performance of the bond documents by the issuer are not in conflict with the articles of incorporation or by-laws of the issuer or any other instrument or restriction to which the issuer is a party or subject to;

(I) no-litigation pending or threatened against the issuer with respect to the issuance of the bonds, or the title or authority of the officers and directors of the issuer;

(J) documents submitted are in substantially the form approved by or on behalf of the issuer; and

(K) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy):

(i) copy of the articles of incorporation as certified by the secretary of state of Texas and by-laws or, alternatively, a certification that there have been no amendments to the articles of incorporation or by-laws since the last submission of bonds or copies of any amendments; and

(ii) copy of certificate of continued existence from the secretary of state of Texas and copy of certificate of good standing from the comptroller of public accounts of Texas, both dated within 60 days of transcript submission.

(2) resolution authorizing issuance of the bonds, including the following provisions:

(A) title of bonds;

(B) legal citation for authority to issue bonds;

(C) specific purpose for which the bonds are issued;

(D) identification of the user; and

(E) total principal amount of bonds to be issued.

§53.248. *Documentation of User.* The following shall constitute documentation of the user:

(1) undated general certificate of the user, executed by at least two officers or authorized representatives of the user, including certifications and provisions (or confirmation of any such certifications and provisions which are contained in the basic financing documents) with respect to:

(A) due incorporation or creation, valid existence, and good standing;

(B) incumbency of officers executing bond documents;

(C) appointment of authorized representative, if any;

(D) signature identifications;

(E) the bond documents were properly executed by the user, have not been amended or rescinded, and due performance thereof has been authorized by the user;

(F) the terms and performance of the bond documents by the user are not in conflict with the articles of incorporation, by-laws, partnership, or other agreement, of the user or any other instrument or restriction to which the user is a party or subject to;

(G) receipt of all necessary permits and approvals of governmental bodies or agencies with respect to the issuance and sale of the bonds and that the user has received or expects to receive and has applied or shall apply with due diligence for all necessary permits and approvals with respect to the construction and operation of the project;

(H) no event has occurred since the date of the user's application to the issuer to issue the bonds that would result in a material adverse change in the financial condition of the user or in the user's ability to perform its obligations under the bond transaction documents, or certification that the issuer has been provided with a complete description of the facts and circumstances of such event;

(I) no default under any agreement to which the user is a party which would have a material adverse effect on the user, or certification that the issuer has been provided with a complete description of the facts and circumstances of such default;

(J) no-litigation pending or threatened against the user with respect to the authority of the user to enter into the bond transaction or to perform its obligations thereunder;

(K) documents are in substantially the form approved by or on behalf of the issuer; and

(L) incorporated as exhibits, as applicable (or may be included as separate documents if certified as to accuracy):

(i) copy of articles of incorporation or other evidence of creation as certified by the appropriate state official;

(ii) copy of by-laws, partnership, or other agreement;

(iii) copy of certificate from appropriate state official of state of incorporation or creation of continued existence and good standing, dated within 60 days of transcript submission; and

(iv) for a user created outside the State of Texas, copies of certificate of good standing from the comptroller of public accounts of Texas and certificate of the secretary of state of Texas evidencing authority to do business in the State of Texas, dated within 60 days of transcript submission;

(2) resolution or other evidence approving the bond financing and related documents.

§53.249. *Bank/Credit Facility Documentation.* The following shall constitute documentation of the bank/credit facility:

(1) if a bank or other entity is involved as trustee or escrow agent, evidence of the entity's corporate authority to act as such;

(2) if a credit or similar agreement is to be submitted in executed form pursuant to §53.245(c) of this title (relating to Basic Financing Documents), evidence of the credit facility's corporate authority to act as such;

(3) authority for specified officers to execute transcript documents and signature identification of such officers.

§53.250. *Documentation of Guarantor.* If the bonds are guaranteed by another entity, such entity must furnish the same documentation as the user, to the extent applicable.

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 September 13, 1990.

TRD-9009360

Lou McCreary
Executive Assistant
Attorney General, State
of Texas
Attorney General's Office

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 463-2040

TITLE 4. AGRICULTURE Part II. Animal Health Commission

Chapter 51. Interstate Shows and Fairs

• 4 TAC §51.1

The Texas Animal Health Commission proposes an amendment to §51.1, concerning definitions.

The amendment to the definition of a certificate of veterinary inspection provides that a certificate will be valid for 45 days for equine moving to races, equine shows, organized trail rides, rodeos, or any other horse sporting event. A certificate will be valid for 30 days for all other species of animals for movement to a premise, for sale, or for show and sale.

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

Robert L. Daniel, director of program records, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide the general public with a health certificate that is valid for a longer period of time for equine and other livestock and poultry. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, Texas Civil Statutes, Chapters 161 and 163, which provides the commission with authority to adopt rules and set forth the duties of this commission to control disease.

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

Certificate of veterinary inspection—A document signed by an accredited veterinarian that shows the livestock, poultry, exotic livestock, or exotic fowl listed

were inspected and subjected to tests, immunizations, and treatment as required by the commission. Certificates are valid for 45 days for equine moving to races, equine shows, organized trail rides, rodeos, or any other horse sporting event. The certificates are valid for 30 days for all other species [The certificate is valid for 10 days] for movement to a premise, for sale, or for show and sale [, valid for 45 days for movement for exhibition purposes only at shows, fairs, exhibitions, and races].

[Local livestock show—A show which limits exhibitions to those which originate from the county where the show is held and the adjacent counties.]

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 September 14, 1990.

TRD-9009421

John W. Holcombe, DVM
Executive Director
Texas Animal Health
Commission

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 479-6697

• 4 TAC §51.2

The Texas Animal Health Commission proposes an amendment to §51.2, concerning general requirements.

The amendment will provide that Texas-origin horses entering interstate shows (shows that allow out-of-state entries) be accompanied by a negative EIA test conducted within the previous 12 months, and a certificate of veterinary inspection. Texas-origin horses entered in races would need a test within six months prior in addition to the certificate. To enter all other events, Texas horses would need only a negative EIA test conducted within 12 months prior. All other livestock and poultry originating in Texas and entering interstate shows would meet the same requirements listed for entry into the state. Texas livestock entered in all other shows, fairs, and exhibitions are exempt from certificate and testing requirements except that poultry would continue to meet current requirements.

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

Robert L. Daniel, director of program records, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide the general public with less restrictions on intrastate movement of Texas equine and other livestock when moving to shows and other events that do not allow out-of-state equine and livestock to enter. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jo Ann Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, Texas Civil Statutes, Chapters 161 and 163, which provide the commission with authority to adopt rules and set forth the duties of this commission to control disease.

§51.2. General Requirements.

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

(d) Entering shows, fairs, and exhibitions.

(1) (No change.)

(2) In-state origin. Equine must have had a negative EIA test within the past 12 months and have a certificate of veterinary inspection if entering an interstate show, fair, or exhibition. All other events other than race tracks will require only a negative EIA test within 12 months as shown on a VS Form 10-11. Horses entering a track must have a certificate of veterinary inspection and negative EIA test within the past six months. All other livestock [Livestock] and poultry shall meet the same requirements as for those entering from out-of-state and be accompanied by a certificate of veterinary inspection when entering shows, fairs, and exhibitions that admit livestock and poultry from out-of-state (interstate shows). Livestock entered in all other shows, fairs, and exhibitions are exempt from the certificate of veterinary inspection and testing requirements except poultry shall originate from flocks or hatcheries free of pullorum disease and fowl typhoid or have a negative pullorum-typhoid test within 30 days before exhibition. Poultry entering from out-of-state are not required to have a certificate of veterinary inspection if:

(A) they are entered in a show, fair, or exhibition of less than 10 days duration with immediate return to the state of origin;

(B) accompanied by a VS 9-2 or NPIP 3B blood testing report or a current state testing report form;

(C) originate from a state that is classified as W. S. Pullorum-Typhoid clean; and

(D) the state of origin has no flock under federal quarantine for any infectious disease of poultry [established for entry into the state. An exemption to the certificate of veterinary inspection requirement may be granted by the commission to a local livestock show if written application is made. Swine entered in local livestock shows are exempted from temperature, brucellosis, leptospirosis, and

pseudorabies requirements].

(e) (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 September 14, 1990.

TRD-9009422

John W. Holcombe, DVM
Executive Director
Texas Animal Health
Commission

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 479-6697

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 1. Library Development

LSCA Annual Program and Long Range Plan

• 13 TAC §1.21

The Texas State Library and Archives Commission proposes an amendment to §1.21, concerning the federal Library Services and Construction Act Long Range Plan and Annual Program. The documents describe the types of assistance and services that will be available to libraries and system of libraries. The agency proposes to adopt a plan for fiscal years 1990-1993 and an annual program for fiscal year 1991 by reference.

Ed Seidenberg, Director of the Library Development Program, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated increase in revenue of \$559,611 in 1991 and \$563,993 in 1992. There will be no increase in revenue for the years 1993-1995. The effect on local government for the first five-year period the section is in effect will be an estimated increase in revenue of \$6,508,145 in 1991 and \$6,571,263 in 1992. There will be no increase in revenue for the years 1993-1995.

Mr. Seidenberg 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 enhanced library services through the addition of library materials to public library collections, continuing education for library staff, and interlibrary loan services for public, academic, and special libraries. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Raymond Hitt, Assistant State Librarian,

Texas State Library, Box 12927, Austin, Texas 78711.

The amendment is proposed under the Government Code, Chapter 441, §009, which provides the Texas State Library and Archives Commission with the authority to adopt a state plan for improving library services in Texas.

§1.21. Adoption by Reference. The Texas State Library and Archives Commission adopts by reference the LSCA Annual Program, 1991 [1990], and Long Range Plan, 1990-1993 (revised July 1990). Copies may be obtained from the Library Development Division of the Texas State Library, P. O. Box 12927, Austin, Texas 78711.

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

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

TRD-9009310

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 463-5440

• 13 TAC §1.23

The Texas State Library and Archives Commission proposes an amendment to §1.23, concerning the federal Library Services and Construction Act Title II Program. The agency proposes to revise the guidelines for determining recipients of Title II grants for construction of public libraries from federal fiscal year 1991 funds. The agency proposes to adopt this plan and program by reference.

Ed Seidenberg, Director of the Library Development Program, has determined that for the first five-year period the section is in effect there will be fiscal implications for local government as a result of enforcing or administering the section. The effect on local government for the first five-year period the section is in effect will be an estimated increase in revenue of \$962,312 for fiscal years 1991 and 1992. There will be no estimated increase in revenue for fiscal years 1993-1995.

Mr. Seidenberg 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 construction of new public libraries and renovation of existing public libraries. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Raymond Hitt, Assistant State Librarian, Texas State Library, Box 12927, Austin, Texas 78711.

The amendment is proposed under the Government Code, Chapter 441, §009, which provides the Texas State Library and Ar-

chives Commission with the authority to adopt a state plan for improving library services in Texas.

§1.23. Adoption by Reference. The Texas State Library and Archives Commission adopts by reference the 1991 [1990] Library Services and Construction Act, Title II Program. Copies may be obtained from the Texas State Library, P.O. Box 12927, Austin, Texas 78711.

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

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

TRD-9009311

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 463-5440

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 21. Student Services

Subchapter C. Hinson-

Hazlewood College Student Loan Program for all Loans Which Are Subject to the Provisions of the Guaranteed Student Loan Program, the College Access Loan Pro- gram the Health Education Assistance Loan Program, and the Health Education Loan Program

• 19 TAC §21.55

The Texas Higher Education Coordinating Board proposes an amendment to §21.55, concerning the Hinson-Hazlewood College Student Loan Program for all loans which are subject to the provisions of the Guaranteed Student Loan Program, the College Access Loan Program, the Health Education Assistance Loan Program, and the Health Education Loan Program.

The amendment is necessary to implement provisions of Senate Bill 457 passed by the 71st Texas Legislature. The amendment effectively distinguishes eligible institutions from ineligible institutions and adds criteria to protect students eligible for student education loans from the board from questionable activities of ineligible institutions.

Mack Adams, assistant commissioner for student services, 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. Adams also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the direction of institutions toward the quality of education necessary to become eligible institutions and protect certain students from unscrupulous institutions. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Hinson-Hazlewood College Student Loan Program for all loans which are subject to the provisions of the Guaranteed Student Loan Program, the College Access Loan Program, the Health Education Assistance Loan Program, and the Health Education Loan Program.

§21.55. Eligible Institution.

(a) Criteria. An eligible institution shall be any Texas institution of higher education within the State of Texas which:

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

(6) Is a regular member of, or candidate for accreditation by, the Commission on Colleges of the Southern Association of Colleges and Schools [is accredited by a nationally recognized specialized accrediting agency recognized by the Council on Post-Secondary Accreditation or the Southern Association of Colleges and Schools. If the institution is placed on public probation by the appropriate accrediting agency, students applying for loans shall provide evidence of knowledge of the school's accreditation status as a condition to receiving the loan];

(7) Is a nonprofit, independent professional school which:

(A) awards a bachelor's or other professional degree;

(B) is not a member of the southern Association of Colleges and Schools; and

(C) has petitioned for consideration and received approval of eligibility from the board;

(8)[(7)] is an institution which has its parent campus within the State of Texas;

(9)[(8)] does not employ recruiters of students on a commission basis; and

(10)[(9)] has entered into an agreement with the board, the terms of which are to be specified by the commissioner, or both enters into such agreement on May 1, 1985, or after and fulfills the accreditation requirement in paragraph (6) of this subsection.

(b) Student attending other institutions. Any student attending an institution other than an eligible institution as set forth in subsection (a) of this section [after May 1, 1985] may be eligible for a loan made from the fund under the governing provisions of the GSLP providing the postsecondary institution:

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

(3) is an institution which has its parent campus within the State of Texas and has no branch campuses outside of Texas having a default rate of 15% or greater;

(4) does not employ recruiters of students on a commission basis; and

(5) does not employ the owner(s) or anyone related to the owner(s) by blood or marriage as student financial aid administrators.

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

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

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

TRD-9009327

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: October 26, 1990

For further information, please call: (512) 483-6160

Subchapter O. Texas Outstanding Rural Scholar Recognition and Forgiveness Loan Program

• 19 TAC §§21.463, 21.467, 21.468, 21.472, 21.476-21.478, 21.483

The Texas Higher Education Coordinating Board proposes an amendments to §§21.463, 21.467, 21.468, 21.472, 21.476-21.478, and 21.483, concerning the Texas Outstanding Rural Scholar Recognition and Forgiveness Loan Program.

Amendments to the rules are necessary based upon recommendations of the mandated advisory committee to the board for this program. The amendments broaden the definition of who may be eligible community agent to financially support the education of eligible rural scholars and the types of institutions eligible rural scholars may attend. The amendments also clarify language related to the licensure and/or registry of certain health care professionals.

Mack Adams, assistant commissioner for student services, 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. Adams 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 an increase in the number of trained health care professionals supplied to rural areas of Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Texas Outstanding Rural Scholar Recognition and Forgiveness Loan Program.

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

Cosigner—A cosigner of a promissory note executed under these rules shall be a person signing a note, other than the loan recipient, who is a citizen or permanent resident of the United States over 21 years of age and who is gainfully employed or otherwise demonstrates financial responsibility. Such a person may be a relative other than the spouse and may not be a student. The community agent may serve as a cosigner. A cosigner is jointly and severally responsible for all promissory notes issued through the program and signed by the rural scholar and him or herself.

Fund—The Texas Outstanding Rural Scholar Loan Fund administered by the board from which forgiveness loans are made.

§21.467. Community Agent. A community agent may be any [Texas nonprofit or governmental] entity with council members, a board of trustees, or commissioners having perpetuity that:

(1) is responsible to and serves a rural area or rural community; and

(2) is legally authorized to raise funds and/or accept grants, financial gifts from citizens, scholarship funds, or private foundation funds.; and]

[(3) is subject to a periodic financial audit.]

§21.468. Eligible Scholar. An eligible scholar is one who is a Texas resident, is nominated and sponsored by and has financial support committed from a community

agent as defined in these rules, and is:

(1) a high school student who:

(A) (No change.)

(B) intends to enroll in a postsecondary [an eligible] institution [of higher education] on at least a half-time basis to pursue a course of study to become a health care professional; and

(C) (No change.)

(2) a high school student who either:

(A) is in his or her last year as a full-time high school student prior to pursuing both high school studies and a course of study in a postsecondary [an eligible] institution [of higher education] to become a health care professional; or

(B) is completing high school studies and simultaneously pursuing a course of study in a postsecondary [an eligible] institution [of higher education] to become a health care professional; and

(C) (No change.)

(3) a college student who:

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

(C) is in his or her last year of college studies prior to entering a health professions program at a postsecondary [an eligible] institution [of higher education]; or

(4) an individual who:

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

(C) intends to enroll, or is enrolled, in a postsecondary [an eligible] institution [of higher education] on at least a half-time basis to become a health care professional.

§21.472. Outstanding Rural Scholar Recognition Program.

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

(c) The community agent is responsible for preparing a portfolio for each rural scholar sponsored by the agent for review by the advisory committee. That portfolio must include the following:

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

(3) evidence that the rural scholar intends to enroll in a postsecondary institution for the purpose of pursuing an education in a health professions field and return to the rural area or rural community

to provide health care upon graduation, certification, licensure, and/or registry, as required to practice in the State of Texas. [and/or licensure] This evidence must consist of the following:

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

(4) -(12) (No change.)

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

§21.476. Priorities for Application Processing. Applications received by the board on or before June 30 [15] will be processed in the order based upon the rank assigned the outstanding rural scholar by the advisory committee. Applications received after all appropriated funds are committed and/or after June 30 [15] shall be processed only if funds from loan cancellations and repayments become available during the period for which the loan is needed. Renewal applications have priority over new applications.

§21.477. Annual Loan Limits. For each year of eligibility, the amount of a forgiveness loan an outstanding rural scholar may receive may not exceed [50% of] the cost of education at the eligible institution of higher education in which the outstanding rural scholar is enrolled.

§21.478. Payments to Students.

(a) No payment shall be made to any outstanding rural scholar until the sponsoring community agent has deposited to the fund an amount equal to 50% of the principal amount of the loan to be disbursed.

(b)[(a)] No payment shall be made to any outstanding rural scholar [student] until he or she has executed a promissory note payable to the fund for the full amount of any authorized loan plus interest and other fees.

(c)[(b)] For the purpose of any contract executed by the student, the defense that he or she was a minor at the time he or she executed a promissory note shall not be available to him or her in any action arising on said note.

§21.483. Compliance with Conditions of Forgiveness Loans.

(a) Forgiveness of loans under provisions of this subchapter may occur if the forgiveness loan recipient fulfills the terms of the promissory note to become a health care professional and provides health care to a rural area or rural community. The health care provider must:

(1) be fully credentialed, certified, licensed, and/or registered as required to practice in the State of Texas [or licensed] in the health care field in which health care is provided; and

(2) (No change.)

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

(e) Grace periods for students studying health professions other than medicine. In addition to the provisions in subsection (c) of this section, for students pursuing studies in health professions other than medicine, the following provisions regarding grace periods will apply to forgiveness loan recipients.

(1) A loan recipient who does not become fully credentialed, certified, licensed, and/or registered as required to practice in the State of Texas within one year of completing the required professional education will be found in non-compliance and repayment will begin immediately.

(2) A loan recipient who does not begin providing professional health care in a rural area or rural community within four months of becoming fully credentialed, certified, licensed, and/or registered as required to practice in the State of Texas will be found in non-compliance. Repayment will begin immediately.

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 September 11, 1990.

TRD-9009320

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: October 26, 1990

For further information, please call: (512) 483-6160

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**Subchapter P. Professional
Nurses' Student Loan Re-
payment Program**

• 19 TAC §§21.504, 21.505, 21.508,
21.511

The Texas Higher Education Coordinating Board proposes amendments to §§21.504, 21.505, 21.508, and 21.511, concerning the Professional Nurses' Student Loan Repayment Program. The amendments are necessary based upon recommendations of the mandated advisory committee to the board for this program. The amendments specify additional entities who may be eligible lenders or holders of education loans of registered nurses whose education loans are to be repaid by the program, clarifies language related to eligible nurses so that the rules work properly, and clarifies language related to qualifications and conditions for student loan repayment.

Mack Adams, assistant commissioner for student services, 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. Adams 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 reduced confusion for the beneficiaries of the program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Professional Nurses' Student Loan Repayment Program.

§21.504. Eligible Lender and Holder. The board shall retain the right of determining eligibility of lenders and holders of student loans to which payments may be made. An eligible lender or holder shall, in general, make or hold loans made to individuals for purposes of attending postsecondary institutions and shall not be any private individual. An eligible lender or holder may be, but is not limited to, a bank, savings and loan association, credit union, institution of higher education, licensed Texas hospital, licensed Texas long-term care facility, secondary market, governmental agency, pension fund, private foundation, or insurance company provided the loan conforms to the definition of an eligible student loan as provided in this subchapter.

§21.505. Eligible Professional Nurse. A nurse who is licensed by the Board of Nurse Examiners for the State of Texas and against whom no formal charge [complaint] is unresolved and against whom no professional disciplinary action has been taken.

§21.508. Qualifications for Student Loan Repayment. The commissioner may authorize or cause to be authorized repayment of student loans made to an eligible professional nurse who:

(1) (No change.)

(2) has been practicing [employed] in Texas for at least one year immediately preceding loan repayment as a professional nurse in a position which requires the services of a licensed professional nurse.

(3) is currently practicing in Texas as a professional nurse in a position which requires a professional nurse.

§21.511. Repayment of Student Loans. Eligible student loans of eligible professional

nurses shall be repaid under the following conditions.

(1) A total annual repayment on behalf of an eligible professional nurse shall not exceed the unpaid principal and interest [balance] owed on one or more eligible loans, or \$2,000, whichever is less.

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

(5) The annual repayment(s) may be made for verified full-time or for verified part-time service on a pro rata basis [if the employer has provided a favorable recommendation on behalf of the nurse].

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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James McWhorter
Assistant Commissioner for
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Texas Higher Education
Coordinating Board

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For further information, please call: (512) 483-6160

◆ ◆ ◆
**Subchapter R. Professional
Nursing Student Scholarship
Programs**

• 19 TAC §§21.563, 21.566, 21.567,
21.570

The Texas Higher Education Coordinating Board proposes amendments to §§21.563, 21.566, 21.567, and 21.570, concerning professional nursing student scholarship programs. These amendments will bring the programs into compliance with suggestions made by the Advisory Committee on Professional Nursing Financial Aid Programs at its May 3, 1990, meeting. The rules will: create a new scholarship program for rural BSN students attending programs in metropolitan locations; and clarify refund requirements for scholarship recipients.

Mack Adams, assistant commissioner for student services, 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. Adams 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 provided services to a wider range of BSN students. Previously the only rural BSN student scholarship program was for students attending a college in a rural county. The only rural BSN student scholarship program was at Stephen F. Austin State University. 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 Kenneth H. Ashworth, Commissioner of

Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding professional nursing student scholarship programs.

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

BSN Nursing Student—A student enrolled in a program leading to a bachelor of science degree in professional nursing.

Minority—A student whose ethnic or racial group is Black, [(non-Hispanic)] Hispanic, American Indian or Alaskan Native, or Asian or Pacific Islander.

§21.566. Scholarship Program Titles and Distinctions.

(a) Four [Three] scholarship programs for nursing students are to be administered in accordance with this subchapter. Their titles are the Scholarship Program for Ethnic Minorities in Professional Nursing, the Scholarship Program for Rural Professional Nursing Students, [and] the Scholarship Program for Licensed Vocational Nurses becoming Professional Nurses, and the Scholarship Program for Rural BSN and Graduate Nursing Students.

(b) All four [three] programs will be administered in keeping with this subchapter, except as outlined in paragraphs (1)-(3) of this subsection:

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

(4) Funds awarded through the Scholarship Program for Rural BSN and Graduate Nursing Students must go to students who graduated from high schools located in rural areas or who have lived in a rural area of Texas for the 12 months prior to enrollment in a professional nursing program. Rural BSN and graduate nursing students maybe attending a nursing program offered at any eligible institution in the state.

§21.567. Eligible Students.

(a) (No change.)

(b) In determining what best promotes the health care and educational needs of this state, the board shall consider the following factors relating to each applicant:

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

§21.570. Certification, Disbursement, and Refund Procedures.

(a) Application submission. Eligible institutions will be asked to submit scholarship applications to the board for eligible students. The number of applications which may be submitted by each eligible institution [school] will be determined by the board, and will be based on the relative size of the institution's [school's] professional nursing student enrollment. The institution will need to specify a priority on each application, and applications will be serviced to the extent possible in priority number order until all funds are exhausted.

(b) Maximum awards. The maximum award for a student through any of the programs is the lesser of:

(1) (No change.)

(2) the program maximum as stated in subparagraphs (A)-(C) of this paragraph:

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

(C) for the Scholarship Program for Rural Professional Nursing Students—\$1,500 per year for those enrolled in an associate degree program; \$2,500 [\$2,000] for each student enrolled in a baccalaureate or graduate degree program.

(D) for the Scholarship Program for Rural BSN and Graduate Nursing Students—\$2,500 per year.

(c) (No change.)

(d) Refunds. In any semester, should a student withdraw from classes prior to the end of the term, funds disbursed to the student from the scholarship program that semester or term shall be returned to the program in accordance with the following schedule:

(1) prior to the first class day—100%;

(2) during the first five days of class—80%;

(3) during the second five days of class—70%;

(4) during the third five days of class—50%;

(5) during the fourth five days of class—25%; and

(6) after the fourth five days of class—0%.

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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James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
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For further information, please call: (512) 483-6160

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Subchapter T. Matching Fund
Employment Program for
Professional Nursing Stu-
dents

• 19 TAC §§21.623, 21.624, 21.628,
21.631-21.637

The Texas Higher Education Coordinating Board proposes amendments to §§21. 623, 21.624, 21.628, and 21.631-21.637, concerning the Matching Fund Employment Program for professional nursing students.

The amendments were necessary based upon recommendations from the mandated advisory committee to the board for this program. The amendments provide for a fund and better define how funds will be handled in the program. The amendments clarify the role of the advisory committee, program officers, employers, and students, clarify the application process, amounts awarded, penalties for noncompliance, and complaints. They establish a refund schedule and more reasonable deadlines.

Mack Adams, assistant commissioner for student services, 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. Adams 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 reduced confusion for the beneficiaries and better control of the program is effected. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Matching Fund Employment Program for professional nursing students.

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

Fund—The professional nurses matching fund employment program fund administered by the board.

Minority—A student whose ethnic or racial group is Black, [(non-Hispanic)] Hispanic, American Indian or Alaskan Native, or Asian or Pacific Islander.

§21.624. Advisory Committee. The board shall appoint an advisory committee to advise the board concerning assistance provided under this subchapter to professional nursing students.

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

(3) The duties of the advisory committee are to:

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

(C) advise the board on the amount of money needed to adequately fund the employment program; [and]

(D) assist the board in the dissemination of information on the employment program; [.]

(E) advise the board on the establishment of priorities among criteria for consideration of application approval which are named in the Texas Education Code, Chapter 61, Subchapter L; and

(F) advise the board on nursing shortage areas.

§21.628. Eligible Employer. To be eligible to participate in the employment program, an employer must:

(1) be licensed or otherwise properly accredited to operate in the State of Texas as a health care provider; and

(2) (No change.)

§21.631. Allocation of State Funds among Eligible Institutions. State funds made available for employment program awards will be annually allocated to participating eligible institutions, based on the number of students enrolled in their professional nursing programs during the fall term of the previous academic year. Institutions will have until February 1 [December 1] of any program year to acquire contracts and provide for matching funds from eligible employers. Any state funds not matched and awarded as of February 1 [December 1] will be reallocated by the board to other participating institutions.

§21.632. Matching Fund Employment Program Awards. Students participating in the program will receive employment program awards to help meet their costs of education while enrolled in the program of study indicated in their employment contract.

(1) Fifty percent of an [the funds for the] award will be provided by the state; 50% will be provided by the student's sponsoring employer. The employer's annual share will be deposited to the fund

prior to the beginning of the first term of each academic year in which the student is to receive the award.

(2) The annual maximum award for a first-time student [may receive] (including state and employer funds) is an amount equal to his or her financial need or the statutory maximum for the program, which is \$2,000 for students enrolled in associate degree programs and \$3,000 for students enrolled in bachelor or graduate degree programs, whichever is less. The annual maximum award for a previous recipient of an employment program award is \$2,000 for students enrolled in associate degree programs and \$3,000 for students enrolled in bachelor or graduate degree programs.

(3)-(4) (No change.)

(5) To receive the award, the student must sign and have a cosigner sign a promissory note payable to the fund [Matching Fund Employment Program for Professional Nurses] indicating he or she will repay the award and any related expenses should he or she fail to fulfill the contract.

(6) To contract with a student, the employer must pledge to make funds available to the student throughout the student's program of study as named in the contract, so long as state funds are available for matching.

§21.633. The Application Process.

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

(c) The program officer at an eligible institution will assist in [oversee] the pairing of employers and eligible students.

(1) If the employer has a staff member it believes to be a potential candidate for the Matching Fund Employment Program, and [the employer must provide the program officer proof of the student's acceptance into the relevant nursing program. If] the student meets all program requirements, he or she will be paired with the nominating employer.

(2) (No change.)

(d) (No change.)

(e) The program officer may [will] select the students who will receive employment program awards from among all applicants who are eligible.

(f)-(g) (No change.)

§21.634. Disbursements to Students.

(a) Promissory note signed by the student. No payment shall be made to any student until he or she has executed a promissory note payable to the fund [employment program] for the full amount of any authorized award plus interest and other fees, has obtained the signature of a cosigner, and has entered into a contract with an

eligible employer for one year's employment after completion of his or her educational program or to repay the employment program on terms specified in these rules. The original of each executed promissory note is to be forwarded immediately to the commissioner. For purpose of any contract executed by the student, the defense that he or she was a minor at the time he or she executed a promissory note shall not be available to him or her in any action arising on the note.

(b) Notification of amount. The commissioner or a designated member of the board staff shall notify the employer of the amount it is to provide to the board for matching and disbursement to the student. The amount must equal the employer's half of the student's annual award and must be received by the board from the employer prior to the beginning of the first term of the academic year in which the student is to receive an award.

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

(f) Refunds. In any semester, should a student withdraw from classes or transfer out of the agreed-upon health field prior to the end of the term, funds disbursed to the student from the employment program that semester or term shall be returned to the program in accordance with the following schedule:

(1) prior to the first class day—100%;

(2) during the first five days of class—80%;

(3) during the second five days of class—70%;

(4) during the third five days of class—50%;

(5) during the fourth five days of class—25%; and

(6) after the fourth five days of class—0%.

§21.635. The Employment Program Contract. Each participating student must enter into a contract with his or her sponsoring employer.

(1) In the contract, an eligible student or nurse must agree to:

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

(E) notify the board and his/her employer of the results of the board examination;

(F)[(E)] work, upon completion of the professional nursing program in which enrolled while under contract, for the sponsoring employer for one year, such employment to commence within three months of the student's licensure as a professional nurse (if relevant) or within three months of

the student's completion of his/her graduate course of study;

(G)[(F)] comply with the grievance procedures described in this subchapter;

(H)[(G)] sign a promissory note(s), acknowledging an obligation to repay any funds received through the program should he/she fail to fulfill the terms of the contract; and

(I)[(H)] meet the satisfactory performance standards of the sponsoring employer.

(2) Eligible employers must agree in the contract to:

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

(E) pay the eligible nurse a wage no less than the prevailing wages for comparable employment in the area [starting salary reported for that position by the Bureau of Labor Statistics];

(F) (No change.)

(G) provide a work setting which complies with all Texas statutes regulating the practice of professional nursing and the Board of Nurse Examiners' rules and regulations relating to professional nurse education, licensure, and practice [provide adequate supervision of work performed by the eligible student or nurse and make available to the institution attended by the student and to the board the name of the eligible student or nurse's supervisor];

(H) (No change.)

(I) provide reasonable working conditions and permit the institution and/or the board from time to time as they may request, to inspect the premises in which any eligible student or nurse is working for the purpose of reviewing [and review] with the institution or board the working conditions and job requirements of all such students or nurses; and

(J) (No change.)

§21.636. Grievance Procedures.

(a) If disputes arise between the eligible student or nurse and the employer, they are to be settled on a local basis following grievance procedures outlined in the personnel manual provided each student by his or her employer.

[(1) The grievance subcommittee will not hear appeals based on local

grievance decisions.]

[(2) Should such a grievance procedure lead to the termination of a student or nurse's employment, the grievance subcommittee will determine if penalties should be assessed with respect to the employment program contract.]

(b) Only in those cases when a grievance issue arises from aspects of the employment program contract or other issues not covered in the employer personnel manual [not covered by the employer's grievance mechanism,] may the employer or the student/nurse petition the grievance subcommittee for resolution.

(1) (No change.)

(2) The grievance subcommittee will review the petition, and if circumstances justify it, request a written response to the charges from the second [accused] party.

(3)-(4) (No change.)

§21.637. Noncompliance.

(a) Noncompliance of program contract. Should either the student/nurse or the employer fail to fulfill any obligation outlined in the employment program contract, they shall be in noncompliance with the contract. Repayment of the employment program award by the student or forfeiture of the student's work obligation to the employer are among the penalties which may be assessed. The assessment of such penalties shall be the responsibility solely of the grievance subcommittee.

