

Texas Register

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Texas Register

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

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

Governor-Appointments, executive orders, and proclamations

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

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

Proposed Sections-sections proposed for adoption

Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings-notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

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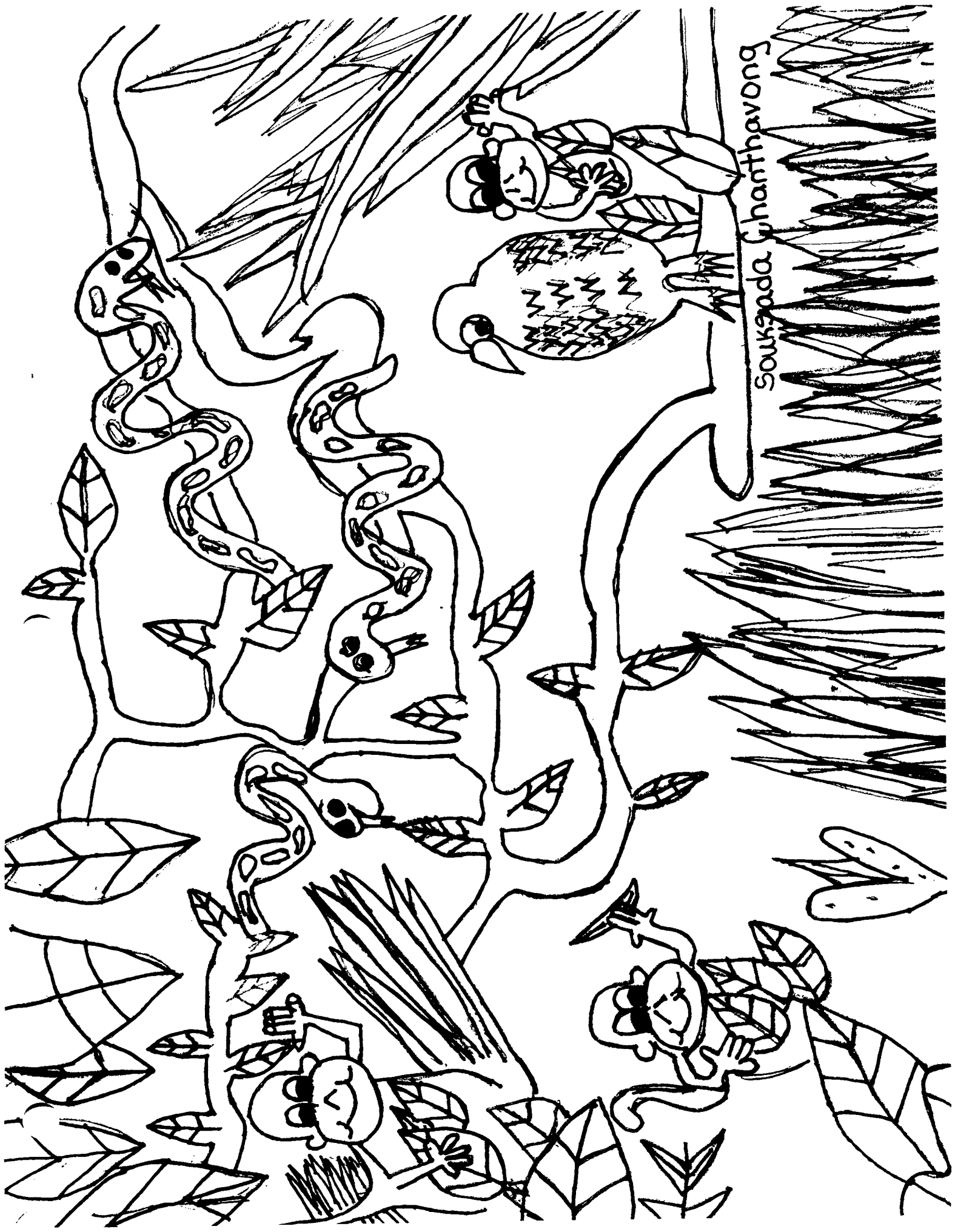
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Soukprada Gnanthavong



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TAC Titles Affected—December

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43 TAC §21.150—7073

43 TAC §25.91—7073

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MELISSA
COWART

Attorney General

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

Open Records Decisions

ORD-574 (RQ-2140). Request from Charles E. Griffith, III, Deputy City Attorney, City of Austin, Austin, concerning whether information relating to funding a housing project is excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

Summary of Decision. Section 3(a)(7) protects communications within the attorney-client privilege from disclosure under the Open Records Act. The protection extends to factual information or requests for legal advice communicated by the client to the attorney, as well as to legal advice or opinion rendered by the attorney to the client or to an associated attorney in furtherance of the rendition of legal services to the client. Notes made by an attorney in a case file are protected to the extent that they document client confidences or the attorney's legal advice or opinion communicated to the client; mere factual notations, or notations concerning information garnered from third parties, are not protected.

An attorney's work product is not protected as information deemed confidential by law under §3(a)(1). Such information may be excepted from disclosure under §3(a)(3), the "litigation exception," only if the §3(a)(3) requirements are met. Open Records Decision Number 304 (1982) is overruled to the extent that it conflicts with this decision.

TRD-9013048

◆ ◆ ◆
ORD-575 (RQ-2071). Request from Allen P. Beinke, Jr. Executive Director, Texas Water Commission, Austin, concerning applicability of the Open Records Act, Texas Civil Statutes, Article 6252-17a, to documents submitted to a governmental body and claimed to be confidential under Rule 26(b)(3) of the Federal Rules of Civil Procedure, and Rule 166b.3 of the Texas Rules of Civil Procedure.

Summary of Decision. The Open Records Act, §3(a)(1) does not encompass work product, investigative, or other "discovery privileges." Such protection may exist under §3(a)(3), if the situation meets the §3(a)(3) requirements. A governmental body cannot withhold information under §3(a)(3) when the anticipated litigation is between private parties.

The Open Records Act does not require a third party to substantiate its claims of confidentiality when it submits material to a governmental body or when a governmental body requests an open records decision pursuant to the Open Records Act §7(c). Although the governmental body may make the initial determination of whether to request a decision from this office, the most prudent course of action is to submit the request to this office when a third party's property or privacy interests may be implicated, despite the third party's lack of sub-

stantiation of its claim, unless there is evidence that the claim is clearly unfounded or clearly justified as a matter of law.

TRD-9013049

◆ ◆ ◆
ORD-576 (RQ-2052). Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning whether an open records request regarding internal investigations of bingo should be directed to the comptroller or to the Alcoholic Beverage Commission.

Summary of Decision. Where the comptroller of public accounts has expressly agreed, pursuant to an interagency contract, to notify the Alcoholic Beverage Commission promptly upon receipt of an open records request, an open records request for information maintained for the Alcoholic Beverage Commission by the comptroller pursuant to that contract may be directed to the chairman of the Alcoholic Beverage Commission, the chairman's agents within the Alcoholic Beverage Commission or to the comptroller who has undertaken to become the chairman's agent for this purpose. Responsibility for responding to the open records request remains with the Alcoholic Beverage Commission. For purposes of calculating deadlines within the Open Records Act, an open records request would be considered to have been received by the chairman of the Alcoholic Beverage Commission when received by the comptroller.

TRD-9013050

◆ ◆ ◆



Name: Victor Lee Naranjo

Grade: 11

School: Del Rio High School, San Felipe Del Rio CISD

Emergency Sections

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

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

TITLE 28. INSURANCE

Part II. Texas Workers' Compensation Commission

Chapter 42. Medical Benefits

Subchapter B. Medical Cost Evaluation

• 28 TAC §42.110

The Texas Workers' Compensation Commission adopts on an emergency basis an amendment to §42.110, concerning official health facility fee guidelines.

The amendment temporarily extends the application of the existing health facility fee guidelines to enable the completion of new guidelines pursuant to the Texas Workers' Compensation Act, Article 8.

The executive director of the Texas Workers' Compensation Commission finds that it is necessary to adopt this amendment on an emergency basis. The executive director finds there will be imminent peril to public health, safety, or welfare if the amendment is not enacted on an emergency basis. The facts constituting emergency are: current §42.110 guidelines and limitations, concerning the costs of services and items provided by health facilities are not effective after December 31, 1990; action on extension of the guidelines and limitations was not taken pending the appellate court decision in pending litigation over §42.110; the decision of the court of appeals in *Methodist Hospital of Dallas et al v. Texas Industrial Accident Board et al*, No. 3-90-052-CV was issued on November 28, 1990; unless this amendment is adopted, there will be no cost containment measures in place regarding fees for health facility services and items after December 31, 1990; and the absence of such guidelines and limitations will cause confusion to all parties, including health facilities, insurance carriers, and injured workers.

The amendment is adopted on an emergency basis under the Texas Workers' Compensation Act, Senate Bill 1, 71st Legislature, 2nd Called Session (December 1989) Article 17, §17.12(b), and Texas Civil Statutes, Article 6252-13a, §4 and §5, which provide the Texas Workers' Compensation Commission with the authority to adopt rules necessary to administer the workers' compensation laws.

§42.110. Official Health Facility Fee Guidelines.

(a)-(d)(No change.)

(e) Limitations on adjusting the base chargemaster.

(1) At any time after [between] January 1, 1990, [and December 31, 1990, inclusive,] a health facility may adjust a unit price as listed on its base chargemaster to create an adjusted chargemaster; however, at no time after [between] January 1, 1990 [and December 31, 1990, inclusive,] shall the sum total of all unit prices listed on the adjusted chargemaster be greater than the sum total of all unit prices on the base chargemaster multiplied by 1.07.

(2) (No change.)

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

(h) Effective date of guidelines and limitations. The guidelines and limitations established in subsections (b), (d), and (e) of this section apply to all compensable services and items provided after [from] January 1, 1990[-December 31, 1990, inclusive].

(i)-(j) (No change.)

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

(1) Adjusted chargemaster—The health facility's base chargemaster, as it exists after [between] December 2, 1989, [and December 31, 1990, inclusive], adjusted as permitted by subsection (e) of this section, if applicable.

(2)-(18) (No change.)

Issued in Austin, Texas, on December 5, 1990.

TRD-9013060

George E. Chapman
Executive Director
Texas Workers'
Compensation
Commission

Effective date: December 5, 1990

Expiration date: April 4, 1991

For further information, please call: (512) 448-7962

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 21. Right-of-Way Division

Control of Outdoor Advertising Signs

• 43 TAC §21.150

The State Department of Highways and Public Transportation is renewing the effectiveness of the emergency adoption of amended §21.150, for a 60-day period effective January 25, 1991. The text of amended §21.150 was originally published in the October 5, 1990, issue of the *Texas Register* (15 TexReg 5837).

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

TRD-9012941

Robert E. Shaddock
General Counsel
State Department of
Highways and Public
Transportation

Effective date: January 25, 1991

Expiration date: March 26, 1991

For further information, please call: (512) 463-8630

Chapter 25. Maintenance and Operations Division

Oversize and/or Overweight Permits for Certain Oil Well Related Vehicles

• 43 TAC §25.91

The State Department of Highways and Public Transportation adopts on an emergency basis an amendment to §25.91, concerning permits for certain oil well related vehicles. This section is being amended to postpone the mandatory enforcement date for the reduction of axle weights for all oil well servicing, clean-out and drilling rigs from 30,000 pounds per axle to not more than 25,000 pounds per axle. Paragraph (10) of the section is amended to reflect that the mandatory enforcement date is changes from January 1, 1991, to January 1, 1992.

The amended section is adopted on an emergency basis in order to minimize the adverse effects on the depressed status of the petro-

leum industry, which has an immediate and direct effect on the economy of Texas and the welfare of its citizens.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 6666 and 6701d-16, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the State Department of Highways and Public Transportation, and to promulgate rules for the issuance of over-size and overweight permits for the movement of oil well servicing, clean-out and drilling vehicles.

§25.91. Permits for Certain Oil Well Related Vehicles. Oversize and/or over-

weight permits may be issued to permit movement of oil well servicing, oil well clean-out, and/or oil well drilling machinery and equipment in compliance with the following.

(1)-(9) (No change.)

(10) The maximum weight for any single axle or any axle within and axle group shall not exceed 30,000 pounds or 850 pounds per inch of tire width, whichever is less; however, after January 1, 1992 [January 1, 1991], the maximum axle weight shall be reduced to 25,000 pounds or 850 pounds per inch of tire width, whichever is less. No permits will be issued after January 1, 1992 [January 1, 1991], if any

axle weight exceeds 25,000 pounds or 850 pounds per inch of tire width, whichever is less.

(11)-(20) (No change.)

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

TRD-9012944

Diane L. Northern
Legal Administrative
Assistant
State Department of
Highways and Public
Transportation

Effective date: December 3, 1990

Expiration date: April 2, 1991

For further information, please call: (512) 463-8630

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Proposed Sections

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

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

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 21. Student Services

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

• 19 TAC §21.484

The Texas Higher Education Coordinating Board proposes an amendment to §21.484, concerning the Texas Outstanding Rural Scholar Recognition and Forgiveness Loan Program.

The amendment is necessary based upon recommendations of the mandated advisory committee to the board for this program. The amendment broadens 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 amendment also clarifies 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 section is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the rule.

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 increased number of trained health care professionals supplied to rural areas of Texas, due to more entities participating in 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 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 Texas Outstanding Rural Scholar Recognition and Forgiveness Loan Program.

§21.484. Noncompliance with Conditions of Forgiveness Loans.

(a)-(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 [and/or licensed] within one year of completing the required professional education will be found in noncompliance 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 [and/or licensed] will be found in noncompliance. Repayment will begin immediately.

(f)-(h) (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 December 4, 1990.

TRD-9013021

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 11, 1991

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



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 335. Industrial Solid Wastes and Municipal Hazardous Waste

Subchapter G. Location Standards for Hazardous Waste Storage, Processing, or Disposal

• 31 TAC §335.206

The Texas Water Commission proposes an amendment to §335.206, concerning industrial solid waste and municipal hazardous waste.

Section 335.206 currently refers or references §301.59 as being the section that addresses the subject of, "petition for adoption of rules". Section 301.59 is not the correct number. The correct number is §275.78.

Roger Bourdeau, chief fiscal officer, 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. Bourdeau 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 clarity because the amended section will refer to the correct section in regard to filing a petition for the adoption of rules. 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 Larry G. Persky, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78741-3087. Comments will be accepted 30 days after publication of this amendment in the *Texas Register*.

The amendment is proposed under the Texas Water Code, §5.103 and §5.105, Texas Water Code Annotated, Chapter 5 (Vernon Supplement 1990), which provides that the Texas Water Commission shall adopt any rules necessary to carry out its power and duties under the provisions of the Texas Water Code and other laws of this state; and under the Texas Solid Waste Disposal Act, §81.017, Texas Health and Safety Code Annotated, Chapter

361 (Vernon Supplement 1990), which provides that the commission is responsible for the management of industrial solid waste and hazardous municipal waste and shall coordinate industrial solid waste activities and hazardous municipal waste activities. Section 361.017 further provides the commission shall accomplish the purposes of the Texas Solid Waste Disposal Act by controlling all aspects of the management of industrial solid waste and hazardous municipal waste by all practical and economically feasible methods consistent with its powers and duties under Texas Solid Waste Disposal Act and other applicable law.

§335.206. Petitions for Rulemaking. Local governments may petition the commission for a rule which restricts or prohibits the siting of a new hazardous waste management facility in areas including, but not limited to, those meeting one or more of the characteristics delineated in the Texas Solid Waste Disposal Act, Texas Health and Safety Code Annotated, Chapter 361 (Vernon) §361.022, and §335.204 [Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7; §4(c)(7)], and §335.204 of this title (relating to Unsuitable Site characteristics). Such petitions shall be submitted in writing and shall comply with the requirements of §275.78 [§301.59] of this title (relating to Petition for Adoption of Rules). No rule adopted by the commission under this section shall affect the siting of a new hazardous waste management facility if an application or a notice of intent to file an application with respect to such facility has been filed with the commission prior to the filing of a petition under this section.

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

Issued in Austin, Texas, on December 5, 1990.

TRD-90132061 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: January 11, 1991

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter G. Hospital Services

• 40 TAC §29.609

The Texas Department of Human Services proposes an amendment to §29.609, con-

cerning additional reimbursement to disproportionate share hospitals. The purpose for the amendment is to specify that DHS is establishing a supplemental disproportionate share program to provide additional reimbursement to state-owned teaching hospitals. This amendment does not revise DHS's existing disproportionate share methodology since it establishes a second pool of funds.

Burton F. Raiford, chief financial officer, 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. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be additional reimbursement to qualifying teaching hospitals for the care provided to low-income patients. 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 Joseph B. Branton, Jr. at (512) 338-6505 in DHS's Purchased Health Services. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-574, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*. A copy of the proposal is also being sent to each DHS field office where it will be available for public review.

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.

§29.609. Additional Reimbursement to Disproportionate Share Hospitals.

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

(f) Reimbursement to state-owned teaching hospitals. In addition to the reimbursement described in subsection (e) of this section and effective October 1, 1990, DHS provides additional disproportionate share reimbursement to state-owned teaching hospitals through a supplemental disproportionate share program. A state-owned teaching hospital is a hospital owned and operated by a state university or other agency of the state. Additional reimbursement is provided to each state-owned teaching hospital on a monthly basis using the following formula: Monthly Charity Charges of the State-owned Teaching Hospital times Allocated Total Monthly Charity Charges of All State-owned Teaching Hospitals Fund

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

Issued in Austin, Texas, on December 5, 1990.

TRD-9013065

Nancy Murphy
Agency Liaison, Policy and
Document Support
Services
Texas Department of
Human Services

Proposed date of adoption: February 1, 1991

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

• 40 TAC §29.610

The Texas Department of Human Services (DHS) proposes new §29.610, concerning designation of certain hospitals as disproportionate share hospitals during state Fiscal Year 1991. Section 29.610 specifies that DHS has defined certain hospitals to be disproportionate share hospitals for the purpose of receiving outlier payment adjustments during state Fiscal Year 1991. Such hospitals are those hospitals that would have qualified for disproportionate share payments during state fiscal year 1990 had more recent data been available from the Texas Department of Health regarding the total annual number of patient days in each hospital.

Burton F. Raiford, chief financial officer, has determined that for the period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government is an estimated additional cost of \$1,649,700 for Fiscal Year 1991. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for the period the section is in effect the public benefit anticipated as a result of enforcing the section will be eligibility of certain hospitals to receive additional revenues for providing care to certain patients with extended or expensive stays of hospitalization. There will be no effect on small businesses. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Joseph B. Branton, Jr. at (512) 338-6505 in DHS's Purchased Health Services. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-575, 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 new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§29.610. Designation of Certain Hospitals as Disproportionate Share Hospitals During State Fiscal Year 1991. During State Fiscal Year 1991 (effective October 1, 1990, through August 31, 1991) and notwithstanding other provisions in this chapter, the Texas Department of Human Services has defined certain hospitals to be disproportionate share hospitals for the purpose of receiving outlier payment adjustments as described in §29.606 of this title

(relating to Reimbursement Methodology for Inpatient Hospital Services). Such hospitals are those hospitals that would have qualified for disproportionate share payments under §29.609 of this title (relating to Additional Reimbursement to Disproportionate Share Hospitals) during state fiscal year 1990 had more recent data been available from the Texas Department of Health regarding the total annual number of patient days in each hospital. Hospitals described in this section are defined as disproportionate share hospitals for the purpose of qualifying

for outlier payment adjustments during state fiscal year 1991 and are not entitled to disproportionate share funds out of the distribution for state fiscal year 1990 which has already been made. To qualify for disproportionate share funds during state fiscal year 1991, such hospitals must meet the criteria specified in §29.609 of this title (relating to Additional Reimbursement to Disproportionate Share Hospitals).

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 December 5, 1990.

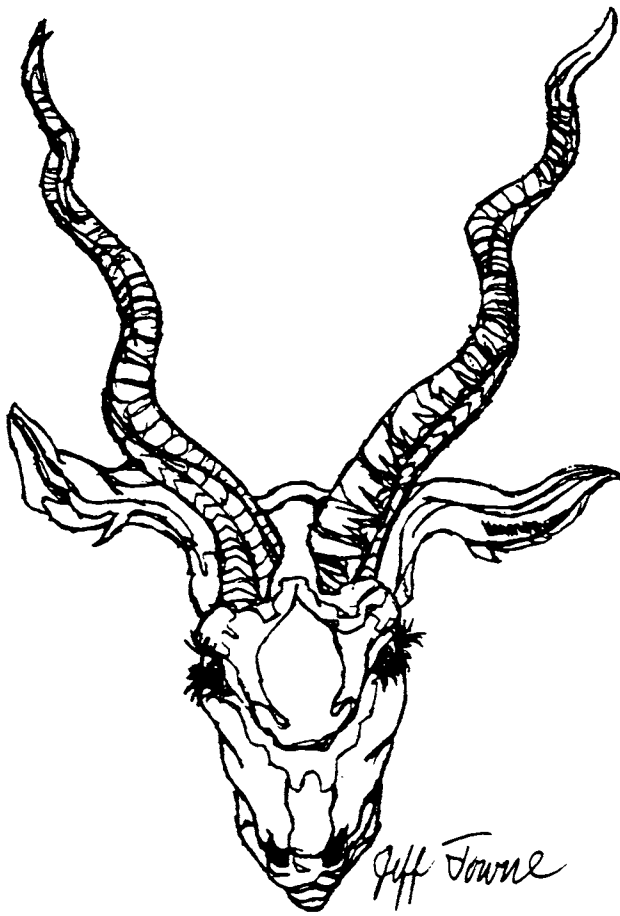
TRD-9013064

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: February 1, 1991

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





Name: Jeff Towne

Grade: 7

School: Richardson Junior High School, Richardson 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 1. ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 255. Finance

• 1 TAC §255.6

The Advisory Commission on State Emergency Communications adopts new §255.6, with changes to the proposed text as published in the September 4, 1990, issue of the *Texas Register* (15 TexReg 5053).

The commission, in accordance with Health and Safety Code, Chapter 771, Subchapter D, has the authority to assess the 9-1-1 funding revenues and to determine which customers and customer classes should be billed the 9-1-1 fee and surcharge. This determination is part of the commission's charge to obtain and distribute revenue collected for use for approved planning, development, and provision of 9-1-1 emergency telephone service.

The new section relates to the billing of the 9-1-1 service fee on local access and the 9-1-1 surcharge on intrastate long distance. The new section will function as policy for the telephone industry in determining customer exemptions from the 9-1-1 charges and therefore authorize them to make appropriate computer programming adjustments.

No comments were received regarding adoption of the new section.

The new section is adopted under the Health and Safety Code, Chapter 771, Subtitle B, Subchapter D, which provides the Advisory Commission on State Emergency Communications with the authority to administer the planning, implementation, and financing of statewide emergency telecommunications.

§255.6. 9-1-1 Service Fee and Surcharge Exemption. A service provider shall not bill a 9-1-1 fee or surcharge to any customer exempted by the Health and Safety Code, §771.074 or any agency or branch of the Federal Government.

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 December 4, 1990.

TRD-9013044

Mary A. Boyd
Executive Director
Advisory Commission on
State Emergency
Communications

Effective date: December 25, 1990

Proposal publication date: September 4, 1990

For further information, please call: (512) 327-1911

• 1 TAC §255.7

The Advisory Commission on State Emergency Communications adopts new §255.7, without changes to the proposed text as published in the September 4, 1990, issue of the *Texas Register* (15 TexReg 5053).

The commission is authorized to require the billing of 9-1-1 fees and surcharges on any customer or types of customer by telephone service providers, and use the revenue collected for planning, development, and provision of 9-1-1 service. (Health and Safety Code, Chapter 771, Subchapter D, Financing State Emergency Communications.)

The new section will clarify the Commission's billing authorization of the 9-1-1 service fee and surcharge including the legal and policy decision as to which customers or customer classes are exempt from the fees.

Southwestern Bell Telephone Company asserts that the Advisory Commission on State Emergency Communications has no authority to determine whether a customer is exempt or to require payment regardless of a customer's status. Because Southwestern Bell disagrees with the concept of §255.7, they do not recommend any revisions.

The commission and its counsel assert that the rule would protect the commission's capacity and power to determine whom is to be billed. The rule is within the agency's authority to enforce the provisions of the Health and Safety Code, Chapter 771.

The new section is adopted under the Health and Safety Code, §771.071 and §771.074, which provides the Advisory Commission on State Emergency Communications with the authority to impose the 9-1-1 fee and surcharge and require the service providers to bill, collect, and remit the fee and surcharge. Additionally, the commission maintains its authority to audit said providers.