(b) Penalties for noncompliance due to death or disability. No penalty shall be assessed if a student's/nurse's contract is canceled due to his/her death or due to a student's/nurse's total and permanent disability which would preclude the student's/nurse's ability to complete his/her studies or his/her ability to be gainfully employed in the field of work agreed upon in the contract. The final verification of death and the determination of permanent and total disability of a student/nurse shall be made by the commissioner based upon such evidence as a death certificate and certification of disability by a physician [the student if his or her employment contract is canceled due to death or a properly documented disability which would preclude the student/nurse's fulfillment of the contract].

(c) Penalty for failure to pass the second sitting of the board examination. Should the student fail the board examination on his/her second attempt, the grievance subcommittee will be responsible for assessing the appropriate penalties.

(d)[(c)] Maximum penalties for the employer. The maximum penalties which may be assessed by the grievance subcommittee for the employer are:

(1) loss of all claim to the funds forwarded to the nurse as employment program awards;

(2) cancellation of the student's obligation to work for the employer after completing his or her educational program; and

(3) continued support for the student/nurse until such time another eligible employer enters into a contract with the student/nurse.

(e)[(d)] Maximum penalties for the students. The maximum penalties which may be assessed by the grievance subcommittee for the students are:

(1) repayment of any amounts received through employment program awards, plus interest and related charges, in keeping with the promissory note(s) executed under the employment program contract; and

(2) loss of the opportunity to work for the employer after completion of their program of study.

(f)[(e)] Treatment of employment program award as a loan [Conversion of employment program award to a loan]. If the grievance subcommittee determines the student is no longer in compliance with the contract and repayment of the award is appropriate, the employment program award will be treated as a loan as stated in the signed promissory note. The board shall function as the collector for all funds repaid by the student. Once a year the board shall forward to the appropriate employer its share of the payments collected from each student in repayment.

(1) (No change.)

(2) Repayment must begin [six months after the student drops below half-time enrollment at an institution of higher education, or] three months after the grievance subcommittee reaches its decision[, whichever is later].

(3)-(6) (No change.)

(g)[(f)] Postponements. Based on specified evidence, the commissioner may delay the repayment requirements for recipients enrolled on at least a half-time basis at an eligible institution or for recipients suffering extreme financial hardship. Postponements are not included when calculating the maximum repayment period. The commissioner may require payments on the interest being accrued during the time of a postponement.

(h)[(g)] Enforcement of collection. When any person who has received a loan authorized by this law shall have failed or refused to make as many as six monthly payments due in accordance with a promissory note(s), then the full amount of remaining principal, interest, and/or late charges shall immediately become due and payable. The person's name and last known

address and other information as requested by the commissioner shall be reported to the attorney general. Suit for the remaining sum shall be instituted by the attorney general or any county or district attorney acting for him in the county of the person's residence or in Travis County, unless the attorney general shall find reasonable justification for delaying suit and shall so advise the commissioner in writing.

(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.

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James McWhorter
Assistant Commissioner for
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For further information, please call: (512) 483-6160

TITLE 22. EXAMINING BOARDS Part XXI. State Board of Examiners of Psychologists Chapter 471. Renewal

• 22 TAC §471.4

The Texas State Board of Examiners of Psychologists proposes new §471.4, concerning Texas Guaranteed Student Loan Corporation requirement (TGS LC). The board now requires a licensee or certificant who is identified as a student loan defaulter not to be eligible for renewal until entering a repayment agreement with TGS LC and filing a certificate with TGS LC with the board's office certifying this repayment agreement.

Patricia S. Bizzell, executive director, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated additional cost of \$7,000 for fiscal year 1992. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Ms. Bizzell 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 board will be assisting TGS LC in its collection of loans due. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be repayment of the outstanding debt on their student loans.

Comments on the proposal may be submitted to Patricia S. Bizzell, M.P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychology with the authority to make all rules, not inconsistent with the constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§471.4. Texas Guaranteed Student Loan Corporation Requirement. A licensee or certificand who is identified as a student loan defaulter is not eligible for license/certificate renewal until entering a repayment agreement with the Texas Guaranteed Student Loan Corporation (TGSLC) and filing a certificate from TGSLC with the board's office certifying this repayment agreement.

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

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

TRD-9009352 Patricia S. Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 835-2036

Chapter 473. Fees

• 22 TAC §473.1

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.1, concerning application fees. The application fees were reviewed by the board and increased to more correctly match the cost of providing the services involved in processing an application.

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

Ms. Bizzell, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to insure the public that applications are processed and reviewed according to the requirements of the Psychologists Certification and Licensing Act. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be for a psychological associate application—\$40 for fiscal years (fy) 1990-1994; for a psychologist certification application—\$75 for fy 1990-1994; and for a psychologist license—\$35 for fy 1990-1994.

Comments on the proposal may be submitted to Patricia S. Bizzell, M.P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psy-

chologists with the authority to make all rules, not inconsistent with the constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§473.1. Application Fees. (Not Refundable).

(a) Psychological associate certification—\$190 [(\$150)].

(b) Psychologist certification—\$375 [(\$300)].

(c) Licensure—\$175 [(\$140)].

(d) (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 September 11, 1990.

TRD-9009350 Patricia S. Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 835-2036

• 22 TAC §473.3

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.3, concerning annual renewal fees. The renewal fees were reviewed by the board and increased to more accurately match the cost of providing the services involved in renewing and maintaining a certificate and/or license.

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

Ms. Bizzell, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to insure the public that renewals are processed and reviewed according to the requirements of the Psychologists Certification and Licensing Act. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be for a psychological associate certification and psychologist certification—\$15 for fiscal years 1990-1994; and for licensure—\$35 for fy 1990-1994.

Comments on the proposal may be submitted to Patricia S. Bizzell, M.P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§473.3. Annual Renewal Fees (Not Refundable).

(a) Psychological associate certification—\$65 [(\$50)].

(b) Psychologist certification—\$65 [(\$50)].

(c) Psychologist licensure—\$160 [(\$125)].

(d) (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 September 11, 1990.

TRD-9009351 Patricia S. Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 835-2036

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 325. Solid Waste Management

Subchapter P. Fees and Reports

Transporters of Medical Waste

The Texas Department of Health (department) proposes new sections §§325.641-325.643, 325.925-325.927, and 325.1005-325.1008, concerning solid waste management. The new sections cover: fees and reports for transporters of medical waste; registration form for transporters of medical waste; manifest/receipt form for medical waste collection; medical waste transporter annual report form; requirements for transporters of medical waste; transfer of shipments of medical waste; interstate transportation; and storage of medical waste.

The proposed new sections will require persons who transport untreated medical waste to register with the department prior to engaging in such activities, and will require adherence to the sections in order to maintain the registration. The sections will prescribe the requirements for registration, the requirements for vehicles used to transport the waste, the requirements for record keeping, and the responsibility for proper disposal of collected waste. Also, the new sections establish fees to cover the expense of operating the regulatory program; establish appropriate reporting requirements; restrict the transfer of untreated medical waste to permitted facilities; and establish requirements for storage of medical waste.

Stephen Seale, Chief Accountant III, Budget Division, Texas Department of Health, has determined that for the first five year period the sections are in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government will be an estimated additional cost of \$200,000 per year for fiscal years 1991-1995. The program's operational costs will be paid for from fees collected from regulated transporters of medical waste and from commercial storage facilities for medical waste. Approximately \$150,000 per year is expected to be received in fees from regulated medical waste transporters. The remaining \$50,000 will come from disposal fees at landfills, incinerators, etc. There will be additional cost to local governments which collect medical waste for disposal and which operate facilities which generate untreated medical waste.

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to reduce public concern about medical waste transport and disposal, to provide medical waste generators assurance that the collection and transport of untreated medical waste will be supervised by a state regulatory agency, and to provide medical waste transporters and prospective transporters with assurance that noncompliant operations will be subject to enforcement action. The additional cost per pound of medical waste shipped for disposal will not be more than \$0.10 per pound for the first five years the sections as proposed are in effect. Private institutions which generate and ship untreated medical waste for disposal will experience the same increase in disposal costs as local governments. Hospitals and large health care related facilities will be affected most. There will be no effect on local employment, and no direct costs to individuals.

A public hearing has been scheduled for Wednesday, October 3, 1990, at 10 a.m., in

the Auditorium, Texas Department of Health, 1100 West 49th Street, Austin. Written or oral comments will be received at the public hearing. In addition written comments will be considered if they are received by 4 p.m. on the 30th day after publication of these sections. Written comments should be mailed to: T. A. Outlaw, Jr., P.E., Chief, Bureau of Solid Waste Management, 1100 West 49th Street, Austin, Texas 78756-3199. Inquiries may be made by phoning L. E. Mohrmann, Ph.D., C.P.C., at (512) 458-7271.

• 25 TAC §§325.641-325.643

The new sections are proposed under the Health and Safety Code, §361.024, which provides the Board of Health with the authority to adopt rules to manage municipal solid waste; and Health and Safety Code, §12.001, which provides the Texas Board of Health with 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.

§325.641. *Purpose and Applicability.*

(a) *Purpose.* The purpose of the annual registration fee for transporters of medical waste is to recover costs incurred by the state in operating its regulatory programs related to transporters of medical waste.

(b) *Applicability.* These sections apply only to transporters of medical waste who are required to register with the Texas Department of Health.

§325.642. *Annual Reports.* Annual summary reports are required in accordance with applicable provisions in §325.1005(r) of this title (relating to Transporters of Medical Waste).

§325.643. *Annual Registration Fees.* Annual registration fees are required in accordance with applicable provisions in §325.1005(q) of this title (relating to Transporters of Medical Waste).

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 September 17, 1990.

TRD-9009464

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

Earliest possible date of adoption: December 8, 1990

For further information, please call: (512) 458-7271

◆ ◆ ◆
Subchapter X. Forms and Documents

• 25 TAC §§325. 925-325.927

The new sections are proposed under Health and Safety Code, §361.024, which provides the Board of Health with the authority to adopt rules to manage municipal solid waste; and Health and Safety Code, §12.001, which provides the Texas Board of Health with 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.

§325.925. *Registration Form for Medical Waste Transporters.* The following two-page form comprises this section.

REGISTRATION FORM FOR TRANSPORTERS OF MEDICAL WASTE

This form is to be used by persons engaged in collecting and transporting medical waste, who are required to register with the Texas Department of Health in accordance with 25 TAC 325.1005(b) (relating to Transporters of Medical Waste).

TDH
Registration
Number

(Applicant Leave Blank)

--	--	--	--	--	--

Original Application

Renewal Application

A. Registrant Name: _____

Street Address: _____ Mailing Address: _____

(City State Zip)

(City State Zip)

(Responsible Person)

Telephone Number () - _____

B. Name of Owner: _____

Street Address: _____ Mailing Address: _____

(City State Zip)

(City State Zip)

(Responsible Person)

Telephone Number () - _____

C. Medical Waste Transportation Fee Calculation Chart for: _____
(YEAR)

Annual Weight Transported	Fee Rate		Fee Amount
0 - 1,000 Pounds	\$100	=	\$
1,001 to 10,000 Pounds	\$250	=	\$
10,001 to 50,000 Pounds	\$400	=	\$
Over 50,000 Pounds	\$500	=	\$
Total Fee Due			
Fee Paid			

**Leave Blank
For TDH Use**

D. Transporter Vehicle Information for _____

	Truck Type/ Trailer	Make / Model	Year	Motor Vehicle Identification Number	Vehicle Registration License Plate Number	State and Year
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

If the registered owner of the vehicle is not the same as the registered transporter, then provide the name of the registered vehicle owner for each vehicle on a separate sheet of paper. If more than ten vehicles are to be registered, use additional sheets as necessary.

I certify that all of the above information is true and correct to the best of my knowledge. I will abide by the rules of the Texas Department of Health.

Signature : _____
 Print Name : _____

Date: _____

15 TexReg 5464 September 21, 1990 Texas Register ♦

§325.926. Shipping document form for medical waste shipments. The following two-page form comprises this section.

TEXAS DEPARTMENT OF HEALTH
Bureau of Solid Waste Management
1100 West 49th Street
Austin, Texas 78756-3199

Shipping
Document
Number _____

Manifest/Receipt Form for Medical Waste Collection (Part I)

A. Transporter Information

TDH Registration No. _____ Name of Transporter: _____ Address of Transporter: _____ _____ Telephone Number (____) ____ - _____	Transporter Representative

	Print Name

	Signature

B. Generator Information

Name: _____ Address : _____ _____ _____	Generator Representative

	Print Name

	Signature

C. Date Of Shipment: _____ and **Shipment Identification Number** _____

D. Amount of Waste Shipped

# of Containers	
Weight of Container (Pounds)	

For Use with Bar Coding System
If Desired--Not Required

F. Receiving Site Information

Permit No. _____

Name _____

Name of Receiver's Agent

Signature of Receiver's Agent

NOTE: Complete F or use Part II for multiple small shipments. Attach this form to appropriate summary sheet.

Shipping Document Summary Sheet

Item #	Generator Name	Shipping Document Number	Date of Shipment (mmddyy)	Number of Containers	Weight of Containers (pounds)	Receiving Facility Permit No.	Date of Delivery or Transfer
1							
2							
3							
4							
5							
6							
7							
8							
9							

Name of Transporter Representative:							
Signature of Transporter Representative :				<i>Totals</i>	<i>Totals</i>		
Name of Receiving Facility Representative:				Signatures of transporter and receiver constitutes verification of information above and receipt for delivery of items listed above.			
Signature Of Receiving Facility Representative:							

DATE: _____

♦ *Proposed Sections September 21, 1990 15 TexReg 5467*

15 TexReg 5468 September 21, 1990 Texas Register ♦

§325.927. Annual Report Form for Medical Waste Transporters. The following form comprises this section.

Medical Waste Transporter Annual Report for _____

Transporter Registration Number: _____

Transporter Name: _____

Part I: Amount of medical waste collected from Texas generators and transported to permitted facilities in Texas.

Disposal Site Permit Number	Amount of Waste Delivered	Disposal Site Permit Number	Amount of Waste Delivered	Disposal Site Permit Number	Amount of Waste Delivered
Totals					

Part II: Amount of medical waste collected from Texas generators and transported to out of state facilities.

Weight of waste collected and transported

Part III: Amount of medical waste delivered to facilities in Texas from out of state generators.

Disposal Site Permit Number	Amount of Waste Delivered	Disposal Site Permit Number	Amount of Waste Delivered	Disposal Site Permit Number	Amount of Waste Delivered
Totals					

PART IV: Total Amount of Waste Transported.

Amount of fee paid for year of this report.	Part I	Part II	Part III	TOTAL
\$ <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

I certify that all of the above information is true and correct to the best of my knowledge.

(Additional pages may be used as required.)

Signature: _____ Date: _____ Page ____ of ____

15 TexReg 5470 September 21, 1990 Texas Register ♦

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 September 17, 1990.

TRD-9009465

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

Earliest possible date of adoption: October 27, 1990

For further information, please call: (512) 458-7271

Subchapter Y. Medical Waste Management

• 25 TAC §§325.1005-325.1008

The new sections are proposed under Health and Safety Code, §361.024, which provides the Board of Health with the authority to adopt rules to manage municipal solid waste; and Health and Safety Code, §12.001, which provides the Texas Board of Health with 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.

§325.1005. Transporters of Medical Waste.

(a) The requirements of this section are applicable to any person who collects for transport or who transports untreated medical waste which is designated as a special waste from health care related facilities unless that person is exempt under the provisions of subsection (p) of this section.

(b) Transporters shall register their operations with the department no later than the effective date of these sections. Persons who plan to transport untreated special waste from health care facilities after the effective date of this section shall register with the department prior to commencing operations. Registration forms will be provided by the department upon request. A sample of the registration form is found in §325.925 of this title (relating to Registration Form for Transporters of Medical Waste).

(c) Persons who apply to the department for registration and receive said registration shall maintain a copy of the registration form, as annotated by the department with an assigned registration number, at their designated place of business and in each vehicle used to transport untreated special waste from health care facilities.

(d) Registrations shall expire 12 months after the date of issuance. Registrations are required to be renewed annually prior to the expiration date. Applications for renewal shall be submitted to the department at least 60 days prior to the expiration date.

(e) Transporters shall notify the department, by letter, within 15 days of any changes to their registration if:

(1) the amount of untreated special waste from health care facilities or total operation is expanded by 50% over that originally registered;

(2) the office or place of business is moved; or

(3) the name of registration or owner of operation is changed.

(f) Revocation or denial of registration may occur as follows.

(1) The department may revoke a registration or refuse to issue a registration for:

(A) failure to maintain a record of shipments of waste transported;

(B) failure to maintain vehicles in safe working order as evidenced by citations from the Texas Department of Public Safety or local traffic law enforcement agencies;

(C) falsification of manifest or shipments records;

(D) delivery of untreated special waste from health care facilities to a facility not authorized to handle the waste;

(E) failure to comply with any rule or order issued by the department pursuant to the requirements of this chapter;

(F) failure to submit required annual reports or pay registration fees;

(G) failure to maintain insurance or provide proof of insurance as required in subsection (j) of this section;

(H) illegal disposal of untreated or treated medical waste; or

(I) collection or transportation of medical waste without registration as required in this section.

(2) Appeal of revocation or denial procedures are as follows.

(A) An opportunity for a formal hearing on the revocation of registration may be requested by the registrant or applicant within 20 days after a notice of revocation has been sent from the department to the last known address of the registrant. If the registration is revoked, a transporter shall not transport untreated special waste from health care facilities regulated under this subchapter. The period of revocation shall be not less than one year nor more than five years.

(B) An opportunity for a formal hearing on the denial of registration may be requested by the applicant within 20 days after a notice of denial has been sent from the department to the address listed on the application. If the registration is denied, a person shall not collect or transport untreated special waste from health care facilities regulated under this subchapter. The period of denial shall be not less than one year nor more than five years.

(C) The formal hearing shall be in accordance with §§1.21-1.34 of this title (relating to Formal Hearing Procedures).

(g) Requirements for vehicles.

(1) Vehicles used to collect and or transport medical waste shall:

(A) have a fully enclosed, leak-proof, cargo-carrying body, such as a cargo compartment, box trailer, or roll-off box;

(B) protect the waste from mechanical stress or compaction;

(C) carry spill clean-up equipment;

(D) have the following identification on the two sides and back of the cargo-carrying compartment in letters at least three inches high:

the name of the transporter,
TDH: the TDH assigned registration number
Caution: Medical Waste.

(E) be equipped with two-way communication equipment if operated outside of a single incorporated area; and

(F) not operate beyond the range of the two-way communication equipment and the designated base location if operated outside of a single incorporated area.

(2) A transporter may have more than one base location, but each base location must be able to receive and transmit messages with the vehicles operating from the base.

(3) The cargo compartment of the vehicle shall:

(A) be maintained in good sanitary condition;

(B) be locked when the vehicle is in motion;

(C) be locked when waste is present in the compartment except during loading or unloading of waste;

(D) be maintained at a temperature of less than 45 degrees Fahrenheit if the waste will remain in the vehicle longer than 12 hours or if the ambient outside temperature will, or can reasonably be expected to, exceed 85 degrees Fahrenheit for more than two hours during transport or storage; and

(E) have all discharge openings securely closed during operation of the vehicle.

(h) Vehicles used to transport medical waste shall not be used to transport any other material until the vehicle has been cleaned and disinfected. A written record of the date and the process used to clean and disinfect the vehicle shall be maintained for three years unless the department shall direct a longer holding period. The record must identify the vehicle by identification number.

(i) Shipments of untreated special waste from health care facilities shall not be commingled with trash, rubbish, garbage, hazardous waste, asbestos, or radioactive

waste regulated under Chapter 289 of this title (relating to Occupational Health and Radiation Control).

(j) Each transporter shall carry insurance to provide \$1,000,000 of general liability and \$1,000,000 of automobile, personal, and property damage insurance.

(k) The transporter shall furnish the generator a signed receipt for each shipment. The receipt shall include the name, address, telephone number and registration number of the transporter. The receipt shall also identify the generator by name and address, shall list the weight of waste collected and date of collection.

(l) The transporter shall initiate and maintain a record of each waste shipment collection and deposition. Such record shall be in the form of a manifest or other similar documentation approved by the department. A sample of the manifest to be used is included in §325.926 of this title (relating to Shipping Document Form for Medical Waste Shipments). Forms will be provided by, or may be approved by, the department. The transporter shall retain a copy of all manifests showing the collection and disposition of the medical waste. Manifest copies shall be retained by the transporters for three years and made available to the department upon request. The manifest shall include the:

(1) transporter's name, address, telephone number and department's assigned transporter registration number;

(2) name and address of the person who generated the untreated special waste from health care facilities and the date collected;

(3) weight of untreated special waste from health care facilities collected for transportation;

(4) name of responsible persons collecting, transporting, and discharging the medical waste;

(5) date and place where the untreated special waste from health care facilities was deposited or unloaded;

(6) identification (permit or registration number, location, and operator) of the facility where the untreated special waste from health care facilities was deposited; and

(7) name and signature of facility representative acknowledging receipt of

the untreated special waste from health care facilities and the weight of waste transported.

(m) The transporter must be able to provide documentation of each waste shipment from the point of collection through and including the depositing of the waste at a facility permitted to accept the waste. The transporter is responsible for the proper collection and deposition of untreated medical waste accepted for transport.

(n) Shipments of untreated special waste from health care facilities shall be deposited only at a facility which has been permitted by the department to accept untreated special waste from health care facilities. Untreated special waste from health care facilities may be deposited to facilities permitted by the Texas Water Commission only with the written authorization of the commission and the written concurrence of the department. Untreated special waste from health care facilities which is transported out of the state must be deposited at a facility which is permitted by the appropriate state agency having jurisdiction to accept such waste.

(o) Transporters shall not accept medical waste which is not packaged in accordance with the provisions of §325.1004(i) of this title (relating to generators of medical waste). Transporters shall not accept containers of medical waste which are leaking or damaged unless or until the shipment has been repackaged.

(p) Exemptions are as follows.

(1) Generators who generate less than 50 pounds per month of special waste from health care related facilities may transport their own untreated waste to a transfer station, a storage facility, or a processing facility without complying with the requirements of this section. Untreated waste may be transported to a landfill only in accordance with the provisions of §325.136 of this title (relating to Disposal of Special Wastes).

(2) Generators who generate more than 50 pounds per month of special waste from health care facilities may transport their own waste to a transfer station, a storage facility, or a processing facility and shall comply with subsections (g)-(o) of this section. They shall be exempt from subsections (a)-(f) of this section. These generators must notify the department that they are transporting their own waste and must

submit the annual summary report. Untreated waste may be transported to a landfill only in accordance with the provisions of §325.136 of this title (relating to Disposal of Special Wastes).

(3) Generators who are located in structures contiguous to a permitted processing facility may transport their waste to the processing facility without complying with the requirements of §325.1004(i) of this title (relating to Generators of Medical Waste) provided the waste is identified as untreated waste, provided a motor vehicle is not used for transport, and provided the waste is not transported along a public roadway or right-of-way.

(q) Transporter fees are as follows.

(1) Transporters are required to pay an annual registration fee to the department based upon the total weight of medical waste transported.

(2) The amount of the annual registration fee shall be based upon the total weight of medical waste transported under each registration. The fee for the first year of operation under a registration shall be based upon an estimate of the total weight of medical waste to be transported. The fee paid for the first year of operation will be adjusted after submission of at least one annual report and one registration renewal, indicating the actual weight of medical waste transported. An overpayment will be credited to the next year's registration fee or will be refunded. A billing notice for underpayment of the registration fee will be sent and payment will be due within 30 days after the date of the notice.

(3) The fees shall be calculated based upon the following.

(A) For a total annual weight transported of 1,000 pounds of medical waste or less, the fee is \$100.

(B) For a total annual weight transported greater than 1,000 pounds of medical waste but equal to or less than 10,000 pounds of medical waste, the fee is \$250.

(C) For a total annual weight transported greater than 10,000 pounds of medical waste but equal to or less than 50,000 pounds of medical waste, the fee is \$400.

(D) For a total annual weight transported greater than 50,000 pounds of medical waste, the fee is \$500.

(4) The transporter's annual registration fee shall accompany the applicant's original or renewal registration application and shall be submitted in the form of a check or money order made payable to the Texas Department of Health and delivered or mailed to: the Bureau of Solid

Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

(r) Transporters shall submit to the department's Bureau of Solid Waste Management an annual summary report of their activities up to December 31 of each year showing the weight of medical waste collected, disposition of such waste, and the weight of medical waste delivered to each facility. The report shall be submitted no later than March 1 of the year following the end of the report period. The report shall be prepared on a facsimile of the form in §325.927 of this title (relating to Annual Report Form for Medical Waste Transporters).

§325.1006. Transfer of Shipments of Medical Waste. Packages of medical waste shall not be transferred between vehicles unless the transfer occurs at, and on the premises of, a facility permitted as a transfer station, as a storage facility, or as a treatment/processing facility which has been approved to function as a transfer station. In case of transport vehicle malfunction, the waste shipment may be transferred to an operational vehicle and the department shall be notified of the incident in writing within five working days. The incident report shall list all vehicles involved in transporting the medical waste and the cause, if known, of the vehicle malfunction.

§325.1007. Interstate Transportation. Persons who engage in the transportation of medical waste from Texas to other states or countries or from other states or countries to Texas, or persons who collect or transport medical waste in Texas but have their place of business in another state, shall comply with all of the requirements for transporters contained in §325.1005 of this title (relating to Transporters of Medical Waste). If such persons also engage in any activity of managing medical waste in Texas by storage, processing, or disposal, they shall follow the applicable requirements for site operators of such activities. Persons who engage in the transportation of medical waste which does not originate or terminate in Texas, are exempt from these regulations, except for §325.1005(g)(1)-(3) of this title (relating to Transporters of Medical Waste).

§325.1008. Storage of Medical Waste.

(a) The storage of medical waste shall be in a secure manner and location which affords protection from theft, vandalism, inadvertent human or animal exposure, rain, and wind. The waste shall be managed so as not to provide a breeding place or food for insects or rodents, and not generate noxious odors. If putrescible organic waste is to be stored for more than 72 hours, then the storage temperature shall not exceed 45 degrees Fahrenheit within the storage facility.

(b) A permit for on-site storage of medical waste is not required for a generator who uses a medical waste storage facility only for the medical waste generated on-site.

(c) A permit for a medical waste storage facility is required if waste generated off-site is accepted for storage except under the conditions described in §325.1005(p)(3) of this title (relating to Transporters of Medical Waste).

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 September 17, 1990.

TRD-9009466

Robert A. McFaelean, M.D.
Deputy Commissioner
Texas Department of
Health

Earliest possible date of adoption: October 27, 1990

For further information, please call: (512) 458-7271

◆ ◆ ◆
TITLE 28. INSURANCE
Part II. Texas Workers'
Compensation
Commission

Chapter 110. General
Provisions-Required Notices
of Coverage

Subchapter B. Employer Notices

• **28 TAC §110.103**

The Texas Workers' Compensation Commission proposes new §110.103, concerning the notice to be filed by an employer with the Texas Workers' Compensation Commission that the employer does not have workers' compensation insurance coverage, and specifies the information to be included in the notice.

The new section sets out that when an employer employs one or more employees and does not have workers' compensation insurance coverage on March 20 of each year, the employer shall notify the commission that the employer does not have workers' compensation insurance coverage.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. There is no anticipated impact on employment, locally or statewide, as a result of implementing the section.

Mr. Looney also has determined that, for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section is the implementation of the Workers' Compensation Act adopted by recent legislation. There will be

no effect on small businesses. There is no anticipated additional economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8308, §2.09(a), which authorizes the commission to adopt rules necessary to administer the Texas Workers' Compensation Act, and §3.22(a), which authorizes the commission to prescribe rules concerning notice to the commission by employers who elect not to obtain workers' compensation coverage.

§110.103. Notice of Noncoverage to the Commission.

(a) Each employer who employs one or more employees and who does not have workers' compensation insurance coverage on March 20 of each year shall notify the commission that the employer does not have workers' compensation insurance coverage.

(b) The notice shall contain the following information:

(1) the employer's name, business address, and federal tax identification number;

(2) a description of the employer's business operations;

(3) the principal business location(s) of the employer's business operation(s), and the number of employees at each location; and

(4) the name and title of the person providing the information.

(c) The notice shall be filed with the commission no later than May 15 of each year.

(d) An employer who terminates existing workers' compensation insurance coverage shall notify the commission within 10 days, in accordance with the Act, §3.26.

(e) An employer who does not comply with this rule may be assessed with an administrative penalty, not to exceed \$500 for each day of non-compliance, under the Act, §3.22.

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 September 17, 1990.

TRD-9009502

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 440-3973

◆ ◆ ◆
**Chapter 133. Medical Benefits-
General Medical Provisions**

**Subchapter A. General Rules
for Required Reports**

• 28 TAC §133.1, §133.2

The Texas Workers' Compensation Commission proposes new §133.1, concerning information required to be included in written communications filed by a health care provider, and new §133.2 concerning sharing of medical reports and test results.

Section 133.1, prescribes the information that is required to be included in written communications from a health care provider to the commission or provided to the injured employee, the employee's attorney or to the insurance carrier. Section 133.2, requires a treating doctor to forward medical reports and test results to a designated doctor and a doctor who is examining a claimant under a medical examination order. The section also prescribes how a subsequent treating doctor must obtain copies of required reports and test results from a previous doctor with a written request that includes a waiver signed by the claimant, and requires the previous doctor to send all information within 10 days of the written request. The section also provides for fair and reasonable charges for copies of required reports and test results forwarded to the subsequent treating doctor.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of administering the sections. Under new §133.2, minimal costs may be incurred by small businesses and individuals who are required to comply as a treating doctor as a result of forwarding copies without reimbursement. Small businesses and individuals who are required to comply as a subsequent treating doctor requesting records from the first treating doctor may incur minimal costs for completing and mailing the written request and waiver required by the new sections. There is no anticipated impact on employment, locally or statewide, as a result of implementing the sections.

Mr. Looney also has determined that, for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections is the implementation of the Workers' Compensation Act adopted by recent legislation. The anticipated economic cost to persons who are required to comply with the sections will be minimal costs related to mailing copies for required reports without reimbursement.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8308, §2.09(a), which

authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act, and §4.66, which authorizes the commission to adopt rules concerning the requirements for reports and records that are required to be filed with the commission, or provided to the injured employee, the injured employee's attorney, or the insurance carrier by health care providers.

§133.1. Information Required in Communications. All written communications, including medical reports and medical bills, filed by the health care provider shall include the following information:

(1) the claimant's full name, address, and social security number;

(2) the workers' compensation number assigned to the claim by the commission, if known;

(3) the date and nature of the injury or illness;

(4) the employer's name and address;

(5) the insurance carrier's name;

(6) the health care provider's name, address, Federal Tax Identification number, and professional license number.

§133.2. Sharing Medical Reports and Test Results.

(a) The treating doctor shall forward to a consulting doctor, a designated doctor, and a doctor that is examining the claimant under a medical examination order, copies of required reports, radiographic films, and test results, to prevent unnecessary duplication of tests and examinations.

(b) When the claimant changes treating doctors, the subsequent treating doctor will contact, in writing, the previous doctor or, if unable to contact the previous doctor, will contact the carrier to obtain copies of all required reports and test results submitted to the carrier. The written request will include a signed waiver from the claimant releasing the claimant's medical records to the subsequent treating doctor. The previous doctor will send all information to the subsequent doctor within 10 days of receipt of the written request.

(c) The previous treating doctor shall charge the carrier no more than the fair and reasonable cost as specified in §133.106(f) for copies of required reports and test results when the copies are forwarded to the subsequent treating doctor.

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 September 17, 1990.

TRD-9009503

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 440-3973

Subchapter B. Required Reports

• 28 TAC §§133.100-133.106

The Texas Workers' Compensation Commission proposes new §§133.100-133.106, concerning various required medical reports, the information to be included in the reports, filing times for the reports, the penalties for non-compliance, and the fees for providing the reports.

New §133.100, lists the medical reports required by the commission; new §133.101, concerns the initial medical report that is required to be completed by the treating doctor and submitted to the carrier and the claimant or the claimant's representative, and states the information required to be included in the report; new §133.102, concerns the subsequent medical report that is required to be submitted by the treating doctor to the carrier and the injured employee or the injured employee's representative, and specifies the information required to be in the report; new §133.103, requires a treating doctor to submit specific medical reports, when certain listed conditions exist, to the carrier and the injured employee or the injured employee's representative within seven days of the occurrence of the conditions, and specifies the information to be included in the report; new §133.104, requires a consulting doctor, referred by the primary treating doctor, to submit a medical report to the carrier and the injured employee or the injured employee's representative within seven days of the consulting doctor's examination. The section requires that the consultant provide a copy of the report to the primary treating doctor at no charge and lists the information required to be included in the report; new §133.105, requires a physical or occupational therapist to submit a clinical summary report to the carrier and the injured employee or the injured employee's representative every 30 days. The section sets out the information to be included in the report, allows the therapist to charge a fair and reasonable fee to the carrier for a copy of clinical notes or reports, and provides that a copy of the report be sent without charge to the treating doctor. New §133.106, sets out the fees that may be charged for the required medical reports listed in the preceding sections.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. There is no anticipated impact on employment, locally or statewide, as a result of implementing the sections.

Mr. Looney 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 is the implementation of the Workers' Compensation Act adopted by recent legislation. There will be no effect on small businesses. There is no

anticipated additional economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8308, §2.09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act, and §4.66(a) which authorizes the commission by rule to adopt requirements for reports and records that are required to be filed with the commission, or provided to the injured employee, the employee's attorney, or the insurance carrier by health care providers.

§133.100. Required Medical Reports.

(a) Medical reports shall be in a form and manner prescribed by the commission. Additional information may be attached.