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 December 4, 1990.

TRD-9013045

Mary A. Boyd
Executive Director
Advisory Commission on
State Emergency
Communications

Effective date: December 25, 1990

Proposal publication date: September 4, 1990

For further information, please call: (512) 327-1911

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 408. Standards and Quality Assurance

Subchapter A. Standards of the Texas Department of Mental Health and Mental Retardation-Quality Assurance

• 25 TAC §§408.1-408.10

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts new §§408.1-408.10. Sections 408.7 and 408.9 are adopted with changes to the proposed text as published in the September 14, 1990, issue of the *Texas Register* (15 TexReg 5347). Sections 408.1-408.6, 408.8, and 408.10 are adopted without changes and will not be republished. The TDMHMR Mental Health Community Services Standards, which is adopted by reference in §408.5 (concerning standards of care), would also be adopted with changes to the text as proposed.

The new sections are adopted contemporaneously with the adoption of the repeal of §§401.341-401.350 of this title, also concerning standards of the Texas Department of Mental Health and Mental Retardation quality assurance. The sections that are adopted and the sections that are repealed are identical except for the updating of references to national standards for laboratory accreditation, the adoption of a substantially revised edition of TDMHMR community standards for mental health services, the deletion of reference to Directive 1 on standard operating procedures, and the revision of the distribution section consistent with recent changes in organizational structure.

The new mental health community standards document that is adopted by reference in §408.5(6) of the new subchapter differs from the existing standards in that it is more client-centered, outcome-oriented, and user-friendly. The new standards, which are less prescriptive than the standards that they would replace, are designed to provide for more efficient and effective use of resources.

Prior to proposal in the *Texas Register*, a group of state facility, community center, advocacy, consumer, court, and central office representatives developed the new standards and made preliminary revisions in response to 30 commenters.

Following the public comment period, revisions to the user's guide to the standards as well as specific standards were recommended by the standards workgroup and approved by TDMHMR executive staff following review of public comment. Revisions included clarification of the way in which deemed status is requested and granted or denied; the specification of the program review methodology that will be used by quality assurance staff to evaluate compliance with the standards in community programs; and elaboration of the standards scoring methodology and timeframes for corrective activities. With reference to specific standards, the following are examples of revisions made to the document as proposed. The requirements that physicians and nurses receive training in first aid and that physicians receive training in seizure management were deleted as unnecessary since these professionals are routinely trained in these areas. Requirements related to rapid neuroleptization were deleted. The requirement for staff to reflect the cultural diversity of their respective localities was moved from requisite standards to standards governing information and accessibility. The format for required assessments was revised to coincide with the existing community mental health record system. A requirement was added for a plan for interim services to be provided to each consumer at admission. A requirement was added for each MHA's description of services to include the elements specified in the contract for services. Language was added throughout the document to provide for and/or require consumer and family preference and participation in various aspects of service and treatment. Residential services were redefined and the goals and standards modified accordingly. Standards governing continuity of services were moved to the section dealing with centerwide standards. Standards governing in-home intervention services for children and adolescents were moved from the chapter on crisis resolution services to the chapter governing treatment services and general medical care. In the quality assurance chapter, a standard was added concerning the involvement of consumers in the development and implementation of data collection for program evaluation. In the chapter governing screening and crisis services, the standard has been changed to require a face-to-face screening as soon as the need indicates, within 30 days maximum. Numerous additional changes were made and are available from the TDMHMR Department of Mental Health Services for public inspection on request.

Section 408.9(B), the directive on standards and quality assurance, has been deleted from the list of references. As part of TDMHMR's sunset review of its policies and procedures, the document was deleted as no longer necessary to operations. In the same section, references to the standards of the Joint Commission on Accreditation of Healthcare Organizations have been updated consistent with the most recently issued effective editions of the Accreditation Manual for Hospitals (to take effect January 1991) and the Consoli-

dated Standards Manual (to take effect February 1991).

Comments concerning the proposal were received from Abilene Regional MHMR Center, Abilene; an individual, FAPA, Houston; Life Management Center, El Paso; Life Resource, Beaumont; Mental Health Advisory Committee, Collin County MHMR Center, McKinney; Mental Health Association, Austin; Nueces County MHMR Community Center, Corpus Christi; Permian Basin Community Centers for MHMR; Texas Mental Health Consumers, Austin; and Tropical Texas Center for MHMR, Edinburg. Comments generally focussed on the mental health community standards adopted by reference in §408.5 of the new subchapter, concerning standards of care. Commenters were generally supportive of the new standards and offered recommendations concerning specific standards in several areas.

One commenter suggested that the fiscal note of \$1,500 to \$5,000 annually for each mental health authority (MHA) implementing the revised mental health community standards should be considered an estimate only. The commenter cited another subchapter currently being developed concerning prescribing of medication, which is referenced in the new standards, and stated that the final disposition of key policies in that draft subchapter could potentially increase costs to MHAs. The department responds that the new mental health standards were developed with knowledge of the content and status of the proposed new subchapter, and that the fiscal note addresses the issue to the extent possible at this time.

Concerning §408.4(2), a commenter recommended that the department's responsibility of "promoting highest quality service" be qualified by the addition of the phrase, "consistent with available resources." The department responds that promoting the highest quality service requires a number of activities, including seeking funding to make highest quality service attainable. Such a qualifying phrase could be interpreted as limiting.

With regard to §408.7, a commenter suggested deleting reference to "implementation" of applicable regulations as a responsibility of quality assurance staff, noting that quality assurance staff do not have the authority to implement compliance in most organizations. The department responds that language has been modified to more accurately reflect the nature of the quality assurance function.

Concerning the adoption by reference of TDMHMR Mental Health Community Services Standards in §408.5, several general comments were received in support of the new format and emphasis on outcome in the standards. Several comments of support for specific standards were also received.

Commenters recommended that definitions and terms, e.g., calendar day versus workday, be made more consistent. Some commenters requested that specific terms be defined, e.g., QMHP, personal restraint, mechanical restraint. Several definitions were added to the glossary or modified. As appropriate, changes were made to ensure internal consistency in requirements and terms.

A number of comments were received regarding eliminating stigmatizing language in the standards. These concerns have been addressed throughout the document.

One commenter made numerous suggestions for providing opportunity for consumer choice and the exercise of individual preference in treatment planning and other activities, and language has been added throughout the document for that purpose.

A commenter suggested that the standards do not recognize the right of patients to notice, due process, or the right to reject treatment. The department responds that adopted Standard 2.1.P references the client rights handbook. The Texas Mental Health Code, referenced in adopted Standard 2.6.P, contains provisions for all rights of individuals in treatment.

The same commenter suggested that given the substantial numbers of persons who need emergency services who present diagnostic and treatment difficulties, TDMHMR should limit such services to only those that can be provided as part of an emergency room of a general medical and surgical hospital. The department responds that the development of the walk-in and mobile crisis clinics is in keeping with the current state-of-the-art in the delivery of community mental health services.

The commenter also noted that mental health professionals and mental health services must meet prevailing community standards as well as agency-imposed requirements, and that locating such services in a hospital would facilitate that goal. The department responds that the majority of community services to people with mental illness do not require a hospital setting. Nothing in the agency's standards can be construed to require less than professionally acceptable conduct from service providers, regardless of service site.

The commenter noted that the standards do not address the need for medical oversight and administration and are therefore not in keeping with the overall thrust of the document, which the commenter identifies as the provision of "health care" for individuals experiencing psychosis. The department responds that the standards are not intended for only health care services for the seriously mentally ill and that the standards therefore do not need to address only the medical aspects of care. It is also noted that standards in the medication-related services chapter address medical oversight and administration as appropriate.

The commenter suggested the term "prompt" be used with regard to intervention with neuroleptic medications rather than "rapid," noting that the term could be confused with rapid tranquilization. The department responds that the standard governing rapid neuroleptization has been deleted from the document.

Commenters called for the department to provide interpretive guidelines as well as a glossary of terms for the standards. The need for interpretive guidelines will be evaluated after the standards have been field-tested. A glossary has been developed and is attached to the standards.

A commenter observed that there are no standards governing foster client homes. The department responds that such residences would be covered in one of the four categories in the residential and housing services chapter if the focus of services matches the definitions given.

A commenter suggested that the standards should be included in FOLIO software and as pocket-sized booklet rather than being published in a volume. The department responds that both ideas are good, and that the standards will be added to the infobases currently available for use with FOLIO software.

Concerning the User's Guide section of the standards, a commenter suggested that the phrase "persons labeled as mentally ill" be used instead of "people who have mental illness(es)." All such language in the User's Guide was deleted.

Regarding the same section of the document, a commenter noted that numbering of the core services implies a prioritization. The numbering has been deleted.

Concerning reference to comprehensive diagnoses and evaluations in the User's Guide, a commenter questioned the applicability of this service in the mental health community services standards. The department responds that all of the required core services are stated in this document just as they appear in the Texas Mental Health and Mental Retardation Act.

Also regarding the User's Guide, a commenter questioned whether the department's intent concerning outcome standards is that every client served shows progress. The department responds that wording has been clarified in the document and that further guidance regarding outcome standards will be developed and provided before training and implementation begin.

Concerning the discussion of scoring in the User's Guide, the same commenter inquired whether receiving a "no" score on a particular outcome standard was intended to result in the use of process standards rather than the requirement for a plan of correction for the outcome standard. The department responds that both the application of process standards and the requirement for a plan of correction will result when a "no" score is received.

A commenter suggested that 100% compliance with process standards should be required if the standards are minimal. The department responds that scoring has been addressed to the extent possible at this time and that further modifications will be considered after information has been gathered concerning compliance.

A commenter noted that the additional flexibility provided by the new standards may require some clarification of appeals processes in resulting disputes over findings, e.g., there need to be several types of appeal processes (some less costly than the one proposed), with the type of appeal correlated with the magnitude of the disagreement. The commenter questioned who will fund the appeals process. The department responds that the section on appeals processes has several simplified steps. The community-based service is expected to fund its involvement in the appeals process.

Concerning Chapter 1 as adopted (proposed Chapter 13), the requisite standards, a commenter suggested that language stating that the CBS "does not engage" in practices which violate human dignity should be changed to "strives to avoid." The department responds that the language recommended by the commenter does not provide a minimal

standard of care adequate to ensure the safety and welfare of individuals receiving services.

In regard to Chapter 5 (as proposed) and Chapter 2 (as adopted), Rights and Responsibilities, clarifying language about the provision of rights to individuals and legal representative, orally and in writing, was requested and provided in Standard 5.1.P (as proposed), which is Standard 2.1.P as adopted. Language was also added as adopted to Standard 2.1.P as adopted concerning the right to be informed and provided the opportunity to vote.

Concerning Standard 5.10.P (as proposed), which is Standard 2.10.P as adopted, a commenter suggested that both the individual receiving services and the person legally authorized to give consent sign all consents. The department responds that the language in this standard must address not only those who have legal guardians but also those who do not.

Concerning Standard 5.12.P (as proposed), which is Standard 2.11.P as adopted, a commenter noted that many of the functions attributed to the client rights officer are beyond that staff person's power and authority. The language has been modified.

Commenters questioned the clarity of proposed Standard 5.12.P, concerning "practicing and teaching responsibilities that come with rights." The standard was deleted, and the reworded requirement was added as the first bullet in adopted Standard 2.1.P, which lists information items to be provided on admission to services.

Several commenters questioned proposed Standard 5.13.P, dealing with prohibition of denial of services based on an individual's refusal to participate in certain aspects of treatment. One commenter suggested "as appropriate." Another commenter requested that the qualifier "any" be added regarding refused services. The standard has been reworded to indicate that participation in services cannot be denied exclusively on the basis of an individual's refusal of any particular aspect of care (Standard 2.12.P as adopted).

Several comments were received concerning proposed Standard 5.14.P, related to the provision of services in the least restrictive setting. The standard has been deleted and the concept added to the introduction on page 3 of the document as adopted.

Regarding proposed Standard 6.1.P in the chapter concerning information and accessibility (adopted Chapter 3), several commenters made suggestions that resulted in clarification of the language in Standard 3.1.P as adopted.

Regarding proposed Standard 6.4.P, two commenters suggested that not all methods of informing the public of mental illness are written. Language has been modified to provide for the use of other methods.

Concerning proposed Standard 6.5.P, a commenter recommended that language be added providing non-intrusive alternatives to medication for persons averse to medication. The department added this language to the goals section in Chapter 24 as adopted, concerning medication-related services.

In reference to proposed Standard 6.6.P, commenters questioned the requirement for the community-based service to provide

speech and hearing therapy. The standard as adopted (Standard 3.6.P) has been reworded to indicate that the primary responsibility of community-based services is to facilitate access to such services.

In regard to standards governing screening and crisis in proposed Chapter 10, adopted as Chapter 5, a commenter suggested that proposed Standard 10.5.P, adopted as Standard 5.5.P, contradicts proposed requisite standards 13.11.R and 13.12.R, adopted as 1.11.R, and 1.12.R. The department responded by rewording adopted 1.11.R, 1.12.R, and 5.5.P to address immediate treatment needs and access to a physician. However, it was not felt requiring 24-hour access to a physician contradicts allowing up to 24 hours for a physician assessment if interim measures are provided.

Concerning proposed Standard 10.8.P, a commenter requested that language be added to indicate that strategies used to address the problems presented are developed in accordance with the individual's treatment preference whenever possible. Language has been added and is reflected in adopted Standard 5.8.P.

In adopted Chapter 6, Assessment and Treatment Planning, with reference to proposed Standard 11.1.P, a commenter recommended that the timeline for entering assessments into the client record following admission to services be changed from 30 to 45 days. The department responds that the 30-day time limit reflects the importance of the assessment to the treatment planning process.

Regarding proposed Standard 11.7.P, which requires screening for eligibility for case management services upon admission, a commenter suggested that the standard be eliminated. In adopted Standard 6.7.P, the department retained the standard since it is such a needed service element but it revised the requirement to provide up to 30 days following admission for the screening to occur.

One commenter recommended that the interval between treatment plan reviews in proposed Standard 11.12.P should be increased to from six months to one year. Another commenter compared the six-month requirement to the three-month requirement of the Joint Commission on the Accreditation of Hospitals, and questioned whether this discrepancy would affect the proposed timeframe. The department responds that the standard as adopted (Standard 6.12.P) has been changed to reflect the need to review plans when clinically indicated. The six-month maximum interval has been retained because the treatment plan is an important element of service delivery.

In reference to standards governing special treatment procedures contained in Chapter 7 (as proposed) and Chapter 7 (as adopted), a commenter questioned whether the approval of the behavior therapy director and/or client rights officer be required to isolate a client, i.e., is isolation the same as seclusion? The commenter is referred to the glossary for clarification of what is considered seclusion.

Concerning proposed Standard 12.1.P, which prohibits aversive procedures, one commenter requested a specification of the meaning of "aversive" in detail. The department responds by eliminating the use of the

term "aversive" and revising the standard to prohibit programs with negative consequences except those specifically approved by the deputy commissioner for Mental Health Services or designee.

Concerning proposed Standard 12.5.P, a commenter recommended that seclusion and mechanical restraint be permitted only in crisis residential programs, not in day programs for children and adolescents or other programs. The department responds that the standard was retained to permit clinical discretion by the medical director of TDMHR in any specific setting.

With reference to proposed Standards 12.6.P and 12.9.P, a commenter recommended that a doctoral level psychologist be permitted to order restraint or seclusion. The department responds that pursuant to the Mental Health Code, only licensed physicians are authorized to order restraint in Texas.

Concerning proposed Standard 12.13.P, a commenter requested that the department provide the minimum guidelines for professional staff involved in research. The department responds that licensed and certified professionals should have access to guidelines through their individual disciplines.

Regarding standards contained in Chapter 2 (as proposed) and Chapter 9 (as adopted) on comfort, commenters requested that the term "homelike" be deleted as inappropriate in reference to certain service environments, e.g., clinics. A commenter also suggested that standards state that individuals receiving services have input into the decoration of residential service sites. Another commenter noted that the use of the term "individual" was vague and requested clarification. Commenters suggested that old Standard 2.3.P (new 9.1.P) be limited to residential and possibly psychosocial services only. A commenter requested that the language of the standard be modified to include reference to "decoration, modification, and layout of service sites." The department responds that the term "homelike" has been deleted and that Standard 9.1.P has been generally revised as requested, but that consumer involvement has not been limited to residential sites and psychosocial programs only. The specific language change requested was not considered essential to meaning.

In the same chapter, a commenter requested services requiring privacy and security of property be listed (Standard 9.3.P as adopted). The term "as appropriate" has been added.

Another commenter recommended that "age appropriate" and "culturally sensitive" be added as descriptors of decor at service sites (Standard 9.4.P as adopted). The terms have been added.

Concerning Standard 2.8.P (as proposed), commenters requested that exceptions be granted to the requirement that living and dining areas provide sufficient seating for all residents at one time, e.g., programs which train clients to prepare food and to eat in apartment-like settings. Standard 9.7.P (as adopted) has been modified as requested.

A commenter requested that the requirement for sufficient seating and space for each individual to pursue leisure interests or accomplish needed tasks be moved from Standard

2.9.P (as proposed), which is specific to sleeping areas. The department responds that without regard to availability of space for leisure activities elsewhere in the residence, the intent is to ensure space for privacy in sleeping areas (Standard 9.8.P as adopted).

Concerning the same standard, a commenter expressed concern about the interpretation that would be made concerning sufficient seating space, e.g., must a residence serving four clients provide dining space for four, etc. The respondent is advised to consider privacy of the individual and to use professional judgment in room arrangements.

With reference to Chapter 12 as adopted, Human Resources, a commenter requested a listing of staff development training activities. This may be developed and provided at a future date.

With regard to proposed Standard 7.1.P, a commenter noted the difficulty in complying with the requirement. The department has retained the standard with no changes given the critical nature of the pre-service training, client rights, and system entry.

Concerning proposed Standard 7.2.P in the same chapter, several commenters made suggestions concerning the basic training required of all employees, and language has been modified to address many of those concerns in adopted Standard 12.2.P. Requirements are retained for all employees of the community-based service, not just clinicians and direct care staff. The recommendation to include the terms "physical interventions" and "P.M.A.B.," the Prevention and Management of Aggressive Behavior Program, was not incorporated since such training is not believed to be a necessity for all staff.

Concerning proposed Standard 7.3.P of the same chapter, a commenter requested that sensitivity training be a requirement, and it has been added in adopted Standard 12.3.P.

Comments on proposed Standards 7.5.P and 7.6.P resulted in the revision of language to provide clarification (adopted as Standards 12.5.P and 12.6.P).

With regard to proposed Standard 7.8.P, which is Standard 12.8.P as adopted, a commenter requested clarification concerning how coordination of efforts could be evidenced in crisis intervention, and the nature of the training expected to occur. The same commenter suggested that given the difficulties in working with law enforcement personnel, this standard should not be considered a Level I standard, and its overall value should be reduced. The department responds that good faith efforts on the part of the community-based service to accomplish coordination are acceptable. Since the referenced weighting is no longer a part of the new standard scoring methodology, the standard was not changed.

Related to Chapter 13, Quality Assurance, a commenter requested clarification of the differences between the quality assurance coordinator and the records administrator. The department responds that it is up to the individual community-based service to make these distinctions.

Concerning proposed Standard 8.1.P (adopted as Standard 13.1.P), a commenter requested language be added reflecting the role of quality assurance with regard to indi-

vidual preference, consumer satisfaction, and consumer evaluation of services in a written quality assurance plan. Language has been modified to include consumer satisfaction as an element of the plan.

With regard to proposed Standard 8.2.P of the same chapter (adopted as Standard 13.2.P), comments were received concerning requirements when a community-based service does not have the resources to correct identified problems. The wording in question has been deleted.

A commenter recommended deleting proposed Standard 8.3.P because its intent is otherwise addressed in proposed Standard 8.1.P. The standard has been deleted.

Concerning proposed Standard 8.10.P, a commenter suggested that the term "remedial action" be replaced with the term "service enhancement." The language has been revised as suggested in adopted Standard 13.8.P.

With regard to proposed Standard 8.11.P, a commenter recommended adding "or designee" to the requirement for the director of quality assurance to review infection control and safety activities. Adopted Standard 13.9.P has been revised as requested.

Regarding proposed Standard 8.12.P, a commenter recommended that the standard require that review results be made available to clients and that consumers be involved in remediation plans. The department responds by adding an adopted Standard 13.11.P which requires the CBS to gather consumer satisfaction data and to involve consumers in the data collection development and implementation.

Concerning adopted Chapter 14 on records administration, which was proposed as Chapter 9, a commenter stated that the standards do not provide guidelines to meet auditors' expectations and do not address many of the issues addressed in the current edition of the standards. The department responds that the new standards are in keeping with the goal of reducing prescriptiveness and endorsing local responsibility.

Concerning proposed Standard 9.4, adopted as Standard 14.4.P, one community center noted that its method of meeting recordkeeping requirements was to use software, and suggested that the standard implies a paper copy of the information must also be kept on file. The department responds that the purpose of the standard is to describe minimal information required and that the community-based service may select where it is recorded, whether on a computer database, in hard copy, or both.

With regard to proposed Standard 13.10.R, adopted as Standard 1.10.R, a commenter suggested that the standards document, not the community-based service, should define what constitutes an unusual incident for purposes of requisite documentation. The department responds that the standard requires the CBS to have definitions of unusual incidents and it gives examples of types of incidents to be defined.

The same commenter asked if there is a standard requiring notification of law enforcement in the event of an unusual incident. The department responds that each CBS must determine when the incident requires notification of law enforcement.

The same commenter recommended replacing the word "impropriety" in proposed Standard 13.10.R with "assault." The wording was adopted in Standard 1.10.R.

Concerning the same standard, a commenter suggested that the language requiring documentation of unusual incidents to be made "in the record" should be deleted for reasons of potential liability. Language has been revised in response to the comment.

With reference to proposed Standard 13.11.R, a commenter recommending deleting reference to "bizarre behavior, hallucinations, disorientation, or generalized confusion" in the description of individuals experiencing a behavioral/emotional crisis and who require immediate face-to-face evaluation. The language has been deleted.

With regard to proposed Standard 13.12.R (adopted Standard 1.12.R), a commenter noted that 24 hours can be a fatally long time when a person with life-threatening behavior requires immediate physician evaluation and treatment. The department responds that the standard has been revised to indicate that ongoing intervention and monitoring occurs until the person can be assessed by a physician within the 24-hour time period.

Concerning the same standard, another commenter recommended deleting language indicating preference for a psychiatrist, and adding language that would permit the evaluation of such clients to be done by a Ph.D. psychologist as well. The department responds that due to the potential involvement of medical factors or complications at emergency assessments, a physician must make the assessment.

A commenter recommended that proposed Standards 13.13.R and 13.16.R be revised to specify what constitutes "sufficient staffing for adequate programming" or the standard should be deleted. The department responds that sufficient staffing must be determined the community-based service based on the specific program and the contract for services. The adopted Standard 1.13.R combines proposed standards and has been revised to require sufficient staffing to ensure a safe environment and adequacy of programming. Also in response to a commenter's concerns, the requirement that documentation of staffing coverage include the discipline and title of each staff member has been deleted from this requisite standard.

A commenter observed that as written, the requirement for suicide/homicide precautions in proposed Standard 13.14.R could be interpreted to apply in all service settings. The department responds by revising the wording to require the CBS to implement the standard rather than each service site.

Concerning the same standard, a commenter suggested that criteria for placing individuals on suicide and homicide precautions be approvable by a doctoral level psychologist, not just a physician. The department responds that due to the potential involvement of medical factors or complications at such times, a physician must approve such policies.

A commenter had remarks concerning proposed Standard 13.15.R concerning rapid neuroleptization. The standard has been deleted.

With regard to proposed standard 13.17.R, which requires separate residential settings

for children, adolescents, and adults, a commenter questioned the applicability of the standard to current residential programs. Adopted Standard 1.14.R applies to current programs as well as programs to be developed in the future. The intent of the standard is to protect and appropriately treat children and adolescents, and no revisions have been made to the standard as proposed.

Concerning the same standard, a commenter recommended that a doctoral level psychologist, not just a physician, be authorized to make exceptions to the separate residential settings requirement. The department responds that in cases of exception to this standard, medical knowledge is necessary for clinical justifications and therefore a physician is required.

Regarding proposed Standard 13.21.R, a commenter recommended that the justification for restraint or seclusion be modified from "imminent probability" of harm to self or others to "substantial risk." Adopted Standard 1.18.R has been revised as requested.