(b) Following is a list of medical reports required by commission §§133.101-133.105:

- (1) initial medical report;
- (2) subsequent medical reports;
- (3) specific medical reports;
- (4) consultant medical reports;

and

(5) physical and occupational therapy report(s).

(c) The willful or intentional failure to file a required report is an administrative violation under the Act, §10.07(c)(3), and may result in assessment of penalties listed in the Act, §10.07(d).

§133.101. *Initial Medical Report.* The treating doctor shall complete an initial report, in the form and manner prescribed by the commission, and submit it to the carrier and the claimant or the injured claimant's representative within seven days of the initial visit. The report shall include:

(1) history of occupational injury or illness;

(2) findings of a clinical assessment, including the following:

(A) physical examination findings;

(B) laboratory test results;

(C) radiographic and imaging findings; and

(D) other pertinent tests;

(3) type of treatment rendered at time of visit;

(4) specific diagnosis(-es) with appropriate International Classification of Disease-9-Clinical Manifestations (ICD-9-CM) code(s);

(5) treatment plan which may include the following:

(A) physical or occupational therapy orders. The orders shall include:

(i) clear and concise language, explaining specific treatments to be performed;

(ii) frequency of treatments; and

(iii) provision of re-evaluation by the treating doctor within 60 days, if physical or occupational therapy shall be continued;

(B) referrals given to the claimant;

(C) medications or durable medical equipment ordered; and

(D) other pertinent information involving future treatment;

(6) anticipated date the injured employee may:

(A) return to a limited type of work;

(B) achieve maximum medical improvement; and

(C) return to full time work;

(7) prognosis of the claimant.

§133.102. *Subsequent Medical Report.* If medical treatment is necessary, the treating doctor shall complete a subsequent report, in the form and manner prescribed by the commission, and submit it to the carrier, and the injured employee, or injured employee's representative at intervals of 60 days after the initial report. Subsequent reports shall include:

(1) changes in injured employee's condition, evidenced by:

(A) physical examination;

(B) laboratory test results;

(C) radiographic and imaging findings; and

(D) other pertinent tests;

(2) specific diagnosis(-es) with appropriate diagnostic (ICD-9-CM) code(s);

(3) type of treatment rendered at time of visit;

(4) changes in treatment plan, which may include, but is not limited to, the following:

(A) physical or occupational therapy orders. The orders shall include:

(i) clear and concise language, explaining specific treatments to be performed;

(ii) frequency of treatments; and

(iii) provision of re-evaluation by the treating doctor within 30 days, if physical or occupational therapy shall be continued;

(B) referrals given to the injured employee;

(C) medications or durable medical equipment ordered;

(D) other pertinent information involving future treatment; and

(E) compliance by the injured employee with the recommended treatment;

(5) anticipated date the injured employee may:

(A) return to a limited type of work;

(B) achieve maximum medical improvement; and

(C) return to full time work;

(6) prognosis (anticipated length of continued disability) of the injured employee.

§133.103. Specific Medical Reports.

(a) The treating doctor shall complete a specific medical report, in the form and manner prescribed by the commission, and submit to the carrier, and the injured employee or the injured employee's representative, within seven days, if one of the following conditions exists:

(1) received notice from the injured employee of a change in treating doctor;

(2) injured employee is discharged from hospital; or

(3) injured employee is released to return to work. The report shall describe any restrictions or limitations.

(b) The treating doctor shall submit a notification of recommendation for spinal surgery in the form and manner prescribed under §133.201 of this title (relating to Notification of Recommendation for Spinal Surgery).

(c) Reports of evaluation for permanent medical impairment or for maximum medical improvement, including those performed in accordance with the Act, II §4.16, shall be completed in the form and manner prescribed under §130.1 of this title (relating to Initial Determination of Eligibility for Supplemental Income Benefits).

(d) A report generated by a required medical examination ordered under the Act §4.16, on the issue of appropriateness of medical treatment shall include, but not be limited to:

(1) whether the treatment given was directly related to the injury;

(2) whether the frequency of treatments or the length of time the treatments were continued were appropriate for the injury;

(3) identification of any treatments or referrals appropriate for the injury; and

(4) conclusions reached and the reasons for these conclusions.

§133.104. Consultant Medical Reports. The consulting doctor, referred by the primary treating doctor, shall submit a narrative medical report to the carrier, and the injured employee or the injured employee's representative, within seven days of the examination. A copy of this report should also be forwarded to the primary treating doctor at no additional charge. The report shall include:

(1) findings of a clinical assessment including the following:

(A) physical examination findings;

(B) laboratory test results;

(C) radiographic and imaging findings; and

(D) other pertinent tests;

(2) specific diagnosis(-es) with appropriate diagnostic (ICD-9-CM) codes;

(3) type of treatment rendered at time of visit;

(4) treatment plan changes proposed to the primary treating doctor; and

(5) prognosis (anticipated length of continued disability) of the injured employee.

§13.105. Physical or Occupational Therapy Report.

(a) The physical or occupational therapist shall submit to the carrier, and the injured employee, or the injured employee's representative, a copy of a clinical summary report at intervals of every 30 days. The physical therapist may charge the carrier the fair and reasonable fee for a copy of clinical notes or reports. A copy of this report shall also be sent to the treating doctor at no additional charge.

(b) The report shall include the following information:

(1) name of injured employee's treating doctor;

(2) listing of all treatment prescribed for and performed on or by the injured employee;

(3) frequency of the injured employee's visits;

(4) date(s) of injured employee's visits;

(5) the person performing the treatments on the injured employee; and

(6) assessment of injured employee's progress.

(c) A copy of the treating doctor's prescription for physical or occupational therapy shall be included with the report.

§133.106. Fair and Reasonable Fees for Required Reports and Records.

(a) The doctor shall charge the carrier no more than the fair and reasonable fee as specified in subsection (f) of this section for the required medical reports listed in the preceding sections.

(b) If an insurance carrier requests an additional report from the treating doctor, the doctor may also charge the fair and reasonable fee for the requested reports. It is the obligation of the carrier to furnish its auditors, or fourth party reviewers, with any necessary or needed copies of the required medical reports in order to ascertain the level of treatment given and the treatments or procedures performed.

(c) The injured employee, or the injured employee's representative, should receive a copy of required medical reports from the health care provider without additional charge. If the injured employee's representative requests further documentation, such as medical records or clinic notes or a medical narrative other than the Required Reports, the treating doctor will be reimbursed for this additional information by the representative.

(d) The health care provider will not charge the commission for copies of any requested or required documents.

(e) Narrative reports are defined as original documents explaining the assess-

ment, diagnosis, and plan of treatment for an injured employee written or orally transcribed. The narrative reports should be no

more than double-spaced on letter size paper. Clinical or progress notes do not constitute a narrative report.

(f) The following are the fees the commission considers fair and reasonable for each submitted required report or record under this section.

- (1) Form Required Reports\$15.00
- (2) Narrative Required Reports
 - one to two pages.....\$50.00
 - each page after two pages.....\$20.00
 - per page
- (3) Copies of reports or clinical notes.....\$.50
 - per page
- (4) Hospital records.....An initial fee of \$5.00
 - plus
 - \$.50 per page for the first
 - 20 pages, then \$.30 per
 - page for records over 20
 - pages.

- (5) Microfilm \$.50 per page
- (6) Copies of X-ray films \$8.00 per film

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 September 17, 1990.

TRD-9009501

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: October 22, 1990

For further information, please call: (512) 440-3973

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

Case Management

• 40 TAC §48.3905

The Texas Department of Human Services (DHS) proposes an amendment to §48.3905,

concerning case management, in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to require that an adult foster care client be provided with a list of his rights and responsibilities before adult foster care is authorized or reauthorized.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more efficient and informed entry into adult foster care. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Frances Barraza at (512) 450-3216 in DHS's Client Eligibility Department. Comments on the proposal may be submitted to Cathy Rossberg, Policy and Document Support Department-477, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§48.3905. Adult Foster Care Client Rights and Responsibilities.

- (a) (No change.)
- (b) The client and his responsible person are [is] entitled to:

(1) receive in writing, before authorization or reauthorization of adult foster care [or at time of admission], a list of the client's [his] rights and responsibilities;

(2) (No change.)

(3) be informed that the client keeps [keep] a personal needs allowance; and

(4) (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 September 17, 1990.

Proposed date of adoption: December 1, 1990

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

Chapter 49. Child Protective Services

Subchapter E. Intake and Investigation Services

• 40 TAC §49.511

The Texas Department of Human Services proposes an amendment to §49.511, concerning disposition of allegations of abuse or neglect, in its Child Protective Services chapter. The purpose of the amendment is to allow Regions 08 and 09 to delay implementation of the new CANRIS category, unable-to-determine, in order to protect the integrity of recidivism data in the child-at-risk field (CARF) pilot project.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the improved quality of the department's protective services to children and families by supporting the completion of a pilot project that bases delivery of services on assessments of future risks of abuse or neglect, rather than on conclusions about past reports of abuse or neglect. 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.

Questions about the content of this proposal may be directed to Bob Sweeney at (512) 450-3777 in the Protective Services for Families and Children Department. Comments on the proposal may be submitted to Cathy Rossberg, Policy and Document Support-489, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children.

§49.511. Disposition of the Allegations of Abuse or Neglect.

(a) To specify their conclusions about the occurrence of abuse or neglect, staff assign one of the following four dispositions.

(1) Reason-to-believe. Based on some credible evidence, staff conclude that abuse or neglect has occurred.

(2) Ruled-out. Staff conclude that the investigation:

(A) clearly rules out abuse or neglect; or

(B) warrants a reasonable conclusion that no abuse or neglect has occurred.

(3) Moved. Before staff could draw a conclusion, the persons involved in the report moved and could not be located.

(4) Unable-to-determine. Staff conclude that none of the other dispositions is appropriate.

(b) As indicated in §49.311(c) of this title (relating to Eligible Individuals), during fiscal years 1990 and 1991, the Texas Department of Human Services (DHS) is conducting a pilot project in Region 09 to study the possibility of basing the delivery of child protective services on assessments of risks of child abuse or neglect, rather than on conclusions about occurrences of abuse or neglect. Because the pilot project's theoretical model for assessing risk is called the child-at-risk field (CARF), the pilot project itself is known as the CARF pilot. The analysis of recidivism rates in the CARF pilot is based on the dispositions of allegations of child abuse and neglect in DHS Regions 08 and 09. In order to maintain the integrity of the disposition data used to evaluate recidivism rates, DHS Regions 08 and 09 will delay use of the unable-to-determine disposition specified in subsection (a)(4) of this section, until the CARF pilot has enough data from both regions to compare recidivism rates over a 12-month period preceding the pilot and over a similar period during the pilot. Regions 08 and 09 will delay use of the unable-to-determine disposition by assigning other dispositions as specified in subsection (c) of this section.

(c) Beginning on September 1, 1990, and until the CARF pilot has enough disposition data to evaluate recidivism rates, Regions 08 and 09 will assign the dispositions designated in paragraph (1) of this subsection to specify conclusions about the occurrence of abuse or neglect. These dispositions are defined in terms of the disposition categories in use before September 1, 1990, which are specified in paragraph (2) of this subsection.

(1) CARF dispositions.

(A) Reason-to-believe. Staff use this disposition in place of the dispositions, "adjudicated" and "reason-to-

believe," specified in paragraph (2) of this subsection.

(B) Ruled-out. Staff use this disposition in place of the disposition, "unfounded," specified in paragraph (2) of this subsection.

(C) Moved. Staff use this disposition as specified in subsection (a)(3) of this section.

(2) Disposition categories in use before September 1, 1990. The disposition categories in this paragraph were used to specify conclusions about the occurrence of child abuse or neglect at the end of investigations completed before September 1, 1990. As specified in paragraph (1) of this subsection, the disposition of investigations in Regions 08 and 09 will be based on these categories until the CARF pilot has enough data from these regions to evaluate recidivism rates.

(A) Adjudicated. Civil or criminal court decisions, other than emergency ex parte orders, confirm the occurrence of abuse or neglect.

(B) Reason-to-believe. Based on some credible evidence, staff conclude that abuse or neglect has occurred.

(C) Unfounded.

(i) The investigation:

(I) clearly rules out abuse or neglect;

(II) warrants a reasonable conclusion that no abuse or neglect has occurred;

(III) has uncovered insufficient reliable information to conclude that abuse or neglect has occurred, or

(IV) has uncovered insufficient evidence to corroborate an anonymous report.

(ii) CPS may not conclude that an allegation is unfounded on the basis of only one of the following conditions:

(I) an alleged victim's explanation of the situation;

(II) a child's retraction after previously confirming a report of abuse or neglect, when the child appears to have been pressured to retract;

(III) the examination of an alleged victim who cannot communicate;

(IV) a parent's or an alleged perpetrator's explanation of the situation; or

(V) the investigation's failure to identify an alleged perpetrator.

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 September 17, 1990.

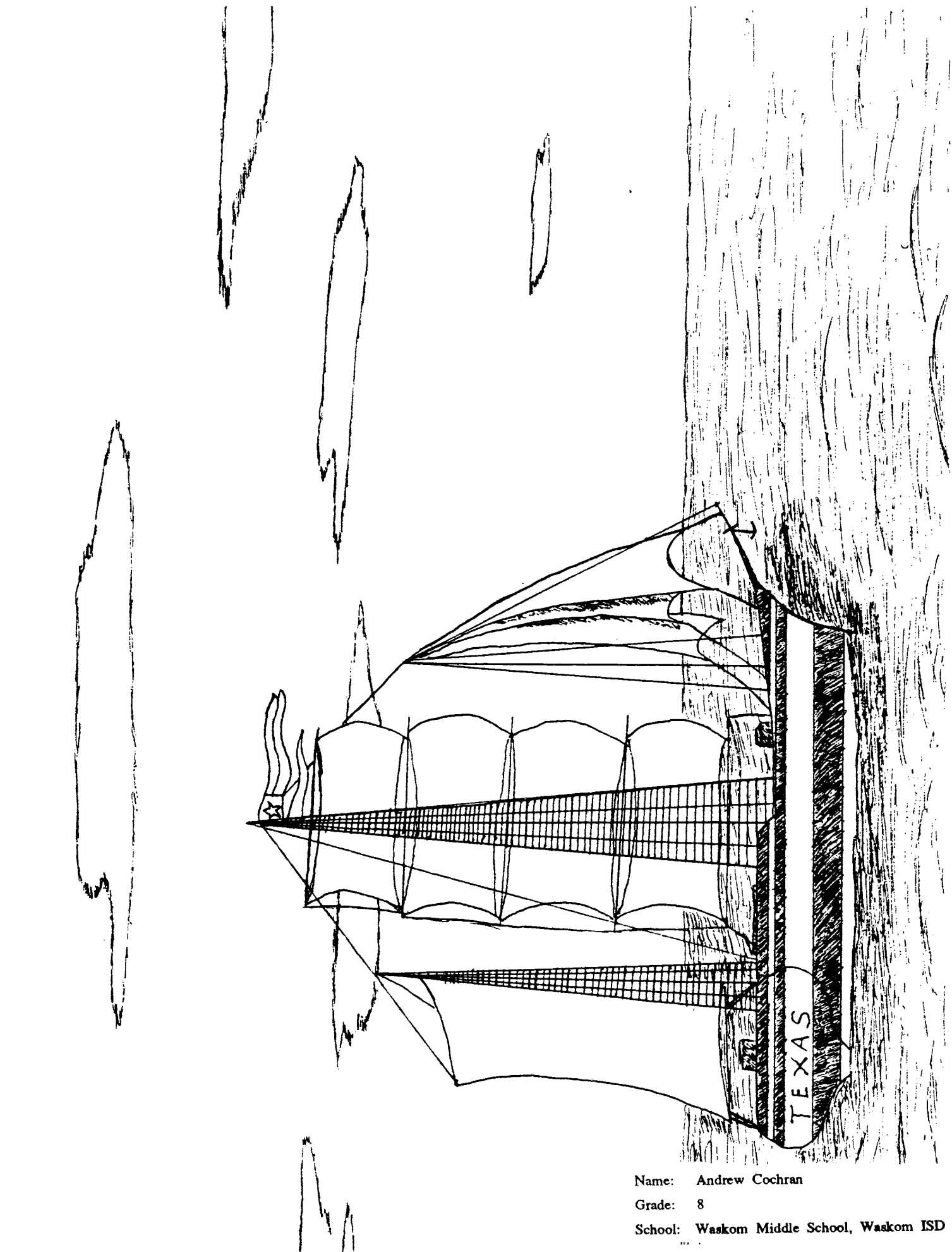
TRD-8009458

Cathy Roseberg
Agency liaison, Policy and
Document Support
Department
Texas Department of
Human Services

Proposed date of adoption: December 1, 1990

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

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Name: Andrew Cochran

Grade: 8

School: Waskom Middle School, Waskom ISD

Withdrawn Sections

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

TITLE 4. AGRICULTURE

Part II. Animal Health Commission

Chapter 51. Regulations

Governing Admission of Livestock and Poultry into Texas and Regulations Governing Interstate and Intrastate Admission of Livestock Shows, Fairs, and Exhibitions

• 4 TAC §51.1

The Animal Health Commission has withdrawn from consideration for permanent adoption a proposed amendment to §51.1 which appeared in the June 12, 1990, issue of the *Texas Register* (15 TexReg 3399). The effective date of this withdrawal is September 14, 1990.

Issued in Austin, Texas, on September 14, 1990

TRD-9009424 Jo Anne Conner
Executive Secretary
Animal Health Commission

Effective date: September 14, 1990

For further information, please call: (512) 479-6697

• 4 TAC §51.2

The Animal Health Commission has withdrawn from consideration for permanent adoption a proposed amendment to §51.2

which appeared in the June 12, 1990, issue of the *Texas Register* (15 TexReg 3339). The effective date of this withdrawal is September 14, 1990.

Issued in Austin, Texas, on September 14, 1990

TRD-9009423 Jo Anne Conner
Executive Secretary
Animal Health Commission

Effective date: September 14, 1990

For further information, please call: (512) 479-6697

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

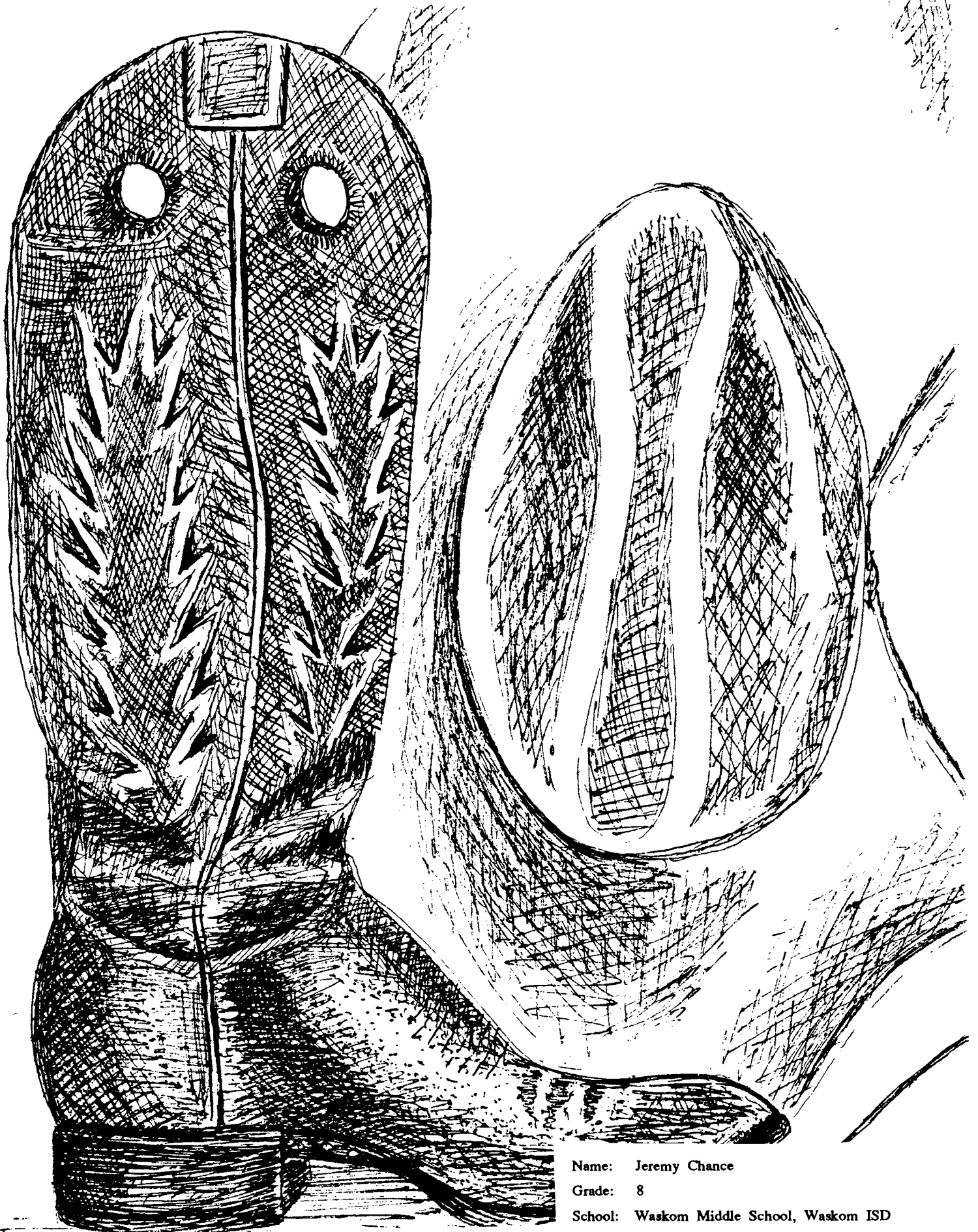
Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.22

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §3.22, submitted by the Railroad Commission of Texas has been automatically withdrawn, effective September 14, 1990. The new section as proposed appeared in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1356).

TRD-9009416



Name: Jeremy Chance
Grade: 8
School: Waskom Middle School, Waskom ISD

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 22. EXAMINING BOARDS

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

Suspension of Revocation of Licensure

• 22 TAC §535.164

The Texas Real Estate Commission adopts an amendment to §535.164, with changes to the proposed text as published in the July 13, 1990, issue of the *Texas Register* (15 TexReg 3957).

The amendment conforms an agency disclosure form required for use by Texas real estate licensees with the Federal Fair Housing Amendments act of 1988, Public Law Number 100-430, 102 Statute 1619. The disclosure form is reworded to indicate that real estate licensees may not discriminate on the basis of familial status or handicap.

The amendment also adds a blank in the form in which a real estate licensee may indicate the name of the brokerage firm providing the disclosure.

One commenter urged the commission to except transactions involving knowledgeable principals so that licensees would not be required to use the disclosure forms in some transactions. The commission did not concur with the suggested change and determined that no additional exceptions were appropriate.

Another commenter suggested the commission adopt a Spanish language version of the disclosure forms. The commission is not adopting Spanish language versions at this time but is considering taking such action in the future.

On adoption, the commission added a provision which would permit licensees to use the revised form before its use becomes mandatory on February 1, 1991.

The amendment is adopted under Texas Civil Statutes, Article 6573a, §5(h), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§535.164. *disclosure of Agency.*

(a) The Texas Real Estate Commission adopts by reference Agency Disclosure Form 1-1, approved by the Texas Real Estate Commission in 1990. This document is

published by and available from the Texas Real Estate Commission, P. O. Box 12188, Austin, Texas 78711-2188.

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

(e) Licensees may use a revised disclosure form adopted under this section prior to the effective date of a revision.

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 September 14, 1990.

TRD-9009428

Mark A. Moseley
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Commission

Effective date: February 1, 1991

Proposal publication date: July 13, 1990

For further information, please call: (512) 465-3960



• 22 TAC §535.165

The Texas Real Estate Commission adopts an amendment to §535.165, with changes to the proposed text as published in the July 13, 1990, issue of the *Texas Register* (15 TexReg 3957).

The amendment conforms an agency disclosure form required for use by Texas real estate licensees with the Federal Fair Housing Amendments Act of 1988, Public Law Number 100-430, 102 Statute 1619. The disclosure form is reworded to indicate that real estate licensees may not discriminate on the basis of familial status or handicap.

One commenter urged the commission to except transactions involving knowledgeable principals so that licensees would not be required to use the disclosure forms in some transactions. The commission did not concur with the suggested change and determined that no additional exceptions were appropriate.

Another commenter suggested the commission adopt a Spanish language version of the disclosure forms. The commission is not adopting Spanish language versions at this time but is considering taking such action in the future.

On adoption, the commission added a provision which would permit licensees to use the revised form before its use becomes mandatory on February 1, 1991.

The amendment is adopted under Texas Civil Statutes, Article 6573a, §5(h), which provide the Texas Real Estate Commission with the

authority to make and enforce all rules and regulations necessary for the performance of its duties.

§535.165. *Disclosure of Buyer or Tenant Agency.*

(a) The Texas Estate Commission adopts by reference Agency Disclosure Form 2-1, approved by the Texas Real Estate Commission in 1990. This document is published by and available from the Texas Real Estate Commission, P.O. Box, Austin, Texas 78711-2188.

(b)-(e) (No change.)

(f) Licensees may use a revised disclosure form adopted under this section prior to the effective date of a revision.

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 September 14, 1990.

TRD-9009427

Mark A. Moseley
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Texas Real Estate
Commission

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For further information, please call: (512) 465-3960



Chapter 537. Professional Agreements and Standard Contracts

Standard Contract Forms

• 22 TAC §537.11

The Texas Real Estate Commission adopts an amendment to §537.11, with changes to the proposed text as published in the July 13, 1990, issue of the *Texas Register* (15 TexReg 3957).

The amendment is adopted to permit computer reproduction of contract forms promulgated by the agency with guidelines to ensure that the text of the forms is not altered.

A number of comments were received supporting the proposed amendment. Two commenters urged the agency to modify the guidelines so that the forms reproduced by computer-driven printers could vary in appearance from the promulgated printed versions. In response to these comments, the agency modified the section to permit use of

fonts or typefaces which appear to be the same, thus permitting slight differences in the typeface or font used in the computer-driven printers.

As finally adopted, the amendment requires the number of pages and text of computer reproduced forms to be identical to the printed promulgated versions so as to reduce confusion in the negotiation of contracts. The name of the software developer must appear at the bottom of each page in no smaller than six-point type and must be no larger than 10-print type.

The amendment is adopted under Texas Civil Statutes, Article 6573a, §5(h), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§537.11. Use of standard Contract Forms.

(a) Standard contract Form TREC Number 2-2 is promulgated for use as an addendum only to another promulgated standard contract form. Standard Contract Form TREC Number 9-1 is promulgated for use in the sale of unimproved property where intended use is for one to four family residences. Standard Contract Form TREC Number 10-1 is promulgated for use as an addendum concerning sale of other property by a buyer to be attached to promulgated forms of contracts which are second or back-up contracts. Standard Contract Form TREC Number 12-0 is promulgated for use as an addendum to be attached to promulgated forms of contracts where there is a Veterans Administration release of liability or restoration entitlement. Standard Contract Form TREC Number 13-0 is promulgated for use as an addendum concerning new home insulation to be attached to promulgated forms of contracts. Standard Contract Form TREC 14-0 is promulgated for use as an addendum concerning financing conditions to be attached to promulgated contracts where there is a conventional loan. Standard contract Form TREC Number 15-1 is promulgated for use as a residential lease when a seller temporarily occupies property after closing. Standard Contract Form TREC Number 16-1 is promulgated for use as a residential lease when a buyer temporarily occupies property prior to closing. Standard Contract Form Number 20-0 is promulgated for use in the resale of residential real estate where there is all cash or owner financing, an assumption of an existing loan, or a conventional loan. Standard Contract Form TREC Number 21-0 is promulgated for use in the resale of residential real property where there is a Veterans Administration guaranteed loan or a Federal Housing Administration insured loan. Standard Contract Form TREC Number 23-0 is promulgated for use in the sale of a new home where construction is incomplete. Standard Contract Form TREC Number 24-0 is promulgated for use in the sale of a new home where construction is completed. Standard Contract Form TREC Number 25-0 is promulgated for use in the sale of a

form or ranch. Standard Contract Form TREC Number 26-0 is promulgated for use as an addendum concerning seller financing.

(b)-(g) (No change.)

(h) Forms approved or promulgated by the commission shall be reproduced only from the following sources:

(1) numbered proofs obtained from the commission;

(2) printed copies made from proofs obtained from the commission;

(3) legible photocopies made from such proofs or printed copies; or

(4) computer-driven printers following these guidelines.

(A) The computer file or program containing the form text must not allow the end-user direct access to the text of the form and may only permit the user to insert language in blanks in the forms.

(B) Typefaces or fonts must appear to be identical to those used by the commission in printed proofs of the particular form.

(C) The text and number of pages must be identical to that used by the commission in printed proofs of the particular form.

(D) The spacing, length of blanks, borders, and placement of text on the page must appear to be identical to that used by the commission in printed proofs of the form.

(E) The name and address of the person or firm responsible for developing the software program must be legibly printed below the border at the bottom of each page in no less than six point type and in no larger than 10-point type.

(F) The text of the form must be obtained from a proof of the form bearing a control number assigned by the commission.

(i) The control number of each proof must appear on all forms reproduced from the proof, including forms reproduced by computer-driven printers.

(j) Forms approved or promulgated by the commission may be reproduced with the following changes or additions only.

(1) The business name or logo of a broker, organization, or printer may appear at the top of a form outside the border.

(2) The broker's name may be inserted in any blank provided for that purpose.

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 September 14, 1990.

TRD-9009429

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Texas Real Estate
Commission

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For further information, please call: (512) 465-3960

Chapter 544. Rules Relating to Certified Real Estate Appraisers

Rules Relating to Certified Real Estate Appraisers

• 22 TAC §§544.1-544.9

The Texas Real Estate Commission adopts new §§544.1-544.9. Sections 544.1-544.6, 544.8, and 544.9 are adopted with changes to the proposed text as published in the July 13, 1990, issue of the *Texas Register* (15 TexReg 3958). Section 544.7 is adopted without changes and will not be republished.

The new sections are adopted to permit Texas real estate appraisers to become certified under the provisions of Texas Civil Statutes, Article 6573a, §22. By July 1, 1991, only appraisers certified or licensed in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Title XI, may perform appraisal in connection with federally related transactions. Sections 544.1-544.9 are adopted to implement the state's appraiser certification program. The sections were recommended for adoption by the Texas Real Estate Appraiser Certification Committee (TREACC), a committee of nine appraisers appointed by the commission to conduct the certification program.

Comments on the proposed sections were received from the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC), the National Association of Master Appraisers, the American Institute of Real Estate Appraisers, the State Property Tax Board, and from 16 individuals.

Section 544.1 defines terms employed in the appraisal of real property or in the certification program. On adoption of §544.1, a reference to 22 TAC §531.15, concerning reviewing an appraisal, was deleted because the commission is proposing to replace §531.15 and other sections establishing minimum appraisal standards with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation.

Section 544.2 establishes filing procedures and requirements for applying for certification. On adoption, §544.2 was revised by consolidating two proposed application forms into a single form which could be used by applicants for either general or residential certification. Language was also added to require applicants to pay the federal appraiser regis-

try fee when requested by the commission, as suggested by the Appraisal Subcommittee of FFIEC. The term of a certification was reduced from two years to one year to ensure level funding of the certification program from renewal fees during the second year of operation.

Section 544.3 concerns examinations for certification. On adoption, §544.3 was revised to combine the proposed section on state law and ethics with the general section containing questions endorsed and approved by the Appraisal Foundation. The passing score was increased to 75% in response to a public comment. The one-year period for satisfying the examination requirement was revised on final adoption of §544.3 to begin when the commission first issues written authorization for an applicant to sit for the examination.

Section 544.4 establishes a point system for measuring the three years of experience required for general certification or the two years of experience required for residential experience.

In response to a comment, the number of points for performing a complex nonresidential desk review was increased from one to two points. Section 544.4 was also revised to permit applicants for residential certification to earn up to 240 points (one year) of experience for appraisals of nonresidential properties.

A number of commenters urged the commission to accept experience beyond the five-year period immediately preceding the filing of the application. The commission did not modify the section as requested because the five-year period is established by law; however, §544.4 was revised to permit an appraiser who qualifies on the basis of review experience within the five-year period to become certified by matching the review experience point for point with experience in preparing appraisal reports obtained at any time in the applicant's career. Fifteen comments suggested reduction of the experience requirements. The commission did not concur with the suggestions since the experience requirements are established by law. The section was also modified to require appraisal reports submitted for appraisal experience verification to be treated as confidential to the extent permitted by law.

Three appraisers suggested that the point system and experience verification log should be replaced with an affidavit. The commission determined that the law contemplated specific verification of experience on a detailed list and declined to modify the section.

Section 544.5 concerns the satisfaction of educational requirements for certification. In response to two comments, the minimum course length was reduced from 30 hours to 15 hours. Fifteen hour courses are also suggested by the Appraiser Qualifications Board of the Appraisal Foundation. Section 544.5 was also revised to permit the consideration of courses approved by another state agency as suggested in one comment. The section was also revised to require completion of an examination as a component of professional practice and ethics courses submitted by applicants. Course materials to be submitted for prior approval of a course are also detailed in the section.

Section 544.6 establishes a renewal process for certified appraisers. On adoption, the section was revised to require all renewal applications to be filed prior to the expiration of the current certification. Because the term of the certification was changed to one year in §544.2, the periods of time for satisfying continuing education requirements for renewal were also changed so that courses would be required for every second certification. A 15-hour course in standards of professional practice and ethics would be required for the sixth certification; a written examination is also required for the course. The section was also revised to set a two-hour minimum length for continuing education courses.

Section 544.7 concerns the structure and organization of TREACC. No comments were received on the proposed section, and no changes were made on adoption of the section.

Section 544.8 concerns disciplinary actions and administrative hearings before the TREACC. On adoption the section was revised to authorize disciplinary action with regard to certified appraisers convicted of criminal offenses.

Section 544.9 adopts by reference the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. On adoption, the section was revised to require a certified appraiser to comply with USPAP in connection with a broker's opinion or comparative market analysis given for a separate fee as part of other brokerage business or to obtain a listing contract. The section was also revised to require appraisal reports submitted in federally related transactions to be in writing, as suggested in a comment from the Appraisal Subcommittee of FFIEC.

The new sections are adopted under Texas Civil Statutes, Article 6573a, §5(h), which provide the Texas Real Estate Commission with the authority to adopt all rules and regulations necessary for the performance of its duties.

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

Act—The Real Estate License Act, Texas Civil Statutes, Article 6573a.

Analysis—The act or process of providing information, recommendations, or conclusions on diversified problems in real estate other than estimating value.

Applicant—A person seeking to be certified as an appraiser.

Appraisal—The act or process of estimating value; an estimate of value; of or pertaining to appraising and related functions; for example, appraisal practice and appraisal services.

Appraisal practice—The work performed by appraisers in the marketplace, defined by three terms in these sections: appraisal, review, and analysis.

Appraising—The act of rendering an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

Cash flow analysis—A study of the anticipated movement of cash in or out of real estate.

Classroom hour—Fifty minutes of actual classroom session time.

Client—Any party for whom an appraiser performs a service.

College—A junior or community college, senior college, university, or any other postsecondary educational institution established by the Texas Legislature, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or like commissions of other accrediting associations, or is a candidate for such accreditation.

College degree—An earned academic degree from a college or university, such as an associate's, bachelor's, master's, or doctor's degree or their equivalent titles.

Commission—The Texas Real Estate Commission.

Committee—The Texas Real Estate Appraiser Certification Committee.

Desk review—The act or process of performing a review, as defined, without physically inspecting the appraised property or the comparable data and with or without consideration of data not otherwise contained in the report.

Feasibility analysis—A study of the cost-benefit relationship of an economic endeavor.

Field review—The act or process of performing a review, as defined, to include physically inspecting the appraised property and comparable data and with the consideration of data not otherwise contained in the report.

Investment analysis—A study that reflects the relationship between acquisition price and anticipated future benefits of a real estate investment.

Market analysis—A study of real estate market conditions for a specific type of property.

Mass appraisal—The process of valuing a universe of properties as of a given date utilizing standard methodology, employing common data, and allowing for statistical testing.

Mass appraisal model—A mathematical expression of how supply and demand factors interact in a market.

Nonresidential property—A property which does not conform to the definition of residential property.

Person—An individual.

Personal property—Identifiable portable and tangible objects which are considered by the general public as being personal; for example, furnishings, artwork, antiques, gems and jewelry collectibles, machinery, and equipment.

Real estate—An identified parcel or tract of land, including improvements, if any.

Real property—The interests, benefits, and rights inherent in the ownership of real estate.

Report—Any communication, written or oral, of an appraisal, review, or analysis;

the document that is transmitted to the client upon completion of an assignment.

Residential property—A one-to-four family dwelling or a vacant site suitable for a one-to-four family dwelling.

Review—The act or process of critically studying a report prepared by another.

State certified real estate appraiser—An appraiser certified by the Texas Real Estate Appraiser Certification Committee of the Texas Real Estate Commission.

§544.2. Application for Certification.

(a) A person desiring to be certified as an appraiser shall file an application for certification using forms prescribed by the commission. The commission may not accept for filing an application which is incomplete or which is not accompanied by the appropriate fee. The commission may not grant a certification to an applicant unless the applicant:

(1) pays the fees requested by the commission;

(2) satisfies experience and education requirements established by the Real Estate License Act (the Act), §22 or by these sections;

(3) successfully completes the qualifying examination prescribed by the committee; and

(4) provides all supporting documentation or information requested by the commission or committee in connection with the application.

(b) The Texas Real Estate Commission adopts by reference the following forms approved by the commission in 1990 upon the recommendation of the Texas Real Estate Appraiser Certification Committee and published by and available from the commission, P.O. Box 12188, Austin, Texas 78711-2188:

(1) TREACC Form AAC-1, Application for Real Estate Appraiser Certification;

(2) TREACC Form EVA-1, Experience Verification Affidavit; and

(3) TREACC Form LOG-1, Appraisal Experience Log.

(c) The commission shall establish fees to be collected under the Act, §22, upon the recommendation of the committee or at such other times as the commission deems appropriate. Fees shall not exceed the amount specified in the Act. Fees are not refundable once an application has been accepted for filing by the commission. Appraisers certified under these sections shall pay any annual registry fee required under federal law within 30 days after the commission mails a written request for payment to the appraiser's last known business address as shown in the commission's records. If, however, the commission requests payment of an annual registry fee in connection

with renewal of a certification, the registry fee must be paid at the same time as the fee for renewal of certification.

(d) Experience and educational requirements established by the Act, §22 or by these sections must be satisfied before an applicant may sit for the qualifying examination, provided an applicant who has a college degree or who has completed the number of classroom hours required for the category of certification sought may complete the course in professional practice and ethics required by the Act, §22(d)(3) at any time prior to being certified.

(e) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the commission or the committee makes written request for the information or documentation.

(f) A certification is valid for one year after it is granted by the commission unless the certification is suspended or revoked for cause. A certification may be renewed in accordance with the requirements of §544.6 of this title (relating to Renewal of Certification).

(g) An application for certification may be disapproved by the committee upon a determination that the applicant has failed to satisfy the committee as to the applicant's honesty, trustworthiness, and integrity.

(h) An application for certification may also be disapproved or a certification may be suspended or revoked upon a determination by the committee that:

(1) the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title (relating to Criminal Offense Guidelines);

(2) the applicant supplied false or misleading information to the committee or the commission;

(3) the applicant gave, received, or attempted to give or receive unauthorized assistance during the administration of any examination required for appraiser certification; or

(4) the applicant disclosed to another person the content of any portion of the examination administered by the committee or the commission with the expectation that the disclosed information would be used by the other person for obtaining an advantage in another examination or that the disclosed information would be made available to other applicants.

(i) An applicant whose application has been disapproved by the committee is entitled to notice and opportunity for hearing. Proceedings involving disapproved applications shall be conducted in accordance with §§533.1-533.30 of this title (relating to Practice and Procedure), provided the com-

mittee shall conduct the hearing and recommend the entry of a final order by the commission as provided by the Act, §22(i) and by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §15. The committee may recommend that the disapproval be upheld or withdrawn or that a probationary certification be granted in the manner provided by §535.94 of this title (relating to Applications; Probationary Licenses).

§544.3. Examinations.

(a) Except as provided by this section, examinations administered by the commission to applicants for general or residential appraiser certification shall be administered in the manner contemplated by §535.61(a)-(o) of this title (relating to Competency: Examinations). If an examination is conducted by a testing service under contract with the commission, the examination shall be conducted in accordance with the procedures specified in the contract.

(b) Each examination shall concern the subjects endorsed and approved for certification examinations by the Appraiser Qualifications Board or the Appraisal Foundation and Texas law related to the appraisal of real property. Each applicant for certification must achieve a score of at least 75% on the examination for the category of certification sought.

(c) An applicant for certification must satisfy the examination requirement by successfully completing the examination within one year from the time the applicant has been issued written authorization by the commission to sit for an examination. If an applicant fails the examination, the applicant must apply to take the examination again, pay the appropriate fee, and successfully complete the examination within the one-year period from the commission's issuance of the first written authorization to sit for an examination. If the applicant has not satisfied all examination requirements within one year from the time the commission issued the first written authorization to sit for an examination, the application is terminated and a new application is required for certification.

(d) The commission or any testing service under contract with the commission shall administer examinations for appraiser certification at locations designated by the commission. The commission may assign an examination date and site to an applicant. An applicant who does not attend an assigned examination shall be deemed to have failed unless the commission is notified at least 24 hours in advance that the applicant will not appear on the assigned date.

§544.4. Experience Required for Certification.

(a) An applicant for general real estate appraiser certification must provide evi-

dence satisfactory to the committee that the applicant possesses the equivalent of three years of appraisal experience within the five-year period immediately preceding the filing of the application for certification. 240 points of experience credit is deemed to be the equivalent of one year of experience. Experience credits for general real estate appraiser certification shall be awarded as follows.

(1) Sixteen points of credit shall be awarded for a complex nonresidential appraisal.

(2) Four points of credit shall be awarded for a complex nonresidential field review.

(3) Two points of credit shall be awarded for a complex nonresidential desk review.

(4) Four points of credit shall be awarded for a non-complex nonresidential appraisal.

(5) Two points of credit shall be awarded for a non-complex nonresidential field review.

(6) One point of credit shall be awarded for a non-complex nonresidential desk review.

(7) Credit for appraisals of residential properties shall be awarded as provided in subsection (b) of this section.

(8) Each applicant must have a minimum of 720 points of credit, with no more than 300 points being awarded for a single year.

(9) No more than 240 points may be awarded for experience in appraising residential properties.

(b) An applicant for residential real estate appraiser certification must provide evidence satisfactory to the committee that the applicant possesses the equivalent of two years of appraisal experience within the five-year period immediately preceding the filing of an application for certification. Two hundred forty points of experience credit is deemed to be the equivalent of one year of experience credit. Experience credits for residential real estate appraiser certification shall be awarded as follows.

(1) Six points of credit shall be awarded for a complex residential appraisal.

(2) Two points of credit shall be awarded for a complex residential field review.

(3) One point of credit shall be awarded for a complex residential desk review.

(4) Three points of credit shall be awarded for a non-complex residential appraisal.

(5) One point of credit shall be awarded for a non-complex residential field review.

(6) One-half point of credit shall be awarded for a non-complex residential desk review.

(7) Credit for appraisals of non-residential properties shall be awarded as provided in subsection (a) of this section.

(8) Each applicant must have a minimum of 480 points of credit, with no more than 300 points being awarded for a single year.

(9) No more than 240 points may be awarded for experience in appraising nonresidential properties.

(c) Experience for either category of certification must have been obtained during the five-year period immediately preceding the filing of the application for certification.

(d) For the purpose of this section, a noncomplex appraisal is one having the following characteristics:

(1) there is an active market of essentially identical properties;

(2) adequate data is available to the appraiser;

(3) adjustments to comparable sales are not large in the aggregate, specifically not exceeding the trading range found in the market of essentially identical properties; and

(4) for residential property, the contract price falls within the market norm (median sales price) of homes in the neighborhood.

(e) For the purpose of this section, a complex appraisal is one that relied to any significant degree on all three approaches to value (cost, sales comparison, and income approaches) or was an appraisal which did not have the characteristics of a noncomplex appraisal.

(f) Each signer (coauthor) of an appraisal report accepting responsibility for the report shall be awarded full credit for the appraisal. Each appraisal having four or more signers accepting responsibility for the report shall be awarded credit for an appraisal based on the appropriate points divided by the number of signers.

(g) All appraisals submitted or claimed for experience credit are subject to verification by the commission or by the committee. Applicants may not claim experience credit for appraisals which are not supported by written reports or file memoranda or which were performed by the applicant at a time when the applicant lacked legal authority to perform real estate appraisals. On request, the applicant shall furnish the commission or the committee copies of appraisal reports and file memoranda supporting the experience credit sought by the applicant. Appraisal reports and file memoranda submitted to the commission or to the committee shall be treated as confidential to the extent permitted by law.

(h) Review appraisal experience within the five-year period immediately preceding the filing of an application must be matched point for point by experience in preparing appraisal reports other than as a review appraiser. Matching appraisal experience may be awarded for appraisal reports prepared at any time in the applicant's career.

§544.5. Educational Requirements for Certification or Renewal.

(a) The commission shall accept a course of study to satisfy educational requirements for certification if the committee has approved the course and determined it to be a course related to real estate appraisal.

(b) The committee may approve courses to be submitted by applicants for appraiser certification upon a determination of the committee that:

(1) the course was devoted to a subject named in the Real Estate License Act (the Act), §7(a) or was a core real estate course;

(2) the subject matter of the course was appraisal-related; provided that core real estate courses set forth in the Act, §§7(a)(1-4), (6), (8), and (9) shall be deemed appraisal-related;

(3) the course was offered by an accredited college or university, a school accredited by the commission, or by a real estate or appraiser certification or licensing agency of another state, a professional trade association, or a service related school such as the United States Armed Forces Institute; or the course was approved by an agency of this state;

(4) the applicant has received in a classroom presentation the hours of instruction for which credit was given and successfully completed a final examination for course credit, provided that for courses offered by colleges or universities prior to the effective date of this section, an applicant must have received in a classroom presentation the hours of instruction comparable to those required by the college or university for courses of equivalent length conferring academic credit and must have qualified for successful course completion by either a final examination or another form of final evaluation; and

(5) the course was at least 15 classroom hours in duration, not including the time required for an examination.

(c) For the purposes of this section, a professional trade association is a non-profit, cooperative, and voluntarily joined association of business or professional competitors that is designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting the common interest of its members.

(d) The commission or the committee may require an applicant to furnish materials such as source outlines, syllabi, course descriptions, or official transcripts to verify course content or credit.

(e) Correspondence courses may be approved by the committee under the following conditions:

(1) the course must have been offered by an accredited college or university which offers correspondence programs in other disciplines;

(2) successful completion of a written examination administered to positively identified students at a location and by an official approved by the college or university must be required for course credit; and

(3) the content and length of the course must meet the requirements for real estate appraisal-related courses established by this section.

(f) The commission shall periodically publish guidelines as to the acceptability of appraisal-related courses which have been approved by the committee. Except as may be specifically provided to the contrary in this section, the review and acceptance of courses submitted to satisfy educational requirements for appraiser certification shall be conducted by the commission or by the committee, as the case may be, in the manner prescribed by §535.61 of this title (Relating to Examinations.)

(g) Successful completion of a written examination must be a component of any course offered after the effective date of this section to satisfy the 15 hours of study of professional practice and ethics required by the Act, §22(d)(3).

(h) Course providers may obtain prior approval of a course by submitting the following items to the committee:

(1) a course description;

(2) a copy of any textbook, course outline, syllabus, or other written course material provided to students; and

(3) a copy of the written final examination which measures a student's mastery of the course.

§544.6. *Renewal of Certification.*

(a) A person certified as an appraiser may renew the certification by timely filing the prescribed application for renewal of certification, paying the appropriate fee to the commission, and satisfying continuing education requirements as provided by this section.

(b) The commission shall mail the prescribed renewal application form to the certified appraiser's last known business address at least 90 days prior to the expiration of the certification. A certified appraiser shall notify the commission of any change

from a previously designated business address within 10 days after the change. It is the responsibility of the certified appraiser to apply for renewal of certification in accordance with these sections, and failure to receive a renewal application form from the commission does not relieve the appraiser of the responsibility of applying for renewal of certification.

(c) The commission may not accept a renewal application filed after the expiration of the certification. An appraiser who does not timely file a renewal application must file an application for certification in accordance with the provisions of §544.2 of this title (relating to Application for Certification). If the application is filed within one year of the expiration of the previous certification the applicant shall also provide satisfactory evidence of completion any continuing education that would have been required for a timely renewal of the previous certification. If the application for certification is filed more than one year after the expiration of the certification, the applicant must successfully complete the examination required by §544.3 of this title (relating to Examinations).

(d) A renewal application is deemed filed when placed in the mails properly addressed to the commission with appropriate postage paid.

(e) The committee shall recommend the renewal fee to be collected by the commission, provided the fee shall not exceed \$150 for each year the certification is renewed as provided by the Real Estate License Act (the Act), §22(f).

(f) As a condition for renewing every second certification, an appraiser must successfully complete the following courses during the two-year period preceding the expiration of the second certification.

(1) at least 30 hours of continuing education courses approved by the committee, of which at least seven hours have been devoted to updates of standards of professional practice and ethics; and

(2) for every sixth certification, the applicant must successfully complete a written examination following at least 15 hours in standards of professional practice and ethics approved by the committee as part of the 30 hours required by paragraph (1) of this subsection.

(g) The minimum length of a continuing education offering shall be two hours.

§544.8. *Disciplinary Actions.*

(a) The committee shall conduct administrative hearings and recommend the entry of final orders by the commission in contested cases regarding:

(1) real estate licensees who are alleged to have violated the Real Estate License Act (the Act) or a rule of the

commission while engaged in the performance of an appraisal of real property; or

(2) certified real estate appraisers who are alleged to have violated any provision of the Act or of a rule of the commission or who have been convicted of a criminal offense listed in §541.1 of this title (relating to Criminal Offense Guidelines).

(b) The committee may recommend a reprimand, or the suspension or revocation of a real estate license, an appraiser certification, or both, after an administrative hearing. The committee may recommend that an order of suspension or revocation be probated in whole or in part, and may recommend that the probation be subject to reasonable terms and conditions in accordance with the Act, §15B(b) and §15B(c).

(c) Proceedings under this section shall be conducted by the committee in accordance with §§533.1-533.30 of this title (relating to Practice and Procedure) and with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

§544.9. *Standards of Professional Practice.*

(a) The Texas Real Estate Commission adopts by reference the "Uniform Standards of Professional Appraisal Practice" published by the Appraisal Foundation in 1987 and approved by the Texas Real Estate Commission in 1990. This document is published by and available from the Appraisal Foundation, 1029 Vermont Avenue, Northwest, Suite 900, Washington, D.C. 20005-3271, and is on file at the offices of the Texas Real Estate Commission, 1101 Camino La Costa, Austin.

(b) The "Uniform Standards of Professional Appraisal Practice" shall not apply to:

(1) a statement of opinion of value of real property (commonly known as a broker's opinion of value) given for no separate consideration by a licensee in connection with seeking or obtaining a listing contract; or

(2) a price comparison of similar properties (commonly known as a comparative market analysis or CMA) provided for no separate consideration as part of other brokerage business for the sole purpose of determining a listing, selling, or rental price for a specific property.

(c) Appraisal reports prepared by state certified real estate appraisers in connection with a federally related transaction under the jurisdiction of a federal financial institutions regulatory agency or the Resolution Trust Corporation shall be written reports.

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 September 14, 1990.

TRD-9009430

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Effective date: October 5, 1990

Proposal publication date: July 13, 1990

For further information, please call: (512) 465-3960

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part VII. Texas Water Well Drillers Board

Chapter 231. Substantive Rules

Licensing Procedures

• 31 TAC §§231.37, 231.41, 231.45

The Texas Water Well Drillers Board (TWWDB) adopts amendments to §231.37 and §231.45, with changes to the proposed text as published in the March 23, 1990, issue of the *Texas Register* (15 TexReg 1620). Section 231.41(a) has been changed to reflect the correct examination fee of \$100, which has been the fee in effect for an extended period of time pursuant to Mandate of the Legislative Budget Board.

The amendments are necessary to comply with House Bill 5, Acts of the 70th. Legislature, 1987, which require each state agency that issues permits to adopt rules, including agency time limits, in regard to processing applications.

No comments were received regarding adoption of the amendments. However certain additional clarifying language has been added. Specifically, the words "or acknowledgment that he has read them" has been added to §231.37(b)(6) after the word "endorsement" which has been deleted to avoid duplication. Additionally, the words "sent to the applicant by certified mail" has been added to §231.37(c) after the words, "written notice."

In order to provide an appropriate, documented time period to obtain additional information with respect to insufficient applications, the following language has been added to §231.37(c): "If the application is insufficient the applicant shall be notified by certified mail that he has 30 days to submit the additional information. If the additional information is received within 30 days of receipt of the deficiency notice, the staff will evaluate the information within five working days and, where applicable, shall prepare a statement of receipt of the application and declaration of administrative completeness in accordance with §282.17 of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness). If the required information is not forthcoming from the applicant within 30 days of the date of receipt of the deficiency notice, the staff shall return the incomplete application to the applicant."

Finally, the residency requirement for licensure contained in §231.37(b)(4) has been removed in response to recent United States Supreme Court decisions regarding the constitutionality of such provisions. The deletion makes necessary the renumbering of certain subsections: §231.37(b)(5) has been renumbered §231.37(b)(4) and §231.37(b)(6) has been renumbered §231.37(b)(5).

The amendments are adopted under the Texas Water Well Drillers Act (Act); Texas Civil Statutes, Article 7621(e), §7, which provides the Texas Water Well Drillers Board with the authority to adopt, prescribe, promulgate, and enforce all regulations reasonably necessary to effectuate the provisions of the Act and is in response to House Bill 5, §5(a).

§231.37. Application.

(a) Applications shall be made on forms which may be obtained from the commission.

(b) Applications shall include:

(1) the applicant's name, business address, and permanent mailing address;

(2) a sworn and satisfactory letter of reference from a licensed water well driller with at least two years licensed experience in water well drilling;

(3) satisfactory letters of reference from:

(A) the applicant's banker; and

(B) two satisfied water well drilling customers who are not related within the second degree of consanguinity to the applicant;

(4) the applicant's sworn statement that he has drilled water wells under the supervision of a driller licensed under the Texas Water Well Drillers Act for two years or that he has other comparable water well drilling experience; and

(5) the applicant's acknowledgment that he has read them, of the board's standards of conduct.

(c) The application must be received by the commission 28 days prior to the board's next meeting. The commission will issue written notice sent to the applicant by certified mail within five working days after receipt of the application informing the applicant that the application is administratively complete and accepted for filing, or that the application is deficient in specific areas. If the application is insufficient, the applicant shall be notified by certified mail that he has 30 days to submit the additional information. If the additional information is received within 30 days of receipt of the deficiency notice, the staff will evaluate the information within five working days and, where applicable, shall prepare a statement of receipt of the appli-

cation and declaration of administrative completeness in accordance with §281.17 (relating to Notice of Receipt of Application and Declaration of Administrative Completeness). If the required information is not forthcoming from the applicant within 30 days of the date of receipt of the deficiency notice, the staff shall return the incomplete application to the applicant. If the applicant disagrees that the application is deficient or when notice was not issued within five working days, the applicant may file a direct appeal to the board by filing a request with the commission for board consideration at the next regularly scheduled board meeting. The request for board consideration must be filed with the commission 17 days prior to the board meeting being requested. The filing fee shall be reimbursed to any applicant that written notice was not issued to within the five working days and/or when the board rules the application was not deficient.

(d) An application shall be null and void, and the examination fee shall be forfeited, if the examination is not taken within 90 days after the board's certification of the application.

§231.41. Examination Fee.

(a) A \$100 examination fee must accompany each application.

(b) Each time an applicant applies to retake the board's examination, he must submit the examination fee.

§231.45. Disposition of Application. The executive director shall notify each applicant as to the disposition of his application 10 days after the issuance of a final decision by the board. The examination fee shall be reimbursed to any applicant that the executive director does not notify within 10 days after the issuance of a final decision by the board.

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 September 17, 1990.

TRD-9009470

Jim Haley
Director, Legal Division
Texas Water Commission

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Proposal publication date: March 23, 1990

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

Part IX. Texas Water Commission

Chapter 281. Applications Processing

• 31 TAC §281.21, §281.25

The Texas Water Commission adopts an amendment to §281.21 and new §281.25, with changes to the proposed text as published in the July 24, 1990, issue of the *Texas Register* (15 TexReg 4179). These sections concern technical summaries, fact sheets, and additional facilities and projects for which Texas pollutant discharge elimination system (TPDES) permits are required. The new and amended sections incorporate rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the Federal Clean Water Act, concerning the National Pollutant Discharge Elimination System (NPDES) Program. Upon adoption of these regulations, the Texas Water Commission will seek EPA authorization to administer the Texas program in lieu of the federal NPDES Program, pursuant to CWA, §402(b).

New §281.25 relates to additional facilities and projects for which TPDES permits are required. Section 281.25 adopts by reference 40 Code of Federal Regulations, §§122.23, 122.24, 122.25, 122.26, and 122.27. This section requires permits for concentrated animal feeding operations, concentrated aquatic animal production facilities, discharges into aquaculture projects, storm water discharges, and silvicultural activities.

Amended §281.21 requires additional information in technical summaries and fact sheets. Section 281.21(e) adopts by reference 40 Code of Federal Regulations, §124.6(c)-(e) and §124.56.

One commenter inquired as to why 40 Code of Federal Regulations §122.26, titled "Storm Water Discharges," is incorporated by reference into §281.25(4), which is titled "Discharges Into Separate Storm Sewers." The commission responds that when the rules were proposed, 40 CFR §122.26 was reserved and titled "Discharges Into Separate Storm Sewers." Since that time, §122.26 has been promulgated by the EPA, is no longer reserved, and has been retitled "Storm Water Discharges." Accordingly, the commission has retitled §281.25(4) "Storm Water Discharges," in conformance with §122.26.

The new and amended sections are adopted under the Texas Water Code, §5.102 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§281.21. Draft Permit, Technical Summary, Fact Sheet, and Compliance Summary.

(a)-(d) (No change.)

(e) Additional conditions for TPDES draft permits and fact sheets are as follows.

(1) TPDES draft permits shall include the information required by 40 Code of Federal Regulations (CFR),

§124.6(c)-(e), as in effect on the date of TPDES program authorization, as amended, which is adopted by reference.

(2) A fact sheet shall be prepared for a TPDES permit and shall include the information required by 40 Code of Federal Regulations, §124.56, as in effect on the date of TPDES Program authorization, as amended, which is adopted by reference.

§281.25. Additional Facilities and Projects for Which TPDES Permits Are Required. The following regulations contained in 40 Code of Federal Regulations (CFR), Part 122, which are in effect as of the date of TPDES Program authorization, as amended, are adopted by reference.

(1) Part 122, Subpart B—Permit Applications and Special TPDES Program Requirements, §122.23, requiring permits for concentrated animal feeding operations. The adoption of 40 Code of Federal Regulations, §122.23 does not apply to Subchapter B of Chapter 321 of this title (relating to Commercial Livestock and Poultry Production Operations) where discharges are prohibited.

(2) Part 122, Subpart B—Permit Applications and Special TPDES Program Requirements, §122.24, requiring permits for concentrated aquatic animal production facilities, except 40 Code of Federal Regulations, §122.24(c)(2).

(3) Part 122, Subpart B—Permit Applications and Special TPDES Program Requirements, §122.25, requiring permits for discharges into aquaculture projects.

(4) Part 122, Subpart B—Permit Applications and Special TPDES Program Requirements, §122.26, requiring permits for storm water discharges.

(5) Part 122, Subpart B—Permit Applications and Special TPDES Program Requirements, §122.27, requiring permits for silvicultural activities.

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 September 17, 1990.

TRD-9009472 Jim Haley
Director, Legal Division
Texas Water Commission

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

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Chapter 287. Water Well Drillers

Licensing Procedures

• 31 TAC §§287.94-287.99

The Texas Water Well Drillers Board (TWWDB) adopts amendments to §§287.94-287.99 with changes to the proposed text as published in the March 23, 1990, issue of the *Texas Register* (15 TexReg 1621).

The amendments are necessary to comply with House Bill 5, Acts of the 70th Legislature, 1987, which requires each state agency that issues permits to adopt rules, including agency time limits, in regard to processing applications.

No comments were received regarding adoption of the amendments. However certain additional clarifying language has been added and redundant provisions deleted. Specifically, the words "sent to the applicant by certified mail" has been added to §287.94(c) after the words "written notice" to provide the manner of such notice on receipt of an application. Additionally, in order to provide an appropriate documented time period to obtain additional information with respect to the insufficient applications. The following language has been added to §287.94(c): If the application is insufficient the applicant shall be notified by certified mail that he has 30 days to submit the additional information. If the additional information is received within 30 days of receipt of the deficiency notice, the staff will evaluate the information within five working days and, where applicable, shall prepare a statement of receipt of the application and declaration of administrative completeness in accordance with §281.17 of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness). If the required information is not forthcoming from the applicant within 30 days of the date of receipt of the deficiency notice the staff shall return the incomplete application to the applicant.

In proposed §287.94(c), the phrase "with the commission" has been deleted and the phrase "with the chief clerk of the board" has been added because it is more accurate.

In proposed §287.95(a), the word "complete" has been added prior to the word "application" and the words "by certified mail" has been added after the words "written notice." The last two sentences in §287.95(a) have been deleted because they are redundant of the language contained in §287.94(c).

In proposed §287.95(b), the phrase "by certified mail" has been added after the words "notify and mail."

In proposed §287.96(a)(2), the word "immediately" has been added prior to the word "notify" in order to be more specific in regard to notifying the executive director of the applicants eligible to take the examination.

In proposed §287.96(b), the words "by certified mail" has been added after the word "notify" in order to be more specific in regard to notifying applicants if they passed or failed the exam.

In proposed §287.97(a), the phrase "of \$115" has been added after the words "license fee" to specify the amount of the fee.

In proposed §287.97(c), the following sentence has been deleted: "If the executive director does not mail the license within 30 days after submission of the license fee, the license fee shall be returned along with the card."

In proposed §287.97(d), the following sentence has been deleted: "If the commission does not mail the duplicate license within 30 days after receipt of the proper application and fee, the fee shall be returned along with the card."

In proposed §287.98(b), the phrase "by certified mail" has been added after "shall notify" and the phrase "and shall attempt to obtain from each licensee a signed statement confirming receipt of the notice" has been deleted.

Proposed §287.98(d)(1) has been amended by adding the phrase "of \$115" and deleting the phrase "prescribed by the board."

Proposed §287.98(e) has been amended by deleting the following sentence: "If the executive director does not mail the card within 30 days after receipt of the properly completed renewal form and renewal fee, the renewal fee shall be returned along with the card."

Proposed §287.99(d) has been deleted because it is duplicitous of foregoing rules. Additionally, the following sentence in proposed §287.94(b)(4) has been amended. "The applicant's sworn statement that he or she has been a resident of Texas for 90 consecutive days immediately prior to making his or her application, or a request for waiver of this requirement. This sentence has been rephrased to specify the most common reason for waiver of the residency requirement; namely, being licensed in another state which has similar licensing requirements.

The words "or acknowledgment that he has read them" has been added to §287.94(6) after the word endorsement, which has been deleted to avoid duplication.

The amendments are adopted under the Texas Water Code, §5.103, which provides the Texas Water Well Drillers Board with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state and is in response to House Bill 5, §5(a).

§287.94. Applications.

(a) Applications shall be made on forms which may be obtained from the commission.

(b) Applications shall include:

(1) the applicant's name, business address, and permanent mailing address;

(2) a sworn and satisfactory letter of reference from a licensed well driller with at least two years' licensed experience in water well drilling, or other references satisfactory to the board;

(3) satisfactory letters of reference from:

(A) the applicant's banker; and

(B) two satisfied well drilling customers who are not related within the second degree of consanguinity to the applicant;

(4) the applicant's sworn statement that he or she has been a resident of Texas for 90 consecutive days immediately prior to making his or her application, or a request for waiver of this requirement containing a statement that the applicant is licensed in another state which has similar licensing requirements;

(5) the applicant's sworn statement that he or she has drilled wells under the supervision of a driller licensed under the Texas Water Well Drillers Act for two years or that he or she has other comparable well drilling experience; and

(6) The applicant's acknowledgment that he has read the board's standards of conduct.

(c) The application must be received by the commission 28 days prior to the board meeting at which it is considered. The commission will issue written notice sent to the applicant by certified mail within five working days after receipt of the application informing the applicant that the application is administratively complete and accepted for filing, or that the application is deficient in specific areas. If the application is insufficient the applicant shall be notified by certified mail that he has 30 days to submit the additional information. If the additional information is received within 30 days of receipt of the deficiency notice, the staff will evaluate the information within five working days and where applicable, shall prepare a statement of receipt of the application and declaration of administrative completeness in accordance with §281.17 of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness). If the required information is not forthcoming from the applicant within 30 days of the date of receipt of the deficiency notice, the staff shall return the incomplete application to the applicant. If the applicant disagrees that the application is deficient or when notice was not issued within five working days, the applicant may file a direct appeal to the board by filing a request with the chief clerk of the board for board consideration at the next regularly scheduled board meeting. The request for board consideration must be filed with the commission 10 days prior to the board meeting being requested. The filing fee shall be reimbursed to any applicant that written notice was not issued to within the five working days and/or when the board rules the application was not deficient.

(d) An application shall be null and void, and the examination fee shall be forfeited, if the applicant fails to take the examination within 90 days after the board certifies the application.

§287.95. Notification to Applicants.

(a) Upon receipt of a complete application, the examination fee required by the board, and the required letters of reference, the executive director shall inform the applicant of the date, time, and place of the board meeting at which his or her application will be evaluated for certification. The executive director will issue written notice by certified mail within five working days of receipt of the application informing the applicant that the application is administratively complete and accepted for filing, or that the application is deficient in specific areas.

(b) The executive director shall notify by certified mail each applicant as to the disposition of his or her application after the board's decision and shall advise the applicant of the dates, times, and places of the examinations for which he or she is eligible. The executive director shall mail by certified mail this notification within 10 working days after the board's decision. If the executive director fails to mail by certified mail this notification within 10 working days after the board's decision, the examination fee shall be reimbursed and returned with the notification.

§287.96. Administration of Examination.

(a) The commission shall offer and proctor the examination once a month at a time and place designated by the executive director.

(1) The examination shall be offered more frequently if more than 10 persons petition the board in writing, or if the board should so provide.

(2) The board will immediately notify the executive director of the applicants eligible to take the examination.

(3) Not less than 30 days prior to a scheduled examination, an applicant may petition the board, in writing, to request that an oral examination be administered to him or her.