In response to commenter's concerns regarding proposed Standard 13.22.R, adopted Standard 1.19.R has been revised to include a requirement that the individual will be informed of stipulations for release initially and when clinically appropriate.

Concerning the same standard, a commenter suggested that individuals in restraint or seclusion be provided bathroom breaks every hour, not every two hours. The standard has been revised to indicate that individuals are provided bathroom breaks as needed, but at least every two hours.

Concerning the same standard, a commenter noted that individuals in restraint or seclusion should be provided information about fire drills and should be given the opportunity to "process" the experience alone or with staff following release. Wording was added to the standard which requires procedures to ensure management of individuals in restraint or seclusion during evacuations due to drills or actual disasters. New standard 7.8.P has been adopted to provide opportunity for individuals to discuss the experience with staff after release.

With regard to proposed Standard 13.24.R, which requires Texas licensure of physicians, registered nurses, and licensed vocational nurses, a commenter recommended that the list be expanded to include psychologists, social workers, and others. Adopted Standard 1.21.R has not been revised given that the focus of the requirement is on the provision of emergency medical services.

A commenter questioned what percentage of the total staff would require cultural awareness training required in proposed Standard 13.25.R. The department responds that the application of percentages to this or other standards is not in keeping with the intent of the new standards document.

Concerning the same standard, a commenter recommended editorial changes which were accepted and added to adopted Standard 3.7.P, in the chapter on information and accessibility.

Concerning proposed Standard 13.26.R, a commenter recommended adding psychotherapy to the list of core services to be uniformly provided throughout the state. The

department responds that core services are determined by the Texas Mental Health and Mental Retardation Act.

Concerning proposed Standard 13.27.R on special diets, a commenter questioned whether the standard requires the dietician to directly consult with each individual. The department responds that the dietician only consults with those individuals requiring special diets.

Also concerning the standard, a commenter suggested that special diets include diets which are preferred due to religious preference, e.g., kosher, vegetarian. The department responds that the standard does not preclude the CBS from determining what a "special diet" means to different individuals.

With regard to the service standards section of the document, a commenter recommended that psychotherapy be added as a major heading of standards. The department responds that the counseling chapter is intended to cover all types of therapeutic interaction.

The following comments relate to the section of the standards containing chapters on crisis resolution services. Concerning crisis resolution services generally, a commenter objected to the presentation of physician involvement as "backup." The department responds that appropriate clinical procedures are reviewed and supervised by medical staff.

Concerning proposed Standard 14.2.O, which is adopted Standard 15.1.O, a commenter noted that follow-up needs to be provided to individuals regardless of whether a referral is made. The department responds that follow-up may be provided to individuals who are not referred at the discretion of the community-based service.

With regard to the definition of "crisis walk-in services" in proposed Chapter 16 (adopted Chapter 17), a commenter questioned the meaning of "unscheduled basis." The department responds that this does not necessarily require seven-day-a-week service and may be applied to an outpatient clinic that is open five days a week.

A commenter questioned whether proposed Standard 16.3.P (adopted Standard 17.3.P) requires same-day unscheduled face-to-face services every day. The department responds that such services are not necessarily required on a seven-day-a-week basis.

Concerning proposed Standard 17.4.P (adopted Standard 18.4.P), a commenter noted that the prohibition of waiting lists indicates a need for triage because the resources needed to provide services are not available. The department responds that the CBS may develop its own method of managing the need for these short-term support services as long as individuals are not placed on waiting lists during crisis situations.

Concerning the definition of "Intensive in-home intervention services for children and adolescents," a commenter suggested rewording to further emphasize concepts of multifaceted services, crisis-oriented services, and crisis resolution. The definition, although shortened in response to other comments, includes some of the recommended concepts. Other recommended concepts are included in a new adopted standard 19.5.P, regarding multifaceted services.

A commenter noted the lack of parallelism in the goals for proposed Chapter 18. The language has been revised as suggested in adopted Chapter 19.

Concerning proposed Standard 18.1.O, a commenter recommended the addition of the following sentence, "There is evidence that reflects necessary services, both short and long term, to resolve and/or manage family crisis." The recommended language has been added to adopted Standard 19.5.P.

Concerning the goals of proposed Chapter 19 (adopted as Chapter 20) and proposed Chapter 20 (adopted as Chapter 21) a commenter suggested that the following should be added to the goals for both hospital services and for crisis stabilization units: "If the client is homeless, arrangements for housing shall be provided if the client so wishes." The goals in question were revised to indicate "least restrictive setting" instead of "home environment" since housing needs are addressed in that chapter. Housing needs must be addressed by the person overseeing the treatment plan, i.e., case manager or continuity of services staff person.

With regard to proposed Standards 19.1.O, 20.1.O, and 21.1.O, a commenter suggested revising the standards to state, "Individuals receiving diagnosis of mental illness are offered skills and/or treatment to manage, decrease, or eliminate symptoms as evidenced in treatment plan reviews." The standards in question were revised to focus strictly on outcome rather than process, as recommended.

Concerning proposed Standard 19.3.P, a commenter stated that the standard contradicts proposed requisite Standard 13.8.R, which requires hospitals to have licenses. The department responds that there is no contradiction; however, the reference was changed from "licensing" to "compliance" for clarification.

With reference to proposed Standards 19.8.P and 20.8.P, adopted as Standards 20.3.P and 21.3.P, a commenter suggested the addition of the word "written" in reference to the assessments requirement and the title of the standard. The language has been revised in the text.

Concerning the same standard, a commenter requested clarification about who conducts the assessments. The standard has been revised to indicate that assessments are conducted by qualified mental health professionals (QMHPs).

Also concerning proposed Standards 19.8.P and 20.8.P, a commenter suggested two additional items be included in preadmission assessments: identification by the individual of problems and treatment goals, and individual preferences and non-preferences in treatment. The department responds that the statement of presenting problem implies the identification of the problem by the individual. The standards, adopted as 20.3.P and 21.3.P, have been revised to incorporate reference to individual preferences and objections.

A commenter suggested that proposed Chapters 19 (Hospital Services) and 20 (Crisis Stabilization Units) be combined. The department responds that while a hospital may provide crisis stabilization services, a Crisis Stabilization Unit is not a hospital and therefore must have different standards.

Concerning proposed Standard 21.8.P, adopted as 22.5.P, a commenter requested definition of what is considered "current appropriate" certification, registration, or licensure for crisis respite placement residences. The language of the standard has been revised to replace the term in question with the word "applicable."

Concerning proposed Standard 21.4.P, adopted as 22.7.P, a commenter requested clarification concerning the areas for which the community-based service should establish specific guidelines, e.g., safety, supervision, etc. The department responds that the standard is intended to mean guidelines for entering and leaving services.

Regarding the same standard, a commenter suggested that time limits should be established and questioned the ensurance of safeguards of privacy, confidentiality, and individual choice. The department responds that a sentence has been added requiring the consent of the individual to services.

A commenter made suggestions concerning proposed Standard 21.9.P, crisis residential assessment. The department responds that the standard was deleted from the adopted standards.

The following comments pertain to the section of the standards governing treatment services and general medical care. With regard to the overall definition of these services, a commenter suggested that it should reflect the broadness of this service area including both medical and social rehabilitation components. The overall definition has been deleted as have the overall definitions prefacing the other major service areas.

In the area of counseling services (proposed Chapter 22, adopted Chapter 23), a commenter requested that the goal of providing education about medical services should also ensure impartial representation of medical and environmental theories. The goal was deleted since educational goals more clearly belong in the service section on education.

Concerning proposed Standard 22.1.O, adopted as Standard 23.1.O, a commenter suggested that counseling strategies should be based on the mutual agreement of the counselor and client. This is not a process standard. Strategies should not be included in outcome standards.

With regard to proposed Standard 22.1.O, a commenter suggested that increased coping skill would be an appropriate outcome. The language has been added to adopted Standard 23.1.O.

Concerning proposed Standard 22.5.P, a commenter noted that requiring alternative treatment to be implemented when counseling services are not immediately available implies limitless resources. Language in adopted Standard 23.5.P has been revised to address this concern.

In proposed Chapter 23 (adopted Chapter 24) on medication-related services, a commenter suggested that the definition of the service include monitoring medications. The department responds that the definition does include the suggested reference.

Concerning the goals for medication-related services, a commenter suggested the addition of language stating that non-intrusive al-

ternatives will be considered for individuals adverse to medications, and individuals have the right to a second opinion by a Ph.D. clinical psychologist. The concept of non-intrusive alternatives to medications was added in the third goal. The CBS and the individual must decide what these alternatives are. One certainly could be the decision to seek a second opinion by any professional the individual wishes.

A commenter noted that the proposed Standard 23.1.O was not an outcome standard, but a process standard. The standard was moved to the process standards series as adopted Standard 24.4.P, and a more appropriate outcome standard was developed to address the effectiveness of medication.

A commenter suggested adding language to proposed Standard 23.3.O concerning non-intrusive alternative to medications and the right to a second opinion by a doctoral level clinical psychologist. The concept of non-intrusive alternatives to medications was added in the third goal. The CBS and the individual must decide what these alternatives are. One certainly could be the decision to seek a second opinion by any professional the individual wishes.

Concerning proposed Standard 23.4.P, which states that individuals receive medications as clinically indicated for their symptoms with initiation and changes justified by a physician, a commenter noted that the standards are considered by community center physicians to be institutional standards of some cost. The commenter suggested that sufficient time should be allowed for comment on related departmental rules governing medication to be processed. The department responds that changes have been made to the medication-related services standards specifying that practice is in keeping with the Medical Practice Act and clinically justified.

Regarding the same standard, a commenter urged that physicians be permitted to practice as physicians and that a cookbook approach to medicine not be taken. The department responds that it is unable to change this standard until the new medication rule becomes effective.

Minor clarifying changes to proposed Standard 23.5.P were suggested and revisions were made.

In proposed Chapter 24 on medical and dental services, adopted as Chapter 25, a commenter recommended that proposed Standard 24.1.O be revised to indicate that medical and/or dental needs are to be met by referral with no financial liability to the community-based service. The department responds that none of the standards contain a financial liability caveat; therefore, no change was made to the standard.

A similar concern, i.e., limited resources, was expressed by another commenter with reference to proposed Standard 24.2.P, which indicates that services are provided consistent with the individual's need and are documented. The department responds that none of the standards contain a financial liability caveat; therefore, no change was made to the standard.

In proposed Chapter 25 (adopted Chapter 26) on structured rehabilitative day treatment for adults, a commenter suggested that the defi-

nition reference individual preference. Language has been added.

Also concerning the definition, a commenter requested that language concerning education impartially include both medical and psychological theories. The department responds that the CBS must determine the content of the education regarding mental illness.

A commenter called for proposed Standard 25.3.O to address provision of staff training and stipulation of content of training. The department responds that each CBS can determine the content of staff training beyond that which is required. Training requirements are covered in the Human Resources Chapter.

Concerning proposed Standard 25.5.P, adopted as Standard 26.4.P, a commenter requested that the required balance of activities include indoor activities. Language has been revised.

With reference to proposed Standard 25.6.P, a commenter made several suggestions about the methods and materials to be utilized, e.g., a variety of both center and community sites, both indoor and outdoor, as well as effective use of community resources, consistent with individual preference. Adopted standard 26.5.P has been revised to address the suggestions in large part.

In response to comment, proposed Standard 25.7.P, adopted as Standard 26.6.P, has been revised to state that training activities do not limit but strive to maximize the individual's potential.

A commenter suggested that proposed Standard 25.8.P be revised to include reference to psychotherapy and the management of side effects. In adopted Standard 26.7.P, the language was revised to include education addressing medication side effects and rehabilitative approaches which may include psychotherapeutic approaches.

In proposed Chapter 26 (adopted Chapter 27) on therapeutic day treatment for children and adolescents, a commenter suggested the goals address the provision of impartially presented medical and psychological theories about mental illness. The goals were revised to include education of individuals and families in rehabilitative approaches which may include psychotherapy.

Concerning proposed Standard 26.3.O, a commenter noted that the standard should be revised to state, "Individuals and families report improved coping behaviors, better relationships with peers, and better school performance." Adopted 27.3.O incorporates the recommendation of the commenter.

In response to comment, proposed Standard 26.8.P (adopted Standard 27.8.P) has been revised to indicate that training activities do not limit but strive to maximize the individual's potential.

Concerning proposed Standard 26.11.P (adopted Standard 27.11.P), a commenter suggested referencing psychotherapy as one of the subjects addressed in education services. The standard was rewritten to include rehabilitative approaches which includes psychotherapy.

The following comments relate to the section of the document containing community support standards.

Concerning proposed Chapter 28 (adopted Chapter 30), a commenter suggested that the definition of education services include reference to university and graduate studies. Language has been revised.

A commenter suggested that the title of proposed Chapter 29 be changed to "Peer Support and Counseling Services." The title was retained since counseling services are covered in another chapter and peer support services were intended to be less formal and more supportive than counseling.

Concerning proposed Standard 28.4.P (adopted Standard 30.3.P), commenters noted that the standard implied that community-based services provide education. Language has been revised to clarify that the CBS facilitates access to educational services rather than provide them.

Concerning proposed Chapters 31, 32, and 33, a commenter requested clarification be made in the document concerning the status of family education and training services, general support services, and respite services as core services. Language in the headings for these chapters has been revised to indicate core status.

A commenter suggested that the definition of family education and training services explicitly describe treatment as "both medical and non-medical." The department responds that the definition is purposely broad to include all approaches.

Concerning the goals for the same chapter, a commenter recommended that language be added indicating that both medical and psychological models are impartially represented. The department responds that the goals are purposely broad to include all models and approaches.

A commenter requested that "consumer perspectives" be added to the description of family education and training content in proposed Standard 31.6.P (adopted Standard 33.6.P). The department responds that the standard is written broadly enough to be interpreted to include the perspectives of consumers.

Concerning proposed Standards 34.1.O and 34.2.O, a commenter noted the competition between the prescriptive nature of standards and the empowerment of individuals in psychosocial programs. The department believes a balance has been achieved in the standards between prescriptiveness of standards and empowerment of the individual, and no changes have been made to the standards as proposed.

With reference to proposed Standards 36.1.O and 36.2.O, a commenter noted that Department of Labor standards must be met, with no training while working. The department responds that the Department of Labor requirements, which do not preclude training in a work setting, are addressed in the chapter on vocational services.

Concerning proposed Chapter 37 (adopted Chapter 38) on vocational services, a commenter suggested that the first goal should be revised to reference maintaining maximum employment, and language has been changed accordingly.

Regarding proposed Standard 37.4.P, a commenter noted that requiring job coaches was too specific. Language has been revised

to note job coaches as one example of employment support.

In response to comment, references in proposed Chapter 38 (adopted Chapter 40) on case management have been updated.

Concerning proposed Chapter 40 (adopted Chapter 41), commenters requested that treatment-training residences be defined, as opposed to supported housing and assisted living. One commenter made specific recommendations for language revisions. Revised language has been developed to clarify the difference between supported housing, treatment-training residences, and assisted living.

Also concerning the definition of treatment-training residences, a commenter questioned whether residential treatment centers for children and adolescents are included in this category. The department responds that if the focus of the residential treatment center is that of the definition, then the answer is yes.

A commenter suggested that proposed Standard 40.1.O be revised to state that individuals receiving a diagnosis of mental illness are offered skills and/or treatment to manage, decrease, or eliminate symptoms as evidenced in treatment plan reviews. Adopted Standard 41.1.O was revised to reflect that individuals are assisted in managing symptoms rather than being managed by staff or medications.

A commenter requested that the preferences and non-preferences of clients be added to the definition of assisted living residences in proposed Chapter 41 (adopted Chapter 42). Language has been revised to include reference to preference of clients.

Comments concerning proposed Standard 41.4.P were not incorporated because the description of services offered was substantially modified in adopted Standard 42.6.P.

With regard to proposed Chapter 42 (adopted Chapter 43) concerning alternative family living for children and adolescents, a commenter noted that the resolution of family problems may not be the only positive outcome, and suggested that a positive outcome may also be that the long-term living arrangement is satisfactory and meets the child's needs. Language has been revised.

The new sections are adopted under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§408.7. Director of Standards and Quality Assurance. Each facility and center will designate or appoint a director of standards and quality assurance on its staff to plan, monitor, implement, and evaluate compliance with and implementation of applicable regulations and standards. This individual will be responsible directly to the facility/center head and maintain regular liaison with the department's Office of Standards and Quality Assurance. Depending on the demands for standards and quality assurance, the designated individual may be assisted by other standards and quality assurance staff or a consultant, or may only serve part time in this capacity, as described

in Directive 11, relating to standards and quality assurance.

§408.9. References. Reference is made to the following statutes, standards, and rules of the department:

(1) 42 Code of Federal Regulations 482, Subpart E (Medicare standards for psychiatric hospitals) ;

(2) 42 Code of Federal Regulations, Chapter IV, Part 483, Subpart D, §§483.400-483.480 (Medicaid standards for ICF-MR services);

(3) Rehabilitation Act of 1973 (Public Law 93-112, §504);

(4) Texas Mental Health and Mental Retardation Act (Texas Civil Statutes, Article 5547-201 et seq.);

(5) Mentally Retarded Persons Act (Texas Civil Statutes, Article 5547-300);

(6) Texas Mental Health Code (Texas Civil Statutes, Article 5547-1 et seq.);

(7) TDMHMR rules contained in the Texas Administrative Code, Title 25, Part II, Chapters 401-410;

(8) Directive 11, relating to standards and quality assurance, Texas Department of Mental Health and Mental Retardation;

(9) Directive 12, relating to professional nursing quality assurance;

(10) TDMHMR Mental Health Community Services Standards, Texas Department of Mental Health and Mental Retardation, 1991;

(11) TDMHMR Community Standards for Individuals with Mental Retardation, Texas Department of Mental Health and Mental Retardation, 1988;

(12) Consolidated Standards for Child, Adolescent, and Adult Psychiatric, Alcoholism, and Drug Abuse Facilities, Joint Commission on Accreditation of Healthcare Organizations, 1989 and 1991;

(13) Accreditation Manual for Hospitals, Joint Commission on Accreditation of Healthcare Organizations, 1991 1989;

(14) Standards for Services for People with Developmental Disabilities, Accreditation Council on Services for People with Developmental Disabilities, 1987;

(15) Life Safety Code, National Fire Protection Association, 1985;

(16) Life Safety Code, National Fire Protection Association, 1988; and

(17) Standards of the Commission on Laboratory Accreditation of the College of American Pathologists, 1989.

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 December 4, 1990.

TRD-9013002

Pattiou Dawkins
Chairman
Texas Department of
Mental Health and
Mental Retardation

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

Potentially Harmful Fish, Shellfish, or Aquatic Plants

• 31 TAC §§57.111-57.121

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing on November 8, 1990, adopted amendments to §§57.111-57.117 and new §§57.118-57.121, with changes to the proposed text as published in the October 9, 1990, issue of the *Texas Register* (15 TexReg 5908). The sections and amendments concerned importation, possession, propagation, sale, or placement into waters of the state exotic fish, shellfish, and aquatic plants. The changes were the result of public comment. In general the proposed rules were supported by the public.

Changes in §57.112(c) added language to the proposed section to prevent accidental release of exotic species into public waters stating that the biocide used shall be registered with the Texas Department of Agriculture and used in accordance with label directions.

Changes in §57.113(j) extend the expiration date for bighead carp permits from February 1, 1991, to February 1, 1992, but only for current permit holders or for those who have applied to the Texas Parks and Wildlife Department with an approvable application before November 8, 1990.

For clarification the word "must" was replaced with "shall" in §57.115(a), (b), (d), §57.116(c), (d), §57.117(b), §57.119(a), and §57.120.

The amended sections as adopted are intended to protect the native fish, shellfish, and plant resources of the state with minimum impact on those industries which use aquatic organisms.

The sections as adopted should provide adequate safeguards at this time for protecting native aquatic species by defining those aquatic species which can not be imported, sold, purchased, propagated, possessed, or released into Texas public waters except by permit by the department.

Comments by the public about the proposed amendments were presented to the Parks and Wildlife Commission in the form of testimony and by letters. No comments were received in opposition to the proposed amendments. The public generally agreed with the rules with some modifications desired, including: the Texas Shrimp Association desired stricter rules including a moratorium on use of exotic penaeid shrimp; encouragement of the use of native species; routine inspection of aquaculture facilities; and treatment to pond discharges to kill exotics that may be found therein; N AIAD Corporation requested an extension of bighead carp permits to continue a cooperative study with the Texas Parks and Wildlife Department on paddlefish and bighead carp; felt biocide use should be required on a case by case basis; the Texas Aquaculture Association was concerned about liability for use of biocides on public waters and desired the use of alternatives to biocides; wanted more than one-year extension on bighead carp permits; the Texas Department of Agriculture requested that the biocide be registered with the Texas Department of Agriculture and used in accordance with label directions or an alternate method be used to prevent escapement of exotics; the Texas A&M University Sea Grant Program suggested adding the word "fish" in the definition of culture; allow permittee to harvest exotics instead of destroying them if there is imminent danger of release; quality of water should be approved before it is released from ponds after use of biocides; height requirements for levees should be "grandfathered" in; and fish farmers using exotics should be required to screen discharge waters within the discharge channel during growout and harvest periods prior to discharge entering public waters.

Those groups or associations who made comments for the rules with some modifications included: Texas Shrimp Association, NAIAD Corporation, Texas Aquaculture Association, Texas Department of Agriculture, and Texas A&M University Sea Grant Program.

Using the same numbering system as in the summary of comments the agency disagrees with the comments as follows: proposed changes would differ significantly from those proposed in rules. The agency will work with the group and others to improve the rules; there is no place agency is aware of that flooding does not occur; agency agreed with bighead carp extension; the change in proposed rules requiring that the biocide used be approved by the Texas Department of Agriculture and used according to label directions should alleviate liability concerns; bighead carp permit issuance will be evaluated on an annual basis; agency agrees; the change in definition of culture would be redundant; the rules will not prohibit harvest of organisms; water quality is jurisdiction of the Texas Water Commission; proposed rules were sent to shellfish culturists and the Texas Aquaculture Association who had no comment on levee height requirements; §57.116(b)(1) should provide safeguards to prevent discharge of exotics.

The factual basis for the sections as amended is drawn from: published scientific investigations and reports of introductions of exotic fish, shellfish, and aquatic plants in other states, and other countries; regulations and

positive identification of exotic shellfish found in the waters of this state; and published scientific literature describing the taxonomy, life history and biology of exotic fish, shellfish, and aquatic plants. The review of these information sources by the department's scientific staff resulted in the staff's reports and expert testimony in the commission hearing to support the actions taken.

The amendments and new sections are adopted under the Parks and Wildlife Code, §§66.007 and §66.015 or Agriculture Code, §134.020, which provides the department with the authority to regulate exotic harmful or potentially harmful fish, shellfish, and aquatic plants.