(b) The executive director shall notify by certified mail any applicant who fails or passes an examination within 30 days of the administration of the examination. If the notification is not mailed within 30 days, the examination fee shall be returned along with the notification.

(c) An applicant may take the examination only twice within any 12-month period.

(d) At any time within six months of the date he or she is notified of the results of an examination, an applicant may inspect his or her examination paper in the commission's offices during normal business hours for the purpose of challenging the propriety of the questions, the method of grading, and the accuracy of grading.

(e) If requested in writing by a person who fails the examination, the commission shall furnish the person with an analysis of the person's performance.

§287.97. Licenses.

(a) After an application meets the requirements prescribed by the rules of the board, passes the required examination, and submits the license fee required by the board, the executive director shall issue a license to the applicant. The license shall be issued within 30 days after the license fee of \$115 is submitted. If the executive director does not mail the license within 30 days after submission of the license fee, the license fee shall be returned along with the license.

(b) The license shall not be transferable or assignable and will be issued one time only.

(c) The executive director shall also issue a small (billfold size) card indicating the expiration date of the license. The card shall be issued within 30 days after the license fee is submitted.

(d) A duplicate license to replace a lost or destroyed license shall be issued by the commission upon proper application and payment of the fee required by the board. The duplicate license shall be issued within 30 days after the proper application and fee have been received.

§287.98. Renewal of Licenses.

(a) All licenses will expire on August 31 of each year.

(b) The commission shall notify by certified mail each licensee in writing of the licensee's impending license expiration at least 30 days before the expiration. If the commission fails to mail notice of the impending license expiration at least 30 days before said expiration, the required license renewal fee is waived.

(c) The executive director shall furnish application forms for renewal.

(d) A completed application for renewal shall be submitted to the executive director on or before August 31 of each year.

(1) The application must be accompanied by the renewal fee prescribed by the board.

(2) The renewal fee shall be payable to the commission.

(e) Upon receipt of a properly completed renewal form and the renewal fee, the executive director shall renew the license and issue a small (billfold size) card indicating the expiration date of the license. The card shall be mailed within 30 days after receipt of the properly completed renewal form and renewal fee.

§287.99. Disposition of Revenues.

(a) The state auditor shall audit the financial transactions of the board and commission in connection with the administration of the Water Well Drillers Act during each fiscal biennium.

(b) All money collected by the commission under the provisions of the Water Well Drillers Act shall be deposited in the state treasury to the credit of a special fund to be known as the water well drillers fund and may be used only to administer this Act.

(c) On or before January 1 of each year, the commission shall submit in writing to the governor and the presiding officer of each house of the legislature a complete and detailed report accounting for funds received and disbursed under the Water Well Drillers Act by the commission and the board during the preceding year.

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 September 17, 1990.

TRD-9009471

Jim Haley
Director, Legal Division
Texas Water Commission

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Proposal publication date: March 23, 1990

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

Chapter 305. Consolidated Permits

The Texas Water Commission adopts new §§305.3 and 305.129, 305.531-305.538, 305.541 and amendments to §§305.1, 305.2, 305.21-305.23, 305.43, 305.44, 305.46, 305.48, 305.50, 305.62, 305.63, 305.96, 305.100-305.101, 305.106, 305.121-305.122, 305.125, 305.127-305.129. Sections 305.48, 305.106, 305.122, 305.126, 305.534-305.536, and 305.538 are adopted with changes to the proposed text published in the July 24, 1990, issue of the *Texas Register* (15 TexReg 4191). Sections 305.1-305.3, 305.21-305.23, 305.43, 305.44, 305.46, 305.50, 305.62, 305.63, 305.96, 305.100, 305.101, 305.121, 305.125, 305.127-305.129, 305.531-305.533, and 305.537, are adopted without changes. These sections concern the requirements for water quality permits, including applications, permit conditions, schedules of compliance, monitoring requirements, permit modification, public notice, public comment, and requests for hearings. The new and amended sections incorporate rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the federal Clean Water Act (CWA), concerning EPA administered permit programs (National Pollutant Discharge Elimination System—"NPDES").

Upon adoption of these regulations, the Texas Water Commission will seek EPA au-

thorization to administer the Texas Program in lieu of the federal NPDES Program, pursuant to CWA, §402(b).

Amendments to Subchapter A describe the scope of the Texas Pollutant Discharge Elimination System (TPDES) Program, define certain point sources requiring TPDES permits for discharges, and define other terms used in TPDES-related rules.

Amendments to Subchapter B define the circumstances where emergency and temporary orders are available, and state that such orders are not available to unpermitted facilities subject to TPDES nor in the case of severe economic loss caused by delays in production.

Amendments to Subchapter C provide new requirements for signatories to applications and designation of material as confidential, and require additional contents of applications for TPDES permits. Such additional contents include information required for manufacturing, commercial, mining, and silvicultural facilities, and concentrated animal feeding operations and aquatic animal production facilities.

Amendments to Subchapter D provide a new definition for TPDES permit minor amendment. New requirements for permit renewal application submissions are described.

Amendments to Subchapter E add provisions for action on applications for TPDES permit amendments and TPDES permit minor amendments. A person asserting standing in an action on a TPDES permit amendment that would constitute a minor amendment to a non-TPDES permit shall appear before the commission to demonstrate a justiciable interest to the commissioners. The commissioners shall then determine whether a justiciable interest exists and whether a hearing should be conducted concerning the amendment. New notice requirements are created for requests for discharges with a thermal component. Specific regulations for response to comments on all commission permits are described. Additional information required for notice of permit hearings is described.

Amendments to Subchapter F concern applicability, characteristics of permits, standard permit conditions, and conditions to be determined for individual permits. Amendments to Subchapter F specifically reference applicability to domestic wastewater treatment plant sludges. The amendments provide additional characteristics and conditions of water quality permits. Such characteristics and conditions include the effect of compliance with a TPDES permit, specification of a term for TPDES permits, and incorporation of federal regulations regarding reporting requirements. Criteria for signatories to reports required by permits are changed. Variance procedures are adopted, including variance requests by Publicly Owned Treatment Works (POTWs) and nonpublicly owned treatment works, decision-making procedures, and requests for expedited processing or time extensions.

New Subchapter O includes other additional conditions for TPDES permits. Specifically affected are certain manufacturing, commercial, mining, and silvicultural dischargers, and POTWs. Other conditions relate to assuring compliance with all applicable requirements of the CWA and federal regulations. Criteria

ected are certain manufacturing, commercial, mining, and silvicultural dischargers, and POTWs. Other conditions relate to assuring compliance with all applicable requirements of the CWA and federal regulations. Criteria are included for technology-based effluent limitations and standards, other effluent limitations and standards, recopener clauses, water quality standards and state requirements, toxic pollutants, notification levels, 24-hour reporting, durations for permits, monitoring requirements, pretreatment programs for POTWs, best management practices, reissued permits, privately owned treatment works, grants, sewage sludge, Coast Guard, and navigation. Additional regulations relate to outfalls and discharge points, production-based limitations, metals, continuous discharges, noncontinuous discharges, mass limitations, pollutants in intake water, internal waste streams, and disposal of pollutants into wells, into POTWs, or by land application. This subchapter also provides protocol for handling conditions requested by the Corps of Engineers and other government agencies. Various appendices contained in 40 Code of Federal Regulations, Part 122 are adopted by reference. Criteria for new sources and new dischargers are discussed, as well as the effect of compliance with new source performance standards. Finally, provision is made for adoption of EPA-issued permits and pretreatment programs.

New Subchapter P adopts, by reference from the Code of Federal Regulations, effluent guidelines and standards for TPDES permits.

Comments were received from Baker and Botts, Brown Maroney and Oaks Hartline, Lloyd, Gosselink, Ryan, and Fowler, Star Enterprise, Texas Utilities Services Incorporated, and the EPA. Most commenters stated that the rules were generally well conceived and drafted. Several suggestions for changes were received by the commission as follows.

One commenter requested that the commission provide additional guidance on when permit renewal applications will be due because state permits and NPDES permits expire on different dates. The commenter suggested a general rule for permit primacy for permittees with both types of permits or a phase-in period, but with the option for a case by case review at the permittee's request.

The commission will communicate to permittees the applicable renewal applications dates for their permits. Upon authorization of the TPDES Program, the commission will send a mass mailing to all permittees who have both state and NPDES permits. The information will include a general description of which renewal deadlines (federal or state) will apply to various categories of permits, and will state that permittees will also be notified individually by letter when specific renewal applications are due.

One commenter stated that the definition of "wetlands" proposed in §305.2 is not consistent with the definitions in the CWA and the proposed Texas Water Quality Standards. The commission responds that the definition of wetlands is taken verbatim from 40 Code of Federal Regulations (CFR), §122.2, a regulation authorized by the CWA. The definition of wetlands is very similar to and unquestionably synonymous with the definition in the proposed Texas Water Quality Standards.

Two commenters noted that §§305.21-305.23 do not allow the commission to issue a temporary or emergency order to an unpermitted facility which has a pending TPDES permit application filed with the commission, even if such an order would allow the commencement of site remediation prior to permit issuance. The commenters stated that in such situations temporary and emergency orders should be permitted or, in the alternative, that administrative orders, such as those issued by the EPA, should be available. The commission points out that temporary and emergency orders are affirmative authorizations to discharge, whereas administrative orders issued by the EPA in such circumstances expressly reserve the right to initiate enforcement relating to the discharge. Nevertheless, the Texas Water Code, §26.019, authorizes the commission to issue orders necessary to effectuate the purposes of Chapter 26, and such orders include the type of "administrative orders" issued by the EPA in some circumstances that would heretofore have been addressed by temporary and emergency orders.

One commenter stated that the requirement of §305.43 that all TPDES permit applications must be submitted by the operator and the owner places a burden on the owner, and is inconsistent with NPDES and commission solid and hazardous waste regulations requiring an operator to apply for a permit. The commenter concluded that there is no valid justification for drawing a distinction between applicants for water discharge permits and other permits.

Commission rules have heretofore required that the owner of a wastewater treatment facility apply for a permit. Unlike major NPDES and solid and hazardous waste facilities, many small wastewater treatment plants do not have a long-term contract with an operator. Furthermore, a plant owner is the party with the legal authority to authorize entry (for inspections) and empowered to make improvements to assure permit compliance. Although it is the commission's position that these are sufficient justifications to require an owner to apply for a permit, the commission must satisfy the EPA's equivalency requirement. Requiring both a plant owner and operator to apply for a permit assures enforceability of commission regulations against plant owners, and at the same time incorporates the EPA requirement of operator as permittee.

One commenter pointed out the need to substitute the acronym TPDES for TAPES in §305.43. The commission agrees and has made this change.

One commenter inquired as to why §305.48(b)(2), when it adopted by reference 40 CFR §122.21, excepted subsection (h)(4)(iii) from its adoption. Section 122.21(h)(4)(iii) describes information to be included in a permit application. The commission responds that the information described in this subsection (h)(4)(iii) is not required to be included in the application for up to two years after the facility begins operation. The CFR procedure essentially allows a permit application to be completed retroactively. The commission has included this requirement for data submission as a permit condition, rather than an application requirement, which will result in improved enforceability.

Two commenters commended the commission for its proposed adoption of minor amendments to permits for the same situations as those provided in the NPDES Program (§305.62). Both commenters, however, believed that the rule that the commission conduct a public hearing on a petition for a TPDES minor amendment (§305.96) negated the procedural and administrative benefits of a minor amendment system, especially because the category of TPDES minor amendments is even more restrictive than other minor permit amendments.

The commission agrees that an application for a TPDES minor amendment should not be subject to more stringent procedural requirements than an application for a non-TPDES minor amendment. Furthermore, as proposed, TPDES minor amendments are subject to the same procedural requirements as other permit amendments. The commission intends to propose a new rule which would require similar procedures for TPDES and non-TPDES minor amendments, and which would distinguish the procedures for TPDES permit amendments and TPDES permit minor amendments. Such a rule will be proposed when Texas receives authorization for the TPDES Program.

One commenter noted that §305.106 refers specifically to responses to comments only with regard to the 45-day comment period, although the section was proposed to apply to all permits issued pursuant to Chapter 305. Some such permits have 30-day comment periods. The commission has, therefore, included a reference to the 30-day comment period, "as applicable."

One commenter suggested that §305.122(c) be made applicable to standards for sewage sludge use or disposal under CWA, §405(d), consistent with the language of 40 CFR, §122.5(a). Because Chapter 305 has already been proposed to be applicable to sewage sludge management, the commission agrees and has incorporated such language. The commenter also suggested that 40 CFR, §122.41(a) be incorporated into §305.125(1). The commission responds that this subsection has already been incorporated by reference into §305.531.

One commenter suggested that §305.125(9)(B) be amended to include a 24-hour reporting requirement for maintenance bypasses which do not cause violations of effluent limitations and for all anticipated bypasses. Anticipated bypasses already require prior approval pursuant to Chapter 305, Subchapter B. The 24-hour reporting requirement for maintenance bypasses is not included in the requirements for state administration of the NPDES Program listed in 40 CFR, §123.25; however, after implementation of the TPDES Program, the commission plans to consider incorporating this requirement into Chapter 305.

One commenter stated that §305.125(20), which describes administrative, civil, and criminal penalties authorized by state and federal statute, should be deleted. According to the commenter such penalties, authorized by statute, may not be varied by permit conditions, and therefore are not appropriate for inclusion in individual permits. The commission agrees with this comment; however, in order for the TPDES Program to be authorized, the EPA has required that this lan-

be modified to include the upset defense defined in 40 CFR, §122.41(n). The commenter believed that the commission is legally required to include formal upset provisions in the permit pursuant to the United States Ninth Circuit Court of Appeal's decision in *Marathon Oil Company, et al. v. Environmental Protection Agency*, 564 F.2d 1253 (9th Cir. 1977). The commenter similarly believed §315.1 should be modified to include an upset provision in the context of pretreatment regulations in 40 CFR, §403.16.

The commission responds that the *Marathon Oil* case addressed the EPA's contention that permit excursions could be informally handled without formal provisions for such circumstances. The Ninth Circuit reasoned that, without formal provisions, there would be no guarantee that the EPA would exercise its discretion, nor would a court have authority to dismiss a complaint on the grounds that the permit holder could not have avoided the violation. Those problems are not present with these rules and the Texas Water Code. The Texas Water Code, §26.132 creates an Act of God defense for circumstances beyond the control of a permittee. No such federal law existed for the *Marathon Oil* case. Furthermore, the force majeure provisions of §337.6 of the commission rules, which are the commission's official interpretation of the §26.132 Act of God defense, expressly recognize the possibility of unavoidable permit noncompliance. Finally, the procedures and showings required by §337.6 are very similar to those described in 40 CFR, §122.41(n), the EPA's formal upset regulation.

The same commenter also stated that the force majeure provisions in §337.6 should be included in permits to avoid the possibility that such a defense would be available only for administrative enforcement actions by the commission, and not in judicial enforcement actions brought by the state or others in connection with permits. The commission responds that to the extent that such relief is afforded for state administrative actions, it is also available in judicial actions and a specific statement to that effect in the rules is unnecessary.

Two commenters believed that compliance schedules, authorized by commission rules (§305.127(3)(A)), are at the same time precluded by the statement that compliance schedules shall require compliance not later than the applicable statutory deadline of July 1, 1977. Both commenters suggested that the preliminary draft of the revised Texas Water Quality Standards (§307.2(f)) would allow the commission to include compliance schedules. One commenter suggested that if the statutory deadline language is retained, the commission should acknowledge that administrative orders would be issued authorizing compliance schedules when appropriate.

The commission agrees that the statutory deadline referenced in §305.127(3)(A), and based on language in 40 CFR, §122.47(a)(1), is inconsistent with the draft of §307.2(f). The commission also notes the EPA's historical practice of allowing compliance schedules inconsistent with the January 1, 1977, deadline in 40 CFR, §122.47. Furthermore, the EPA Office of General Counsel has filed materials supporting a stay of the EPA administrator's recent decision that permits could no longer

allow compliance schedules extending beyond July 1, 1977, arguing that denial of the stay would disrupt state permitting programs. The commission intends to amend §305.127(3)(A) to allow compliance schedules as authorized in the water quality standards. Such a rule will be proposed when Texas receives authorization for the TPDES Program.

One commenter stated that §305.128(a) does not appear to require permit applications submitted for Group II stormwater discharges to be signed by a person described in 40 CFR, §122.22(a). The commission responds that for those applications described in 40 CFR, §122.22(b), §305.128(a) includes exactly the same signatory requirements as those in 40 CFR, §122.22(a). For those applications described in 40 CFR, §122.26(b)(3) the Texas Water Commission does not have jurisdiction, which is instead vested in the Texas Railroad Commission. Such permits will not be part of the TPDES Program.

One commenter mentioned that the terms "source," "existing source," "site," and "facilities or equipment," as defined in 40 CFR, §122.29, are not defined in §305.2, which is referenced by §305.534 as including definitions equivalent to 40 CFR, §122.2 and §122.29. The commenter suggested that the definitions be added. The commission agrees that the terms "source," "existing source," and "facilities or equipment" should be included in §305.534 and has revised that section accordingly. The commission disagrees that "site" is not defined in §305.2; the definition of "site" in §305.2 is identical to the definition in 40 CFR, §122.29.

One commenter believed that §305.534(a)(3) and §305.535 erroneously cited certain subsections, subparagraphs, etc. The commission responds that the official *Texas Register* publication of the rules correctly referenced the subsections, subparagraphs, etc. One commenter noted that §305.22 and §305.23 allow anticipated bypasses in circumstances related to "severe economic loss (other than economic loss caused by delays in production)," whereas the affirmative defense for unanticipated bypasses set forth in §305.535 does not include the "(other than economic loss...)" qualifier. The commenter stated that although the two provisions can be interpreted *in pari materia*, potential confusion could be avoided by tracking the anticipated bypasses language precisely. The commission agrees. The two provisions are intended to be coordinated and the same standards are applicable. Section 305.535 has been modified accordingly.

One commenter pointed out the distinction in the definition of "severe property damage" in §305.2 and §305.535 and the definition of "severe property damage" in 40 CFR, §122.41. The commission rules define severe property damage in terms of a loss of resources which could occur in the absence of a discharge whereas the federal regulations refer to a loss which could occur in the absence of a bypass. The commenter suggested "bypass" be used in commission regulations. The commission responds that the statutory basis in the Texas Water Code for these provisions speaks in terms of a discharge, not a bypass. It is also clear that the state and federal regulations are intended to address the same types of situations. FI-

nally, use of the word "discharge" is more stringent than "bypass" because it allows regulation of and enforcement against discharges that do not fit under the narrower term "bypass."

One commenter pointed out a typographical error in §305.535(b). Subsection (b)(2) referred to three conditions in paragraph (1), although there are not three conditions listed in paragraph (1). This paragraph was an inadvertent duplication of §305.535(c)(2). The commission has included the language originally intended to be in subsection (b)(2), a statement of notice requirements for unanticipated bypasses, which is a reiteration of the requirements of §305.125(9).

One commenter pointed out a reference to §305.536(c)(i) contained in §305.536(c)(2), and requested that the text of subsection (c)(i) be published. The reference to subsection (c)(i) is erroneous and the adopted rules correctly refer to §305.536(c)(1).

Proposed §305.538 states that no permit may be issued under the conditions described in 40 CFR, §122.4. One commenter suggested that, because §122.4 discusses two situations which are not prohibited, possible ambiguity could be avoided by substituting the word "prohibited" for the word "described" and by adding the phrase "as conditions under which permits may not be issued" to the first sentence of §305.538. The commission believes that substituting the word "prohibited" for the word "described" will adequately resolve any ambiguity without the addition of the suggested phrase, and has adopted such revision accordingly.

Subchapter A. General Provisions

• 31 TAC §§305.1-305.3

The amendments and new section are adopted under the Texas Water Code, §5.102 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to protect water quality in the state.

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

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TRD-9009473 Jlm Haley
Director, Legal Division
Texas Water Commission

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

Subchapter B. Emergency Orders, Temporary Orders, and Executive Director Authorization

• 31 TAC §§305.21-305.23

The amendments are adopted under the Texas Water Code, §5.103 and §5. 105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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Subchapter C. Application for Permit

• 31 TAC §§305.43, 305.44, 305.46, 35.48, 305.50.

The amendments are adopted under the Texas Water Code, §5.103 and §5. 105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§305.48. Additional Contents of Applications for Wastewater Discharge Permits.

(a) The following shall be included in an application for a wastewater discharge permit.

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

(3) The applicant shall submit any other information reasonably required by the executive director to ascertain whether the facility will be constructed and operated in compliance with all pertinent state and federal statutes, including but not limited to the following:

(A) the operator's name, address, and telephone number;

(B) whether the facility is located on Indian lands;

(C) up to four standard industrial codes (SIC) which best reflect the principal products or services provided by the facility.

(b) The following regulations contained in 40 Code of Federal Regulations, Part 122, which are in effect as of the date of TPDES Program authorization, as amended, are adopted by reference:

(1) Subpart B-Permit Applications and Special NPDES Program Requirements, §122.21(g), providing application requirements for existing manufacturing, commercial, mining, and silvicultural dischargers;

(2) Subpart B-Permit Applications and Special NPDES Program Requirements, §122.21(h), providing application requirements for manufacturing, commercial, mining, and silvicultural facilities which discharge only non-process wastewater, except 40 Code of Federal Regulations, §122.21(h)(4) (iii), the requirements of which are addressed in §305.126(e) of this title (relating to Additional Standards Permit Conditions for Waste Discharge Permits);

(3) Subpart B-Permit Applications and Special NPDES Program Requirements, §122.21(i), providing application requirements for new and existing concentrated animal feeding operations and aquatic animal production facilities.

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

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Subchapter D. Amendments, Renewals, Transfers, Corrections, Revocations, and Suspension of Permits

• 31 TAC §§305.62, §305.63

The amendments are adopted under the Texas Water Code, §5.103 and §5. 105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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Subchapter E. Actions, Notice, and Hearing

• 31 §§305.96, 305.100, 305.101, 305.106

The amendments are adopted under the Texas Water Code, §5.103 and §5. 105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§305.106. *Response to Comments.* This section is adopted for the purposes of conforming commission procedures to 40 Code of Federal Regulations, §124.17. The commission, through the executive director of the office of hearings examiners, shall prepare and make available to the public a brief description and response to all significant comments on the draft permit which are filed with the commission during the 30 or 45 day comment period, as applicable, in accordance with the provisions of §305.93 of this title (relating to Action on Application for Permit), or which are made during the public comment session of a hearing held pursuant to §305.105 of this title (relating to Request for Public Hearing) and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. The response to comments and the reason for the change. If a hearing is held and a hearings examiner's proposal for decision is issued, the response to comments may be incorporated into the proposal for decision.

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

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Subchapter F. Consolidated Permits

• 31 TAC §§305.121, 305.122, 305.125-305.129

The amendments and new section are adopted under the Texas Water Code, §5. 103 and §5.105, which provides the Texas

Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§305.122. Characteristics of Permits.

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

(c) Except for any toxic effluent standards and prohibitions imposed under the Clean Water Act (CWA), §307, and standards for sewage sludge use or disposal under CWA, §405(d), compliance with a Texas pollutant discharge elimination system (TPDES) permit during its term constitutes compliance, for purposes of enforcement, with the CWA, §§301, 302, 306, 307, 318, 403, and 405; however, a TPDES permit may be amended or revoked during its term for cause as set forth in §305.62 and §305.66 of this title (relating to Amendment; and Action and Notice on Petition for Revocation or Suspension).

§305.126. Additional Standard Permit Conditions for Waste Discharge Permits.

(a) Whenever flow measurements for any sewage treatment plant facility in the state reaches 75% of the permitted average daily flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities. Whenever the average daily flow reaches 90% of the permitted average daily flow for three consecutive months, the permittee shall obtain necessary authorization from the commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a wastewater treatment facility which reaches 75% of the permitted average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee will submit an engineering report supporting this claim to the executive director. If in the judgment of the executive director the population to be served will not cause permit noncompliance, then the requirements of this section may be waived. To be effective, any waiver must be in writing and signed by the director of the Water Quality Division of the commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

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

(d) The permittee shall give notice to the executive director as soon as possible of any planned physical alterations or additions to the permitted facility. In addition to the requirements of §305.125(7) of this title (relating to Standard Permit Conditions),

notice shall also be required under this subsection when:

(1) the alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in §305.534 of this title (relating to New Sources and New Dischargers); or

(2) the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 Code of Federal Regulations, (CFR) §122.42(a)(1) as adopted by §305.531(a) of this title (relating to Establishing and Calculating Additional Conditions and Limitations for TPDES Permits);

(3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

(e) If the permittee is a new discharger, it must provide quantitative data described in 40 CFR, §122.21(h)(4)(i) and (ii) no later than two years after commencement of discharge; however, the permittee need not conduct tests which the permittee has already performed and reported under the discharge monitoring requirements of its TPDES permit.

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

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◆ ◆ ◆
Subchapter O. Additional Conditions and Procedures for Wastewater Discharge Permits and Sewage Sludge Permits

• **31 TAC §§305.531-305.538**

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

State of Texas, and to establish and approve all general policy of the commission.

§305.534. New Sources and New Dischargers.

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

(1) Existing source—Any source which is not a new source or a new discharger.

(2) Facilities or equipment—Buildings structures, process or production equipment, or machinery which form a permanent part of the new source and which will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. These terms exclude facilities or equipment used in connection with feasibility, engineering, and design studies regarding the source or water pollution treatment for the source.

(3) New source, new discharger, and site—See §305.2 of this title (relating to Definitions).

(4) Source—Any building, structure, facility, or installation from which there is or may be a discharge of pollutants.

(b) Criteria for new source determination.

(1) Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition of new source in §305.2 of this title (relating to Definitions) and:

(A) it is constructed at a site at which no other source is located; or

(B) it totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the director shall consider such factors as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source.

(2) A source meeting the requirements of paragraph (1) of this subsection is a new source only if a new source performance standard is independently applicable to it. If there is no such independently applicable standard, the source is a new discharger.

(3) Construction on a site at which an existing source is located results in an amendment subject to §305.62 of this title (relating to Amendments) rather than a new source (or a new discharger) if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraph (1)(B) or (C) of this subsection but otherwise alters, replaces, or adds to existing process or production equipment.

(4) Construction of a new source as defined under §305.2 of this title (relating to Definitions) has commenced if the owner or operator has:

(A) begun, or caused to begin as part of a continuous on-site construction program:

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation with a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering, and design studies do not constitute a contractual obligation under this paragraph.

(c) Effect of compliance with new source performance standards. The provisions of this paragraph do not apply to existing sources which modify their pollution control facilities or construct new pollution control facilities and achieve performance standards, but which are neither new sources or new dischargers or otherwise do not meet the requirements of this paragraph.

(1) Except as provided in paragraph (2) of this subsection, any new discharger, the construction of which commenced after October 18, 1972, or new source which meets the applicable promulgated new source performance standards before the commencement of discharge, may not be subject to any more stringent new source performance standards or to any more stringent technology-based standards under, the Clean Water Act (CWA), §301(b)(2), for the soonest ending of the following periods:

(A) 10 years from the date that construction is completed;

(B) 10 years from the date

the source begins to discharge process or other nonconstruction related wastewater; or

(C) the period of depreciation or amortization of the facility for the purposes of the Internal Revenue Code of 1954, §167 or §169 (or both).

(2) The protection from more stringent standards of performance afforded by paragraph (1) of this subsection does not apply to:

(A) additional or more stringent permit conditions which are not technology-based; for example, conditions based on water quality standards, or toxic effluent standards or prohibitions under CWA, §307(a); or

(B) additional permit conditions in accordance with 40 Code of Federal Regulation (CFR), §125.3, adopted by §308.1 of this title (relating to Criteria and Standard for Imposing Technology-Based Treatment Requirements) controlling toxic pollutants or hazardous substances which are not controlled by new source performance standards. This includes permit conditions controlling pollutants other than those identified as toxic pollutants or hazardous substances when control of these pollutants has been specifically identified as the method to control the toxic pollutants or hazardous substances.

(3) When a Texas pollutant discharge elimination system (TPDES) permit issued to a source with a protection period under paragraph (1) of this subsection will expire on or after the expiration of the protection period, that permit shall require the owner or operator of the source to comply with the requirements of CWA, §301, and any other then applicable requirements of CWA immediately upon the expiration of the protection period. No additional period for achieving compliance with these requirements may be allowed except when necessary to achieve compliance with requirements promulgated less than three years before the expiration of the protection period.

(4) The owner or operator of a new source, a new discharger which commenced after August 13, 1979, or a recommencing discharger shall install and have in operating condition, and shall start up all pollution control equipment required to meet the conditions of its permits before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), the owner or operator must meet all permit conditions. The requirements of this paragraph do not apply if the owner or operator is issued a permit containing a compliance schedule under 40 CFR, §122.47(a)(2).

(5) After the effective date of new source performance standards, it shall

be unlawful for any owner or operator of any new source to operate the source in violation of those standards applicable to the source.

§305.535. Bypasses from TPDES Permitted Facilities.

(a) Authorized bypass. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (b) and (c) of this section.

(b) Notice.

(1) Anticipated bypass. In accordance with the procedures described in §305.21 and §305.23 of this title (relating to Emergency Orders, Temporary Orders; and Executive Director Authorizations) if the permittee knows in advance of the need for a bypass, it shall submit prior notice.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in §305.125(9) of this title (relating to Standards Permit Conditions (24-hour notice)).

(c) Prohibition of bypass.

(1) bypass is prohibited, and the commission may take enforcement action against the permittee for bypass, unless:

(A) bypass was unavoidable to prevent loss of life, personal injury, severe property damage, severe economic loss (except economic loss due to delays in production), or to make necessary and unforeseen repairs to a facility;

(B) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) the permittee submitted notices as required under subsection (b) of this section.

(2) The commission may approve an anticipated bypass in accordance with the procedures described in §305.21 and §305.23 of this title (relating to Emergency Orders, Temporary Orders; and Executive Director Authorizations) after considering its adverse effects, if the executive director determines that it will meet the three conditions listed in paragraph (1) of this subsection.

§305.536. *Requirements for Applications and Permits with Sludge Related Conditions.*

(a) Additional contents of applications. In addition to all other requirements for information described in §305.48 of this title (relating to Additional Contents of Applications for Wastewater Discharge Permits), all treatment works treating domestic sewage shall submit to the executive director within the time frames established in subsection (c) of this section the information described in 40 Code of Federal Regulations (CFR), §301.15(a)(2)(viii)-(xii), as amended.

(b) Time frames for applications.

(1) Any publicly owned treatment works (POTW) with a currently effective Texas pollutant discharge elimination system (TPDES) permit shall submit the application information required by subsection (b) of this section when its next application for TPDES permit renewal is due or within 120 days after promulgation of a standard for sewage sludge use or disposal applicable to POTWs' sludge use or disposal practices, whichever occurs first.

(2) Any other existing treatment works treating domestic sewage not covered under subsection (c)(1) of this section shall submit an application to the executive director within 120 days after promulgation of a standard for sewage sludge use or disposal applicable to its sludge use or disposal practices or upon request of the executive director prior to the promulgation of an applicable standard for sewage sludge use or disposal if the executive director determines that a permit is necessary to protect public health and the environment from any adverse effect that may occur from toxic pollutants in sewage sludge.

(3) Any treatment works treating domestic sewage that commences operations after promulgation of an applicable standard for sewage sludge use or disposal shall submit an application to the executive director at least 180 days prior to the date proposed for commencing operations.

(c) Fact sheets. A fact sheet shall be prepared for every draft permit described in 40 CFR, §501.15(d)(4), as amended. The executive director shall send this fact sheet to the applicant and, on request, to any other person. The fact sheet shall include the information required by 40 CFR, §501.15(d)(4) as amended.

§305.538. *Prohibitions for TPDES Permits.* No permit may be issued under the conditions prohibited in 40 Code of Federal Regulations, §122.4, as amended.

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

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◆ ◆ ◆
Subchapter P. Effluent Guidelines and Standards for TPDES Permits

◆ ◆ ◆
• 31 TAC §305.541

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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Jim Haley
Director, Legal Division
Texas Water Commission

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

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Chapter 308. Criteria and Standards for the National Pollutant Discharge Elimination System

The Texas Water Commission adopts new §§308.1, 308.21, 308.31, 308.41, 308.71, 308.81, 308.101, 308.121, and 308.141, without changes to the proposed text as published in the July 27, 1990, issue of the *Texas Register* (15 TexReg 4293).

The new sections concern criteria and standards for the national pollutant discharge elimination system (NPDES). The new sections adopt by reference rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the federal Clean Water Act (CWA), concerning such NPDES criteria and standards.

New §308.1 provides criteria and standards for imposing technology-based treatment requirements under the CWA, §301(b) and §402. This section describes the purpose and scope of such criteria and standards, defines terms, and sets out technology-based treatment requirements in permits.

New §308.21 provides criteria for issuance of permits to aquaculture projects, and describes the purpose and scope of such criteria.

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New §308.31 provides criteria for extending compliance dates for facilities installing innovative technology under the CWA, §301(k). This section describes the purpose and scope of such criteria, refers to statutory authority, defines terms, regulates requests for and procedures related to compliance extensions and signatories to such requests, establishes certain permit conditions, and requires supplementary information and recordkeeping.

New §308.41 provides criteria and standards for determining fundamentally different factors under the CWA, §301(b)(1)(A) and §301(b)(A) and (E). This section defines terms and the method of application.

New §308.71 provides criteria for modifying the secondary treatment requirements under the CWA, §301(h). This section describes the scope and purpose of such criteria, quotes the sections of the CWA governing issuance of a §301(h) modified permit, defines terms, includes general regulations related to the criteria, requires the existence of and compliance with applicable water quality standards, requires the attainment or maintenance of certain water quality, requires the establishment of a monitoring program, regulates the effect of discharge on other point and nonpoint sources, defines a required toxics control program, regulates increases in effluent volume or the amount of pollutants discharged, provides special conditions for §301(h) modified permits, and contains appendices.

New §308.81 provides criteria for determining alternative effluent limitations under the CWA, §316(a). This section describes the purpose and scope of such criteria, defines terms, requires early screening of applications for §316(a) variances, and describes criteria and standards for the determination of alternative effluent limitations under §316(a).

New §308.101 provides criteria for extending compliance dates under the CWA, §301(i). This section describes the purpose and scope of such criteria, defines terms, regulates requests for and provides criteria for permit modification and issuance under the CWA, §301(i)(1) and (2), and requires certain permit terms and conditions under the CWA, §301(i)(1) and (2).

New §308.121 provides criteria and standards for best management practices (BMP) authorized under the CWA, §304(e). This section describes the purpose and scope of such criteria, defines terms, discusses applicability of BMP's, discusses permit terms and conditions, and otherwise regulates BMP programs.

New §308.141 provides ocean discharge criteria. This section describes the purpose and scope of such criteria, defines terms, requires and regulates a determination of unreasonable degradation of the marine environment, discusses permit requirements, and requires certain information to be submitted by the applicant.

Subchapter A. Criteria and Standards for Imposing Technology-based

Treatment Requirements

• 31 TAC §308.1

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009481 Jim Haley
Director, Legal Division
Texas Water Commission

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

Subchapter B. Criteria for Issuance of Permits to Aquaculture Projects

• 31 TAC §308.21

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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Texas Water Commission

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Subchapter C. Criteria and Extending Compliance Dates for Facilities

Installing Innovative Technology Under the Clean Water Act, §301(k)

• 31 TAC §308.31

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the

authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009483 Jim Haley
Director, Legal Division
Texas Water Commission

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

Subchapter D. Criteria and Standards for Determining Fundamentally Different Factors Under the Clean Water Act, §301(b)(1)(A), (B)(2)(A), and (E)

• 31 TAC §308.41

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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Director, Legal Division
Texas Water Commission

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

Subchapter G. Criteria for Modifying the Secondary Treatment

• 31 TAC §308.71

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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 September 17, 1990.

TRD-9009485

Jim Haley
Director, Legal Division
Texas Water Commission

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

Subchapter H. Criteria for Determining Alternative Effluent Limitations Under the Clean Water Act, §316(a)

• 31 TAC §308.81

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009486 Jim Haley
Director, Legal Division
Texas Water Commission

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

Subchapter J. Criteria for Extending Compliance Dates Under the Clean Water Act, §301(i)

• 31 TAC §308.101

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009487 Jim Haley
Director, Legal Division
Texas Water Commission

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

Subchapter K. Criteria and Standards for Best Management Practices Authorized Under the Clean Water Act, §304(e)

• 31 TAC §308.121

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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 September 17, 1990.

TRD-9009488 Jim Haley
Director, Legal Division
Texas Water Commission

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



Subchapter M. Ocean Discharge Criteria

• 31 TAC §308.141

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009489 Jim Haley
Director, Legal Division
Texas Water Commission

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



Chapter 309. Effluent Limitations

Subchapter A. Domestic Wastewater Effluent Limitation and Plant Sitings

The Texas Water Commission adopts amendments to §309.1 and §309.13f and new 309.30. New §309.30 is adopted with

changes to the proposed text as published in the July 24, 1990, issue of the *Texas Register* (15 TexReg 4191). Sections 309.1 and 309.13 are adopted without changes and will not be republished.

The sections concern compliance with the national pollutant discharge elimination system (NPDES) under the Clean Water Act, §402, criteria for classification of solid waste disposal facilities and practices, and site characteristics for wastewater treatment plant units. Sections 309.1, 309.13, and 309.30 adopt rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the federal Clean Water Act (CWA), concerning such NPDES compliance.

Amended §309.13 applies the regulations to disposal of domestic sewage only.

Amended §309.13 is a nonsubstantive revision to the format of the section.

New 309.30 adopts, by reference from 40 Code of Federal Regulations (CFR) Part 257, criteria for classification of solid waste disposal facilities and practices. These regulations include a scope and purpose, provide definitions, and establish criteria for classification of solid waste disposal facilities and practices. Such criteria include the effect of facilities or practices on floodplains, endangered species, surface water, and groundwater.

One commenter notes that §309.30 refers to adoption of "40 CFR Subchapter N, Part 257," and pointed out that Part 257 is not part of Subchapter N. The commission agrees and this reference has been deleted.

One commenter questioned why 40 CFR, §§257.3-6-257.4 were exempted from adoption. The commission responds that Part 257 is not included in the requirements for state administration of the NPDES program listed in 40 CFR, §123.25. The commission has adopted the portions of Part 257 which are most appropriate to its administration of sludge permits under its NPDES program.

• 31 TAC §309.1

The amendment section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009490 Jim Haley
Director, Legal Division
Texas Water Commission

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



Subchapter B. Location Standards

• 31 TAC §309.13

The amendment is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009491 Jim Haley
Director, Legal Division
Texas Water Commission

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



Subchapter D. Criteria for Classification of Solid Waste Disposal Facilities and Practices

• 31 TAC §309.30

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§309.30. Criteria for Classification of Solid Waste Disposal Facilities and Practices. Except to the extent that they are less stringent than the Texas Water Code or the rules of the commission, 40 Code of Federal Regulations, Part 257, which is in effect as of the date of Texas pollutant discharge elimination system, program authorization, as amended, is adopted by reference except 40 Code of Federal Regulations Part 257, §§257.3-6-257.4.

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

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TRD-9009492 Jim Haley
Director, Legal Division
Texas Water Commission

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



Chapter 314. Toxic Pollutant Effluent Standards

Subchapter A. Toxic Pollutant Effluent Standards

• 31 TAC §314.1

The Texas Water Commission adopts new §314.1, without changes to the proposed text as published in the July 27, 1990, issue of the *Texas Register* (15 TexReg 4297). The new section concerns toxic pollutant effluent standards and prohibitions. The new section incorporates rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the Federal Clean Water Act, concerning the National Pollutant Discharge Elimination System (NPDES) Program.

New §314.1 adopts by reference 40 Code of Federal Regulations, Part 129, Subpart A, concerning toxic pollutant effluent standards and prohibition. The new section describes the purpose and scope of the section defines terms, explains abbreviations, lists toxic pollutants subject to regulation, provides compliance requirements, explains the requirement and procedure for establishing a more stringent effluent limitation, sets a compliance date, and specifically addresses aldrin/dieldrin, DDT, DDD, and DDE, endrin, toxaphene, benzidine, and polychlorinated biphenyls (PCBs).

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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Director, Legal Division
Texas Water Commission

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

Chapter 315. Pretreatment Regulations for Existing and New Sources of Pollution

Subchapter A. General Pretreatment Regulations for Existing and New Sources of Pollution

• 31 TAC §315.1

The Texas Water Commission adopts new §315.1, without changes to the proposed text

as published in the July 24, 1990, issue of the *Texas Register* (15 TexReg 4192). The new section concerns general pretreatment regulations for existing and new sources of pollution. The new section incorporates rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the Federal Clean Water Act, concerning the National Pollutant Discharge Elimination System (NPDES) Program.

New §315.1 adopts by reference 40 Code of Federal Regulations Part 403, concerning general pretreatment regulations for existing and new sources of pollution, excepting §403.11 and §403.16. The new section describes the purpose and applicability of the section, explains the objective of general pretreatment regulations, defines terms, provides for applicability of state and local requirements not less stringent than the Clean Water Act, Part 403, describes prohibited discharges and categorical standards under national pretreatment standards, and allows removal credits. This section also provides requirements for development of publicly owned treatment works (POTW) pretreatment programs by POTWs, explains submission requirements for POTW pretreatment programs and/or authorization to revise pretreatment standards, explains development and submission requirements for TPDES State pretreatment programs, describes approval procedures for POTW pretreatment programs and POTW granting of removal credits, lists reporting requirements for POTWs and industrial users, allows variances from categorical pretreatment standards for fundamentally different factors, describes the procedures and requirements for assertion of confidentiality of information, explains the application of net and gross calculations, and includes regulations governing upsets.

Where §403.11 provides procedures for a public hearing, this section provides procedures for a public meeting conducted by the executive director.

The new section adopts all appendices to Part 403, including a program guidance memorandum, a list of 65 toxic pollutants, a list of industrial categories subject to national categorical pretreatment standards, an index of selected industrial subcategories considered dilute for purposes of the combined waterstream formula, and an explanation of sampling procedures, including the composite method and the grab method.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Water Code, §5.102 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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

Chapter 319. General Regulations Incorporated Into Permits

Subchapter A. Monitoring and Reporting System

• 31 TAC §319.5, §319.12

The Texas Water Commission adopts amendments to §319.5 and §319.12, without changes to the proposed text as published in the July 24, 1990, *Texas Register* (15 TexReg 4193). The new sections concern approved monitoring test procedures and methods for calculations in monitoring reports. Section 319.5 and §319.12 incorporate rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the Federal Clean Water Act (CWA).

Upon adoption of these regulations, the Texas Water Commission will seek EPA authorization to administer the Texas program in lieu of the federal NPDES program, pursuant to CWA, §402(b).

Amended §319.5 requires calculations for all permit limits which require averaging of measurements to use an arithmetic mean unless otherwise specified by the director in the permit.

Amended §319.12 provides that alternate laboratory testing methods for monitoring results for TPDES permits must be approved under 40 Code of Federal Regulations, Part 136, unless other test procedures, also subject to Part 136, unless other test procedures, also subject to Part 136, have been specified in the permit.

One commenter stated that §319.5(e) does not require monitoring results to be reported at intervals specified elsewhere in this permit, and does not require that the monitoring results be reported on a Discharge Monitoring Report (DMR) form provided or specified by the Director for reporting. Regarding the first comment, chapter 319 does not promulgate standard permit conditions, as opposed to 40 Code of Federal Regulations, §122.41(l), upon which the comment is based. In addition, this subsection, which is a standard permit condition, is a redundant requirement that results shall be reported as required by this permit. Finally, permit reporting requirements are included in §305.125(11) and §305.127(2). Regarding the comment related to DMR forms, the commission's program description, as currently proposed, specify that DMR forms are the forms upon which monitoring results must be reported to the commission.

The amended sections are promulgated under the Texas Water Code, §5.102 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of the State of Texas, to establish and approve all

general policy of the commission, and to protect water quality in the state.

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

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Jim Haley
Director, Legal Division
Texas Water Commission

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

Chapter 321. Control of Certain Activities by Rule

Subchapter I. Additional Characteristics and Conditions for Controlling Certain Activities by Rule

• 31 TAC §321.141

The Texas Water Commission adopts new §321.141 without changes to the proposed text as published in the July 24, 1990, issue of the *Texas Register* (15 TexReg 4194). The new section incorporates rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the Federal Clean Water Act, concerning the National Pollutant Discharge Elimination System (NPDES) Program.

New §321.141 adopts by reference 40 Code of Federal Regulations, §122.28 concerning general permits, excepting §122.28(b)(2)(ii) and §122.28(c), and except that references to general permits and NPDES permits are changed to references to permits by rule and TDPEs permits, respectively and references to certain state regulations are changed to references to certain federal regulations. The new section describes the coverage and administration of permits by rule, including categories of coverage, types of sources to be regulated, and applicability of requirements for an individual permit.

No comments were received regarding adoption of the new section.

The new section is adopted under the Code, §5.102 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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TRD-9009496

Jim Haley
Director, Legal Division
Texas Water Commission

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

Chapter 337. Enforcement

Subchapter A. Enforcement Generally

• 31 TAC §337.6

The Texas Water Commission adopts new §337.6, without changes to the proposed text as published in the July 24, 1990, issue of the *Texas Register* (15 TexReg 4194). The new section concerns force majeure as it related to enforcement. The new section incorporates rules promulgated by the Environmental Protection Agency (EPA), pursuant to its authority under the Federal Clean Water Act, concerning the National Pollutant Discharge Elimination System (NPDES) Program.

New §337.6 creates procedures to be applied when force majeure is claimed as an affirmative defense to an enforcement action brought under commission rules.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

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Jim Haley
Director, Legal Division
Texas Water Commission

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.299

The Comptroller of Public Accounts adopts an amendment to §3.299, without changes to the proposed text as published in the July 6, 1990, issue of the *Texas Register* (15 TexReg 3841).

The legislature amended the Tax Code, §151.312, to exempt from sales and use tax

periodicals and writings published and distributed by a religious, philanthropic, charitable, historical, scientific, or other similar organization that is not operated for profit, but excluding an educational organization.

No comments were received regarding adoption of the amendment.

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

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 September 14, 1990.

TRD-9009393

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 5, 1990

Proposal publication date: July 6, 1990

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

Subchapter Q. Franchise Tax

• 34 TAC §3.417

The Comptroller of Public Accounts adopts new §3.417, with changes to the proposed text as published in the July 24, 1990, issue of the *Texas Register* (15 TexReg 4196). For clarification, language has been added to subsection (e)(2); subparagraph (C) was also added to this subsection.

The new section sets out guidelines for close and S corporations reporting on the federal income tax method in accordance with recent legislative changes.

No comments were received regarding adoption of the amendment.

The new section is adopted under the Tax Code, §111.002, which provides the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.417. Close and S Corporations.

(a) The provisions of this section apply to franchise tax reports originally due on or after January 1, 1990.

(b) The provisions of the Texas Close Corporation Law (or the close corporation law of the state of incorporation of a foreign corporation) will determine if a corporation with no more than 35 shareholders is eligible to file under the Tax Code, §171.113, as a close corporation.

(c) The provisions of the Internal Revenue Code (26 United States Code, §1361 et seq.) will determine if a corporation is eligible to file under the Tax Code, §171.113, as an S corporation.

(d) A corporation will be eligible to file an annual report under the Tax Code, §171.113, if it is a close corporation or has elected to be an S corporation prior to May 1 of the reporting year. A corporation will be eligible to file an initial report under the Tax Code, §171.113, if it is a close corporation or has elected to be an S corporation prior to the original due date (without extensions) of the initial report.

(e) A subsidiary corporation cannot report its franchise tax under the Tax Code, §171.113, if its parent corporation is not eligible to report under the Tax Code, §171.113. For purposes of the Tax Code, §171.113, a corporation if it ultimately controls the subsidiary even though the control may arise through any series or group of other subsidiaries or entities.

(1) Control is presumed if a corporation directly or indirectly owns, controls, or holds a majority of the outstanding voting stock of the subsidiary.

(A) No presumption, either control or of absence of control, arises if such ownership, control, or holding of voting stock is less than a majority but more than 20%.

(B) Absence of control is presumed if such ownership, control, or holding of voting stock is 20% or less.

(2) In determining if a corporation is a parent, the Comptroller will take into account ownership through a related corporation, corporate group, or other non-corporate entity. If the corporation has control, as defined in paragraph (1) of this subsection, of a related corporation, corporate group, or other non-corporate entity that owns a close corporation, the entire stock of the close corporation owned by the related corporation, corporate group, or other non-corporate entity will be considered controlled by the corporation owning the related corporation, corporate group, or other non-corporate entity. Examples are as follows:

(A) Corporation A owns 10% of a close corporation and 60% of Corporation B, which owns 41% of the same close corporation. Corporation A would be considered a parent of the close corporation with 51% stock ownership because it has control of the stock owned by Corporation B;

(B) Corporation A owns 10% of a close corporation and 15% of Corporation B, which owns 90% of the same close corporation. Corporation A would be considered a parent of the close corporation because it does not have control of the stock owned by Corporation B;

(C) Corporation A owns 100% of 10 corporations, each of which owns 10% of the stock of a close corporation. Corporation A would be considered a parent of the close corporation because it has control of all of the stock of the corporations owning the close corporation;

(D) Corporation A holds a 70% interest in a partnership that owns 60% of a close corporation. Corporation A owns the remaining 40% of the same close corporation. Corporation A would be considered a parent of the close corporation because it controls 100% of the stock of the close corporation.

(f) For more information on the federal income tax method of reporting see §3.391(d) of this title (relating to Accounting Methods).

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 September 13, 1990.

TRD-9009371

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 4, 1990

Proposal publication date: July 24, 1990

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

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**TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS**

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

**Chapter 13. Controlled
Substances Regulations**

**Precursor Chemical and Labo-
ratory Apparatus Regulations**

• **37 TAC §§13.71, 13.73-13.82,
13.84-13.88**

The Texas Department of Public Safety adopts amendments to §§13.71, 13.73-13.82, and 13.84-13.88, without changes to the proposed text as published in the August 10, 1990, issue of the *Texas Register* (15 TexReg 4563).

Adoption of the amendments will 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.

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 reformatting of

subsection (a). Language is added to the title of §13.82 regarding laboratory apparatus. The text of §13.82 is reformatted 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 sections where applicable.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Health and Safety Code, §481.077(b), §481.078(b)(e), §481.080(c), and §481.081(b)(e), which provides the Texas Department of Public Safety with the authority to file rules with the secretary of state regarding named chemical precursors 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.

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 September 11, 1990.

TRD-9009402

Joe E. Milner
Director
Texas Department of
Public Safety

Effective date: October 5, 1990

Proposal publication date: August 10, 1990

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

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**Chapter 33. All-terrain Vehicle
Operator Education and
Certification Program**

• **37 TAC §§33.1-33.6**

The Texas Department of Public Safety adopts new §§33.1-33.6, without changes to the proposed text as published in the August 10, 1990, issue of the *Texas Register* (15 TexReg 4565).

Adoption of these sections will ensure that the all-terrain vehicle education requirements will be known and available to all-terrain vehicle purchasers.

The adopted 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.

No comments were received regarding adoption of the new sections.

The new sections are adopted 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.

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 September 11, 1990.

TRD-9009401

Joe E. Milner
Director
Texas Department of
Public Safety

Effective date: October 5, 1990

Proposal publication date: August 10, 1990

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

Eligibility

• **40 TAC §48.2902**

The Texas Department of Human Services (DHS) adopts an amendment to §48.2902, without changes to the proposed text as published in the July 31, 1990, issue of the *Texas Register* (15 Tex Reg 4380).

The justification for the amendment is to allow a qualified Medicare beneficiary (QMB) recipient to be categorically eligible for community care for the aged and disabled (CCAD) services.

The amendment will function by providing a quicker certification/recertification process for QMB recipients.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

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

TRD-9009459

Cathy Rossberg
Agency Liaison, Policy and
Document Support
Department
Texas Department of
Human Services

Effective date: December 1, 1990

Proposal publication date: July 31, 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 Surety Association of America (SAA) of a revised rate for the motor vehicle dealer's bond.

In accordance with the provisions of 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 Surety Association of America surveyed insurance companies writing motor vehicle

dealer's bonds in this state. Based on the statistical information they received, SAA recommended a reduction in the rate to \$15 per M per annum. The current rate is \$20 per M per annum. SAA further advised they would continue to monitor the experience on this bond to determine whether or not another rate adjustment might be warranted at a later date.

This filing becomes effective on and after 12:01 a.m. on October 15, 1990.

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 September 12, 1990.

TRD-9009368

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: October 15, 1990

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



Open Meetings

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

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

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

Texas Department on Aging

Thursday, September 27, 1990, 10 a.m. The Texas Board on Aging will meet at the Texas Department on Aging, Third Floor Conference Room, 1949 South IH-35, Austin. According to the agenda summary, the board will receive public testimony; approval of June 7, and June 18, 1990 minutes; report on August 16, 1990 CAC meeting; CAC policies and procedures; fiscal reports to include: Approval of second submission of LAR; approval of operating budget; status of 1991 WHCOA; program reports to include: approval of FY 1990 and 1991 options for independent living program discretionary funding; approval of TDHS and TDoA MOU; approval of area plan amendments; redistribution of state match funds from Waco RSVP projects; information and referral task force's recommendation on reimbursement based on actual costs or unit rates; approval of eldercare policy; and ombudsman progress report; appointment of Ark-Tex AAA CAC member; TDoA's MIS; procedure for FAX and express mail; state auditor management audit; appointments to funding and carryover task force; appointment to AAA staffing requirement and feasibility study on direct and indirect costs task force; and announcements.

Contact: Polly Sowell, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: September 13, 1990, 3:56 p.m.

TRD-9009377

Texas Department of Agriculture

Monday, September 17, 1990, 9:30 a.m. The Texas Agricultural Finance Authority (TAFA) of the Texas Department of Agriculture held an emergency meeting at the Stephen F. Austin Building, Room 924A, Austin, 1700 North Congress Avenue, Austin. According to the agenda summary, the authority reviewed minutes of August 20, 1990; heard reports from staff on history of TAFA; program management options, credit standards for loan guarantees

default rates of comparable state programs; report from bond counsel; report from financial advisor regarding revisions to the financial model, portfolio parameters, and schedule for proceeding with bond issuance; and discussion of farmer mac proposal. The emergency meeting was necessary to review loan program structure in preparation for submission of a bond proposal to the Bond Review Board at the earliest possible date.

Contact: Brian Muller, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-7639.

Friday, October 12, 1990, 1:30 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will conduct an administrative hearing to review alleged violations of Texas Agriculture Code and/or Title IV of the Texas Administrative Code by Salome Saenz and Bernard Rowland doing business as Rowland Dusting.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: September 14, 1990, 10:34 a.m.

TRD-9009399

Friday, October 12, 1990, 3 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will conduct an administrative hearing to review alleged violations of Texas Agriculture Code and/or Title IV of the Texas Administrative Code by Salome Saenz, holder of certified private applicator's license.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: September 14, 1990, 10:33 a.m.

TRD-9009400

Texas Alcoholic Beverage Commission

Monday, September 24, 1990, 10:30 a.m. The Texas Alcoholic Beverage Commission will hold an emergency meeting at 5806 Mesa Street, Room 180, Austin. According to the complete agenda, (rescheduled from September 24, 1990, at 2 p.m.), the commission will approve minutes of July 26, 1990 meeting; administrator's and staff's report of agency activity; and approve affidavits of destruction of tested alcoholic beverages. The emergency status was necessary to resolve unforeseen scheduling conflicts and enable participation by the full commission.

Contact: W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: September 17, 1990, 3:57 p.m.

TRD-9009562

State Bar of Texas

Thursday, September 20, 1990, 1 p.m. The Executive Committee of the State Bar of Texas held a meeting at the Worthington Hotel, Fort Worth. According to the emergency revised agenda summary, the committee added: considered and approved recommendations from special committee concerning termination package for Larry K. Montgomery; and considered request of women in the profession for \$2,000 in order to complete the gender bias survey. The emergency status was necessary because complete information was not available at time of original posting.

Contact: Pat Hiller, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: September 17, 1990, 1:03 p.m.

TRD-9009533

Friday-Saturday, September 21-22, 1990, 9 a.m. The Board of Directors of the State Bar of Texas will meet at the Worthington Hotel, Fort Worth. According to the emergency revised agenda summary, the board will add: under September 20, 1990, "consider recommendation and approval of ter-

mination package for Larry K. Montgomery"; and consider request of women in the profession for \$2,000 in order to complete the gender bias survey. The emergency status was necessary because complete information was not available at time of original posting.

Contact: Pat Hiller, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: September 17, 1990, 1:04 p.m.

TRD-9009534

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Texas Department of Commerce

Monday, September 24, 1990, 10 a.m. The Texas Literacy Council of the Texas Department of Commerce will hold an emergency meeting at the State Capitol, House Appropriations Room 309, Austin. According to the agenda summary, the council will hold a planning committee meeting; general session full council; hear public comment; presentation of outline of five-year strategic plan; and discussion. The emergency status was necessary as all agenda items could not be confirmed by date for regular posting.

Contact: Martha Alworth, P.O. Box 12728, Austin, Texas 78711, (512) 320-9498.

Filed: September 17, 1990, 9:19 a.m.

TRD-9009463

Wednesday, September 26, 1990, 1 p.m. The Rural Economic Development Commission of the Texas Department of Commerce will meet at the Lieutenant Governor's Committee Room, Capitol Building, Austin. According to the complete agenda, the commission will hear chairman's remarks; report from the Technical Committee on Infrastructure and the Environment; discussion of other technical committee report; and other business.

Contact: David Ellis, Special Services Building, Texas A&M University, College Station, Texas 77843, (409) 845-5332.

Filed: September 17, 1990, 11:33 a.m.

TRD-9009517

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Texas State Board of Dental Examiners

Saturday, September 22, 1990, noon. The Texas State Board of Dental Examiners will meet at the Radison Plaza Hotel, Justice Room, 700 San Jacinto Street, Austin. According to the complete revised agenda, the examiners will add to the board's agenda: executive session to discuss pending or contemplated litigation according to Article 6252-17, Section 2(e), particularly the matters of Eddie Lee, George Robbins, Youngblood versus TSBDE, Tuffiash, Don Hartsfield, and Robert Beck.

Contact: Crockett Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

Filed: September 14, 1990, 3:33 p.m.

TRD-9009444

Saturday, September 22, 1990, noon. The Texas State Board of Dental Examiners will meet at the Radison Plaza Hotel, 700 San Jacinto Street, Austin. According to the complete agenda, the examiners will convene to hear complaints or charges against its employee, Kathy Marshall. The Board will hear the complaints or charges in executive session.

Contact: Crockett Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

Filed: September 13, 1990, 11:44 a.m.

TRD-9009369

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Texas Education Agency

Tuesday, September 18, 1990, 10 a.m. The Commissioner's Advisory Council For Regional Services-Committee for Research and Development of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the complete agenda, the committee reviewed action taken by the State Board of Education; discussed Public Education Information Management System (PEIMS); discussed computer services to school districts. The emergency status was necessary as the agency found urgent public necessity for this meeting to be held at this time so the council could review and approve these items for submission to the State Board of Education in October.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: September 12, 1990, 4:19 p.m.

TRD-9009341

Tuesday, September 18, 1990, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Operations and Service Special Programs of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the council reviewed action taken by the State Board of Education; discussed issues related to the education service center comprehensive plan and application. The emergency status was necessary as the agency found urgent public necessity for this meeting to be held at this time so the council could review and approve these items for submission to the State Board of Education in October.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: September 12, 1990, 4:16 p.m.

TRD-9009336

Tuesday, September 18, 1990, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Accreditation of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 2-115, Austin. According to the complete agenda, the council reviewed action taken by the State Board of Education; discussion of issues related to the provision of training services to school districts. The emergency status was necessary as the agency found urgent public necessity for this meeting to be held at this time so the council could review and approve these items for submission to the State Board of Education in October.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: September 12, 1990, 4:18 p.m.

TRD-9009338

Tuesday, September 18, 1990, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Curriculum and Personnel Development of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the complete agenda, the council reviewed action by the State Board of Education; discussed efforts for curriculum and personnel development by TEA and ESCs. The emergency status was necessary as the agency found urgent public necessity for this meeting to be held at this time so the council could review and approve these items for submission to the State Board of Education in October.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: September 12, 1990, 4:18 p.m.

TRD-9009340

Wednesday, September 19, 1990, 8:30 a.m. The Commissioner's Advisory Council for Regional Services of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the complete agenda, the council heard committee reports; and comments from the commissioner of education. The emergency status was necessary as the agency found urgent public necessity for this meeting to be held at this time so the council could review and approve these items for submission to the State Board of Education in October.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: September 12, 1990, 4:18 p.m.

TRD-9009339

Thursday, September 20, 1990, 9:30 a.m. The Commission on Standards for the Teaching Profession-Committee of the Whole of the Texas Education Agency held a meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the commission held a work session to focus on selected standards that pose potential implementation problems for visiting teams.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: September 12, 1990, 4:23 p.m.

TRD-9009348

Thursday, September 20, 1990, 1 p.m. The Commission on Standards for the Teaching Profession-Committee on Certification Programs and Requirements of the Texas Education Agency held a meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the agenda summary, the commission heard reports on institutional programs (1986 standards); report on individual programs (1987 standards); discussion of proposed revisions in business teacher certification; report on certification testing; discussion of requirements of Senate Bill 1 with regard to preservice training in the use of technology and effective teaching practices.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: September 12, 1990, 4:22 p.m.

TRD-9009347

Thursday, September 20, 1990, 3 p.m. The Commission on Standards for the Teaching Profession-Committee on Standards and Procedures for Institutional Approval of the Texas Education Agency held a meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the commission heard request for pilot programs for student teaching in Canada from Texas Christian University.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: September 12, 1990, 4:22 p.m.

TRD-9009346

Thursday, September 20, 1990, 3:30 p.m. The Commission on Standards for the Teaching Profession-Teacher Education Conference Planning Committee of the Texas Education Agency met at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the commission discussed final plans for 43rd annual teacher education conference.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: September 12, 1990, 4:21 p.m.

TRD-9009345

Friday, September 21, 1990, 8:10 a.m. The Commission on Standards for the Teaching Profession-Executive Committee of the Texas Education Agency met at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the commission reviewed agenda items with committee chairmen.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: September 12, 1990, 4:21 p.m.

TRD-9009344

Friday, September 21, 1990, 9 a.m. The Commission on Standards for the Teaching Profession of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the commission will hear report of State Board of Education actions; report of committee of the whole on work session to focus on selected standards that pose potential implementation problems for visiting teams; report of committee on certification programs and requirements on institutional and individual programs (1987 standards), business teacher certification; certification testing, preservice training in use of technology/effective teaching practices; report of committee on standards/procedures for institutional approval on pilot programs for student teaching in Canada; and report of teacher education conference planning committee on final plans for 43rd annual conference.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: September 12, 1990, 4:20 p.m.

TRD-9000343

Wednesday, September 26, 1990, 10 a.m. The Attention Deficit Hyperactivity Disorder Committee of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 5-101, Austin. According to the complete agenda, the committee will review the draft of "Parent Services and Teacher Training" and discuss --"Providing Appropriate Services for Children."

Contact: Kathleen Burke, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9512.

Filed: September 12, 1990, 4:19 p.m.

TRD-9009342

Monday, September 24, 1990, 8 a.m. The Bias Review Committee, Examination for

the Certification of Educators in Texas (ExCET) of the Texas Education Agency will meet at the Guest Quarters Suite Hotel, 305 West 15th Street, Austin. According to the complete agenda, the committees will review test items for the following ExCET tests: vocational home economics, vocational agriculture-production, and superintendent; hold registration; introduction and orientation; and item review. Following orientation, all other portions of the meeting at which actual test questions and items will be reviewed will be closed in accordance with Texas Attorney General Opinions H-484 (1974) and H-780 (1976).

Contact: Pamela Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

Filed: September 14, 1990, 4:33 p.m.

TRD-9009453

Tuesday-Wednesday, September 25-26, 1990, 8 a.m. and 8:30 a.m. respectively. The Content Review Committee, Examination for the Certification of Educators in Texas of the Texas Education Agency will meet at the Guest Quarters Suite Hotel, 305 West 15th Street, Austin. According to the complete agenda, the committees will review test items for the following ExCET tests: vocational home economics, vocational agriculture-production; hold registration; introduction and orientation; item specifications review; and item review. Following the orientation session, all other portions of the meeting at which actual test questions and items will be reviewed will be closed in accordance with Texas Attorney General Opinions H-484 (1974) and H-780 (1976).

Filed: Pamela Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

Filed: September 17, 1990, 9:55 a.m.

TRD-9009498

Wednesday-Thursday, September 26-27, 1990, 6 p.m. and 8:30 a.m. respectively. The Content Review Committee, Examination for the Certification of Educators in Texas (ExCET) will meet at the Guest Quarters Suite Hotel, 305 West 15th Street, Austin. According to the complete agenda, the committee will review test items for the superintendent ExCET test; hold registration; introduction and orientation; and item review. Following the orientation session, all other portions of the meeting at which actual test questions and items will be reviewed will be closed in accordance with Texas Attorney General Opinions H-484 (1974) and H-780 (1976).

Contact: Pamela Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

Filed: September 17, 1990, 9:56 a.m.

TRD-9009499

Thursday, September 27, 1990, 9:30 a.m. The Teachers' Professional Practices Commission of the Texas Education Agency will meet at the William B. Travis Building, Room 1-110, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will introduce newly appointed members; adoption of minutes of June 21, 1990, meeting; discussion of hearing panel, Littleton versus Peterson; discussion of hearing panel, Vasquez versus Davis; proposed rule on attorneys' arguments in jurisdictional appeals; disposition of complaint files; director's report; election of vice chairperson; and setting of next meeting date.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: September 14, 1990, 12:13 p.m.

TRD-9009418

Friday, October 5, 1990, 9:30 a.m. The State Board of Education Committee on Long-Range Planning of the Texas Education Agency will meet at the Hyatt Regency Hotel, Room 3156, Executive Board Room, Dallas-Fort Worth Airport, Dallas. According to the agenda summary, the committee will introduce long-term plan; overview; discuss key policy issues; perspectives of the commissioner's advisory committee on the long-range plan; and discussion of the long-range plan by goal (goals 1 through 9).

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: September 14, 1990, 12:12 p.m.

TRD-9009417

Educational Economic Policy Center Committee

Tuesday, October 2, 1990, 9 a.m. The Educational Economic Policy Center Committee will meet at the Lyndon B. Johnson School of Public Affairs, Dean's Conference Room, First Floor, Austin. According to the complete agenda, the committee will review and discuss organization; participating universities; and statutory responsibilities of the Educational Economic Policy Center.

Contact: Sheila W. Beckett, Sam Houston Building, Seventh Floor, Austin, Texas 78701, (512) 463-1817.

Filed: September 14, 1990, 8:23 a.m.