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

Harmful or potentially harmful exotic fish—

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|------|--|---|
| (1) | Lampreys Family: Petromyzontidae | All Species except Ichthyomyzon castaneus and I. gagei |
| (2) | Freshwater Stingrays Family: Potamotrygonidae | All Species |
| (3) | Arapaima Family: Osteoglossidae | Arapaima gigas |
| (4) | South American Pike Characoids Family: Characidae | All Species of genus Acestrorhyncus |
| (5) | African Tiger Fishes Subfamily: Hydrocyninae | All Species |
| (6) | Piranhas and Priambebus Subfamily: Serrasalminae | All Species |
| (7) | Rhaphiodontid Characoids Subfamily: Rhaphiodontinae | All Species of genera Hydrolycus and Rhaphiodon (synonymous with Cynodon) |
| (8) | Dourados Subfamily: Bryconinae | All Species of genus Salminus |
| (9) | South American Tiger Fishes Family: Erythrinidae | All Species |
| (10) | South American Pike Characoids Family: Ctenolucidae | All Species of genera Ctenolucius and Luciocharax (synonymous with Boulengerella and Hydrocinus) |
| (11) | African Pike Characoids Families: Hepsetidae Ichthyboridae | All Species |
| (12) | Knifefishes Family: Gymnotidae | Gymnotus carapo |
| (13) | Electric Eels Family: Electrophoridae | Electrophorus electricus |

- | | |
|--|---|
| (14) Carps and Minnows Family: Cyprinidae | All Species of genera: Abramis, Aristichthys, Aspius, Aspiolucius, Blicca, Catla, Cirrhina, Ctenopharyngodon, Elopichthys, Hypophthalmichthys, Leuciscus, Megalobrama, Mylopharyngodon, Parabramis, Pseudaspius, Rutilus, Scardinius, Thynnichthys, Tor, and the species Barbus tor (Synonymous with Barbus hexoagoniolepis) |
| (15) Walking Catfishes Family: Clariidae | All Species |
| (16) Electric Catfishes Family: Malapteruridae | All Species |
| (17) South American Parasitic Candiru Catfishes Subfamilies: Stegophilinae Vandelliinae | All Species |
| (18) Pike Killifish Family: Poeciliidae | Belonesox belizanus |
| (19) Marine Stonefishes Family: Synanceiidae | All Species |
| (20) South American Pike Cichlids Family: Cichlidae | All Species of genera Crenicichla and Batrachops |
| (21) Tilapia Family: Cichlidae | All Species of genus Tilapia (including Sarotherodon and Oreochromis) |
| (22) Asian Pikeheads Family: Luciocephalidae | All Species |
| (23) Snakeheads Family: Channidae | All Species |

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| (24) Walleyes Family: Percidae | All Species of the genus Stizostedion except Stizostedion vitreum and S. canadense |
| (25) Nile Perch Family: Centropomidae | All Species of genera Lates and Luciolates |
| (26) Drums Family: Sciaenidae | All species of genus Cynoscion except Cynoscion nebulosus, C. nothus, and C. arenarius |
| (27) Whale Catfishes Family: Cetopsidae | All Species |
| (28) Ruff Family: Percidae | All Species of genus Gymnocephalus |
| (29) Air sac Catfishes Family: Heteropneustidae | All Species of genus Heteropneustes |

Harmful or potentially harmful ex-
otic shellfish-

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|-----|--|--|
| (1) | Crayfishes Family: Astacidae | All species of the genus Astacopsis |
| (2) | Mittencrabs Family: Grapsidae | All species of genus Eriocheir |
| (3) | Asian Clams Family: Corbiculidae | All species of genus Corbicula |
| (4) | Giant Ram's-horn Snails Family: Piliidae (synonymous with Ampullariidae) | All species of genus Marisa |

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|-----|---------------------------------------|---|
| (5) | Zebra Mussels Family: Dreissenidae | All species of genus Dreissena |
| (6) | Penaeid Shrimp Family: Penaeidae | All species of genus Penaeus except P. setiferus P. aztecus and P. duorarum |

Harmful or potentially harmful ex-
otic plants—

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|-----|--|----------------------------------|
| (1) | Giant Duckweed Family: Lemnaceae | Spirodela oligorhiza |
| (2) | Salvinia Family: Salviniaceae | All species of genus Salvinia |
| (3) | Waterhyacinth Family: Pontederiaceae | Eichhornia crassipes |
| (4) | Waterlettuce Family: Araceae | Pistia stratiotes |
| (5) | Hydrilla Family: Hydrocharitaceae | Hydrilla verticillata |
| (6) | Egeria Family: Hydrocharitaceae | Egeria densa |
| (7) | Lagarosiphon Family: Hydrocharitaceae | Lagarosiphon major |

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|------|--|--------------------------------|
| (8) | Eurasian Watermilfoil Family: Haloragaceae | Myriophyllum spicatum |
| (9) | Alligatorweed Family: Amaranthaceae | Alternanthera philoxeroides |
| (10) | Rooted Waterhyacinth Family: Pontederiaceae | Eichhornia azurea |
| (11) | Paperbark Family: Myrtaceae | Melaleuca quinquenervia |
| (12) | Torpedograss Family: Gramineae | Panicum repens |
| (13) | Water spinach Family: Convolvulaceae | Ipomoea aquatica |

Operator—The person responsible for the overall operation of a wastewater treatment facility.

Wastewater treatment facility—All contiguous land and fixtures, structures, or appurtenances used for treating wastewater pursuant to a valid permit issued by the Texas Water Commission.

§57.112. *General Rules.*

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

(c) In the event that the fish farm or a wastewater treatment facility of a permit holder appears in imminent danger of overflow or flooding because of tropical storms or any other reason, the permittee shall destroy all permitted exotic harmful or potentially harmful fish, shellfish, and aquatic plants to prevent their release into public waters. It is the responsibility of the permittee to have available sufficient quantity of biocide to destroy all harmful or

potentially harmful exotic fish, shellfish, and aquatic plants in danger of release. The biocide shall be registered with the Texas Department of Agriculture and used in accordance with label directions.

§57.113. *Exceptions.*

(a) (No change.)

(b) A person may possess exotic harmful or potentially harmful fish or shellfish without a permit if the intestines or head of the fish or shellfish have been removed.

(c) A fish farmer who holds an exotic species permit issued by the department may possess, propagate, transport, or sell silver carp, (*Hypophthalmichthys molitrix*), black carp (*Mylopharyngodon piceus*, also commonly known as snail carp), bighead carp (*Aristichthys/Hypophthalmichthys nobilis*), blue tilapia (*Tilapia aurea*), Mozambique tilapia (*Tilapia mossambica*), or

hybrids between the two tilapia species as provided by conditions of the permit and these rules.

(d) A fish farmer who holds an exotic species permit, a shellfish, culture license, and an exotic shellfish culture permit in compliance with §§57.191-57.193 of this title (relating to Exotic Shellfish Culture Permit Issuance Procedures) may possess, propagate, transport, or sell *Panaeus vannamei*, *P. monodon*, *P. brazilensis*, *P. semisulcatus*, *P. stylirostris*, *P. japonicus*, *P. schmitti*, *P. orientalis*, *P. pencillatus*, *P. chinensis*, *P. kerathurus*, and species listed in subsection (c) of this section as provided by conditions of both permits and these rules.

(e) A wastewater treatment facility in possession of a valid exotic species permit may possess waterhyacinth (*Eichhornia crassipes*) only for the purpose of wastewater treatment.

(f) A person may possess Mozambique tilapia in a private pond subject to compliance with 57.115(d) of this title (relating to Exotic Species Transport Invoice).

(g) A licensed retail or wholesale fish dealer is not required to have an exotic species permit to purchase or possess live individuals of species or hybrids of species listed in subsections (c) and (d) of this section held in the place of business as defined in the Parks and Wildlife Code, §47.001(9) unless the retail or wholesale fish dealer propagates one or more of these species. However, such a dealer may sell or deliver these species to another person only if the intestines or head of the fish or shellfish are removed or the fish or shellfish is dead and packaged on ice.

(h) A person may possess species listed in subsections (c) and (d) of this section delivered as authorized in subsection (g) of this section if such fish or shellfish are dead and packaged on ice.

(i) A person may possess the hybrid grass carp (*Ctenopharyngodon idella* x *Aristichthys/Hypophthalmichthys nobilis*) if that person has documented evidence of possession prior to January 25, 1990, has provided such evidence to the department by May 1, 1990, and possesses acknowledgment of such evidence from the department by June 1, 1990. A person in possession of hybrid grass carp on January 25, 1990, shall not replace or supplement hybrid grass Carp. This subsection shall be in effect only until January 1, 1995.

(j) Any exotic species permit issued for possession, propagation, transportation, or sale of bighead carp, either alone or in combination with any other species including harmful or potentially harmful species, shall be in effect only until February 1, 1992, and only for persons permitted or with approvable applications to the Texas Parks and Wildlife Department before November 8, 1990.

§57.114. Transportation of Live Exotic Species.

(a) Transport of live harmful or potentially harmful exotic species is permitted by a licensed fish farmer or the operator of a wastewater treatment facility who has in immediate possession a valid exotic species permit, by a commercial shipper acting for the permit holder, or when transported between a warehouse and retail outlet within a company possessing a retail fish dealers license, and persons holding a valid zoological or scientific permit authorizing the transportation.

(b) (No change.)

§57.115. Exotic Species Transport Invoice.

(a) An exotic species transport invoice shall contain all the following infor-

mation correctly stated and legibly written: invoice number; date of shipment; name, address, and phone number of the shipper; name, address, and phone number of the receiver; Texas Fish Farmers license number, exotic shellfish culture permit number, and exotic species permit number, if applicable; number and total weight of each harmful or potentially harmful exotic species; a check mark indicating interstate import, interstate export, or intrastate type of shipment. A completed invoice shall accompany each shipment of harmful or potentially harmful exotic species, and shall be sequentially numbered during the permit period; no invoice number shall be used twice or more during any one permit period by the permittee.

(b) The exotic species transport invoice shall be provided by the permittee; one copy shall be retained by the permittee for a period of at least one year following shipping date.

(c) (No change.)

(d) Owners, or their agents, of private ponds stocked with Mozambique tilapia by an exotic species permit holder shall retain a copy of the exotic species transport invoice for a period of one year after the stocking date or as long as the tilapia are in the water, whichever is longer.

§57.116. Exotic Species Permit.

(a) The director may issue an exotic species permit only to a licensed fish farmer or to a wastewater treatment facility operator.

(b) The director may issue an exotic species permit only to a licensed fish farmer for one or more species listed in §57.113(c) and (d) of this title (relating to Exceptions) or to a wastewater treatment facility operator for possession and use of waterhyacinth if he finds that:

(1) the fish farm or wastewater treatment facility is designed to prevent discharge of water containing adult or juvenile harmful or potentially harmful exotic to species, their eggs, seeds, or other reproductive parts from the permittee's property;

(2) fish farms containing species or hybrids of species listed in §57.113 (c) and (d) of this title (relating to Exceptions) and wastewater treatment facilities containing waterhyacinth which are within the 100-year flood plain, referred to as Zone A on the National Flood Insurance Program Flood Insurance Rate Map, are enclosed within an earthen or concrete dike or levee constructed in such a manner to exclude all flood waters and such that no section of the crest of the dike or levee is less than one foot above the 100-year flood elevation. Dike design or construction must be approved by the department before issuance of a permit;

(3) (No change.)

(c) To be considered for an exotic species permit, the applicant shall:

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

(3) possess a valid Texas Fish Farmer's License or permit from the Texas Water Commission authorizing operation of a wastewater treatment facility; and

(4) demonstrate to the department that an existing fish farm or wastewater treatment facility meets specifications described in subsection (a) of this section, or present plans for fish farms or wastewater treatment facilities in planning or construction that will meet these specifications. Failure to conform to construction plans and standards shall constitute grounds for permit revocation, unless such nonconformity is specifically approved in writing by the department.

(d) Permits shall be made available to authorized department personnel upon request.

(e) An applicant for an exotic species permit or a permittee shall allow inspection of his or her facilities by authorized employees of the department during normal business hours.

(f) An applicant for an exotic species permit shall provide an adequate number of fish, shellfish, or aquatic plants of the exotic species named in the permit application to authorized department employees upon request for identification and analyses.

(g) If a permittee discontinues fish farming of a permitted harmful or potentially harmful exotic species or discontinues wastewater treatment utilizing waterhyacinth, the permittee shall immediately and lawfully remove or destroy all remaining individuals of that species in possession.

(h) An applicant for an exotic species permit or a permittee shall provide documentation upon request from the department necessary to identify any harmful or potentially harmful exotic species for which a permit is sought.

§57.117. Exotic Species Permit; Expiration and Renewal.

(a) Permits required by these rules expire one year from date of issuance. Permits may be renewed upon submission of an application to the department by the owner of the fish farm or operator of a wastewater treatment facility stating that no material or substantial changes to the fish farm or wastewater treatment facility have been made during the prior permit period and upon a finding by the director that the applicant has not violated any provision of the rules during the one-year period preceding the date of agency action on the application for renewal. Such application and the annual report must be received by the department not more than 60 days or less than 30 days prior to the exotic species permit expiration.

(b) Permits are not transferable from site to site or from person to person. If substantial or material changes have been made to a fish farm or wastewater treatment facility during the permit period, in order to qualify for renewal the permit holder shall comply with the requirements stated in §57.116(b) of this title (relating to Exotic Species Permit) for an initial permit.

§57.118. Permit Denial.

(a) An exotic species permit may be denied if the applicant fails to satisfy all the required criteria for issuance of a permit listed in §57.116 this title (relating to Exotic Species Permit).

(b) An application to renew an Exotic Species Permit may be denied if the executive director finds that the permit holder has violated any provision in these rules during the valid permit period.

§57.119. Appeal. An opportunity for hearing shall be provided to the applicant or permit holder for any denial of an exotic species permit where the terms of issuance are different from those requested by the applicant.

(1) Requests for hearings shall be made in writing to the department no more than 30 days from receipt of the denial notification.

(2) All hearings shall be conducted in accordance with the Rules of Practice and Procedure of the Texas Parks and Wildlife Department and the Administrative Procedure and Texas Register Act.

§57.120. Reports. The exotic species permit holder shall submit an annual report that accounts for importation, possession, transport, sale, or other disposition of any harmful or potentially harmful exotic species handled by the permittee. This report shall be submitted on forms provided by the department with the application for renewal or within 30 days after termination of the exotic species permit.

§57.121. Penalties. The penalties for violation of this subchapter are prescribed by Parks and Wildlife Code, §66.012.

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 December 4, 1990.

TRD-9013033 Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 24, 1990

Proposal publication date: September 11, 1990

For further information, please call: 1-800-792-1112, ext 4849 or (512) 389-4849

• 31 TAC §57.118, §57.119

The Texas Parks and Wildlife Commission adopts the repeals of §57.118 and §57.119, without changes to the proposed text as published in the October 9, 1990, issue of the *Texas Register* (15 TexReg 5908).

Protection of the native fish, shellfish, and plant resources of the state with minimum impact on those industries which use aquatic organisms require that the commission adopt new rules for harmful or potentially harmful fish, shellfish, and aquatic plants.

The repeal of the existing sections permits new sections to be adopted that reorder, extend, clarify, and simplify harmful or potentially harmful fish, shellfish, and aquatic plant regulations.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Parks and Wildlife Code, §66.007 and §66.015 or the Agriculture Code, §134.020, which provides the department with the authority to regulate exotic harmful or potentially harmful fish, shellfish, and aquatic plants.

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, December 4, 1990.

TRD-9013034 Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 25, 1990

Proposal publication date: October 9, 1990

For further information, please call: 1-800-792-1112, ext. 4849 or (512) 389-4849

Introduction of Fish, Shellfish, and Aquatic Plants

• 31 TAC §§57.251, 57.257-57.260

The Texas Parks and Wildlife Department adopts an amendment to §57.251 and new §§57.257-57.260. Section 57.259 is adopted with changes to the proposed text as published in the October 5, 1990, issue of the *Texas Register* (15 TexReg 5848). Sections 57.251, 57.257, 57.258, and 57.260 are adopted without changes and will not be republished.

In November 1989, the commission adopted rules regulating stockings of fish, shellfish, or aquatic plants into public water. These rules were mandated by the 71st Texas Legislature which recognized the potential threat to the state's aquatic resources posed by unregulated introductions. The legislature amended the Texas Parks and Wildlife Code, Chapter 66, by adding §66.015, which deals specifically with those introductions. The statute requires a permit from the department for such activity and mandates department rules governing the issuance of these permits.

The sections require individuals or organizations to acquire a permit from the department before introducing any fish, shellfish, or aquatic plant into public water except as listed in the sections. Verifications of all introduction by department staff assures that all introductions are recorded. The change to the new text adds native crawfish to the list of species for which a statewide permit is authorized (§57.259).

No comments were received regarding the amendment and new sections.

The amendment and new sections are adopted under the Texas Parks and Wildlife Code, §66.015, which authorizes the department to establish rules and regulations governing the issuance of permits to introduce fish, shellfish, and aquatic plants into public water.

§57.259. Statewide Permit. Any person is permitted to place goldfish (*Carassius auratus*), common carp (*Cyprinus carpio*), native shrimp, native crabs, and native crawfish into public waters without notifying the department.

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, December 3, 1990.

TRD-9012966 Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 25, 1990

Proposal publication date: October 5, 1990

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

• 31 TAC §§57.257, §57.258

The Texas Parks and Wildlife Department adopts the repeals of §57.257 and §57.258, without changes to the proposed text as published in the October 5, 1990, issue of the *Texas Register* (15 TexReg 5849).

The repeals were necessary so that new sections could be added to the rules and still allow an orderly presentation. These deleted provisions are incorporated into new §57.259 and §57.260 of the amended rules.

The repeals allowed for additions and amendments to the existing rules which authorizes the department to regulate the introduction of fish, shellfish, and aquatic plants into public waters.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Parks and Wildlife Code, §66.015, which provides the department with the authority to establish rules and regulations governing the issuance of permits to introduce fish, shellfish, and aquatic plants into public water and Texas Civil Statutes, Article 6252-13a.

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, December 3, 1990.

TRD-9012965

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 25, 1990

Proposal publication date: October 5, 1990

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

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• 31 TAC §57.691

The Texas Parks and Wildlife Department adopts new §57.691, without changes from the proposed text published in the October 9, 1990, issue of the *Texas Register* (15 TexReg 5909). However, the proposed management plan for artificial reefs, which was adopted by reference in the new section, was adopted with minor revisions derived from public comments.

The revisions, as adopted, include: clarifying Recommendation 2 concerning the advisory committee to assure continued input of interested groups and individuals, removal of the word "available" from the phrase "acquiring available offshore platforms" in Recommendation 5, clarifying Recommendation 7 concerning funding to assure that no funds for the artificial reef program should come from the state general revenue fund, and replace the references to the plan as a "culmination of a process" with "product of a process." Other comments concerning the advisory committee and the priority map are agreed with but no changes in the plan were needed as the current plan already provides the leeway for the commenter's concerns. Copies of the Texas Artificial Reef Fishery Management Plan as adopted by the Texas Parks and Wildlife Commission can be obtained from the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin.

The rules as adopted are designed to establish guidelines for future artificial reef development in Texas water.

The rules as adopted: provide rules and guidelines for the collection of fees, grants, and donations to the artificial reef fund; provide guidelines and measures for the implementation of an artificial reef program; establish siting criteria for artificial reefs; provide measures which will enhance fishing opportunity for recreational and commercial fishermen and nonconsumptive users off of Texas.

Comments made by the public and by the advisory committee concerning the proposed rules were presented to the Texas Parks and Wildlife Commission in a summarized form.

Specifically, the commenters said: (1) keep the current reef advisory committee intact; (2) modifications to add more detail to the priority map are needed; (3) reword Recommendation 5 so that offshore platforms not currently available could be pursued in anticipation of their availability; (4) assure that no funds for the artificial reef program should come from state general revenues; (5) delete the reference to the plan as a "culmination of a process;" (6) delete Recommendation 1 on permitting authority; (7) delete reference to optimum yield; and (8) replace reference to 50% donation in Recommendation 7 with an

unspecified but more flexible amount. Several comments were received favoring adoption of the plan.

Three groups made comments recommending the adoption of the rules. The Texas Shrimp Association, the Texas Antiquities Commission, and the Artificial Reef Advisory Committee recommended to the commission the adoption of the plan. Letters in favor of the plan were received from two Texas state representatives and a senator.

The Texas Parks and Wildlife Commission disagreed with several comments received because they were judged not to be compatible with fisheries resource management that is based upon scientific studies. The rules have as their factual bases scientific studies and investigations which track trends in fisheries resource populations and assess factors affecting those populations.

The agency disagrees with the previous comments as follows (using the same numbering system as previously used: (6) The limits of authority from Chapter 89 are recognized and for permitting authority to be established further legislative action will have to occur. This recommendation is designed to make this need apparent; (7) Proper siting of artificial reefs requires consideration of a multitude of disciplines including sociology, economics, and biology. The use of artificial reefs should be integrated into the overall fishery management goals of the department and the department has been directed to achieve optimum yield from the state's fishery resources. However, achieving optimum yield through implementation of the plan will not preclude consideration of all potential uses and users of artificial reef sites; and (8) Flexibility in negotiating on a case-by-case basis for artificial reefs is needed and the plan currently provides for this; however, a target donation of 50% of the realized savings conforms to the current precedent in Louisiana and assures the maximum equitable funding available for future artificial reef projects in Texas.

The new section is adopted under the Texas Parks and Wildlife Code, Chapter 89, which provides the Texas Parks and Wildlife Commission with authority to approve and adopt an artificial reef fishery management plan which will then serve as a guideline for the development of all artificial reefs in state waters and will establish guidelines for department recommendations on artificial reefs which maybe established in federal waters off Texas.

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 December 3, 1990.

TRD-9012967

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 24, 1990

Proposal publication date: October 9, 1990

For further information, please call: 1-800-792-1112, ext. 4505 or (512) 389-4505

Chapter 59. Parks

Park Law Enforcement and Activity Standards

• 31 TAC §§59.71-59.82

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing November 8, 1990, repealed §§59.71-59.82, without changes to the proposed text as published in the July 30, 1990, issue of the *Texas Register* (15 TexReg 4176).

The repeals are necessary to eliminate duplication of effort by the department and Texas Commission on Law Enforcement Officer Standards and Education which has primary responsibility to regulate this area.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Parks and Wildlife Code, Chapter 13, Subchapter B, which provides the commission with the authority to promulgate rules and regulations governing the health, safety, and protection of persons and property in state parks.

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 December 4, 1990.

TRD-9013032

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 25, 1990

Proposal publication date: July 24, 1990

For further information, please call: 1-800-792-1112, ext. 4854 or (512) 389-4854

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State Parks

• 31 TAC §§59.131-59.163

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held November 8, 1990, repealed §§59.131-59.163, without changes to the proposed text as published in the July 30, 1990, issue of the *Texas Register* (15 TexReg 4176).

The repeals are necessary in order to revise and clarify the existing rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Parks and Wildlife Code, Chapter 13, Subchapter B, which provides the commission with the authority to promulgate rules and regulations governing the health, safety, and protection of persons and property in state parks.

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 December 4, 1990.

TRD-9013031

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: January 15, 1991

Proposal publication date: July 24, 1990

For further information, please call: 1-800-792-1112, ext. 4854 or (512) 389-4854

State Park Rules

• 31 TAC §§59.131-59.136

The Texas Parks and Wildlife Department at a regularly scheduled public hearing held November 8, 1990 adopted new §§59.131-59.136, without changes to the proposed text as published in the July 30, 1990, issue of the *Texas Register* (15 TexReg 4176).

The new sections contain changes from the repealed sections which are essentially non-substantive, but give greater clarity for the benefit of the park staff and park visitors.

The new sections govern the health, safety, and protection of persons and property in state parks.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Parks and Wildlife Code, Chapter 13, Subchapter B, and Texas Civil Statutes, Article 6252-13a, which provide the Texas Parks and Wildlife Commission with the authority to promulgate regulations governing the health, safety, and protection of person and property in state parks, historic sites, scientific areas, and forts under the control of the department, including public water within state parks, historic sites, scientific areas, and forts.

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 December 4, 1990.

TRD-9013030

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 24, 1990

Proposal publication date: September 11, 1990

For further information, please call: 1-800-792-1112, ext. 4854 or (512) 389-4854

Part IX. Texas Water Commission

Chapter 293. Water District

Creation of Water Districts

• 31 TAC §§293.11, 293.13, 293.17, 293.18

The Texas Water Commission (commission) adopts amendments to §§293.11, 293.13, and 293.17, new §293.18, and the repeal of existing §293.18, without changes to the proposed text as published in the August 31,

1990, issue of the *Texas Register* (15 TexReg 5011).

The sections are adopted to clarify the existing procedures for the filing of certain types of applications to create a water district.

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

The amendments and new section are adopted under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policies of the commission, and to collect statutory fees from persons filing various applications with 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 December 5, 1990.

TRD-9013063

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 26, 1990

Proposal publication date: August 31, 1990

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

• 31 TAC §293.18

The repeal is adopted under the Texas Water Code, §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policies of the commission, and to collect statutory fees from persons filing various applications with 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 December 5, 1990.

TRD-9013062

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 26, 1990

Proposal publication date: September 4, 1990

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

TITLE 37. PUBLIC SAFETY AND CORRECTION

Part XIII. Fire Department Emergency Board

Chapter 401. General Provisions

Subchapter A. Organization of the Board

• 37 TAC §§401.1, 401.3, 401.5, 401.7, 401.9, 401.11, 401.13, 401.15, 401.17, 401.19, 401.21, 401.23, 401.25, 401.27

The Fire Department Emergency Board adopts new §§401.1, 401.3, 401.5, 401.7, 401.9, 401.11, 401.13, 401.15, 401.17, 401.19, 401.21, 401.23, 401.25, and 401.27. Sections 401.1, 401.7, 401.9, 401.11, 401.13, 401.15, and 401.21 are adopted with changes to the proposed text as published in the October 12, 1990, issue of the *Texas Register* (15 TexReg 6007). Sections 401.3, 401.5, 401.17, 401.19, 401.23, 401.25, and 401.27 are adopted without changes and will not be re-published.

The new sections are necessary because the board is a newly created agency, the general provisions have been adopted to establish the organization of the board, meeting procedures, personnel policies, and the board seal.