TRD-9009386

Division of Emergency Management, Department of Public Safety

Wednesday, September 26, 1990, 1 p.m. The State Emergency Management Council of the Division of Emergency Management (DPS) will meet at the Department of Public Safety Headquarters, Emergency Operations Center, 5805 North Lamar Boulevard, Austin. According to the complete agenda, the council will discuss IFPC nominations; planning status; review of EPA SERC conference; and other council business.

Contact: David D. Haun, 5805 North Lamar Boulevard, Austin, Texas 78773, (512) 465-2138.

Filed: September 18, 1990, 9:17 a.m.

TRD-9009579

Employees Retirement System of Texas

Thursday, September 27, 1990, 9 a.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin. According to the agenda summary, the committee will recognize visitors and guests; approve minutes of previous meeting; elect officers; appointments to subcommittees; recommendation on amendment(s) to the by-laws and rules of procedures; Employees Retirement System update; and other related insurance matters.

Contact: James W. Sarver, 18th and Brazos Streets, Austin, Texas 78701, (512) 476-6431, ext. 21.

Filed: September 17, 1990, 8:29 a.m.

TRD-9009455

Texas Employment Commission

Tuesday, September 15, 1990, 8:30 a.m. The Texas Employment Commission will meet at the Texas Employment Commission, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will review prior meeting notes; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 39; and set date of next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: September 17, 1990, 4:19 p.m.

TRD-9009569

The Finance Commission of Texas

Friday, September 21, 1990, 9:30 a.m. The Finance Commission of Texas will meet at the Finance Commission Building, 2601 North Lamar Boulevard, Third Floor: Hearing Room, Austin. According to the agenda summary, the commission will consider committee and staff reports and to consider individual department status and operational reports from the banking, savings and loan, and consumer credit departments. An executive session in regard to supervisory, litigation and personnel matters will be included.

Contact: James L. Pledger, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: September 13, 1990, 3:34 p.m.

TRD-9009375

Texas Guaranteed Student Loan Corporation

Wednesday, September 19, 1990, 7 p.m. The Board of Directors of the Texas Guaranteed Student Loan Corporation held an emergency meeting at The Austin Club, 110 East Ninth Street, Austin. According to the complete agenda, the board discussed legislative issues. The emergency status was necessary in order to discuss legislative issues.

Contact: Peggy Irby, P.O. Box 15996 Austin, Texas 78761-5996, (512) 835-1900, ext. 1101.

Filed: September 17, 1990, 12:33 p.m.

TRD-9009532

Texas Department of Health

Friday, September 21, 1990, 9 a.m. The Municipal Solid Waste Management and Resources Recovery Advisory Council of the Texas Department of Health will meet at the Texas Department of Health, Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the council will hear announcements; approve minutes of July 27, 1990 meeting; consider proposed rules for transporters of untreated medical waste; status of regional planning grants; paper industry comments on freight rates; waste management and recycling activities; proposed rules by Texas Water Commission on potential effects of water pollution control and abatement; road litter cleanup; procurement of material with recycled content; use of rubberized asphalt; and general discussion not requiring council action.

Contact: Glendon Eppler, 1100 West 49th Street, Austin, Texas 78756, (512) 458-6617.

TRD-9009378

Texas Higher Education Coordinating Board

Thursday, September 27, 1990, 10:30 a.m. The Administrative Council of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Building V, Room 5.200, 7745 Chevy Chase Drive, Austin. According to the complete agenda, the council will elect officers; final adoption of proposed amendment to add new section 25.18-petition for the adoption of rules; institutional program review; discussion and consideration of insurance issues relating to employee reservists who are called to active duty; and staff report.

Contact: Kathy Lewis, P.O. Box 12788, Austin, Texas 78711, (512) 483-6192.

Filed: September 17, 1990, 3:42 p.m.

TRD-9009559

University of Houston System

Monday, September 17, 1990, 2 p.m. The Board of Regents of the University of Houston System held an emergency meeting at 1600 Smith, 34th Floor, Conference Room I, Houston. According to the complete agenda, the board discussed and/or approved the minutes and escrow substitution analysis-Board of Regents, University of Houston System general tuition revenue refunding bonds, Series 1986-University of Houston System. The emergency status was necessary to benefit from a market opportunity of limited duration.

Contact: Peggy Cervenka, 1600 Smith, Houston, Texas 77023, (713) 754-7440.

Filed: September 14, 1990, 3:48 p.m.

TRD-9009448

Texas Department of Human Services

Tuesday, September 25, 1990, 9:30 a.m. The Religious Community Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Sixth Floor, West Tower, Conference Room 6W, Austin. According to the complete agenda, the committee will welcome and make introductions; discuss WINGS-winning independence gaining success; Texas impact on legislative agenda; 1992-1993 LAR; partners in human services, a video adopt a worker; Texans' War on Drugs, red ribbon campaign; and concerns of members.

Contact: Lucy Todd, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3129.

Filed: September 17, 1990, 10:20 a.m.

TRD-9009506

Department of Information Resources

Monday, September 24, 1990, 1:30 p.m. The Board of the Department of Information Resources will meet at the John H. Reagan Building, Room 106, 105 West 15th Street, Austin. According to the complete agenda, the board will take roll call and witness registration; discussion and vote on approval of August 30, 1990 minutes; discussion and vote on adoption of State Strategic Plan; and general discussion and work session on financial and reporting issues.

Contact: Molly Yates, 3307 Northland Drive, Suite 300, Austin, Texas 78731, (512) 371-1120.

Filed: September 13, 1990, 4:52 p.m.

TRD-9009379

State Board of Insurance

Tuesday, September 25, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Alfred Pehl, Jr., Spring, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II Insurance Agent's license. Docket Number 10945.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:16 p.m.

TRD-9009547

Wednesday, September 26, 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 Norma Lopez Benavides, Falfurrias/Corpus Christi, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number 10936.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:16 p.m.

TRD-9009548

Wednesday, September 26, 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 whether disciplinary action should be taken against Gary Wayne DeHart, Fort Worth, who holds a Local Recording Agent's li-

cence and a Surplus Lines license; and to consider whether disciplinary action should be taken against Surety and Casualty General Agency, Inc., Fort Worth, which holds a Managing General Agent's license; and to consider whether the application of Surety and Casualty General Agency, Inc. for a Surplus Lines license should be denied. Docket Number 10965.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:15 p.m.

TRD-9009545

Wednesday, September 26, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Amanda Gonzalez, La Villa, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number 10955.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:15 p.m.

TRD-9009546

Friday, September 28, 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 whether disciplinary action should be taken against Samuel Bryan Gonzales, Muleshoe/Olton, who holds a Group II, Insurance Agent's license. Docket Number 10951.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:14 p.m.

TRD-9009543

Friday, September 28, 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 whether disciplinary action should be taken to cancel or revoke the Certificate of Authority to do the business of insurance in the State of Texas, of National Unity Insurance Company or whether some other disciplinary sanction should be imposed upon National Unity Insurance Company due to its alleged violation of certain provisions of the Texas Insurance Code. Docket Number 10943.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:15 p.m.

TRD-9009544

Friday, September 28, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Eddie Leon Wilson, Levelland, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 10975.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:14 p.m.

TRD-9009542

Monday, October 1, 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 whether disciplinary action should be taken against Anna Barbara Feinhandler, Houston, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 10969.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

TRD-9009541

Monday, October 1, 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 John Michael Mallory, Tyler/Lindale, who holds a Group II, Insurance Agent's license; and whether the application of John Michael Mallory for a Group I, Legal Reserve Life Insurance Agent's license should be denied. Docket Number 10971.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: September 17, 1990, 2:13 p.m.

TRD-9009540

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Texas State Board of Irrigators

Wednesday, September 26, 1990, 9 a.m. The Texas Board of Irrigators will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 647, Austin. According to the agenda summary, the board will hear the Sunset Advisory Commission; hear and consider complaint against Parks and Recreation Department, Lubbock; consider six outstanding complaints; consider

providing study material to course instructors; assistant attorney general to discuss legal items; review proposed settlement agreement regarding complaint of K. White; approval of minutes; consider certification of successful applicant's for the September 1990 licensed irrigator/installer examination; designate site and dates for upcoming examinations; and chairman to report on various items of interest to the board.

Contact: Joyce Watson, 1700 North Congress Avenue, Room 647, Austin, Texas 78701, (512) 463-7990.

Filed: September 14, 1990, 1:16 p.m.

TRD-9009420

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On-Site Wastewater Treatment Research Council

Friday, September 28, 1990, 1:30 p.m. The On-Site Wastewater Treatment Research Council will meet at the Wastewater and Treatment Facility, Center for Environmental Research, Homsby Bend, 2210 South F.M. 973, Austin. According to the agenda summary, the council will approve minutes of last two meetings; elect officers; consider reports on rules; administrative contract, agreement and decision; Kerr County Environmental Health Department award; reports from council chair and members; responses received to requests for proposal; executive secretary's report; and public input.

Contact: Sherman Hart, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7293.

Filed: September 14, 1990, 10:39 a.m.

TRD-9009404

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Texas Department of Criminal Justice Board of Pardons and Paroles

Tuesday-Friday, September 24-28, 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 an administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: September 14, 1990, 2:24 p.m.

TRD-9009432

Texas State Board of Public Accountancy

Friday, September 28, 1990, 9 a.m. The Technical Standards Review Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will review status report for August; recommendations regarding specific complaints-licensees: complaint numbers 90-06-01L; 90-07-01L; 90-08-29L; 89-11-94L; 89-11-05L; 90-07-11L; 90-07-03L; 89-09-12L; discussion items: complaint number 89-10-03L; financial statement; complaint numbers: 90-02-15L; 90-03-31L; 90-03-32L; 90-01-14L; 90-01-15L; business records; audit report; complaint number 90-04-03L; complaint number 90-04-04L; complaint number 89-09-42L; complaint number 89-03-38L; 89-03-39L; and CPA Corporations.

Contact: William Treacy, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: September 17, 1990, 3:41 p.m.

TRD-9009558

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Public Utility Commission of Texas

Monday, September 24, 1990, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will conduct a prehearing conference in Docket Number 9750-application of Southwestern Electric Service Company for emergency approval of addendum to purchased power cost recovery factor.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 14, 1990, 3:05 p.m.

TRD-9009443

Wednesday, October 3, 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. According to the complete agenda, the division will conduct a prehearing conference in Docket Number 9713-application of GTE Southwest, Inc. to revise tariff to establish "Enhanced Services" network offerings.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 17, 1990, 3:18 p.m.

TRD-9009554

Wednesday, October 3, 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.

According to the complete agenda, the division will conduct a prehearing conference in Docket Number 9714-application of GTE Southwest Inc. to revise tariff to provide "Enhanced Services" at Dallas-Ft. Worth airport.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 17, 1990, 3:18 p.m.

TRD-9009555

Friday, November 9, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will conduct a prehearing conference in Docket Number 9716-application of AT&T Communications of the Southwest, Inc. to reduce the rate for AT&T Megacom 800 Service and AT&T's 800 Readyline Service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 14, 1990, 3:07 p.m.

TRD-9009374

Tuesday, November 27, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will conduct a hearing on the merits in Docket Number 9716-application of AT&T Communications of the Southwest, Inc., to reduce the rates for AT&T Megacom 800 Service and AT&T's 800 Readyline Service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 14, 1990, 3:06 p.m.

TRD-9009373

Friday, December 14, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will conduct a hearing on the merits in Docket Number 9643-application for sale, transfer or merger of the assets of Byers-Petrolia Telephone Company, Inc. to North Texas Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 14, 1990, 3:06 p.m.

TRD-9009372

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Railroad Commission of Texas

Monday, September 24, 1990, 9 a.m. The Railroad Commission of Texas will meet in the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room, Austin. Agendas follow:

The commission will consider various matters within the jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various action, including but not limited to scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue D. Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: September 14, 1990, 11:13 a.m.

TRD-9009415

The commission will consider and act on the office of the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Will consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Cril Payne, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: September 14, 1990, 11:09 a.m.

TRD-9009406

The commission will consider and act on the Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: September 14, 1990, 11:09 a.m.

TRD-9009407

The commission will consider category determinations under Sections 102 (c)(1) (B), 102 (c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1078.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6755.

TRD-9009410

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: September 14, 1990, 11:11 a.m.

TRD-9009411

The commission will consider and act on the OIS Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6712.

Filed: September 14, 1990, 11:11 a.m.

TRD-9009412

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: September 14, 1990, 11:11 a.m.

TRD-9009413

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7251.

Filed: September 14, 1990, 11:12 a.m.

TRD-9009414

◆ ◆ ◆ Texas Real Estate Research Center

Friday, October 5, 1990, 9 a.m. The Advisory Committee of the Texas Real Estate Research Center will meet at the Real Estate Center Conference Room, Texas A&M University, College Station. According to the complete agenda, the committee will hear opening remarks; minutes of last meeting; progress reports; current budget report; review of plan of work; elect chair; set date of next meeting; and discuss other business.

Contact: Gary Maler, Real Estate Center, Texas A&M University, College Station, Texas 77843-2115, (409) 845-9691.

Filed: September 14, 1990, 9:05 a.m.

TRD-9009387

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

Tuesday, September 18, 1990, 9 a.m. The Institutional Animal Care and Use Committee of the University of Texas System, M.D. Anderson Cancer Center met at the M.D. Anderson Cancer Center, Conference Room B, 10th Floor, Clark Clinic, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee reviewed protocols for animal care and use and modification thereof.

Contact: Anthony Mastromarino, Ph.D., U.T. M.D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3391.

Filed: September 13, 1990, 1:10 p.m.

TRD-9009370

Texas Turnpike Authority

Friday, September 21, 1990, 8:30 a.m. The Board of Directors of the Texas Turnpike Authority will hold an emergency meeting at the Texas Turnpike Authority Administration Building, 3015 Raleigh Street, Dallas. According to the agenda summary, the board will conduct an executive session; consider selection of an executive director; authority's future role in Sam Houston Tollway-East; and purchase of Dallas North Tollway Right-of-Way. The emergency status is necessary due to urgent need to appoint an executive director, to respond to the public interest and need on Sam Houston Tollway-East, and to approve purchase of Dallas North Tollway Right-of-Way creates an emergency and urgent public necessity which requires the board to meet and dispense with the requirement for posting notice of a meeting for seven full days before such meeting as is otherwise required by law.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: September 17, 1990, 3:34 p.m.

TRD-9009556

Friday, September 21, 1990, 9:30 a.m. The Executive Director Search Committee of the Texas Turnpike Authority will hold an emergency meeting at the Texas Turnpike Authority Administration Building, 3015 Raleigh Street, Dallas. According to the agenda summary, the committee will conduct an executive session and discuss previous interviews with candidates for the position of executive director for the authority and in public session possible action thereon. The emergency status is necessary due to urgent need of the board of directors to appoint an executive directors creates an emergency and urgent public necessity which requires the executive director search committee to meet and dispense with the

requirement for posting notice of a meeting for seven full days before such meeting as is otherwise required by law.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: September 17, 1990, 3:37 p.m.

TRD-9009557

University Interscholastic League

Tuesday, September 18, 1990, 10:30 a.m. The Waiver Review Board of the University Interscholastic League met at the Radisson Plaza Hotel, 700 San Jacinto Street, Austin. According to the agenda summary, the board heard appeals of student eligibility and request of waiver of those rules.

Contact: Bob Young, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

Filed: September 13, 1990, 10:56 a.m.

TRD-9009367

Thursday, September 20, 1990, 10 a.m. The State Executive Committee of the University Interscholastic League met at the Radisson Plaza Hotel, 700 San Jacinto Street, Austin. According to the agenda summary, the committee heard allegations of rule infractions by Odessa Permian High School.

Contact: Dr. B. J. Stamps, P.O. Box 8028, University Station, Austin, Texas 78713, (512) 471-5883.

Filed: September 14, 1990, 4:24 p.m.

TRD-9009451

Texas Water Commission

Wednesday, September 26, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Gloria Barrera, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: September 17, 1990, 4:10 p.m.

TRD-9009563

Texas Workers' Compensation Commission

Thursday, September 20, 1990, 9 a.m. The Texas Workers' Compensation Commission will meet at the Bevington A. Reed Building, 200 East Riverside Drive, Second Floor, Room 255, Austin. According to the agenda summary, the commission will discuss approval of minutes; discussion and consideration of rules process and rules; Chapter 129, income benefits/temporary benefits; Chapter 130, income benefits/impairment and supplemental income benefits; Chapter 140, dispute resolution/general provisions; Chapter 141, dispute resolution/benefit review conference; report on rule chapters ready for release to *Texas Register*; discussion and consideration of commissioners chosen to serve on the board of directors of the Texas Workers' Compensation Research Center; progress report on TWCC implementation of Senate Bill 1; and discussion of future public meetings and agenda.

Contact: George E. Chapman, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

Filed: September 17, 1990, 8:29 a.m.

TRD-9009454

Regional Meetings

Meetings Filed September 13, 1990

The Bastrop County Appraisal District Board of Directors met at the Bastrop County Appraisal District, 1200 Cedar Street, Bastrop, September 20, 1990, at 7:30 p.m. Information may be obtained from Lorraine Perry, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9009376.

The Heart of Texas Region Mental Health and Mental Retardation Board of Trustees met at 110 South 12th Street, Waco, September 20, 1990, at 11:45 a.m. Information may be obtained from Helen Jasso, 110 South 12th Street, Waco, Texas 76701, (817) 752-3451. TRD-9009380.

The Houston-Galveston Area Council Board of Directors met at 3555 Timmons Lane, Fourth Floor Conference Room, Houston, September 18, 1990, at 10 a.m. Information may be obtained from Marjorie Baker, P.O. Box 22777, Houston, Texas 77227-2777, (713) 627-3200. TRD-9009381.

Meetings Filed September 14, 1990

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, September 20, 1990, at 7 p.m.

Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (512) 742-3591. TRD-9009425.

The Dallas Area Rapid Transit Railtran Ad Hoc Committee met at 601 Pacific Avenue, Conference Room 7A, Dallas, September 18, 1990, at 11 a.m. The revised agenda added approval of minutes of June 19, 1990 and June 26, 1990. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9009445.

The Dallas Area Rapid Transit Railtran Ad Hoc Committee met at 601 Pacific Avenue, Conference Room 7A, Dallas, September 18, 1990, at 11 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9009384.

The Dallas Area Rapid Transit Business Development Ad Hoc Committee met at 601 Pacific Avenue, Board Room, Dallas, September 18, 1990, at 10 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9009452.

The Dallas Area Rapid Transit Governmental Relations Committee met at 601 Pacific Avenue, Board Room, Dallas, September 18, 1990, at noon. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9009382.

The Dallas Area Rapid Transit Arts and Design Committee met at 601 Pacific Avenue, Board Conference Room, Dallas, September 18, 1990, at noon. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9009381.

The Dallas Area Rapid Transit Budget and Finance Committee met at 601 Pacific Avenue, Board Room, Dallas, September 18, 1990, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9009383.

The Dallas Area Rapid Transit Planning and Development Committee met at 601 Pacific Avenue, Board Room, Dallas, September 18, 1990, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9009385.

The Education Service Center Region XI Board of Directors will meet at the Education Service Center, XI Board Room, 3001 North Freeway, Fort Worth, September 25, 1990, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311. TRD-9009431.

The Ellis County Appraisal District Appraisal Review Board will meet at 406 Sycamore Street, Waxahachie, September 21, 1990, at 1:30 p.m. Information may be obtained from Kathy A. Spencer, P.O. Box

878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9009388.

The Gonzales County Appraisal District Appraisal Review Board will meet at 928 St. Paul Street, Gonzales, September 25, 1990, at 6 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9009449.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, September 18, 1990, at 1:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9009441.

The Lower Colorado River Authority Finance and Administration/Planning and Public Policy Committees met at 3700 Lake Austin Boulevard, Austin, September 18, 1990, at 3 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9009440.

The Lower Colorado River Authority Natural Resources met at 3700 Lake Austin Boulevard, Austin, September 19, 1990, at 9 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9009437.

The Lower Colorado River Authority Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, September 19, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9009436.

The Lower Colorado River Authority Finance and Administration Committee met at 3700 Lake Austin Boulevard, Austin, September 19, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250. TRD-9009435.

The Lower Colorado River Authority Audit and Budget Committee met at 3700 Lake Austin Boulevard, Austin, September 19, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9009434.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3700 Lake Austin Boulevard, Austin, September 19, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250. TRD-9009433.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, September 19, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9009438.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, September 20, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9009439.

The Nortex Regional Planning Commission of the North Texas Private Industry Council will meet at the Activity Center, 10th and Indiana Streets, Room 215, Wichita Falls, September 26, 1990, at 12:15 p.m. Information may be obtained from Tom O'Neill, Drawer A, Archer City, Texas 76351, (817) 574-4507. TRD-9009446.

The North Texas State Planning Region Consortium will meet at the Activity Center, 10th and Indiana Streets, Room 214, Wichita Falls, September 27, 1990, at 1 p.m. Information may be obtained from Judge Bobbie Owen, Jack County Courthouse, Jacksboro, Texas 76046, (817) 567-2241. TRD-9009447.

The South Texas Development Council Border Area Nutrition Council held an emergency meeting at 600 South Sandman, Wing Conference Room, Laredo, September 18, 1990, at 10 a.m. Information may be obtained from Jesse Padilla, P. O. Box 2902, Laredo, Texas 78044-2909, (512) 722-5000. TRD-9009426.

The Texas Association of Regional Councils Membership meeting will be held at the Radisson Resort, Ballroom B, South Padre Island, September 21, 1990, at 2 p.m. Information may be obtained from Jim Ray, 508 West 12th Street, Austin, Texas 78701, (512) 478-4699. TRD-9009450.

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Meetings Filed September 17, 1990

The Austin-Travis County Mental Health and Mental Retardation Center Executive Committee will meet at 1430 Collier Street, Board Room, Austin, September 21, 1990, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 440-4031. TRD-9009536.

The Austin-Travis County Mental Health and Mental Retardation Center Operations and Planning Committee will meet at 1430 Collier Street, Board Room, Austin, September 21, 1990, at 7:30 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3458, Austin, Texas 78764, (512) 447-4141. TRD-9009537.

The Central Texas Council of Governments Central Texas Private Industry Council will meet at 302 East Central Street, Belton, September 27, 1990, at 10 a.m. Information may be obtained from Susan Kamas, P.O. Box 729, Belton, Texas 76513, (817) 939-3771. TRD-9009469.

The Deep East Texas Regional Mental Health and Mental Retardation Services

Board of Trustees will meet at the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, September 25, 1990, at 3:30 p.m. Information may be obtained from Sandy Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9009561.

The Denton Central Appraisal District Emergency Board of Directors held an emergency meeting at 3911 Morse Street, Denton, September 20, 1990, at 4 p.m. Information may be obtained from Joe Rogers, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9009551.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, September 27, 1990, at 9 a.m. Information may be obtained from Joe Rogers, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9009538.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, October 8, 1990, at 9 a.m. Information may be obtained from Joe Rogers, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9009539.

The Golden Crescent Regional Planning Commission General Assembly will meet at the Cuero Clubhouse, Cuero Municipal Park, Cuero, September 26, 1990, at 7:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9009523.

The Golden Crescent Regional Planning Commission Board of Directors will meet at the Cuero Clubhouse, Cuero Municipal Park, Cuero, September 26, 1990, at 8:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9009522.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis Street, Sherman, September 25, 1990, at 9 a.m. Information may be obtained from Deborah Reneau, 205 North Travis Street, Sherman, Texas 75090, (214) 893-9673. TRD-9009516.

The Hays County Appraisal District Appraisal Review Board will meet at 632 "A" East Hopkins Street, Municipal Building, San Marcos, September 21, 1990, at 8:30 a.m. Information may be obtained from Bill Backus, 632 "A" East Hopkins Street, Municipal Building, San Marcos, Texas 78666, (512) 754-7400. TRD-9009507.

The Heart of Texas Region Mental Health and Mental Retardation Board of Trustees held a meeting at 110 South 12th Street, Waco, September 20, 1990, at 11:45 a.m. The emergency revised agenda was

needed because of board action needed on items to stay in compliance with DHS and ICF/MR standards and to acquire funds from TDMHR to operate the MR workshop. Information may be obtained from Helen Jasso, 110 South 12th Street, Waco, Texas 76701, (817) 752-3451. TRD-9009570.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, September 26, 1990, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9009524.

The Middle Rio Grande Development Council Texas Review and Comment System Committee held an emergency meeting at the Middle Rio Grande Development Council Central Office, 1904 North First Street, Carrizo Springs, September 18, 1990, at 9 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9009464.

The Nortex Regional Planning Commission General Membership Committee will meet at the Wichita Falls Activities Center, Room 214, 10th and Indiana Streets, Wichita Falls, September 27, 1990, at noon. Information may be obtained from Dennis Wilde, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281. TRD-9009526.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, September 27, 1990, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, (214) 442-5405. TRD-9009515.

The Panhandle Regional Planning Commission Board of Directors will meet at the Tascosa Country Club, Amarillo, September 27, 1990, at 3 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9009460.

The San Antonio-Bexar County Metropolitan Planning Organization Steering Committee will meet at the San Antonio City Hall, Basement Conference Room, San Antonio, September 24, 1990, at 1:30 p.m. Information may be obtained from Rose Mesa, Room 101, Bexar County Courthouse, San Antonio, Texas 78205, (512) 227-8651. TRD-9009550.

The West Central Texas Council of Governments Executive Committee will meet at 1025 East North 10th Street, Abilene, September 26, 1990, at 12:45 p.m. Information may be obtained from Brad Helbert,

P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9009468.

The West Central Texas Council of Governments Regional Review Committee will meet at 1025 East North 10th Street, Abilene, October 9, 1990, at 9 a.m. Information may be obtained from Jim Compton, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9009549.

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Meetings Filed September 18, 1990

The Alamo Area Council of Governments Area Judges will meet at 118 Broadway Street, Suite 420, San Antonio, September 26, 1990, at 11:30 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9009574.

The Alamo Area Council of Governments Budget and Workplan Committee will meet at 118 Broadway Street, Suite 441, San Antonio, September 26, 1990, at noon. Information may be obtained from Al J. Notzon, III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9009576.

The Alamo Area Council of Governments Executive Committee will meet at 118 Broadway Street, Suite 420, San Antonio, September 26, 1990, at 1 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9009575.

The Capital Area Planning Council Capital Area Governor's Regional Review Committee will meet at 2520 IH-35 South, Suite 100, Austin. Information may be obtained from Donald Stence, 2520 IH-35 South, Suite 100, Austin, Texas 78704-5798. TRD-9009581.

The East Texas Council of Governments Board of Directors will meet at the Carroll Green Civic Center, McAllister Street, Quitman, September 27, 1990, at 5:45 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641. TRD-9009583.

The Grand Parkway Association held an emergency meeting at 140 East Wing, 5757 Woodway, Houston, September 20, 1990, at 8:15 a.m. The emergency status was necessary because of recent announcements of the SDHPT financing constraints for the Grand Parkway. Information may be obtained from Robert R. Randolph, 2801 First City Tower, 1001 Fannin Street, Houston, Texas 77002-6760, (713) 758-2380. TRD-9009582.

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board

Notice of Applications for Construction Permits

Notice is given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of August 1, 1990 to August 31, 1990.

Information relative to the applications listed following including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the TACB at the address stated previously and at the regional office for the air quality control region within which the proposed facility will be located.

DAP, Inc.; 600 gallon ribbon blenders, tube; Dallas, Dallas County; 5360; *AMD; August 1, 1990.

Arbol Resources, Inc.; rodell gas treating plant; Centerville, Leon County 20263; *RVW; August 2, 1990.

Paktank Corporation; Tank Number 525; Deer Park, Harris County; 3045; *AMD; August 3, 1990.

Dow Chemical Company, replace bag scrubber with adsorb; Clude, Brazoria County; 2008; *AMD; August 3, 1990.

JBC Enterprises, Inc.; fiberglass pultrusion compr; Houston; Harris County; 20269; *RVW; August 6, 1990.

Big Three Industrial Gas, Inc.; steam generator; Pasadena, Harris County; 4961; *AMD; August 6, 1990.

Wallace Materials; crusher Number 1; Godley, Johnson County; 20273; *RVW; August 6, 1990.

Temple-Inland Forest Products Corporation; plywood manufacturing; Pineland, Sabine County; 970; *AMD; August 6, 1990.

Maple Gas Corporation; Walton Gas Plant; Kermit, Winkler County; 3158; *AMD; August 7, 1990.

Exxon Chemical Americas; CSU pilot unit; Baytown, Harris County; 202271; *RVW; August 7, 1990.

Pride Companies, L.P.; Pride San Angelo Products Term; San Angelo, Tom Green County; 20275; *RVW; August 7, 1990.

Lubrizol Petroleum Chemicals Company; Alk Chlor W; Deer Park, Harris County; 20274; *RVW; August 8, 1990.

Starco, Inc.; Fiberglassing Buildings 1 and 2; Rhome, Wise County. 17923; *AMD; August 9, 1990.

Oiltanking, Inc.; Miller Storage Terminal; Houston, Harris County; 20277; *RVW; August 10, 1990.

Ershigs, Inc.; FRP manufacturing facility; Gatesville, Coryell County; 202078; *RVW; August 10, 1990.

Owens-Corning Fiberglas; V-1 insulation line; Waxahachie, Ellis County; 6906; *AMD; August 10, 1990.

Trinity Industries, Inc.; Plant 26-railcar manufacturing; Fort Worth, Tarrant County; 8524; *AMD; August 13, 1990.

Southwestern Portland Cement Company-Odessa; #2 Kiln and suspension preheater; Odessa, Ector County; 8411; *AMD; August 13, 1990.

Hi-tek Polymers, Inc.; blending and bulk handling; Vernon, Wilbarger County; 8222A; *AMD; August 13, 1990.

Arco Chemical Company; Propylene Oxide/Styrene Monomer; Channelview, Harris County; 2993; *AMD; August 13, 1990.

Phillips 66 Company; amend for production increases; Borger, Hutchinson County; 7172; *AMD; August 13, 1990.

Natural Gas Pipeline Company of America; Compressor Station 802; Roxton, Lamar County; 20283; *RVW; August 14, 1990.

Fleetwood Travel Trailers of Texas, Inc.; trailer painting facility; Longview, Gregg County; 20287; *RVW; August 14, 1990.

GATX Terminals Corporation; Storage Tanks Numbers 12-1 and 12-2; Pasadena, Harris County; 20286; *RVW; August 14, 1990.

Dow Chemical Company, The; B48 Polyurthanes R and D; Clute, Brazoria County; 20285; *RVW; August 14, 1990.

Petro, Inc. DBA Petro; Treat; Petro; Treat; tire manufacturing; El Paso, El Paso County; 20284; *RVW; August 14, 1990.

Welchem, Inc.; Existing Boiler B-1; La Porte, Harris County; 6325A; *AMD; August 14, 1990.

Dow Chemical Company, The; resin oil cracking; Freeport, Brazoria County; 6932; *AMD; August 14, 1990.

Reef Industries, Inc.; foam extrusion line; Houston, Harris County; 17630; *AMD; August 14, 1990.

Hoechst Celanese Corporation; change tank service; Corpus Christi, Nueces County; 17262A; *AMD; August 15, 1990.

Arco Chemical Company; amend for emission rates; Channelview, Harris County; 3346; *AMD; August 15, 1990.

GATX Terminals Corporation; Tanks 150-44, 45, 46, and 47; Pasadena, Harris County; 20290; *RVW; August 16, 1990.

Tenneco Natural Gas Liquids Corporation; MTBE Project; Morgans Point, Harris County; 20289; *RVW; August 16, 1990.

Dow Chemical Company, The; amend for emission rates; Clute, Brazoria County; 18561; *AMD; August 16, 1990.

Dow Chemical Company, The; amend for emission rates; Clute, Brazoria County; 834; *AMD; August 16, 1990.

El Paso Refinery, L.P.; construct SRU scrubber; El Paso, El Paso County; 18897; *AMD; August 17, 1990.

American Chrome and Chemicals, Inc.; Chromatic acid plant/scrubber; Corpus Christi, Nueces County; 9212; *AMD; August 20, 1990.

Hi-Tex Polymers, Inc.; Bulk Handling #1; Vernon, Wilbarger County; 8223A; *AMD; August 20, 1990.

Farmers Cooperative Association of Springlake; cotton gin; Springlake, Lamb County; 20059; *AMD; August 20, 1990.

Mobil Producing Texas and New Mexico, Inc.; San Andres Unit; Seminole, Gaines County; 20301; *RVW; August 21, 1990.

Oxy USA, Inc.; Myrtle Springs plt compr addit; Canton, Van Zandt County; 20300; *RVW; August 21, 1990.

Hi-Tex Polymers Inc.; Bulk Handling Facility #2; Vernon, Wilbarger County; 8224A; *AMD; August 21, 1990.

Southwestern Analytical Chemicals, Inc.; as built plant; Cleburne, Johnson County; 18925; *AMD; August 22, 1990.

Houston Shell and Concrete Company; concrete batch plant; Houston; Harris County; 480; *AMD; August 23, 1990.

Holly Farms Foods, Inc.; rendering; Center, Shelby County; 5939; *AMD; August 23, 1990.

Parker Brothers and Company, Inc.; rail car loading station; New Braunfels, Comal County; 5183; *AMD; August 23, 1990.

Mobil Producing Texas and New Mexico, Inc.; Salt Creek gas plant-flare tip; Clairmont, Kent County; 5037A; *AMD; August 24, 1990.

Intercontinental Terminals Company; consolidate permits; Deer Park, Harris County; 8033; *AMD; August 28, 1990.