The long term effects of the program will provide better fire protection for all of Texas. Adequately trained and equipped firefighters and more local fire protection will result in fewer injuries, deaths, and less property damage due to fire and should ultimately be reflected in lower fire insurance premiums.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Government Code, §417.02, which provides the Fire Department Emergency Board with the authority to adopt a seal and rules for the administration of the Texas Government Code, §§417.021-417.040.

§401.1. Purpose.

(a) The Fire Department Emergency Board, created by the Texas Government Code (Code), §§417.021-417.040, is charged with the administration of the Code and these regulations. It is the intent of the board that these rules be interpreted in the interest of the public and the state.

(b) The board's purposes are to promote efficient fire protection for the residents of this state by providing eligible local fire departments and public fire fighting organizations financial assistance to purchase fire fighting equipment and facilities; and to provide educational grants and scholarships to those who meet board requirements. The board reserves the right to determine the form of financial assistance for equipment or training such as low interest loans or other form of financial assistance.

§401.7. Quorum. A majority of the board constitutes as quorum. A majority of a committee of the board constitutes a quorum for the purposes of conducting business related to matters under the exclusive jurisdiction of that committee. When a quorum is present, a motion is carried by an affirmative vote of the majority of the entire membership of the board. A motion is carried by an affirmative vote of the majority of a committee on matters under the exclusive jurisdiction of that committee.

§401.9. Board officers.

(a) The membership of the board shall elect one of the members to serve as chairman for a term of one year. The membership of the board shall elect one of the members to serve as vice-chairman for a term of one year. The membership of the board shall elect one of the members to serve as secretary for a term of one year.

(b) No more than one paid fire fighter representative shall be elected to an officer position. No more than one volunteer fire fighter representative shall be elected to an officer position. No more than one public member shall be elected to an officer position.

(c) In the event of a vacancy in any office, the vacancy shall be filled for the unexpired term upon majority vote of the board at the next regular meeting of the board at which notice has been given.

(d) In the absence of the chairman and vice-chairman from a regular or special meeting of the board, the remaining members, providing there is a quorum, shall elect a pro tem presiding officer who shall serve until the conclusion of the meeting or until the arrival of the chairman or vice-chairman.

§401.11. Employees.

(a) The board shall employ a program director who shall employ such other employees as necessary to administer the provisions of the Texas Government Code (Code).

(b) Neither the board nor the program director may employ or continue to employ a person:

(1) who is related within the second degree by affinity or the third degree by consanguinity to a person who is a member of the board;

(2) who has been convicted of a felony or a crime involving moral turpitude;

(3) is an applicant for a loan, grant, or scholarship or has an interest in an application for a loan, grant, or scholarship;

(4) who accepts remuneration from an applicant for a loan, grant, or scholarship;

(5) who is required by law to register as a lobbyist under Texas Civil Statutes, Article 6252-9c; or

(6) who is an officer, employee, or trade consultant of a trade association, union, or guild of the fire service profession.

(c) Neither the board nor the Program Director may employ or continue to employ a person related within the second degree by affinity or the third degree by consanguinity to a person who is subject to a disqualification prescribed by subsection (b) of this section.

(d) It is the intent of the board to employ the Program Director and other employees in a manner which reflects the diversity of the population in this state as regards to race, color, creed, handicap, sex, religion, age, and national origin.

(e) The board shall develop and publish a personnel handbook which complies with applicable state and federal laws.

§401.13. Program Director; Duties; Term. The program director shall maintain in good order the records of the board, including a public record of every vote, and shall perform other duties as required by the board. The program director serves at the pleasure of the board on a full-time basis and may not hold other employment except on approval of the board.

§401.15. Legal Representation.

(a) The general counsel to the State Fire Marshall, or the designated member(s) of the general counsel's staff shall provide general legal advice to the board and be present upon the request of the board at all meetings of the board or its committees to counsel and advise the board.

(b) The Attorney General, at the request of the board, shall take all necessary legal action to assist the board in recovering amounts of a defaulted loan and shall represent the board in all other legal proceedings.

§401.21. Fiscal Matters. The fiscal year of the board shall begin September 1 and close August 31 of each year, unless otherwise provided for by law. Payment of all salaries and other operating expenses of the board shall be made by itemized vouchers (claims) on the Fire Department Emergency Board Fund. Such vouchers shall be approved as stipulated by board action.

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 November 30, 1990.

TRD-9013008

Ray Williamson
Chairman
Fire Department
Emergency Board

Effective date: December 25, 1990

Proposal publication date: October 12, 1990

For further information, please call: (409) 532-1192

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- 37 TAC §§401.41, 401.43, 401.45, 401.47, 401.49, 401.51, 401.53, 401.55, 401.57, 401.59, 401.61

The Fire Department Emergency Board adopts new §§401.41, 401.43, 401.45, 401.47, 401.49, 401.51, 401.53, 401.55, 401.57, 401.59, and 401.61. Sections 401.41, 401.53, 401.59, and 401.61 are adopted with changes to the proposed text as published in the October 12, 1990, issue of the *Texas Register* (15 TexReg 6007). Sections 401.43, 401.45, 401.47, 401.49, 401.51, 401.55, and 401.57 are adopted without changes and will not be republished.

The new sections are necessary because the board is a newly created state agency, it was necessary to implement the board's statutory mandate by adopting rules relating to the board's powers and duties, including the establishment of board committees, agency investigatory authority, and financial matters.

The long term effects of the program will provide better fire protection for all of Texas. Adequately trained and equipped firefighters and more local fire protection will result in fewer injuries, deaths, and less property damage due to fire and should ultimately be reflected in lower fire insurance premiums.

No comments were received regarding adoption of the new sections.

The new section is adopted under the Texas Government Code, §417.029 which provides the Fire Department Emergency Board with the authority to adopt rules for the administration of the Texas Government Code, §§417.021-417.040 and administer oaths and take testimony on matters within the board's jurisdiction.

§401.41. Board Committees.

(a) There shall be the following committees:

(1) the executive committee, consisting of the chairman, vice-chairman, and secretary;

(2) the application review committee, consisting of one paid fire fighter member, one volunteer fire fighter member, and one citizen member; and

(3) the oversight committee consisting of one paid fire fighter member, one volunteer fire fighter member, and one citizen member.

(b) There shall be no more than three members per committee.

§401.53. Fire Department Emergency Board Fund. The board shall deposit the money it collects under the Code in the State Treasury to the credit of the revolving Fire Department Emergency Board Fund.

The Fire Department Emergency Board Fund may be appropriated only for funding of programs, administration, and enforcement under the Code. Any unappropriated money in this fund at the close of each fiscal biennium shall be rolled over and retained in the Fire Department Emergency Board Fund and shall be used to make other loans as authorized under the Texas Government Code (Code).

§401.59. Reporting of Violations.

(a) Anonymous reporting of violations of the Texas Government Code (Code) or of the Fire Department Emergency board regulations shall be referred to the program director who shall forward the reports to the board, the attorney general, or the Department of Public Safety, for appropriate investigation and action.

(b) Anonymous reports, including those made under the authority and protection of the Texas Whistle Blowers Act, Texas Civil Statutes, Article 6252-16a, are investigatory files.

§401.61. Application of the Administrative Procedure and Texas Register Act. Except as otherwise provided by the Fire Department Emergency Board Act, Texas Government Code, §§417.021-417.040, the board rules and orders are subject to the Administrative Procedure and Texas Register Act, (APTRA), Texas Civil Statutes, Article 6252-13a, provided, however, that the contested case proceedings of the APTRA shall not apply.

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 November 30, 1990.

TRD-9013007 Ray Williamson
Chairman
Fire Department
Emergency Board

Effective date: December 25, 1990

Proposal publication date: October 12, 1990

For further information, please call: (409) 532-1192.

Chapter 405. Applications Provisions

Subchapter A. General Applications Provisions

- 37 TAC §§405.1, 405.3, 405.5, 405.7, 405.9, 405.11, 405.13

The Fire Department Emergency Board adopts new §§405.1, 405.3, 405.5, 405.7, 405.9, 405.11, and 405.13, without changes to the proposed text as published in the October 12, 1990, issue of the *Texas Register* (15 TexReg 6009).

Because the board is a newly created agency designed to fund firefighting equipment and training to eligible organizations, it was necessary to adopt funding application procedures regarding receipt of forms, review of conditions, and effect of legal action on applications for loans, grants, or scholarships.

Long-term effects of the program will be to provide better fire protection for all of Texas. Adequately trained and equipped firefighters and more local fire protection will result in fewer injuries, deaths, and less property damage due to fire, and should ultimately be reflected in lower fire insurance premiums.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Government Code, §417.029 and 417.035, which provides the Fire Department Emergency Board with the authority to adopt rules for the administration of the Texas Government Code, §§417.021-417.040, and to prescribe the form and procedures for applications for loans, grants, and scholarships.

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 November 30, 1990.

TRD-9013006 Ray Williamson
Chairman
Fire Department
Emergency Board

Effective date: December 25, 1990

Proposal publication date: October 12, 1990

For further information, please call: (409) 532-1192

Subchapter B. Applications Requirements

- 37 TAC §§405.31, 405.33, 405.35

The Fire Department Emergency Board adopts new §§405.31, 405.33, and 405.35, Section 405.33 is adopted with changes to proposed text as published in the October 12, 1990, issue of the *Texas Register* (15 TexReg 6010). Sections 405.31, and 405.35 are adopted without changes and will not be republished.

Because the board is a newly created state agency established to fund firefighting for training and equipment for eligible firefighting organizations, it was necessary to adopt rules relative to application requirements, disclosure of financial records, criteria for issuance of financial assistance, and the burden of proof to establish compliance with applicable criteria.

Long-term effects of the program will be to provide better fire protection for all of Texas. Adequately trained and equipped firefighters and more local fire protection will result in fewer injuries, deaths, and less property damage due to fire, and should ultimately be reflected in lower fire insurance premiums.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Government Code, §§417.029, 417.032, 417.034, and 417.036, which provides the Fire Department Emergency Board with the authority to establish rules for the administration of the Texas Government Code, §§417.021-417.040, and establish guidelines for determining eligibility for financial assistance for equipment, facilities, education, and training.

§405.33. Criteria for Issuance of Financial Assistance.

(a) In addition to the criteria established by the legislature in the Texas Government Code (the Code), §§417.032, 417.034, and 417.036, a loan, grant, or scholarship shall not be issued or approved by the board unless the applicant demonstrates:

(1) that the approval of the application will be in the public interest;

(2) that it will comply with all zoning laws, the Code, and board rules;

(3) that it will participate in the TEXFIRS reporting system on or before the time contracts for the grant, loan, or scholarship are signed;

(4) that the applicant is otherwise eligible for a loan, grant, or scholarship; and

(5) that it participates in a certification program recognized for key rate credit by the State Board of Insurance.

(b) The board shall apply, as appropriate, the general criteria identified in the Code, this title, and this subchapter in conducting a review of an application. Criteria form the basis of review by providing measures against which various aspects of the proposed project are compared. Not all criteria may be relevant to a particular application. When a project compares favorably with all of the established criteria against which it is properly measured, the applicant may receive a loan, grant scholarship, or other financial assistance. When a project compares unfavorable with one or more of the criteria against which it is properly measured, the application may be denied. The applicant should present information in the application and evidence of fact to the board which address each relevant criterion and each sub-part of the criterion so as to prove that the criterion is satisfied. Failure of the applicant to address all relevant criteria may result in the denial of the application.

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 November 30, 1990.

TRD-9013005 Ray Williamson
Chairman
Fire Department
Emergency Board

Effective date: December 25, 1990

Proposal publication date: October 12, 1990

For further information, please call: (512) 532-1192

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Subchapter C. Applications
Procedures

- 37 TAC §§405.51, 405.53, 405.55, 405.57, 405.59, 405.61, 405.63

The Fire Department Emergency Board adopts new §§405.51, 405.53, 405.55, 405.57, 405.59, 405.61, and 405.63. Sections 405.51, 405.55, and 405.57 are adopted with changes to proposed text as published in the October 12, 1990, issue of the *Texas Register* (15 TexReg 6011). Sections 405.53, 405.59, 405.61, and 405.63 are adopted without changes and will not be republished.

Because the board is a newly created state agency established to provide funding for training and equipment for eligible firefighting organizations, it was necessary to adopt rules relative to application procedures for receiving financial assistance from the board, including format for submission and detailing the particular information to be included in the application.

Long term effects of the program will be to provide better fire protection for all of Texas. Adequately trained and equipped firefighters and more local fire protection will result in fewer injuries, deaths, and less property damage due to fires, and should ultimately be reflected in lower fire insurance premiums.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Government Code, §§417.029, 417.032, 417.034, 417.035, and 417.036, which provides the Fire Department Emergency Board with the authority to establish rules for the administration of the Texas Government Code, §§417.021-417.040, establish guidelines for determining eligibility for financial assistance for equipment, facilities, education, and training, and prescribe the form and procedures for submitting and processing application.

§405.51. Application Procedure for Applicants.

(a) Any local fire department or other public fire-fighting organization may apply to the board for a loan, grant, or scholarship.

(b) Each application shall be completed upon a form provided by the board.

(c) Each application and any attached documents required by these regulations shall be submitted as a single package. An original and eight copies of the application and documents shall be filed with the program director at the board offices in Austin. Each application shall be verified under oath by the applicant. All copies shall be manually signed in ink.

(d) Each loan, grant, or scholarship shall be granted upon the condition that the

recipient and each of its officers, directors, employees, and agents shall accept, observe and enforce the Texas Government Code (the Code) and the regulations of the board. The burden of proof is on the applicant to show compliance with the Code and with the rules of the board. An applicant who does not show compliance fails to meet a condition of loan, grant, or scholarship and is not eligible for funds.

§405.55. Financing and Development.

(a) Each applicant shall contain the following information.

(1) The application shall state the names and addresses of every person or business organization that provides or will provide contractual services to the applicant for purposes of the project, indicating the nature of such services rendered and the equipment or property provided or to be provided.

(2) The application shall include a copy of each contract and written agreement disclosed in paragraph (1) of this subsection. If the agreement or understanding is an oral one, a statement explaining the substance of the oral agreement or understanding shall be attached to the application. For any contract, agreement, or understanding referred to, the name and address of each party to the contract shall be stated. Any relationship of the parties through control by family or business association to the applicant shall be stated.

(3) The application shall state a projected budget of any expenditure related to the proposal, including, but not limited to:

- (A) training costs;
- (B) acquisition costs;
- (C) site development costs, including:
 - (i) utilities; and
 - (ii) transportation access;
- (D) facility costs, including:
 - (i) security for fire equipment; and
 - (ii) testing costs;
- (E) cost of interim financing;
- (F) organization, administrative, and legal expenses; and
- (G) projected permanent financing costs.

(4) The application shall state the training and testing schedule proposed for the proposed project, including an esti-

mated date of project completion and the following information:

(A) a detailed description of the method or methods by which the training and testing of components will be undertaken; and

(B) an estimated time schedule for acquisition or training, including the date the proposed project will be fully operational and the number of months after the loan, grant, or scholarship is granted that each of the following activities will be either commenced and completed:

- (i) the acquisition of equipment;
- (ii) the solicitation of bids;
- (iii) the award of contracts;
- (iv) the completion of training and testing;
- (v) the training of personnel; and
- (vi) the board's check and inspection of the equipment or training program.

(5) The application shall state the source or sources of funding for the completion or improvement of the project proposed by the application. The following shall be identified and documented:

- (A) each source of equity contribution and the amount of the contribution;
- (B) any present or conditional commitment received for each funding source;
- (C) each source of debt contribution, and the amount of the contribution;
- (D) any present or conditional commitment received for the financing; and
- (E) a detailed financing timetable stating a date for the submission of an unqualified commitment for financing to the board.
- (6) The application shall identify and describe sources of additional funds needed for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues, or any other cause.

(b) The board or the appropriate committees may request additional information regarding financing and development as necessary or required.

§405.57. Economic, Demographic, and Other Information.

(a) Each application shall contain the following information.

(1) The application shall state the projected social impact of the equipment or training, including how it may affect the following:

- (A) the school system;
- (B) the police service;
- (C) the fire service;
- (D) the ambulance service;
- (E) the population growth;
- (F) the housing demand; and
- (G) the community planning and development scheme.

(2) The application shall state the ecological impact of the equipment or training.

(3) The application shall describe the effect of competition with any other fire-fighting service in the area. A detailed statement of what effect the competition will have on the availability of fire-fighting personnel and on the quality of fire-fighting.

(b) The board or the appropriate committees may request additional information regarding economic, demographic, or other information as necessary or required.

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 November 30, 1990.

TRD-9013004 Ray Williamson
 Chairman
 Fire Department
 Emergency Board

Effective date: December 25, 1990

Proposal publication date: October 12, 1990

For further information, please call: (512) 532-1192



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 49. Child Protective Services

Subchapter Q. Purchased Protective Services

• 40 TAC §49.1765

The Texas Department of Human Services adopts an amendment to §49.1765, with changes to the proposed text as published in the October 9, 1990, issue of the *Texas Register* (15 TexReg 5921).

The amendment is justified to provide for contracted services wherever they are needed in order to help adopted children and their families adjust to the adoptions, cope with previous histories of abuse, and avoid permanent or long-term removal of children from adoptive family settings.

The amendment will function by allowing the department to contract for postadoption services with providers that do not meet eligibility requirements when an area that needs services has no eligible providers.

Although the department received no comments regarding adoption of the amendment, the department initiated a minor change to clarify the amendment's meaning.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 47, which authorizes the department to administer programs to promote the adoption of hard-to-place children.

§49.1765. Postadoption Services.

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

(c) Contract providers.

(1) Only licensed child-placing facilities that have adoption and postadoption experience with special-needs adoptions may contract with DHS to provide the postadoption services specified in this section, unless there is no qualified child-placing agency willing to contract with DHS in an area in which contracted services are needed. The term "special-needs adoption" refers to the adoption of a child who meets one of the following criteria at the time of placement:

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

(2) (No change.)

(d)-(l) (No change.)

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

Issued in Austin, Texas, on December 5, 1990.

TRD-9013066

Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: January 1, 1991

Proposal publication date: October 9, 1990

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

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 25. Safety and Maintenance Operations Division

Office of Traffic Safety

• 43 TAC §§25.901-25.920

The State Department of Highways and Public Transportation adopts the repeal of §§25.901-25.920, without changes to the proposed text as published in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5178).

Repeal of these sections is necessary due to the contemporaneous adoption of new §§25.901-25.912, which incorporate new and updated requirements pertaining to the administration of the Traffic Safety Program. Pursuant to Executive Order WPC-12, dated August 29, 1979, all functions and duties of the Governor's Office of Traffic Safety, including the integration of all programs, were transferred to this department. In June, 1988, the department accepted the administrative transfer of all existing rules of the Governor's Office of Traffic Safety, which were codified as 43 TAC §§25.901-25.920. It is now necessary to adopt the repeal of the existing sections and adopt simultaneously new sections concerning the Traffic Safety Program.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Articles 6666 and 6701j-1, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation, and more specifically to administer the Traffic Safety Act of 1967.

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 December 3, 1990.

TRD-9012943 Diane L. Northam
 Legal Administrative Assistant
 State Department of Highways and Public Transportation

Effective date: December 4, 1990

Proposal publication date: September 11, 1990

For further information, please call: (512) 463-8630

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Traffic Safety Program

• **43 TAC §§25.901-25.912**

The State Department of Highways and Public Transportation adopts new §§25.901-25.912, without changes to the proposed text as published in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5178).

These new sections replace existing §§25.901-25.920, concerning Office of Traffic Safety, which are being contemporaneously repealed. Pursuant to Executive Order WPC-12, dated August 29, 1979, all functions and duties of the Governor's Office of Traffic Safety, including the integration of all pro-

grams, were transferred to this department. In June 1988, the department accepted the administrative transfer of all existing rules of the Governor's Office of Traffic Safety, which were then codified as 43 TAC §§25.901-25.920.

These new sections outline the purpose, definitions, scope, goals and objectives, availability of documents, participation, types of projects eligible, activities and noneligible items, contract requirements, acceptance criteria, federal rules and regulations, and financial reports, necessary to the administration of the Traffic Safety Program.

No comments were received regarding adoption of the new sections.

The repeals are adopted under Texas Civil Statutes, Articles 6666 and 6701j-1, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and

Public Transportation, and more specifically to administer the Traffic Safety Act of 1967.

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 December 3, 1990.

TRD-9012942

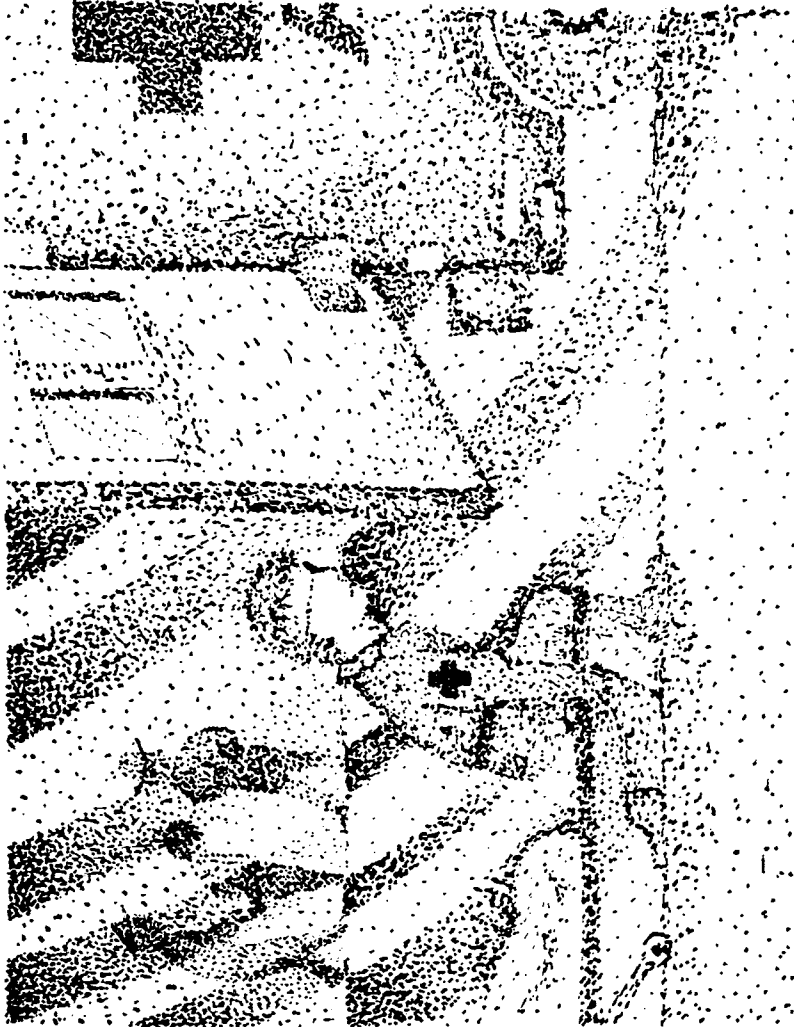
Diane L. Northam
Legal Administrative
Assistant
State Department of
Highways and Public
Transportation

Effective date: December 24, 1990

Proposal publication date: September 11, 1990

For further information, please call: (512) 463-8630

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Name: Pete Garcia

Grade: 11

School: Del Rio High School, San Felipe Del Rio CISD

Open Meetings

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

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

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

Texas Department of Agriculture

Wednesday, December 19, 1990, 10 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue Stephen F. Austin Building, Ninth Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Administrative Code, §7.22(a) by Kenneth Lauderdale doing business as Aerial Service, holder of pesticide applicator license.

Contact: Cordelia Martinez, P.O. Box 12847, Austin, Texas 78711, (512) 475-1609.

Filed: December 5, 1990, 1:48 p.m.

TRD-9013083

Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Thursday, December 13, 1990, 1:30 p.m. The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet at the Texas Rehabilitation Commission, Brown-Heatley Building, 4900 North Lamar Boulevard, Room 3501-3502, Austin. According to the complete agenda, the committee will introduce committee members and guests; approval of minutes from October 18, 1990 meeting; discussion and action on enclaves; adoption of proposed rules for the Pricing Subcommittee; report subcommittee's recommendations for the annual report; workshop's right of review; conflict of interest policy; nepotism policy; development of a written agreement between the Texas Committee and Texas Industries for the Blind and Handicapped (TIBH); consideration of the costs of institutionalization; and service billing through TIBH.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: December 4, 1990, 2 p.m.