National Components, Inc.; manufacturing of steel buildings; Houston, Harris County; 17210; *AMD; August 28, 1990.

Union Carbide Chemicals and Plastics Company, Inc.; Butadiene quality improvements; Texas City, Galveston County; M; *RVW; August 29, 1990.

Phillips 66 Company; Philtex plant/Mercaptan loan dock; Borger, Hutchinson County; 20304; *RVW; August 29, 1990.

Haltermann Limited; add Propylene Oxide; Houston, Harris County; 6283; *AMD; August 29, 1990.

National Casein Company; manufacturing water based emulsion adhes; Tyler, Smith County; 17837; *AMD; August 29, 1990.

Mobil Chemical Company; add caustic scrubber; Beaumont, Jefferson County; 3186; *AMD; August 30, 1990.

Southwestern Portland Cement Company; rotary kiln; Odessa, Ector County; 8410; *AMD; August 30, 1990.

Southwestern Portland Cement Company; rotary kiln and suspension preht; Odessa, Ector County; 8411; *AMD; August 30, 1990.

Enichem Elastomers Americas, Inc.; thermoplastic elastomer plant; Baytown, Harris County; 20311; *RVW; August 30, 1990.

Majco Building Specialties, L.P.; glass door department paint booth; Austin, Travis County; 20312; *RVW; August 30, 1990.

United States Air Force, Kelly Air Force Base, Texas; fuel systems accessories-test; San Antonio, Bexar County; 20313; *RVW; August 31, 1990.

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

TRD-9009312 Bill Ehret
Director of Hearing
Texas Air Control Board

Filed: September 12, 1990

For further information, please call: (512) 451-5711, ext. 354.

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**Office of Consumer Credit
Commissioner**
Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer⁽³⁾/Agricultural/ Commercial⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	09/17/90-09/23/90	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	09/01/90-09/30/90	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/90-12/31/90	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	10/01/90-12/31/90	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	10/01/90-12/31/90	15.02%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	10/01/90-12/31/90	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	10/01/90-12/31/90	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:	10/01/90-12/31/90	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	09/01/90-09/30/90	10.00%	10.00%

(1) For variable rate commercial transactions only. (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3) Credit for personal, family or household use. (4) Credit for business, commercial, investment or other similar purpose.

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

TRD-9009308 Al Endsley
Consumer Credit Commissioner

Filed: September 12, 1990

For further information, please call: (512) 479-1280

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Texas Education Agency Request for Proposals

RFP #701-91-020. This request for proposals is filed in accordance with the Texas Education Code, §51.601, Engineering and Science Recruitment Fund.

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals from organizations that qualify for exemption from federal income tax under the Internal Revenue Code, §501(c)(3), and which do not distribute net earnings to any private shareholder or other individual. The organization must serve groups of women or minority group members who, considering their percentage of the Texas population, are under-represented in engineering, applied science, and technology at institutions of higher education.

Description. The objective of this project is to allocate funds to eligible organizations to establish or operate educational programs which support the recruitment of women and members of ethnic minorities in order to assist them in preparing for, or participating in, programs leading to an undergraduate degree in engineering and science from an institution of higher education. Funding shall also have the purpose of disseminating information concerning career opportunities in engineering and science, as well as information about these programs funded in accordance with the requirements of the legislative authority noted previously.

Dates of Project. The engineering and science recruitment fund project will be implemented during school year 1990-1991. Proposer should plan for a starting date of

November 21, 1990, and an ending date of August 31, 1991.

Project Amount. For fiscal year 1990-1991 this project will distribute \$800,000, subject to the availability of funds. Funding will be provided to eligible nonprofit, tax-exempt, organizations receiving contributions from other sources. Initial funding to eligible organizations shall be allocated in proportion to the percentage of women and under-represented minority group students/teachers participating in eligible programs, but may not exceed 50% of the amount of other contributions the program received the preceding fiscal year. Programs must have received \$150,000 or more in other contributions in the preceding fiscal year to qualify for this primary funding allocation so that monies distributed are sufficient to ensure effective use of the fund. After all grants have been made, as noted in the primary distribution method specified previously, allocations may be made for the establishment, or continued operation, or eligible programs that have received less than \$150,000 or which have not received any contributions. The total amount budgeted by the contracting project organization for administration must be 10% or less of the total amount budgeted for all programs sponsored by that organization. Any monies remaining on January 1 of each year may be allocated to funded programs in proportion to each program's calculated share as prescribed previously.

Contributions are defined as gifts, grants, donations, and the market value of in-kind contributions from public and private entities, including the federal government, but excluding state appropriations.

Selection Criteria. Proposals will first be considered based on the ability of each proposer to satisfy all requirements contained in the request for proposals and the eligible proposer criteria specified previously. Preference shall be given to programs in the social sciences (i.e. psychology, sociology, etc.) will not be considered under this funding appropriation.

TEA reserves the right to select from the highest ranking proposals those which are serving the most participants of

women and minority group members in the objectives specified and which are receiving the largest amount of other contributions. Other programs quality indicators are specified throughout the request for proposals. To be approved for funding, programs offered by eligible organizations must meet certain guidelines. East program must: use professional volunteers at each level of instruction; require parental involvement; coordinate with public school preparation for scientific and mathematical careers; coordinate with post secondary educational institutions; involve organizations of women and minority group members; provide demonstrated professional leadership in educational activities for women and minority group members; and be compatible with state and federal laws governing education.

Requesting the Proposal. A copy of the complete request for proposal may be obtained by writing or calling the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or call (512) 463-9304.

Further Information. For clarifying information about this request, contact Dr. Philip Gehring, Assistant to the Deputy Commissioner for Curriculum and Professional Development, Texas Education Agency, (512) 463-9823.

Deadline for Receipt of Proposals. The deadline for submitting a proposal is 5 p.m., Wednesday, October 31, 1990.

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

TRD-9009500 W.N. Kirby
Commissioner of Education
Texas Education Agency

Filed: September 17, 1990

For further information, please call (512) 463-9701

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Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Port Arthur	The Cancer Center of Port Arthur	L04426	Port Arthur	0	08/24/90

AMENDMENTS TO EXISTING LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Aransas Pass	Coastal Bend Hospital	L03446	Aransas Pass	10	08/16/90
Baytown	Exxon Chemical Company	L03335	Baytown	11	08/16/90
Beaumont	Outpatient Diagnostic Center, Ltd.	L03888	Beaumont	7	08/10/90
Borger	Cominco American, Incorporated	L02772	Borger	7	08/15/90
Deer Park	Fina Oil and Chemical Company	L00302	Deer Park	25	08/20/90
El Campo	Memorial Hospital - El Campo	L02664	El Campo	6	08/20/90
El Paso	The University of Texas at El Paso	L00159	El Paso	24	08/27/90
Electra	Electra Memorial Hospital	L03227	Electra	3	08/14/90
Fort Worth	Fort Worth Osteopathic Medical Center	L00730	Fort Worth	33	08/16/90
Friendswood	Iso-Tex Diagnostics, Inc.	L02999	Friendswood	20	08/17/90
Galveston	The University of Texas Medical Branch	L01299	Galveston	31	08/21/90
Glen Rose	Harris Methodist Glen Rose	L03225	Glen Rose	7	08/14/90
Irving	Syncor International Corporation	L02048	Irving	61	08/10/90
Kingsville	URI, Inc.	L03653	Dallas	6	05/27/90
Laredo	Mercy Regional Medical Center	L01306	Laredo	29	08/21/90
Longview	Texas Eastman Company	L00301	Longview	64	08/20/90
Lubbock	Diagnostic Radiology Associates	L03948	Lubbock	8	08/22/90
McAllen	Vannie E. Cook, Jr., Cancer Center	L02205	McAllen	29	08/24/90
McAllen	McAllen Medical Center	L01713	McAllen	45	08/22/90

Midland	The Imaging Center, Inc.	L03850	Midland	3	08/14/90
San Antonio	Humana Hospital San Antonio	L02266	San Antonio	27	08/15/90
San Antonio	El Dorado Chemical Company	L04366	San Antonio	1	08/21/90
San Antonio	Beta Diagnostics, Inc.	L03574	San Antonio	12	08/21/90
Throughout Texas	Real Inspection Services, Inc.	L04416	Houston	1	08/10/90
Throughout Texas	American Inspection Company, Inc.	L04073	Beaumont	9	08/07/90
Throughout Texas	Brainard-Kilman	L04302	Houston	1	08/14/90
Throughout Texas	Hercules Engineering & Testing Services, Inc.	L03642	Houston	5	08/13/90

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Throughout Texas	Professional Service Industries, Inc.	L00931	Lombard, Illinois	75	08/15/90
Throughout Texas	City of El Paso	L03922	El Paso	3	08/16/90
Throughout Texas	Schlumberger Well Services	L00109	Houston	33	08/14/90
Throughout Texas	Non-Destructive Inspection Corporation	L02712	Lake Jackson	15	08/17/90
Throughout Texas	Reynolds Metals Company	L00200	Corpus Christi	31	08/20/90
Throughout Texas	Visions Innovations Corporation (VICORP)	L04050	Odessa	5	08/17/90
Throughout Texas	City of San Angelo	L02727	San Angelo	9	08/17/90
Throughout Texas	Exxon Chemical Americas	L01135	Baytown	45	08/21/90
Throughout Texas	Nuclear Scanning Services, Inc.	L04339	Houston	4	08/23/90
Throughout Texas	Danny R. Anderson Consultants, Inc.	L02476	El Paso	4	08/22/90
Throughout Texas	BJ Services Company, U.S.A.	L02684	Houston	23	08/21/90
Waco	Providence Health Center	L01638	Waco	26	08/14/90
Weimar	Central Texas Nuclear Medicine Services	L04225	LaGrange	1	08/13/90
Weslaco	Thurmond Eye Associates, P.A.	L00686	Weslaco	11	08/10/90
Weslaco	Knapp Medical Center	L03290	Weslaco	8	08/27/90

RENEWALS OF EXISTING LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Huntsville	Sam Houston State University	L00873	Huntsville	10	08/17/90
Tyler	University of Texas at Tyler and Helen Graham, M.D.	L03803	Tyler	4	08/13/90

TERMINATIONS OF LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Denison	Texoma Medical Center	L01600	Denison	19	08/13/90
San Diego, TX	URI, Inc.	L03987	Dallas	4	05/27/90
Throughout Texas	G.R.M.C., Inc.	L01940	Houston	10	08/15/90

AMENDMENTS TO EXISTING LICENSES DENIED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Houston	Herbert C. Allen, Jr., M.D.	L00498	Houston	0	08/15/90
San Antonio	Louis B. Levy, Ph.D.	L03531	San Antonio	0	08/20/90

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in

land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

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

TRD-9009403

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

Filed: September 14, 1990

For further information, please call: (512) 835-7000.

◆ ◆ ◆
**Permit Application for Municipal Solid
Waste Site**

Ronald C. Wahle has filed Application Number 2159 with the Texas Department of Health for a permit to operate a proposed Type I municipal solid waste site to be located 1.1 miles East Northeast of the intersection of IH 45 and Pleasant Run Road located at 2847 Post Oak Road, Hutchins, Dallas County, Texas.

The site covers approximately 699 acres of land, and is to daily receive approximately 1,600 tons of solid waste under the regulatory jurisdiction of the Texas Department of Health for disposal or other processing in accordance with the department's "Municipal Solid Waste Management Regulations". A technical review of the application is being made by the department's Bureau of Solid Waste Management and various State and local agencies which have a jurisdictional interest.

No public hearing will be held on this application unless a person affected 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, has suffered or will suffer actual injury or economic damage by the granting of the application. If a hearing is requested by a person affected, or if the Bureau of Solid Waste Management determines that a public hearing should be held, notice of such hearing will be provided to the requester and will also be published in a newspaper regularly published or circulated in the county in which the site is located at least 30 days prior to the date of such hearing.

Requests for a public hearing and/or requests for a copy of the application shall be submitted in writing to the Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756.

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

TRD-9009408 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: September 14, 1990

For further information, please call: (512) 458-7271

◆ ◆ ◆
Notice is hereby given that the City of Eastland presently holds Solid Waste Permit Number 1879 as heretofore issued by the Texas Department of Health for the operation of a Type II municipal solid waste site located approximately 1.5 miles Southwest of Eastland, 0.4 miles West of the Intersection of I-20 and SH 6, 300 feet South of I-20.

Said permit holder has now filed with the Texas Department of Health an application to amend the aforesaid permit as follows: to add 19.4 acres of land to the existing permitted 19.4 acres for a total of 38.8 acres, and to upgrade the facility from a Type II to a Type I landfill.

The site covers approximately 38.8 acres of land, and is to daily receive approximately 50 tons of solid waste under the regulatory jurisdiction of the Texas Department of

Health for disposal or other processing in accordance with the said department's "Municipal Solid Waste Management Regulations". A technical review of the application is being made by the department's Bureau of Solid Waste Management and various state and local agencies which have a jurisdictional interest.

No public hearing will be held on this application unless a person affected 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, has suffered or will suffer actual injury or economic damage by the granting of the application. If a hearing is requested by a person affected, or if the Bureau of Solid Waste Management determines that a public hearing should be held, notice of such hearing will be provided to the requester and will also be published in a newspaper regularly published or circulated in the county in which the site is located at least 30 days prior to the date of such hearing.

Requests for a public hearing and/or requests for a copy of the application shall be submitted in writing to the Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756. A copy of the complete application may be reviewed at the Bureau of Solid Waste Management.

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

TRD-9009409 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: September 14, 1990

For further information, please call: (512) 458-7271

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**Texas Department of Human Services
Notice of Cancellation of Open
Solicitation**

The Texas Department of Human Services (TDHS) submitted an open solicitation notice for potential contractors desiring to construct a 90-bed nursing facility for counties listed in the September 7, 1990, issue of the *Texas Register* (14 TexReg 5152). This is to advise that the notice referenced is hereby cancelled.

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

TRD-9009390 Cathy Rossberg
Agency Liaison, Policy and Document
Support Department
Texas Department of Human Services

Filed: September 14, 1990

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

◆ ◆ ◆
Public Notice Open Solicitation

Pursuant to 40 TAC §16.1513 of the Human Resources Code as amended in the September 29, 1989, issue of the *Texas Register* (14 TexReg 5099), and Title 2, Chapters 22 and 32 of the Human Resources Code, the Texas Department of Human Services (TDHS) is announcing the re-opening of the open solicitation period for Kendall County, County Number. 130, identified in the July 27, 1990, issue of the *Texas Register* (15 TexReg 4334). Potential contractors desiring to construct a 90-bed nursing facility in the previously mentioned referenced area must submit a written reply (as described in 40 TAC §16.1513(1)) to

TDHS, Gary L. Allen, Long-term Care Department, Provider Services Section, Mail Code E-501, P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

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

TRD-9009391 Cathy Rossberg
Agency Liaison, Policy and Document
Support Department
Texas Department of Human Services

Filed: September 14, 1990

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



Pursuant to 40 TAC §16.1513, as amended in the September 29, 1989, issue of the *Texas Register* (14 TexReg 5099), Title 2, Chapters 22 and 32, of the Human Resources Code, the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days (starting the date of this public notice) for the construction of a 90-bed nursing facility for Bexar County, County Number 015, Precinct Number 4, and a 90-bed nursing facility for Webb County, County Number 240, both counties were identified in the July 24, 1990, issue of the *Texas Register* (15 TexReg 5152). Potential contractors desiring to construct a nursing facility in the counties identified in this public notice must submit a written reply (as described in 40 TAC §16.1513) to TDHS, Gary L. Allen, Provider Services Division, Long-term Care Department, Mail Code E-501, P.O. Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5 p.m. October 22, 1990, the last day of the open solicitation period. Potential contractors will be allowed 90

days to qualify and qualified potential contractors will be placed on a secondary-selection waiting list in the order that their applications are received. To qualify, potential contractors must demonstrate an intent and ability to begin construction of a facility and to complete contracting within specified time frames. They must submit a letter of application to TDHS with the following documentation: First, there must be acceptable written documentation showing the ownership of or an option to buy the land on which the proposed facility is or will be located. Second, documentation must include a letter of finance from a financial institution. Third, documentation must include a signed agreement stating that, if selected, the potential contractor will pay liquidated damages if the 180-day and/or 18-month deadline(s) described in 40 TAC §16.1513(q) are not met. The signed agreement must also require the potential contractor to provide, within 10 working days after the date of selection, a surety bond or other financial guarantee acceptable to DHS ensuring payment in the event of default. If the 180-day deadline is not met, liquidated damages are 5.0% of the estimated total cost of the proposed or completed facility. If the 18-month deadline is not met, liquidated damages are 10% of the estimated total cost of the proposed or completed facility. Fourth, there must be acceptable written documentation that the preliminary architectural plans for the proposed or completed facility have been submitted to the Texas Department of Health (TDH). Each application must be complete at the time of its receipt. DHS accepts the first qualified potential contractor on the secondary-selection waiting list. If no potential contractors submit replies during this open solicitation period, DHS will place another public notice in the *Texas Register* announcing the reopening of the open solicitation period until a potential contractor replies.

Occupancy rates for identified threshold counties are listed below:

County Number	P N	County Name	Number of Months Over	Dec	Jan	Feb	Mar	Apr	May
				015	4	Bexar	5	90.7	89.9
240		Webb	5	90.7	89.6	90.4	90.4	90.4	93.3

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

TRD-9009392 Cathy Rossberg
Agency Liaison, Policy and Document
Support Department
Texas Department of Human Services

Filed: September 14, 1990

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



State Board of Insurance

Notice of Public Hearing

Beginning at 9 a.m. on Monday, October 22, 1990, the State Board Insurance will conduct a public hearing on rates for workers' compensation insurance. Notice is hereby given that a hearing under Docket Number 1790 will be held before the board in the Lyndon B. Johnson Auditorium in the basement of the LBJ Library on the campus of the University of Texas in Austin. Access to the auditorium is through the visitors center in Sid Richardson Hall at Red River Street between East 23rd and East 26th

Streets in Austin. The hearing, which will begin at 9 a.m. on Monday, October 22, 1990, may continue each day thereafter from time to time and from place to place, as specified by the board and will possible continue throughout the remainder of that week through Friday October 26, 1990. The session on Tuesday, October 23, 1990, will begin at 9 a.m. in room 118 of the Stephen F. Austin State Office Building at 1700 North Congress Avenue in Austin. The purpose of the hearing will be consideration of revision of workers' compensation and employers' liability insurance rates and rating values, based on experience and statutory mandates, and such other matters as may properly be brought before the board. The Purpose of the hearing will also include consideration of the effect of the provisions of Senate Bill 1 of the Second Called Session of the 71st Legislature of the State of Texas on the calculation and determination of rates and rating plans for workers' compensation insurance and employers' liability insurance in this state. Please note that this hearing will combine hearings on experience and on benefits increase.

A prehearing conference will be held before the general counsel as hearing officer for the State Board of Insurance at 10 a.m. on Wednesday October 3, 1990, in Room 460

of the State Insurance Building at 1110 San Jacinto Boulevard in Austin. The prehearing conference will be held for the following purposes: considering and possibly agreeing to the possibility of making admissions of certain averments of fact or stipulations concerning the use by parties of matters of public record; considering the procedure at the hearing; agreeing to limit, where possible, the number of witnesses; and agreeing to such other matters as may aid in the simplification of the proceedings. Among other matters which will be subject to final determination by the general counsel at the prehearing conference will be all decisions on the admission of parties and on any grouping of parties with similar interests who will be required to make a common presentation through representation by one attorney or one speaker at the hearing beginning on October 22. Any one who wishes to participate in the hearing as a party must, by 9 a.m. on Tuesday, October 2, 1990, present a motion for admission as a party to the Office of the General Counsel of the State Board of Insurance in Room 408 of the State Insurance Building at 1110 San Jacinto Boulevard in Austin. The motion must be in writing and must contain a full explanation of the identifiable separate interest and separate contribution which would constitute sufficient justification for granting of the motion for admission as a party. Without an extensive showing of exceptional circumstances, the board will not accept any motion for admission as a party after 9 a.m. on Tuesday, October 2, 1990, and any decision on admission or consolidation of parties at the prehearing conference will be final subject to review by the board of presentations at the prehearing conference and of arguments therefrom.

This hearing will be held in accordance with legal authority and jurisdiction provided in the Texas Insurance Code, Articles 1.02, 1.04, 5.55, 5.56, 5.57, 5.58, 5.60, 5.62, 5.77, 5.78, 5.79, and 5.96. The hearing and procedure under Docket Number 1790 will be governed by the contested case provisions of the Rules of Practice and Procedure before the State Board of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A) and by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

Reference is hereby made to statutes and rules cited in other paragraphs of this notice of hearing and to the Insurance Code, Article 5.55-5.76-1 and other articles, to 28 TAC Part I and to the manual entitled *Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers' Liability Insurance 1980 Edition*, the manual entitled *Texas Workers' Compensation Unit Statistical Plan Manual*, the manual entitled *Texas Experience Rating Plan Manual for Workers' Compensation*, and other manuals adopted by the State Board of Insurance under the Insurance Code, Article 5.96, as particular sections of statutes and rules that maybe involved in these hearings.

Each prospective party to the hearing shall file with the chief clerk of the State Board of Insurance, no later than noon on Friday, October 12, 1990, 12 copies of each exhibit that the prospective party will offer as an exhibit at the hearing. A prospective party that files its exhibits with the chief clerk in a timely manner is entitled to obtain from the chief clerk before the date of the hearing one copy of each of the exhibits submitted by the other parties. Address filings to Chief Clerk, Mail Code 000-1, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

Please direct inquiries regarding this hearing to Gaylon Daniel, Chief Actuary for Property and Casualty Insurance, Statistical and Rate Development Division, Mail Code Number 000-2, State Board of Insurance, 1110 San

Jacinto Boulevard, Austin, Texas 78701-1998, or telephone (512) 475-3017.

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

TRD-90095404 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: September 17, 1990

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

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Legislative Budget Office Joint Budget Hearing Schedule

Executive and Legislative Budget Offices, Joint Budget Hearing Schedule**, Appropriations Requests for the 1992-1993 Biennium (For the period of September 24-28, 1990).

Department of Licensing and Regulation, September 24-2 p.m., Room 103, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Parks and Wildlife Department, September 25-9 a.m., Room 106, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Department of Human Services, September 26-9 a.m., Brown-Heatly Building, 4900 North Lamar Boulevard, Austin.

Health and Human Services Coordinating Council, September 27-9 a.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Texas Space Commission, September 27-3:30 p.m., Room 102, John H. Reagan Building, 15th and North Congress Avenue, 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 September 13, 1990.

TRD-9009389 Larry Kopp
Assistant Director for Budgets
Legislative Budget Office

Filed: September 14, 1990

For further information, please call: (512) 463-1200

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Texas State Library and Archives Commission Consultant Contract Award

To comply with the provisions of Texas Civil Statutes, Article 6252-11c, the Texas State Library and Archives Commission furnishes this notice of consultant contract awards. After solicitation of proposals in the November 14, 1989, issue of the *Texas Register* (14 TexReg 6047), two proposals were approved for funding.

Kenrick Memorial Library, Brownfield, and the school districts of Brownfield, Meadow, Wellman, and Union will convert an estimated 64,000 titles to create a union catalog on CD-ROM to better serve all of the 15,300 residents of Terry County. Eleven CD-ROM workstations will be placed at the participating libraries. A Terry County proposal user's agreement exists which includes making resources available to all library patron, continuing the project beyond the grant period and opening

Brownfield High School Library after school and during the summer. Contract is with the Brownfield Consolidated Independent School District (601 Tahoka Road, Brownfield, Texas 79316) in the amount of \$60,118.

The Plano Public Library and the Collin County Community College (CCCC) will implement the second phase of a multi-phase project to electronically link all libraries in Collin County via an on-line interactive network. The first step of the project will be to implement a telecommunications system between the three libraries comprising the public library system and the two CCCC learning resource centers by linking the college's microwave communications system with the City of Plano's Telecable "C" cable used by the library. The second step will be to install a minicomputer-based system to permit searching of the disparate library databases via common software, thus eliminating the need for patrons to use two different command structures. Library patron at all locations will have access to the holdings and availability status of CCCC's 73,000 items and of Plano's 272,000 items. Although no formal agreement has been executed, resource sharing exists by virtue of each participants' obligation to serve all 178,600 county residents. The public library's courier service will be expanded to include the two college campuses. Contract is with the City of Plano (Box 860356, Plano, Texas 75086-0356) in the amount of \$169,358.

The beginning date for these projects is September 1, 1990; the ending date is August 31, 1991. Progress reports are due on March 25, 1991, for the first six months of the project; final reports are due September 25, 1991.

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

TRD-9009309 Raymond Hitt
Assistant State Librarian
Texas State Library and Archives
Commission

Filed: September 12, 1990

For further information, please call (512) 463-5440

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Texas Public Finance Authority
Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11C, the Texas Public Finance Authority (the Authority) announces that it has entered into an accounting services contract with Porterfield & Associates, 9442 Capitol of Texas Highway, Austin, Texas 78759, to prepare the authority annual financial report and render additional accounting services as needed for the 1991 fiscal year. The Request for Proposal was published in the July 31, 1990, issue of the *Texas Register* (15 TexReg 4409).

The term of the contract is for a one-year period effective September 1, 1990. The firm will be paid based on a sliding scale which ranges from \$85 per hour for a book-keeper. Preparation of the annual report is not expected to exceed 140 and the report is due December 7, 1990.

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

TRD-9009337 Catherine Nell
Accountant III
Texas Public Finance Authority

Filed: September 12, 1990

For further information, please call: (512) 463-5544

Railroad Commission of Texas
LP-Gas Advisory Committee Meeting

The LP-Gas Division of the Railroad Commission of Texas announces a meeting of the LP-Gas Advisory Committee to be held on Tuesday, October 9, 1990, 10 a.m., Room 9-147, William B. Travis Building, 1701 North Congress, Austin.

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

TRD-9009419 Cril Payne
Assistant Director
Railroad Commission of Texas

Filed: September 14, 1990

For further information, please call: (512) 463-6949

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Notice of Invitation to Bid

The Abandoned Mine Land (AML) Section of the Surface Mining and Reclamation Division (SMRD), Railroad Commission of Texas (hereinafter referred to as the commission), invites bids for the chemical analysis of soil and mine spoil samples. Samples will be taken from, AML coal mine reclamation projects (ALCOA, Areas 11 and 12) in Milam County.

As the designated state agency for implementation of the Surface Mining Control and Reclamation Act of 1977 (30 United States Code Annotated, §1201 *et seq.*), the commission will award a unit price contract that will not exceed product of the unit cost and the estimated quantities to the lowest qualified bidder for completion of this work. The closing date and time for receipt of bids will be 2 p.m., October 5, 1990.

A copy of the invitation to bid may be obtained from: Melvin B. Hodgkiss, P.E., Director, Surface Mining and Reclamation Division, Railroad Commission of Texas, Ninth Floor, Room 9-138, William B. Travis State Office Building, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas 78711-2967.

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

TRD-9009405 Cril Payne
Assistant Director
Railroad Commission of Texas

Filed: September 14, 1990

For further information, please call: (512) 463-6900

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Request for Proposals

The Railroad Commission of Texas (RRC) invites proposals for construction management services.

The RRC is the designated state rail planning agency, and as such, it is the recipient of Federal Railroad Administration (FRA) grant funds to be applied on a matching basis towards railroad branchline reconstruction. The next such rehabilitation project is to be on track owned by the City of Mineral Wells and operated by the Texas Transportation, Inc. dba Mineral Wells and Eastern Railway Company (MW&E). The Project encompasses 10.5 miles of track located between Mile Post (MP) 1.5 near Weatherford and MP 12.0 between Weatherford and Mineral Wells, Parker County. This project will upgrade the line for safe and efficient operation at 25 mph (FRA Track Safety Class 2). All reconstruction work will be based on engineering specifications of, and provided by, MW&E.

Track will be rehabilitated by restoring cuts, ditches and shoulders; replacing defective ties; replacing rail anchors; applying new ballast; and raising tract to good surface and alignment.

Construction management services will be required to perform the following tasks: review, recommend approval, and/or amend project specifications; assist in preparing the bid proposal, conduct pre-bid and pre construction conferences, and revise scope of work if necessary; provide a qualified on-site resident inspector each of an estimated 120 working days; visit the site as needed or, at a minimum, once per month; prepare, certify, and present monthly billings with progress report; and perform final inspection and prepare a final report under the professional engineer (PE) seal of the project manager.

Contact Person. A Complete request for proposals may be obtained from Edward Kasparik, Manager, Rail Projects, Railroad Commission of Texas, Transportation/Gas Utilities Division, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7119. To schedule a site visit, call Ray or Randy Nichols, City Hall, Mineral Wells, at (817) 328-1211.

Deadline for Submission of Proposals. Proposals are due at the previously specified Railroad Commission office no later than 5 p.m. on Friday, October 5, 1990. Street address is William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

General Information. The Railroad Commission of Texas reserves the right to accept or reject any or all proposals submitted. The RRC shall select and award the contract and engage these construction management services on the basis of demonstrated competence and qualifications and on the basis of fair and reasonable prices.

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

TRD-9009456 Crll Payne
 Assistance Director General Law, Legal
 Division
 Railroad Commission of Texas

Filed: September 17, 1990

For further information, please call: (512) 463-7152



Texas Water Development Board Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board.

Aquilla Water Supply District, P.O. Box 1096, Hillsboro, Texas 76645 received August 15, 1990, application for financial assistance in the amount of \$2,600, 000 from the water supply account of the Texas water development fund.

El Paso County WC&ID (Westway), 1002 Tiffany, Canutillo, Texas 79835, received August 15, 1990, application for an increase in financial assistance in the amount of \$35,000 from the water quality enhancement account of the Texas water development fund.

City of Keene, 100 North Mockingbird, Keene, Texas 76059; received August 16, 1990, application for financial assistance in the amount of \$4,970,000 from the water quality enhancement account of the Texas water development fund.

City of Rio Vista, P.O. Box 415, Rio Vista, Texas 76093; received August 16, 1990, application for financial assis-

tance in the amount of \$300,000 from the water quality enhancement account of the Texas water development fund.

City of Hooks, P.O. Box 37, Hooks, Texas 75561; received March 15, 1989, application for financial assistance in the amount of \$1,125,000 from the state water pollution control revolving fund.

City of Del Rio, P.O. Box 4239, Del Rio, Texas 78841, received March 9, 1989, application for financial assistance in the amount of \$1,675,000 from the state water pollution control revolving fund.

City of Mount Pleasant, P.O. Box 231, Mount Pleasant, Texas 75455, received November 15, 1989, application for an increase in financial assistance in the amount of \$350,000 from the state water pollution control revolving fund.

Western Network, 1215 Paseo De Pesalta, Santa Fe, New Mexico 87501, received September 7, 1990, application for financial assistance in the amount of \$40,000 from the research and planning fund.

Tarrant County WCID Number 1, P.O. Box 4508, Fort Worth, Texas 76164-0508, received August 14, 1990, application for financial assistance in the amount of \$75,000 from the research and planning fund.

Texas Tech University, Water Resources Center, P.O. Box 4630, Lubbock, Texas 79409; received June 4, 1990, application for financial assistance in the amount of \$52,350 from the research and planning fund.

Barton Springs/Edwards Aquifer Conservation District, 1124A Regal Row Austin, Texas 78748; received April 30, 1990, application for financial assistance in the amount of \$31,500 from the research and planning fund.

Nueces Water Authority, P.O. Box 349, Uvalde, Texas 78802-0349; received August 24, 1990, application for financial assistance in the amount of \$25,000 from the research and planning fund.

Upper Guadalupe River Authority, P.O. Box 1278, Kerrville, Texas 78029-1278, received August 15, 1990, application for financial assistance in the amount of \$100, 000 from the research and planning fund.

Harris County Flood Control District, 9900 Northwest Freeway, Suite 220, Houston, Texas 77092; received June 15, 1990, application for financial assistance in the amount of \$405,000 from the research and planning fund.

South Texas Water Authority, P.O. Box 1701, Kingsville, Texas 78364-1701; received July 10, 1990, application for financial assistance in the amount of \$125,000 from the research and planning fund.

North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 76005-5888; received August 3, 1990, application for financial assistance in the amount of \$375,000 from the research and planning fund.

Additional information concerning this matter may be obtained from G.E. Kretzschmar, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

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

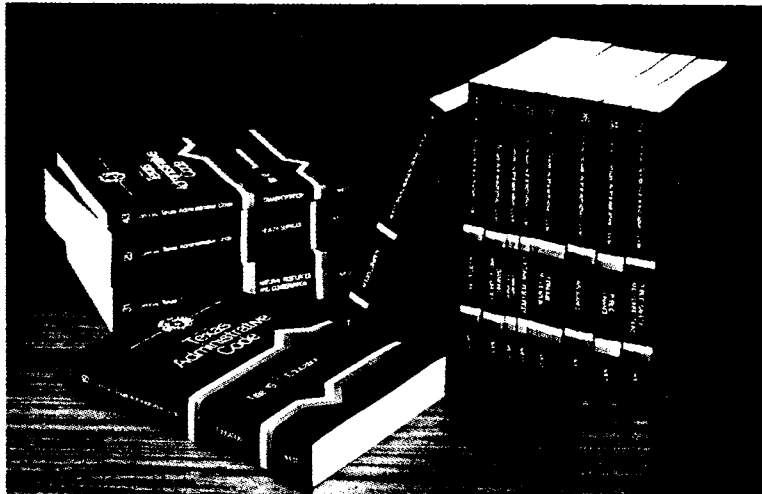
TRD-9009316 G.E. Kretzschmar
 Executive Administrator
 Texas Water Development Board

Filed: September 12, 1990

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



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