TRD-9013023

Friday, December 14, 1990, 9 a.m. The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet at the Texas Rehabilitation Commission, Brown-Heatley Building, 4900 North Lamar Boulevard, Room 7331-7332, Austin. According to the agenda summary, the committee will introduce committee members and guests; discussion and action new services; renewal services; new products; product changes and revisions; San Antonio State Hospital's contract to produce business cards for MHMR; and discussion and action on setting meeting dates for 1991.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: December 4, 1990, 2:01 p.m.

TRD-9013024

Texas Catastrophe Property Insurance Association

Thursday, December 20, 1990, 9 a.m. The Board of Directors of the Texas Catastrophe Property Insurance Association will meet at the Barton Creek Conference Resort, 8212 Barton Club Drive, Austin. According to the complete agenda, the board will approve the minutes of the September 1990 meeting; hear report of the chairman; report of the secretary/treasurer; report of the manager; underwriting director; counsel; Insurance Information Institute; discuss old business; AIRAC; Colorado Wind Study; Advisory Committee to determine a test standard for composition roof shingles; board notice to TCPIA policy holder on "How to File a Claim"; close out of old years; consumer representation to board; new business; 1991 PIPSO subscribers fees; John Mulady's letter; PIA spectrum; and location for next board meeting.

Contact: Frank R. Rogers, 2801 South IH-35, Austin, Texas 78741, (512) 444-9611.

Filed: December 4, 1990, 11:28 a.m.

TRD-9013012

Texas Department of Commerce

Thursday, December 13, 1990, 9 a.m. The Product Development Fund Advisory Board of the Texas Department of Commerce will meet at the Texas Department of Commerce, 816 Congress Avenue, Conference Room 1140, Austin. According to the complete agenda, the board will discuss product development rules; review rules and procedures if necessary; break at 10:30; and reconvene at 10:45 a.m. for discussion of rules.

Contact: Mike Klonsinski, 816 Congress Avenue, Austin, Texas 78701, (512) 320-9678.

Filed: December 5, 1990, 11:07 a.m.

TRD-9013078

Texas Commission for the Deaf

Friday, December 7, 1990, 5:30 p.m. The Board for Evaluation of Interpreters (BEI) of the Texas Commission for the Deaf held an emergency meeting at the Texas Commission for the Deaf, 1524 South IH-35, Petroleum Building, Suite 200, Austin. According to the complete agenda, the staff will report to the board on budget and other financial matters; discuss evaluator training; met in executive session to address certificate recommendations, revocations, and reviews and recommendations for new evaluators; reconvened to discuss old business; new business; and chairperson's report. The emergency status was necessary as the board needed to examine budget and other financial matters.

Contact: Larry Evans, 1524 South IH-35, Suite 200, Austin, Texas 78704, (512) 444-3323.

Filed: December 4, 1990, 1:52 p.m.

TRD-9013020

Interagency Council on Early Childhood Intervention

Tuesday, December 18, 1990, 9 a.m. The Interagency Council on Early Childhood Intervention will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the council will hear public comments; approve minutes of previous meeting; hear update on medicaid and insurance billing; discuss and approve decision to issue request for proposal for fiscal year 1992 funding; Chapter I award for Dallas services for the visually impaired; advisory committee report; early childhood intervention statute revision; and lease options for council staff housed at Texas Department of Health.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: December 5, 1990, 3:57 p.m.

TRD-9013121

East Texas State University

Wednesday, December 12, 1990, 10 a.m. The Board of Regents of East Texas State University will meet at Love Field, Conference Room A, Dallas. According to the complete agenda, the board will propose to allocate funds to secure development of the Northeast Texas Symphony; adjustments in the FY 1991 operating budget of ETSU-Texarkana and ETSU-Commerce; award contract for student information systems; renovation of the art building; renovation of the Ed North Building; report on the Garland Metroplex; request for allocation of funds for athletic awards; award of contract for demolition/asbestos abatement; authorization to seek approval for a supplemental appropriation from the Texas Legislature for purchased utilities for the 1990-1991 fiscal years; request for allocation of funds for football dressing room refurbishing; and report on the feasibility of construction of a coliseum.

Contact: Charles Turner, East Texas State University, Commerce, Texas 75428, (903) 886-5014.

Filed: December 5, 1990, 1:50 p.m.

TRD-9013086

Texas Education Agency

Thursday-Friday, December 13-14, 1990, 1 p.m. and 8:30 a.m. respectively. The Apprenticeship and Training Advisory Committee of the Texas Education Agency

will meet at the Marriott Hotel (Capitol), 701 East 11th Street, Austin. According to the complete agenda, the committee will hear report from the chairman; report from assistant commissioner for special programs funding and compliance of TEA; report from subcommittees on finance and budget and planning on the apprenticeship program of TEA and on the apprenticeship monitoring process of TEA; overview of the superconducting super collider; update on Apprenticeship 2000; update on the quality work force planning regions; and current national developments in apprenticeship and training.

Contact: Toni M. Dean, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9294.

Filed: December 4, 1990, 2:02 p.m.

TRD-9013025

Friday, December 21, 1990, 9 a.m. The Commission on Standards for the Teaching Profession Committee on Recruiting and Training Members of Visiting Teams of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 3-102, Austin. According to the complete agenda, the commission will review and discuss development of timeline and procedures for institutional approval process.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: December 4, 1990, 2:02 p.m.

TRD-9013026

Advisory Commission on State Emergency Communications

Thursday, December 13, 1990, 9:30 a.m. The Resource Committee of the Addressing Subcommittee of the Advisory Commission on State Emergency Communications will meet at the Texas Employment Commission Building, Room 304-T, 12th Street and Trinity Avenue, Austin. According to the complete agenda, the committee will make introductions; view TIGER files in local government use; consider recommendations to subcommittee; hear public comment; and consider any new business;

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

Filed: December 4, 1990, 1:44 p.m.

TRD-9013016

Employees Retirement System of Texas (ERS)

Friday, December 14, 1990, 8:30 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Auditorium, ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will hear Towers, Perrin, Forster and Crosby report on actuarial valuation as of August 31, 1990, of the retirement funds administered by the ERS; consideration of legislative proposals for 72nd Texas Legislature; selection of firm to conduct 1989-1990 audit of insurance carrier operations regarding the Texas Employees Uniform Group Insurance Program; final adoption of trustee rule amendments concerning reserve factors; proposed/emergency adoption of new Chapter 87 of trustee rules concerning deferred compensation plan; internal auditing status report for first quarter of fiscal year 1991; presentation by chairman of board of Texas Growth Fund; approval of investment transactions for quarter ended November 30, 1990; investment advisor recommendations/action on investment of ERS assets; proxy voting/corporate governance guideline approval; and set meeting date.

Contact: William S. Nall, 18th and Brazos Austin, Texas 78701, (512) 867-313.

Filed: December 6, 1990, 9:25 a.m.

TRD-9013137

Fire Department Emergency Board

Friday, December 14, 1990, 1:30 p.m. The Fire Department Emergency Board will meet at the Reagan Building, Room 109, Austin. According to the complete agenda, the board will take roll call; reading of minutes; committee reports: executive, applications, review and oversight; discussion and action on hiring program director and secretary; discussion on rules regarding eligible training equipment and facilities; discussion and action regarding errors in typing of adopted rules; presentation of seal-Don Comedy; unfinished business; and new business.

Contact: Neta Richardson, P.O. Box 13326, Austin, Texas 78711, (512) 441-7388.

Filed: December 5, 1990, 2:28 p.m.

TRD-9013092

Office of the Governor

Tuesday, December 11, 1990, 2 p.m. The Metropolitan Transit Authority Task Force of the Governor's Office will meet at 411 West Arapaho, Richardson. According to the complete agenda, the authority will hear introductions by chairman; invited speakers; and public testimony.

Contact: Geoffrey S. Connor, Sam Houston Building, Room 208, Austin, Texas 78701, (512) 463-1778.

Filed: December 5, 1990, 11:07 a.m.

TRD-9013077

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Texas Guaranteed Student Loan Corporation

Thursday, December 13, 1990, 9 a.m. The Board of Directors of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Colonnade Building, Suite 300, Austin. According to the complete agenda, the board will review and discuss financial status; fringe benefits; loan servicing status update; policy/legislative issues; budget reconciliation update; compliance activities; open meetings; old business; and meet in executive session to discuss legal matters.

Contact: Peggy Irby, P.O. Box 15996, Austin, Texas 78761-5996, (512) 835-1900.

Filed: December 5, 1990, 4:38 p.m.

TRD-9013127

◆ ◆ ◆
Texas Department of Health

Friday, December 7, 1990, 2:30 p.m. The Alternate Care Committee of the Texas Board of Health of the Texas Department of Health met at the Texas Department of Health, 1100 West 49th Street, Room M-741, Austin. According to the complete emergency revised agenda, the committee considered proposed amendments to kidney health program rules; final adoption of repeal and amendments to abortion facility licensing rules; final adoption of new rule concerning fees charged for vital records services; final adoption of new rules for local registrars; and considered amendments to Athletic Trainers Act. The emergency status was necessary due to unforeseeable circumstances.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: December 5, 1990, 3:58 p.m.

TRD-9013123

Friday, December 14, 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, 1100 West 49th Street, Room M-739, Austin. According to the complete agenda, the committee will make introductions; hear announcements; approve minutes of previous meetings; consider status of tire regulation program; status of rules for medical waste transporters; activities of task force on waste management policy; revenue from disposal fee; recommendations on department relationship to other state agencies in matters related to municipal solid waste management; report on pre-filed legislation; report of education committee and recom-

mendation on contract to expand public school education program; report on guide for format and content of regional solid waste management plans; report on solid waste conference; and regulatory impediments to recycling initiatives.

Contact: Glendon Eppler, 1100 West 49th Street, Austin, Texas 78756, (512) 458-6617.

Filed: December 5, 1990, 3:58 p.m.

TRD-9013122

◆ ◆ ◆
State Board of Insurance

Thursday, December 13, 1990, 2 p.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will consider a petition by Allstate Insurance Company for exemption from or limitation in participation in the Texas Workers' Compensation Assigned Risk Pool or exemption from or limitation in participation in the Small Premium Policy Plan of the Texas Workers' Compensation Insurance Facility. Final action on amendment to 28 TAC §5.4101; board orders on several different matters; proposal for decision in the appeal of Fred and Janet Rodefeld; motion for dismissal in the appeal of Andrew D. Suttle; personnel matters; litigation; and solvency matters.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: December 5, 1990, 2:24 p.m.

TRD-9013093

Monday, December 17, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider the proposed plan of merger of NCNB Life Insurance Company, Dallas, and NCNB Texas Life Insurance Company, Dallas, into Superior Life Insurance Company, Charlotte, North Carolina with Superior Life Insurance Company being to survivor.

Contact: Will McCarn, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1990, 8:29 a.m.

TRD-9013129

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Judicial Districts Board

Friday, December 14, 1990, 10 a.m. The Judicial Districts Board will meet at the Embassy Suites Hotel, Love Field, 3880 West Northwest Highway, Dallas. According to the agenda summary, the board will review duties; discuss criteria for evaluation of judicial caseloads, possible changes in

judicial district boundaries, pending litigation, and the addition or deletion of judicial districts.

Contact: C. Raymond Justice, 1414 Colorado Street, Suite 602, Austin, Texas 78701, (512) 463-1625.

Filed: December 4, 1990, 1:49 p.m.

TRD-9013019

◆ ◆ ◆
Texas Board of Professional Land Surveying

Friday-Saturday, December 14-15, 1990, 9 a.m. The Texas State Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will approve the minutes of the previous meeting; discuss correspondence; conduct interviews; discuss October, 1990 examinations; hear committee reports; discuss future board meeting dates; reconsider old applications; discuss standards; adopt the board's proposed General Rules of Procedures and Procedures published November 13, 1990; and consider new business.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: December 5, 1990, 10:26 a.m.

TRD-9013070

◆ ◆ ◆
Legislative Budget Board

Friday-Saturday, December 14-15, 1990, 9 a.m. The Legislative Budget Board will meet at the State Capitol, Senate Chamber, Austin. According to the complete agenda, the board will consider budget and program evaluation recommendations for the 1992-93 biennium and to hold a public hearing to solicit testimony regarding the proposed items of information and the methodology used in making the calculations for the limitation on the rate of growth of appropriations in the 1992-1993 biennium from state tax revenues not dedicated by the Texas Constitution. The limitation is authorized by Article VIII, §22, Texas Constitution. The procedure for setting the limitation is set forth in the Texas Government Code, §316. The hearing is required by §316.004. If necessary, the board will continue its meeting on Saturday, December 15, 1990.

Contact: Jim Oliver, Room 207-A, State Capitol, Austin, Texas 78711, (512) 463-1166.

Filed: December 4, 1990, 10:48 a.m.

TRD-9013003

Texas Board of Licensure for Nursing Home Admin- istrators

Wednesday, December 12, 1990, 11 a.m. The Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Suite 310, Austin. According to the complete agenda, the board will conduct a formal hearing, approved by the Attorney General of Texas, in the matter of Linda Cudd, AIT Number 6426, to receive testimony regarding possible violation of the Nursing Home Administrator's Licensure Act, Article 4442d of Vernon's Texas Civil Statutes, §§7, 11(1)(a), and 14.

Contact: Janet McNutt, 4800 North Lamar Boulevard, Suite 310, Austin, Texas 78756, (512) 458-1955.

Filed: December 4, 1990, 2:03 p.m.

TRD-9013028

Texas Public Finance Au- thority

Wednesday, December 5, 1990, 10:30 a.m. The Board of the Texas Public Finance Authority held an emergency meeting at the Reagan Building, 105 West 15th Street, Room 106, Austin. According to the agenda summary, the board approved minutes; discussed open bids; selected winner; and considered resolution. The emergency status was necessary as meeting room was changed unexpectedly.

Contact: Catherine Nall, 1201 Brazos Street, Suite 313, Austin, Texas 78701, (512) 463-5544.

Filed: December 5, 1990, 8:27 a.m.

TRD-9013051

Public Utility Commission of Texas

Thursday, January 10, 1991, 10 a.m. The Hearings Section of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the section will hold a prehearing conference in Docket Number 9862 to consider complaint of University Communications against GTE Southwest, Inc.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 5, 1990, 3:16 p.m.

TRD-9013113

State Purchasing and Gen- eral Services Commission

Friday, December 14, 1990, 9 a.m. The State Purchasing and General Services Commission will meet at 1711 San Jacinto Boulevard, Central Services Building, Conference Room 402, Austin. According to the agenda summary, the commission will approve a resolution for advance refunding of Revenue Bonds, Series 1985 and refunding bonds, Series 1986; approval of a resolution for financing for acquisition/renovation of the Republic Plaza and Guaranty Federal properties; final adoption of amendments to section 115.35 regarding leasing; proposed amendments to §§113.13 and §125.47 and new §§113.21-113.25 and 125.61-125.67 regarding alternative fuel program; architect/engineer selection process; 3.09 report; construction project report; operating budget report; division activity report; meet in executive session regarding the status of the potential purchase of real property; and regarding the status of all pending litigation.

Contact: John R. Neel, 1711 San Jacinto Street, Austin, Texas 78701, (512) 463-3446.

Filed: December 6, 1990, 9:45 a.m.

TRD-9013139

Railroad Commission of Texas

Monday, December 10, 1990, 9 a.m. The Railroad Commission of Texas met at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room, Austin. According to the emergency revised agenda, the commission added Docket Number 029656ZZT, application of Tarmac Transportation Inc. to amend Item I series in RCT Tariff 39-B by changing fuel adjustment charges to reflect fuel cost above base rate. Consideration by commission of Interim Order approving. The emergency status was necessary as an urgent public necessity existed due to recent dramatic fuel costs increases experienced by motor carriers. Such a reasonably unforeseeable situation required immediate action by the commission.

Contact: Harold Bartz, P.O. Box 12967, Austin, Texas 78711, (512) 463-7077.

Filed: December 5, 1990, 1:51 p.m.

TRD-9013087

Interagency Council on Sex Offender Treatment

Friday, December 14, 1990, 1:30 p.m. The Committee of the Interagency Council on Sex Offender Treatment will meet at the Research League, 1117 Red River Street,

Austin. According to the complete agenda, the committee will discuss cost benefit study; and format for registry of sex offender treatment providers.

Contact: Bill W. Bownds, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-5146.

Filed: December 4, 1990, 1:57 p.m.

TRD-9013022

Sunset Advisory Commission

Wednesday-Thursday, December 12-13, 1990, 10 a.m. and 9 a.m. respectively. The Sunset Advisory Commission will meet at the Lieutenant Governor's Committee Room on Wednesday, and in the Senate Chamber on Thursday, State Capitol Building, Austin. According to the complete agenda, the commission will approve minutes; decisions on: Office of Fire Fighters' Pension Commissioner, State Pension Review Board, Texas Housing Agency, Texas Turnpike Authority, Texas Real Estate Commission, State Aircraft Pooling Board, Texas Board of Irrigators, Texas National Research Laboratory Commission, Commission on Jail Standards, Texas Health and Human Services Coordinating Council, Council on Disabilities, and Long-term Care Coordinating Council for the Elderly; consideration of draft legislation on the following: Texas Structural Pest Control Board, Texas State Board of Public Accountancy, Texas Board of Architectural Examiners; other legislation that is available-Thursday-continuation of commission business; and next meeting date, proposed January 10th and 11th.

Contact: Susan Kinney, 105 West 15th Street, Room 305, Austin, Texas 78701, (512) 463-1300.

Filed: December 4, 1990, 11:20 a.m.

TRD-9013009

Teacher Retirement System of Texas

Thursday-Friday, December 13-14, 1990, 10 a.m. and 9 a.m. respectively. The Board of Trustees of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Fifth Floor Board Room, Austin. According to the agenda summary, the board will hold an Investment Advisory Committee meeting; consideration of IAC recommendations; presentation of Texas Growth Fund; consideration of participation in Texas Growth Fund; report on activity within investment related bank accounts; consideration of recommendations of Investment Planning Committee; approval of minutes; report from Insurance Advisory Committee; report of Texas Public School Retired Employees Group Insurance Program; report from Audit Committee; con-

sideration of proposed legislation affecting TRS; discussion of 800 telephone service; consideration of joint TRS/TEA task force report on active Public School Employee Group Insurance Program; consideration of use of title holding corporations for more than one real estate property; consideration of signature authorization to approve and sign vouchers; report of Phase III building expansion project; report of member benefits division; meet in executive session to discuss litigation; personnel; and consideration of salaries of exempt personnel. Meeting will continue on December 14, 1990 as needed.

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701, (512) 397-6400.

Filed: December 5, 1990, 3:32 p.m.

TRD-9013115

The Texas A&M University System

Wednesday-Thursday, December 5-6, 1990, 4 p.m. and 8:30 a.m. respectively. The Executive Committee of the Board of Regents of Texas A&M University System held an emergency meeting at the Board of Regents Annex, College Station. According to the emergency revised agenda summary, the committee considered action to accept the chancellor's recommendation of appointment of Dr. Ed Roach as Associate Deputy Chancellor for academic program planning for TAMUS; considered action to accept the chancellor's recommendation to reassign a proven university administrator from within TAMUS to the position of president of WTSU and take any other actions related thereto; considered action to accept the chancellor's recommendation to appoint an interim president to serve in the vacant position created by any reassignment which the board may approve and take any other actions related thereto. The emergency status was necessary to receive the resignation of the president of WTSU and to do any and all things necessary to insure the continued efficient operation of WTSU and the other component parts of the system that might be affected.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: December 5, 1990, 10:29 a.m.

TRD-9013073

Thursday, December 6, 1990, 1:30 p.m. The Board of Regents of the Texas A&M University System met at the board of regents annex, College Station. According to the emergency revised agenda summary, the board considered action to accept the chancellor's recommendation of appointment of Dr. Ed Roach as Associate Deputy Chancellor for Academic Program Planning for TAMUS; considered action to accept the

Chancellor's recommendation to reassign a proven university administrator from within TAMUS to the position of president of WTSU and took other actions related thereto; considered action to accept the chancellor's recommendation to appoint an interim president to serve in the vacant position created by any reassignment which the board approved and took other actions related thereto. The emergency status was necessary to receive the resignation of the President of WTSU and to do any and all things necessary to insure the continued efficient operation of WTSU and the other component parts of the system that might be affected.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: December 5, 1990, 10:28 a.m.

TRD-9013072

Texas Turnpike Authority

Wednesday, December 12, 1990, 9:30 a.m. (rescheduled from December 4, 1990) The Board of Directors of the Texas Turnpike Authority will meet at the Dallas Marriott Park Central, 7750 LBJ Freeway at Coit Road, Dallas. The board will approve prior board minutes; meet in executive session; reconvened in open meeting; adopt response to Sunset Advisory Commission staff; adoption of 1991 budgets; appointment of contract award committee; two agreements with Texas SDHPT; and with respect to Dallas North Tollway, purchase of right-of-way, award of aerial photographic contract and resolution in regards to supplemental agreements.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: December 4, 1990, 1:23 p.m.

TRD-9013011

University Interscholastic League

Tuesday, December 11, 1990, 1 p.m. The State Executive Committee of the University Interscholastic League held an emergency meeting at the Radisson Plaza Hotel, Seventh and San Jacinto Streets, Austin. According to the agenda summary, the committee considered alleged violations of §440(f) and §441 of the UIL constitution and contest rules by Dennis Hill of McLean High School, Coach Terry Miller and patrons of McLean Independent School District and to access penalties against the student, coach and school district, if any. The emergency status was necessary as McLean High School was participating in six man football state playoff and allegations just reached our office.

Contact: Bonnie Northcutt, P.O. Box 8028, University Station, Austin, Texas 78713, (512) 471-5883.

Filed: December 6, 1990, 9:08 a.m.

TRD-9013136

Texas Water Commission

Thursday, January 3, 1990, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 543, Austin. According to the agenda summary, the office will review Granite Creek Water Supply Corporation filing a Report of Sale with the Commission and applying for a Certificate of Convenience and Necessity to allow it to expand the area to which it provides water utility service in Hays County. These applications have been designated as Docket Numbers 8062-S and 8063-C, respectively.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 4, 1990, 4:02 p.m.

TRD-9013038

Wednesday, January 23, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider to affirm, modify, or set aside Emergency Order Number 90-43E granted November 28, 1990 to Technical Environmental Systems, Inc. which authorizes repackaging of certain pesticide wastes collected as a result of the Texas Pesticide Amnesty Day, facility located in LaPorte, Harris County.

Contact: Brenda W. Foster, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 5, 1990, 3:43 p.m.

TRD-9013118

Wednesday, January 30, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Walnut Creek Mining Company, Application Number 5326 for constructing and maintaining two dams and reservoirs on unnamed tributaries on lease land for industrial (sedimentation control) purposes at the applicant's Calvert Mine mining area which is located in the Brazos River Basin, approximately 7 miles north of Calvert, Robertson County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-6384.

Filed: December 4, 1990, 4:02 p.m.

TRD-9013039

Wednesday, January 30, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by the City of Burnet, Application Number 5327 for water use permit to construct and maintain five dams and reservoirs on Hamilton Creek, Colorado River Basin, for recreational purposes in Hamilton Creek Park, in the City of Burnet, Burnet County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-6384.

Filed: December 4, 1990, 4:02 p.m.

TRD-9013040

Wednesday, January 30, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Ronnie N. Love and wife, Barbara Ann Love, Application Number 12-3485A for an amendment to Certificate to extend the term for another period of time or in perpetuity for the diversion of water for irrigation purposes. Applicants also request that the special condition reflected in Paragraph 5.B., of the Certificate be modified to reflect the findings of the Commission's Final Determination of September 15, 1982. The Certificate is on Salt Branch, Brazos River Basin, approximately 13 miles southeast of Eastland, Eastland County.

Contact: Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 371-6388.

Filed: December 4, 1990, 4:03 p.m.

TRD-9013041

Texas Water Development Board

Wednesday, December 12, 1990, 4 p.m. The Finance Committee of the Texas Water Development Board will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 513-F, Austin. According to the complete agenda, the committee will consider approval of the minutes of the November 14, 1990 meeting; approval of the Texas Water Development Board Investment Policy; discuss the board's committing to finance applicants' engineering designs; and may discuss items on the agenda of the December 13, 1990 board meeting.

Contact: G. E. Kretzschmar, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: December 4, 1990, 4:03 p.m.

TRD-9013027

Thursday December 13, 1990, 9 a.m. The Texas Water Development Board will meet

at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the board will consider minutes; development fund manager's report; extension of commitments for North Channel Water Authority, San Saba and Jefferson Company Drainage District Six; setting lending rate for Series 1990A bond proceeds and remaining uncommitted Series 1986A, 1987A and 1987C bond proceeds; requests for financial assistance from Guadalupe Blanco River Authority, Hurst Creek MUD, Travis County WC&ID #17, and Cities of Whitney and Bellaire; request from Hurst Creek MUD for extension of loan commitment, increase in assistance and amount of state funding to the State Revolving Fund for FY 1989 program; change in conditions to commitment for El Paso; request from Sabine River Authority to set interest rate, payment schedule, and necessary actions to purchase board interest in the Toledo Bend Project; and facility engineering.

Contact: G. E. Kretzschmar, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: December 5, 1990, 2:18 p.m.

TRD-9013089

Texas Water Resources Finance Authority

Thursday, December 13, 1990, 9 a.m. The Texas Water Resources Finance Authority will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the authority will consider approval of the minutes of the meeting of July 19, 1990; request from the Guadalupe-Blanco River Authority for an exchange refunding of the authority's outstanding Series 1968 Water Supply Revenue Bonds.

Contact: G. E. Kretzschmar, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: December 5, 1990, 2:19 p.m.

TRD-9013091

Regional Meetings

Meetings Filed December 4, 1990

The Archer County Appraisal District Board of Directors held an emergency meeting at the Appraisal District Office, 211 South Center Street, Archer City, December 5, 1990, at 5 p.m. The emergency status was necessary due to purchasing deadline. Information may be obtained from Edward H. Trigg, III, P. O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9013014.

The Austin Transportation Study Policy Advisory Committee will meet at the Thompson Conference Center, 26th at Red River Streets, Austin, December 11, 1990, at 6 p.m. Information may be obtained from Joseph P. Gieselman, 811 Barton Springs Road, #700, Austin, Texas 78704, (512) 472-7483. TRD-9013037.

The Canyon Regional Water Authority Board met at 529 South Center Street, Marion, December 10, at 7 p.m. Information may be obtained from David Davenport, P.O. Box 188, Marion, Texas 78124, (512) 420-2323. TRD-9013047.

The Central Texas Mental Health and Mental Retardation Center Board of Trustees met at 408 Mulberry Street, Brownwood, December 10, 1990, at 5 p.m. Information may be obtained from Danny Armstrong, P.O. Box 250, Brownwood, Texas 76801, (915) 646-9574, Ext. 102. TRD-9013013.

The Coastal Bend Council of Governments Membership Committee will meet at 901 Leopard Street, Nueces County Courthouse, Commissioners Courtroom, Third Floor, Corpus Christi, December 13, 1990, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9013018.

The Mason County Appraisal District Board of Directors will meet at 200 Ft. McKavitt Street, MISD Board Room, Mason, December 11, 1990, at 1 p.m. Information may be obtained from Will Frey, Fredonia Route, Mason, Texas 76842, (915) 429-6329. TRD-9013034.

The Region One Education Center Board of Directors will meet at the Embassy Suites Hotel, 1800 South Second Street, McAllen, December 11, 1990, at 7 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior Street, Edinburg, Texas 78539, (512) 383-5611. TRD-9013010.

The Region IV Education Service Center Board of Directors will meet at the Region IV Education Service Center, Board Room, 7145 West Tidwell Street, Houston, December 11, 1990, at 6 p.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell Street, Houston, Texas 77092-2096, (713) 462-7708. TRD-9013029.

Meetings Filed December 5, 1990

The Alamo Area Council of Governments Area Judges will meet at the Marriott Rivercenter, San Antonio, December 11, 1990, at 9:30 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9013080.

The Alamo Area Council of Governments Management Committee will meet at the Marriott Rivercenter, San Antonio, December 11, 1990, at 10 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9013081.

The Alamo Area Council of Governments Board of Directors will meet at the Marriott Rivercenter, San Antonio, December 11, 1990, at 10:30 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9013079.

The Brazos Valley Development Council Board of Directors will meet at the Brazos Center, 3232 Briarcrest Drive, Bryan, December 13, 1990, at 2 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805, (409) 776-2277. TRD-9013053.

The Central Texas Mental Health and Mental Retardation Center Board of Trustees met at 408 Mulberry Drive, Brownwood, December 10, 1990, at 5 p.m. (revised agenda). Information may be obtained from Danny Armstrong, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574. TRD-9013088.

The Dallas Central Appraisal District Appraisal Review Board will meet at 1420 West Mockingbird Lane, Suite 500, Dallas, December 14, 1990, at 10 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Dallas, Texas 75247, (214) 631-0520. TRD-9013120.

The East Texas Council of Governments JTPA Board of Directors will meet at the Ramada Inn, Highway #259, Kilgore, December 13, 1990, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9013128.

The Education Service Center, Region XIII Board of Directors will meet at the ESC, Region XIII, Room 205, 5701 Springdale Road, Austin, December 12, 1990, at 1 p.m. Information may be obtained from Dr. Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300. TRD-9013084.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Board Room, Stephenville, December 12, 1990, at 9:30 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9013056.

The Gregg Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, December 13, 1990, at 10 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview,

Texas 75608, (903) 759-0015. TRD-9013076.

The Hansford Appraisal District Board will meet at 709 West Seventh Street, Spearman, December 12, 1990, at 9 a.m. Information may be obtained from Alice Peddy, P.O. Box 567, Spearman, Texas 79081, (806) 659-5575. TRD-9013059.

The Henderson County Appraisal District Appraisal Review Board will meet at 1751 Enterprise, Athens, December 13, 1990, at 9 a.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9013119.

The Jack County Appraisal District Agriculture Advisory Board will meet at the Los Creek Office Building, 216-D South Main Street, Jacksboro, December 17, 1990, at 7 p.m. Information may be obtained from J. D. Garcia or Donna Hartzell, 216-D South Main Street, Jacksboro, Texas 76056, (817) 567-6301. TRD-9013116.

The Multimodal Transportation Planning Gulf Coast State Planning Region Transportation Planning Committee will meet at 3555 Timmons, Fourth Floor Conference Room, Houston, December 14, 1990 at 10 a.m. Information may be obtained from LaDawn Bush, P.O. Box 1386, Houston, Texas 77251, (713) 869-4571. TRD-9013058.

The Nolan County Central Appraisal District Board of Directors met at the Nolan County Courthouse, Third Floor, Sweetwater, December 11, 1990, at 7 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9013054.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, December 20, 1990, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD-9013082.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, December 12, 1990, at 1:30 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234. TRD-9013057.

The Panhandle Regional Planning Commission Board of Directors will meet at 2736 West Tenth Street, PRRPC Board Room, Amarillo, December 13, 1990, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9013114.

The Region IX Education Service Center Board of Directors will meet at the Region IX Education Service Center, 301 Loop 11, Wichita Falls, December 13, 1990, at 12:30

p.m. Information may be obtained from Dr. Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9013074.

The Sulphur River Basin Authority Board of Directors will meet at the Mt. Pleasant Chamber of Commerce Building, 1604 North Jefferson Street, Mt. Pleasant, Texas 75455, December 11, 1990, at 11:30 a.m. Information may be obtained from C. B. Wheeler, P.O. Box 1838, Texarkana, Texas 75504, (214) 572-1846. TRD-9013075.

The Upshur County Appraisal District Appraisal Review Board will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, December 17, 1990, at 9 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (903) 843-3041. TRD-9013055.

◆ ◆ ◆ Meetings Filed December 6, 1990

The East Texas Council of Governments Executive Committee will meet at the ETCOG Offices, Kilgore, December 13, 1990, at 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9013138.

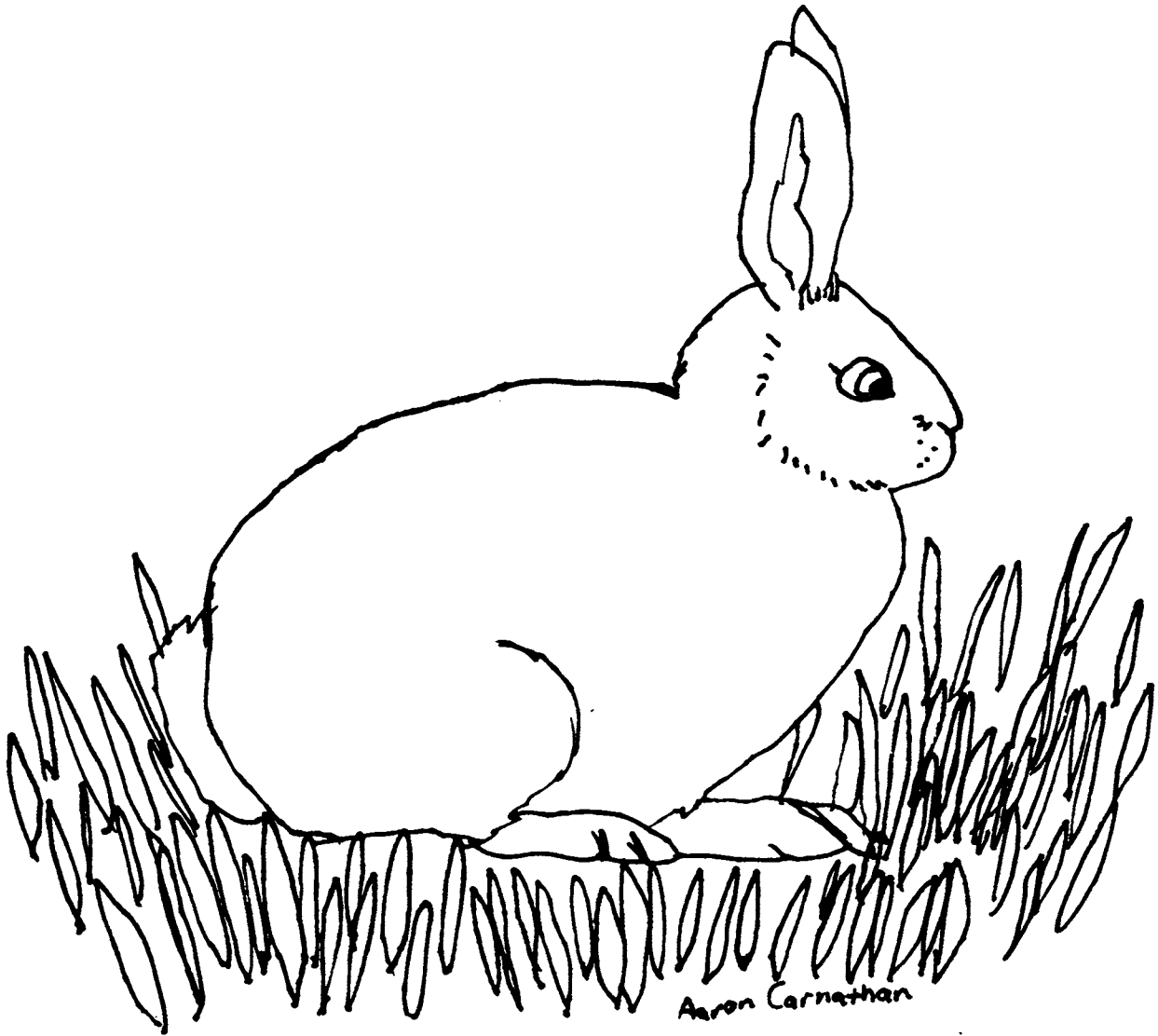
The Region IV Education Service Center Board of Directors will meet at the Region IV Education Service Center, Board Room, 7145 West Tidwell Street, Houston, December 11, 1990, at 6 p.m. (revised agenda). Information may be obtained from W. L. McKinney, 7145 West Tidwell Street, Houston, Texas 77092-2090, (713) 462-7708. TRD-9013130.

The South Plains Association of Governments Executive Committee will meet at 1323 58th Street, Lubbock, December 11, 1990, at 9 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730 Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9013132.

The South Plains Association of Governments Board of Directors will meet at 1323 58th Street, Lubbock, December 11, 1990, at 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730 Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9013133.

The Wise County Appraisal District Board of Directors will meet at 206 South State Street, Board Room, Decatur, December 13, 1990, at 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081 ext. 4. TRD-9013131.

◆ ◆ ◆



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.

Employees Retirement System of Texas Employees Retirement System of Texas Fiscal Report

Texas Codes Annotated, Government Code, Title 8, Subtitle B, §815.108, requires that the Employees Retirement System of Texas publish a report in the *Texas Register* containing the following information: the retirement system's fiscal transactions of the preceding fiscal year; the amount of the system's accumulated cash and securities; and the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

The schedules in this report are presented by fund within fund type. They present more detailed information than would be required by generally accepted accounting principles (GAAP), and they do not include the note disclosures required by GAAP. They are presented in the following order, preceded by an explanation of the Fund Structure: Schedule 1: Combining Balance Sheet-Pension Trust Funds; Schedule 2: Combining Statement of Re-

venues, Expenses, and Changes in Fund Balances-Pension Trust Funds; Schedule 3: Combining Balance Sheet-Expendable Trust Funds; Schedule 4: Combining Statement of Revenues, Expenditures, and Changes in Fund Balances-Expendable Trust Funds; Schedule 5: Combining Balance Sheet-Special Revenue Funds; Schedule 6: Combining Statement of Revenues, Expenditures, and Changes in Fund Balances-Special Revenue Funds; Schedule 7: Combining Balance Sheet-Agency Funds; Schedule 8: Investment Summary-Employees Retirement Fund; Schedule 9: Investment Summary-Law Enforcement and Custodial Officer Supplemental Retirement Fund; Schedule 10: Investment Summary-Judicial Retirement System Plan Two Fund; Schedule 11: Investment Summary-All Pension Funds; Schedule 12: Investment Summary-Employees Life, Accident, and Health Insurance and Benefits Fund; Schedule 13: Investment Summary-State Employees Cafeteria Plan Trust Fund.

Questions about the reports should be directed to Darrell J. Leslie, Director of Accounting, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711, (512) 867-3224, WATS number 1-800-252-3645.

FUND STRUCTURE

The financial statements presented herein are organized on the basis of funds, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts. These accounts are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with applicable statutory guidelines or restrictions. The System's accounts fall under two basic fund types: Governmental Funds and Fiduciary Funds. The following is a brief description of the primary activity of each fund.

1. Governmental Funds

Special Revenue Funds

Special Revenue Funds are used to account for the System's proceeds from specific revenue sources that are legally restricted to expenditures for specified purposes.

(i) Social Security Administration Fund

The Social Security Administration Fund is the operating fund from which the expenses of administration and maintenance of the Social Security Program are paid.

(ii) Death Benefits Program for Commissioned Peace Officers, Firemen, etc. Fund

The Death Benefits Program for Commissioned Peace Officers, Firemen, etc., Fund is used to account for payments of death benefits and administrative fees funded by an appropriation from the State's General Revenue Fund.

(iii) Judicial Return to Work Fund

The Judicial Return to Work Fund is used to account for salaries and salary related costs for retired judges and justices called to service which are funded by an appropriation from the State's General Revenue Fund.

2. Fiduciary Funds

(a) Pension Trust Funds

The fund type, Pension Trust Fund, is used to account for public employee retirement system funds.

(i) Employees Retirement Fund and Judicial Retirement System Plan Two Fund

The following accounts of the Employees Retirement Fund and the Judicial Retirement System Plan Two Fund hold the reserves for future and current benefit payments. These reserves are included in the fund balance reserved for retirement trust funds.

o Employees Savings Account

The Employees Savings Account is the account in which members' contributions and interest credited to those contributions are accumulated.

o State Accumulation Account

The State Accumulation Account is the account in which retirement and death benefits contributions made by the State are accumulated.

Employees Retirement System of Texas

o Retirement Annuity Reserve Account

The Retirement Annuity Reserve Account is the account in which reserves for annuities granted and in force are held, and from which annuities are paid.

o Interest Account

The Interest Account is the account in which interest, dividends, and gains and losses derived from investments of the Retirement System's funds are accumulated. At the close of each fiscal year, the annual investment revenues are transferred from the Interest Account to the other accounts as provided by statute.

o Investment Account

The Investment Account is the account through which available assets and monies of the Retirement Systems are invested.

o Benefit Increase Reserve Account

The Benefit Increase Reserve Account is the account in which appropriated reserves are held for post-retirement increases in annuities for elected and employee class members and their survivors for benefit increases authorized in 1977, 1979, February 1981 and September 1981.

o Expense Account

The Expense Account is the account from which the expenses of administration and maintenance of the Retirement System Programs are paid.

(ii) Law Enforcement and Custodial Officer Supplemental Retirement Fund

The Law Enforcement and Custodial Officer Supplemental Retirement Fund was created for the purpose of receiving funds collected as part of the motor vehicle inspection fee and facilitating the payment of benefits as provided by the Commissioned Law Enforcement and Custodial Officer Supplemental Retirement Benefit Act. Available assets and monies of the fund are invested, and revenues accruing from the investments are deposited to the fund.

An annuity reserve fund balance account has been established to reserve the benefits payable for annuities granted and currently in force as determined by the System's actuarial consultants.

(iii) Judicial Retirement System Plan One Fund

The Judicial Retirement System Plan One Fund receives appropriations from the State's General Revenue Fund for annuity and refund payments to judges who are members of this program.

(b) Expendable Trust Funds

An Expendable Trust Fund is used to account for assets held by the System in a trustee capacity related to the State's Uniform Group Insurance Program and Cafeteria Benefit Plan Program.

(i) Employees Life, Accident and Health Insurance and Benefits Fund (Group Insurance Fund)

The fund balance of this fund is designated for future and current benefit payments and administrative costs. Two accounts have been established within this fund.

Employees Retirement System of Texas

o Group Insurance Benefits Account

The Group Insurance Benefits Account receives contributions of participating employees, participating annuitants and the State of Texas. The account is also utilized to make payments to insurance carriers under the Group Insurance Program.

o Group Insurance Administration Account

The Group Insurance Administration Account functions as an operating account from which the expenses for administration and maintenance of the Group Insurance Program are paid. Supplemental payments for employee insurance premiums are also paid from the Administration Account.

(ii) State Employees Cafeteria Plan Trust Fund (Flexible Benefits Fund)

The fund balance of this fund is designated for future administrative costs. Two accounts have been established within this fund.

o Cafeteria Plan Benefits Account

The Cafeteria Plan Benefits Account receives salary reduction payments for benefits included in the Cafeteria Plan. This account is also utilized to make benefit reimbursement payments.

o Cafeteria Plan Administration Account

The Cafeteria Plan Administration Account functions as an operating account from which the expenses for administration of the Program are paid.

(c) Agency Funds

Agency Funds are used to account for assets held by a governmental unit in an agency capacity for individuals, other governmental entities, other funds, etc. Agency Funds are custodial in nature (assets equal liabilities) and do not measure results of operations.

(i) Unappropriated Receipts (General Revenue Fund)

Member contributions from members of the Judicial Retirement System Plan One are deposited directly into the General Revenue Fund as unappropriated receipts.

(ii) Social Security Trust Fund

The Social Security Trust Fund received employee and employer contributions from participating local governmental entities for wages paid before January 1, 1987, and transmitted those funds to the Federal Social Security Administration. This fund also received employee and employer contributions from participating state agencies and universities for wages paid before April 1, 1987, and transmitted those funds to the Federal Social Security Administration.

(iii) Employees Savings Bond Fund

The Employees Savings Bond Fund is used to accumulate payroll deductions for U. S. Savings Bonds. Bonds are purchased for each participating employee when the employee's account balance equals the purchase price of the specified bond.

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited
SCHEDULE 1

COMBINING BALANCE SHEET - PENSION TRUST FUNDS
August 31, 1990
(With Comparative Totals at August 31, 1989)

| | 1990 | Totals August 31, 1989 (Audited) |
|--|----------------------|--|
| ASSETS | | |
| Current Assets | | |
| Cash and Temporary Investments: | | |
| Cash in State Treasury | 25,812,520 | 30,822,410 |
| Cash in Bank | 10,500 | 10,500 |
| Cash on Hand | 412,199 | 412,199 |
| Short-Term Investments | 894,481 | 140,290,737 |
| Receivables: | | |
| Accounts Receivable | 15,754,628 | 18,037,568 |
| Due From Other Funds | 281,999 | 446,495 |
| Interest and Dividends Receivable | 85,602,080 | 88,223,124 |
| Prepaid Expenses | 76,706 | 76,706 |
| Total Current Assets | 127,950,632 | 250,006,260 |
| Long-Term Investments | | |
| At Cost (Total Market) | 6,006,395,883 | 6,222,990,702 |
| 1990 \$6,472,697,097; 1989 \$6,030,029,404) | | 5,420,487,167 |
| Fixed Assets | | |
| Motor Vehicle | 20,123 | 8,385 |
| Land and Land Improvements | 874,889 | 874,889 |
| Building | 6,459,409 | 6,393,609 |
| Office Furniture and Equipment | 2,096,913 | 1,674,374 |
| Subtotal Fixed Assets | 9,451,334 | 8,951,257 |
| Less Accumulated Depreciation | (2,620,807) | (2,208,467) |
| Net Fixed Assets | 6,830,527 | 6,742,790 |
| Total Assets | 6,141,177,042 | 5,677,236,217 |

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EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 1

COMBINING BALANCE SHEET - PENSION TRUST FUNDS
 August 31, 1990
 (With Comparative Totals at August 31, 1989)
 (concluded)

| | Employees Retirement Fund (955) | Law Enforcement and Custodial Officer Supplemental Retirement Fund (977) | Judicial Retirement System Plan One (001) | Judicial Retirement System Plan Two (993) | Totals August 31 | |
|--|---------------------------------|--|---|---|----------------------|----------------------|
| | \$ | \$ | \$ | \$ | 1990 | 1989 (Audited) |
| LIABILITIES AND FUND BALANCES | | | | | | |
| Current Liabilities | | | | | | |
| Payables: | | | | | | |
| Accounts Payable | 8,321,286 | 3,633 | 45,636 | 5,786 | 8,376,341 | 6,024,563 |
| Due To Other Funds | 232,201 | 107,958 | 6,252 | 14,438 | 360,849 | 279,550 |
| Interest and Dividends Received-Not Due | | | | | 285,388 | 1,750 |
| Compensable Leave Payable | 285,388 | | | | 11,040 | 308,315 |
| Deferred Revenue | 11,040 | | | | | 11,211 |
| Total Current Liabilities | 8,849,915 | 111,591 | 51,888 | 20,224 | 9,033,618 | 6,625,389 |
| Fund Balances | | | | | | |
| Reserves: | | | | | | |
| For Annuity Reserves | 1,844,458,069 | 25,724,519 | | | 1,870,182,588 | 1,696,640,323 |
| For Encumbrances | 85,070 | | | | 85,070 | 190,422 |
| For Retirement Trust Funds | 4,287,783,988 | 196,555,240 | | 4,199,727 | 4,488,538,955 | 3,973,790,083 |
| Total Fund Balances | 6,132,327,127 | 222,278,759 | 51,888 | 4,199,727 | 6,358,806,613 | 5,670,610,828 |
| Total Liabilities and Fund Balances | 6,141,177,042 | 222,391,350 | 51,888 | 4,219,951 | 6,367,840,231 | 5,677,236,217 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited
SCHEDULE 2

COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN
FUND BALANCES - PENSION TRUST FUNDS
Year Ended August 31, 1990
(With Comparative Totals for the Year Ended August 31, 1989)

| | Employees Retirement Fund (955) | Law Enforcement and Custodial Officer Supplemental Retirement Fund (977) | Judicial Retirement System Plan One (001) | Judicial Retirement System Plan Two (993) | Totals | |
|---|------------------------------------|---|---|---|--------------------|------------------------------|
| | | | | | 1990 | August 31, 1989 (Audited) |
| | \$ | \$ | \$ | \$ | \$ | \$ |
| Operating Revenues | | | | | | |
| Contributions to Retirement System: | | | | | | |
| Member Contributions | 166,848,715 | | | 695,024 | 167,543,739 | 149,829,856 |
| State Retirement Contributions | 205,271,920 | | | 945,679 | 206,217,599 | 174,247,498 |
| Membership Fees | 1,433,678 | | | 1,590 | 1,435,268 | 1,385,054 |
| Penalty Interest | 1,045,517 | | | | 1,045,517 | 885,807 |
| Death Benefits | 3,664,167 | 26,099,329 | | | 3,664,167 | 3,679,890 |
| Motor Vehicle Inspection Fees | | | | 271,968 | 26,099,329 | 17,777,637 |
| Investment Income: | | | | | | |
| Interest | 428,592,530 | 18,631,855 | | 123 | 447,496,353 | 416,968,747 |
| Dividends | 63,916,036 | 80,006 | | | 63,916,036 | 47,997,978 |
| Gain on Sale of Securities (Net) | 39,380,546 | | | | 39,460,675 | 32,896,105 |
| Legislative Appropriations: | | | | | | |
| For Judges' Retirement Annuity Payments | | | 9,768,690 | | 9,768,690 | 7,654,471 |
| For Refund of Judges' Contributions | | | 42,813 | | 42,813 | 84,426 |
| For Administrative Expenses | | | 61,642 | | 61,642 | 33,779 |
| Rent - Office Space | | | | | 359,909 | 364,583 |
| Miscellaneous | 359,909 | 507 | | | 62,766 | 321,874 |
| Total Operating Revenues | 910,575,277 | 44,811,697 | 9,873,145 | 1,914,354 | 967,174,473 | 854,127,705 |
| Operating Expenses | | | | | | |
| Retirement System Benefits Paid: | | | | | | |
| Retirement Benefits | 203,243,074 | 3,360,231 | 9,768,690 | 2,487 | 216,371,995 | 195,470,792 |
| Death Benefits: | | | | | | |
| Active Members | 739,295 | | | | 741,782 | 873,003 |
| Retirees | 4,056,554 | | | | 4,056,554 | 3,918,446 |
| Member Contributions Withdrawn | 49,998,378 | 96,278 | 42,813 | 39,904 | 50,021,095 | 49,324,964 |
| Administrative Expenses | 7,453,378 | 479 | | 87,043 | 7,636,699 | 7,265,871 |
| Miscellaneous | 138,566 | | | 180 | 138,566 | 860 |
| Loss on Disposal of Fixed Assets | 31,054 | | | | 31,713 | 95,976 |
| Total Operating Expenses | 266,600,299 | 3,456,988 | 9,811,503 | 129,614 | 278,998,404 | 256,949,912 |

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EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 2

COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN
FUND BALANCES - PENSION TRUST FUNDS
Year Ended August 31, 1990
(With Comparative Totals for the Year Ended August 31, 1989)
(concluded)

| | | | | | Totals | |
|--|----------------|-------------|----------------|-----------|----------------|----------------|
| | 1990 | | 1989 (Audited) | | August 31, | 1989 (Audited) |
| Income Before Operating Transfers | \$ 644,974,978 | 41,354,709 | 61,642 | 1,784,740 | \$ 688,176,069 | \$ 597,177,793 |
| Operating Transfers In (Out) Fee for Administering Programs | 171,358 | (90,000) | (61,642) | - | 19,716 | 30,798 |
| Net Operating Transfers | 171,358 | (90,000) | (61,642) | - | 19,716 | 30,798 |
| Net Income | 645,146,336 | 41,264,709 | - | 1,784,740 | 688,195,785 | 597,208,591 |
| Fund Balances - Beginning | 5,487,180,791 | 181,015,050 | - | 2,414,987 | 5,670,610,828 | 5,073,402,237 |
| Fund Balances - Ending | 6,132,327,127 | 222,279,759 | - | 4,199,727 | 6,358,806,613 | 5,670,610,828 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 3

COMBINING BALANCE SHEET - EXPENDABLE TRUST FUNDS

August 31, 1990
(With Comparative Totals at August 31, 1989)

| | Employees Life, Accident, and Health Insurance and Benefits Fund (973) | State Employees Cafeteria Plan Trust Fund (943) | Totals | |
|--|--|---|--------------------|--------------------|
| | | | August 31, 1990 | 1989 (Audited) |
| ASSETS | | | | |
| Current Assets | | | | |
| Cash and Temporary Investments: | | | | |
| Cash in State Treasury | 125,696,634 | 2,519,110 | 128,215,744 | 4,255,134 |
| Cash on Hand | 50,026 | | 50,026 | 18,179 |
| Short-Term Investments | | | - | 105,504,840 |
| Receivables: | | | | |
| Accounts Receivable | 10,013,635 | 711,080 | 10,724,715 | 9,972,463 |
| Due From Other Funds | 29,380 | | 29,380 | 26,619 |
| Interest Receivable | 981,000 | 20,000 | 1,001,000 | 199,359 |
| Consumable Inventories | 11,787 | 1,583 | 13,370 | 7,541 |
| Total Assets | 136,782,462 | 3,251,773 | 140,034,235 | 119,984,135 |
| LIABILITIES AND FUND BALANCES | | | | |
| Current Liabilities | | | | |
| Payables: | | | | |
| Accounts Payable | 78,173,640 | 1,707,288 | 79,880,928 | 65,858,234 |
| Due To Other Funds | 93,604 | 34,803 | 128,407 | 131,201 |
| Deferred Revenue | 370,314 | 2,155 | 372,469 | 312,177 |
| Total Liabilities | 78,637,558 | 1,744,246 | 80,381,804 | 66,301,612 |
| Fund Balances | | | | |
| Reserved: | | | | |
| For Encumbrances | | | | 6,000 |
| For Consumable Inventories | 11,787 | 1,583 | 13,370 | 7,541 |
| Unreserved, Designated: | | | | |
| For Group Insurance Benefits | 53,665,503 | | 53,665,503 | 45,977,051 |
| For Group Insurance Administration | 4,467,614 | | 4,467,614 | 6,292,926 |
| For Cafeteria Plan Administration | | 1,505,944 | 1,505,944 | 1,399,005 |
| Total Fund Balances | 58,144,904 | 1,507,527 | 59,652,431 | 53,682,523 |
| Total Liabilities and Fund Balances | 136,782,462 | 3,251,773 | 140,034,235 | 119,984,135 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 4

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES - EXPENDABLE TRUST FUNDS

Year Ended August 31, 1990

(With Comparative Totals for the Year Ended August 31, 1989)

| | Employees Life, Accident and Health Insurance and Benefits Fund (973) | State Employees Cafeteria Plan Trust Fund (943) | Totals | |
|---|---|---|--------------------|------------------------------|
| | | | 1990 | August 31, 1989 (Audited) |
| | \$ | \$ | \$ | \$ |
| Revenues | | | | |
| Investment Income: | | | | |
| Interest | 11,251,549 | 233,226 | 11,484,775 | 10,606,600 |
| Gain on Sale of Securities (Net) | 5,994 | | 5,994 | - |
| Insurance Premium Contributions from: | | | | |
| State of Texas | 244,464,148 | | 244,464,148 | 188,057,784 |
| State Employees and Retirees | 107,711,449 | | 107,711,449 | 91,728,520 |
| Cobra Participants | 2,115,865 | | 2,115,865 | 1,807,981 |
| Cafeteria Plan: | | | | |
| Contributions | | 8,322,668 | 8,322,668 | 6,838,980 |
| Fees | | 259,209 | 259,209 | 220,740 |
| Miscellaneous | 44,442 | | 44,442 | 37,323 |
| Total Revenues | 365,593,447 | 8,815,103 | 374,408,550 | 299,297,928 |
| Expenditures | | | | |
| Current: | | | | |
| Claims and Premium Payments to Insurance Carriers | 312,058,728 | | 312,058,728 | 237,520,751 |
| Claims Reimbursements-Cafeteria Plan | | 7,501,216 | 7,501,216 | 6,421,222 |
| Estimated Claims Incurred by State Employees and/or Retirees | 43,922,758 | 654,342 | 44,577,100 | 48,997,269 |
| Catastrophic Medicare Refunds | 821,675 | | 821,675 | |
| Refund of Premiums for Prior Year Contracts | | | - | 372 |
| Bad Debt Expenditure | | 540 | 540 | 113,677 |
| Administrative Expenditures | 2,920,939 | 551,691 | 3,472,630 | 2,911,860 |
| Capital Outlay | 12,207 | 375 | 12,582 | 22,375 |
| Total Expenditures | 359,736,307 | 8,708,164 | 368,444,471 | 295,987,526 |
| Excess (Deficit) of Revenues over Expenditures | 5,857,140 | 106,939 | 5,964,079 | 3,310,402 |
| Fund Balances - Beginning | 52,285,120 | 1,399,067 | 53,684,187 | 50,365,080 |
| Restatements | (1,664) | - | (1,664) | |
| Fund Balances - Beginning - As Restated | 52,283,458 | 1,399,067 | 53,682,523 | 50,365,080 |
| Increase (Decrease) in Consumable Inventories | 4,308 | 1,521 | 5,829 | 7,041 |
| Fund Balances - Ending | 58,144,904 | 1,507,527 | 59,652,431 | 53,682,523 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 5

COMBINING BALANCE SHEET - SPECIAL REVENUE FUNDS

August 31, 1990

(With Comparative Totals at August 31, 1989)

| | Totals | |
|--|----------------|----------------|
| | 1990 | 1989 (Audited) |
| ASSETS | | |
| Current Assets | | |
| Cash and Temporary Investments: | | |
| Cash in State Treasury | 270,660 | 365,358 |
| Legislative Appropriations | 1,790 | 348,255 |
| Receivables: | | |
| Accounts Receivable | 43,300 | 153,581 |
| Due From Other Funds | 5,946 | 344 |
| Consumable Inventories | - | - |
| Total Assets | 270,660 | 887,538 |
| LIABILITIES AND FUND BALANCES | | |
| Current Liabilities | | |
| Payables: | | |
| Accounts Payable | 4,433 | 506,349 |
| Due To Other Funds | 4,434 | 3,105 |
| Total Liabilities | 8,927 | 509,454 |
| Fund Balances | | |
| Reserved: | | |
| For Consumable Inventories | | 344 |
| Unreserved: | | |
| Undesignated: | | |
| Available for Subsequent Years' Expenditures | 261,733 | 377,740 |
| Total Fund Balances | 261,733 | 378,084 |
| Total Liabilities and Fund Balances | 270,660 | 887,538 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 6

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES - SPECIAL REVENUE FUNDS
Year Ended August 31, 1990
(With Comparative Totals for the Year Ended August 31, 1989)

| | 1990 | 1989 (Audited) |
|---|------------------|------------------|
| Revenues | | |
| Legislative Appropriations Out of the State's General Revenue Fund: | | |
| For Administrative Expenditures | 19,715 | 30,798 |
| For Death Benefits | 570,961 | 848,656 |
| For Salaries of Retired Judges Called to Service | 1,529,892 | 1,394,419 |
| For Salaries of Retired Justices Called to Service | 180,549 | 106,403 |
| For Social Security Matching Contributions | 211,190 | 156,206 |
| For Social Security Payments Made by the State | 71,087 | 62,753 |
| Miscellaneous | 166 | 22 |
| Total Revenues | 2,583,560 | 2,610,907 |
| Expenditures | | |
| Current: | | |
| Penalty Interest | 4,523 | 420,000 |
| Death Benefits: | | |
| Lump Sum Payments for Surviving Spouses | 200,000 | 428,656 |
| Monthly Payments in Behalf of Minor Children | 370,961 | 1,394,419 |
| Salaries of Retired Judges Called to Service | 1,529,892 | 106,403 |
| Salaries of Retired Justices Called to Service | 180,549 | 156,206 |
| Payroll Related Costs of Judges/Justices Called to Service: | | |
| Social Security Matching Contribution | 211,190 | 156,206 |
| Social Security Payments by the State | 71,087 | 62,753 |
| Administrative Expenditures | 111,650 | 127,397 |
| Total Expenditures | 2,679,882 | 2,705,834 |
| Excess (Deficit) of Revenues over Expenditures | (96,292) | (94,927) |

- to next page

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 6

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES - SPECIAL REVENUE FUNDS

Year Ended August 31, 1990
 (With Comparative Totals for the Year Ended August 31, 1989)
 (concluded)

| | 1990 | Totals August 31, 1989 (Audited) |
|--|-------------|--|
| Social Security Administration Fund (928) | \$ - | \$ - |
| Death Benefits Program for Commissioned Peace Officers, Firemen, etc. (001) | (19,715) | (19,715) |
| Judicial Return To Work Program (001) | - | - |
| | \$ (19,715) | \$ (19,715) |
| Other Financing Sources (Uses) Fee for Administering Programs | - | (30,798) |
| Total Other Financing Sources (Uses) | - | (30,798) |
| Excess (Deficit) of Revenues Over Expenditures and Other Uses | (116,007) | (125,725) |
| Fund Balances - Beginning | 378,084 | 346,456 |
| Increase (Decrease) in Consumable Inventories | (344) | (92) |
| Adjustment of Beginning Fund Balance to Recognize the Changes in Estimated Social Security Fees and Penalty Interest | - | 157,445 |
| Fund Balances - Ending | 261,733 | 378,084 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 7

COMBINING BALANCE SHEET - AGENCY FUNDS

August 31, 1990

(With Comparative Totals at August 31, 1989)

| | Unappropriated Receipts General Revenue Fund (001) | Social Security Trust Fund (913) | Employee Savings Bond Fund (801) | Totals August 31, | |
|----------------------------|---|-------------------------------------|-------------------------------------|----------------------|----------------|
| | | | | 1990 | 1989 (Audited) |
| | \$ | \$ | \$ | \$ | \$ |
| ASSETS | | | | | |
| Current Assets | | | | | |
| Cash in State Treasury | | 550,007 | 75 | 550,082 | 191,083 |
| Cash on Hand | | | | - | 2,012 |
| Accounts Receivable | 2,793 | 23 | | 2,816 | 729,771 |
| Due From Other Funds | 16,452 | | | 16,452 | 6,585 |
| Total Assets | 19,245 | 550,030 | 75 | 569,350 | 929,451 |
| LIABILITIES | | | | | |
| Current Liabilities | | | | | |
| Accounts Payable | 16,452 | 550,030 | 75 | 566,557 | 924,495 |
| Due To Other Funds | 2,793 | | | 2,793 | 4,956 |
| Total Liabilities | 19,245 | 550,030 | 75 | 569,350 | 929,451 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 8

INVESTMENT SUMMARY - EMPLOYEES RETIREMENT FUND

Year Ended August 31, 1990

| Type of Investment | September 1, 1989 | | | | | August 31, 1990 | | | | |
|--------------------------------|----------------------|----------------------|----------------------|-----------------------------------|---|----------------------|----------------------|----------------|-----------------|--|
| | Book Value | Market Value | Purchases | Sales, Maturities and Redemptions | Other Transactions, Adjustments and Amortizations | Book Value | Market Value | % Total Market | Yield at Market | |
| Fixed Income: | | | | | | | | | | |
| U. S. Government Bonds | 3,198,180,130 | 3,380,910,822 | 975,107,014 | 465,091,592 | 10,894,274 | 3,709,029,826 | 3,825,500,668 | 61.20 | 9.20 | |
| Corporate Bonds | 789,150,423 | 819,167,496 | 33,545,377 | 34,565,238 | 2,128,919 | 790,259,481 | 789,229,049 | 12.31 | 9.93 | |
| Total Fixed Income | 3,977,330,553 | 4,200,078,318 | 1,008,652,391 | 499,656,830 | 12,963,193 | 4,499,289,307 | 4,614,729,717 | 73.51 | 9.32 | |
| Equities: | | | | | | | | | | |
| Passive | 428,775,072 | 502,660,529 | 49,721,224 | 2,868,087 | (2,470,743) | 473,157,466 | 504,420,632 | 8.07 | 3.94 | |
| Active | 838,542,953 | 1,143,336,562 | 291,663,011 | 97,781,918 | 1,625,063 | 1,033,949,109 | 1,151,415,433 | 18.42 | 4.18 | |
| Total Equities | 1,267,318,025 | 1,645,997,091 | 341,284,235 | 100,650,005 | (645,680) | 1,507,106,575 | 1,655,836,065 | 28.49 | 4.11 | |
| Short-Term Investments: | | | | | | | | | | |
| Commercial Paper | 137,530,000 | 137,530,000 | 1,467,873,000 | 1,605,403,000 | - | - | - | - | - | |
| Total Investments | 5,382,178,578 | 5,983,605,509 | 2,817,808,626 | 2,205,708,835 | 12,117,513 | 6,006,395,882 | 6,270,565,782 | 100.00 | 7.94 | |
| | Note A | Note A | | | | Note A | Note A | | | |

Portfolio Rate of Return (Note B)

| | 1989 | 1989 |
|---------------------------------|-------------|-------------|
| Cash and Corporate Notes | 9.15 % | 10.17 % |
| Corporate Bonds | 9.66 | 9.53 |
| U. S. Government Securities | 9.99 | 10.18 |
| Equities | 7.42 | 7.20 |
| Composite Rate of Return | 9.31 | 9.42 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
 Unaudited
 SCHEDULE 9

INVESTMENT SUMMARY - LAW ENFORCEMENT AND CUSTODIAL OFFICER SUPPLEMENTAL RETIREMENT FUND
 Year Ended August 31, 1990

| Type of Investment | September 1, 1989 | | | | | August 31, 1990 | | | | |
|--------------------------------|--------------------|--------------------|-------------------|-----------------------------------|---|--------------------|--------------------|----------------|-----------------|--|
| | Book Value | Market Value | Purchases | Sales, Maturities and Redemptions | Other Transactions, Adjustments and Amortizations | Book Value | Market Value | % Total Market | Yield at Market | |
| Fixed Income: | | | | | | | | | | |
| U. S. Government Bonds | \$ 175,898,589 | 183,953,895 | 65,991,999 | 27,485,658 | 2,239,889 | 216,584,819 | 222,131,315 | 100.00 | 9.21 | |
| Short-Term Investments: | | | | | | | | | | |
| Commercial Paper | 670,000 | 670,000 | 23,870,000 | 24,540,000 | - | - | - | - | - | |
| Total Investments | <u>176,508,589</u> | <u>184,623,895</u> | <u>89,861,999</u> | <u>52,025,658</u> | <u>2,239,889</u> | <u>216,584,819</u> | <u>222,131,315</u> | <u>100.00</u> | <u>9.21</u> | |
| | Note A | Note A | | | | Note A | Note A | | | |

Portfolio Rate of Return (Note B)

| | | |
|-----------------------------|------|-------|
| | 1989 | 1990 |
| Cash and Corporate Notes | 8.28 | 10.54 |
| U. S. Government Securities | 9.56 | 9.57 |
| Composite Rate of Return | 9.53 | 9.60 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 10

INVESTMENT SUMMARY - JUDICIAL RETIREMENT SYSTEM PLAN TWO FUND
Year Ended August 31, 1990

| Type of Investment | September 1, 1989 | | | | | August 31, 1990 | | | | |
|-------------------------|-------------------|--------------|-----------|-----------------------------------|---|-----------------|--------------|----------------|-----------------|--|
| | Book Value | Market Value | Purchases | Sales, Maturities and Redemptions | Other Transactions, Adjustments and Amortizations | Book Value | Market Value | % Total Market | Yield at Market | |
| Short-Term Investments: | | | | | | | | | | |
| Commercial Paper | 1,500,000 | 1,500,000 | 4,500,000 | 6,000,000 | - | - | - | - | - | |
| U. S. Treasury Bills | 550,737 | 550,850 | - | 895,138 | 7,399 | - | - | - | - | |
| Total Investments | 2,090,737 | 2,090,850 | 4,500,000 | 6,895,138 | 7,399 | - | - | - | - | |

Portfolio Rate of Return (Note B)

| | Year Ended August 31, | |
|--------------------------|-----------------------|------|
| | 1990 | 1989 |
| Cash and Corporate Notes | 8.39 | 8.18 |
| U. S. Treasury Bills | 8.43 | 8.18 |
| Composite Rate of Return | 8.40 | 8.00 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 11

INVESTMENT SUMMARY - ALL PENSION FUNDS

Year Ended August 31, 1990

| Type of Investment | September 1, 1989 | | | | | August 31, 1990 | | | | |
|-------------------------------------|----------------------|----------------------|----------------------|-----------------------------------|---|----------------------|----------------------|----------------|-----------------|--|
| | Book Value | Market Value | Purchases | Sales, Maturities and Redemptions | Other Transactions, Adjustments and Amortizations | Book Value | Market Value | % Total Market | Yield at Market | |
| Fixed Income: | | | | | | | | | | |
| U. S. Government Bonds | 3,364,018,719 | 3,564,864,817 | 1,041,099,013 | 492,577,250 | 13,074,163 | 3,925,614,645 | 4,047,631,983 | 62.53 | 9.20 | |
| Corporate Bonds | 789,150,423 | 819,167,496 | 33,545,377 | 34,565,238 | 2,128,919 | 790,259,481 | 789,229,049 | 11.89 | 9.93 | |
| Total Fixed Income | 4,153,169,142 | 4,384,032,313 | 1,074,644,390 | 527,142,488 | 15,203,082 | 4,715,874,126 | 4,816,861,032 | 74.42 | 9.32 | |
| Equities: | | | | | | | | | | |
| Passive | 428,775,072 | 502,660,529 | 49,721,224 | 2,868,087 | (2,470,743) | 479,157,466 | 504,420,632 | 7.79 | 3.94 | |
| Active | 838,542,953 | 1,143,336,562 | 291,563,011 | 97,781,918 | 1,625,063 | 1,033,949,109 | 1,151,415,433 | 17.79 | 4.18 | |
| Total Equities | 1,267,318,025 | 1,645,997,091 | 341,284,235 | 109,650,005 | (845,680) | 1,507,106,575 | 1,655,836,065 | 25.58 | 4.11 | |
| Short-Term Investments: | | | | | | | | | | |
| Commercial Paper | 139,700,000 | 139,700,000 | 1,496,243,000 | 1,636,541,136 | 7,399 | - | - | - | - | |
| U. S. Treasury Bills | 590,737 | 590,850 | 1,486,243,000 | 2,284,333,629 | 14,364,801 | - | - | - | - | |
| Total Short-Term Investments | 140,290,737 | 140,290,850 | 1,486,243,000 | 1,636,541,136 | 7,399 | - | - | - | - | |
| Total Investments | 5,560,777,904 | 6,170,320,254 | 2,912,171,625 | 2,284,333,629 | 14,364,801 | 6,222,980,701 | 6,472,697,097 | 100.00 | 7.99 | |

Portfolio Rate of Return (Note B)

| | 1989 | 1990 |
|---------------------------------|-------------|-------------|
| Cash and Corporate Notes | 9.12 | 10.17 |
| U. S. Treasury Bills | 8.43 | 8.18 |
| Corporate Bonds | 8.66 | 9.53 |
| U. S. Government Securities | 9.97 | 10.15 |
| Equities | 7.42 | 7.20 |
| Composite Rate of Return | 9.31 | 9.43 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 12

INVESTMENT SUMMARY - EMPLOYEES LIFE, ACCIDENT AND HEALTH INSURANCE AND BENEFITS FUND

Year Ended August 31, 1990

| Type of Investment | September 1, 1989 | | | | August 31, 1990 | | % Total Market | Yield at Market % |
|--|--------------------|--------------------|------------------------------|------------------------------------|---|------------|----------------|-------------------|
| | Book Value | Market Value | Purchases | Sales, Maturities, and Redemptions | Other Transactions, Adjustments and Amortizations | Book Value | | |
| Short Term Investments: | | | | | | | | |
| Commercial Paper | 75,260,000 | 75,260,000 | 878,303,000 | 953,563,000 | - | - | - | - |
| U. S. Treasury Bills | 29,044,840 | 29,050,125 | - | 29,408,424 | 363,584 | - | - | - |
| Total Investments | 104,304,840 | 104,310,125 | 878,303,000 | 982,971,424 | 363,584 | - | - | - |
| | Note A | Note A | | | | Note A | Note A | |
| Portfolio Rate of Return (Note B) | | | Year Ended August 31, | | | | | |
| Cash and Corporate Notes | | | 1990 | 1989 | | | | |
| U. S. Treasury Bills | | | % | % | | | | |
| Composite Rate of Return | | | 8.58 | 7.42 | | | | |
| | | | 8.58 | 9.34 | | | | |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 13

INVESTMENT SUMMARY - STATE EMPLOYEES CAFETERIA PLAN TRUST FUND

Year Ended August 31, 1990

| Type of Investment | September 1, 1989 | | | | August 31, 1990 | | | | |
|---|-------------------|--------------|-----------|------------------------------------|---|------------|--------------|----------------|-----------------|
| | Book Value | Market Value | Purchases | Sales, Maturities, and Redemptions | Other Transactions, Adjustments and Amortizations | Book Value | Market Value | % Total Market | Yield at Market |
| Short Term Investments: Commercial Paper | \$ 1,200,000 | \$ 1,200,000 | 4,700,000 | 5,900,000 | . | . | . | . | . |
| Total Investments | 1,200,000 | 1,200,000 | 4,700,000 | 5,900,000 | . | . | . | . | . |
| | Note A | Note A | | | | Note A | Note A | | |
| Portfolio Rate of Return (Note B) | | | | | | | | | |
| Cash and Corporate Notes | | | | | | | | | |
| U. S. Treasury Bills | | | | | | | | | |
| Composite Rate of Return | | | | | | | | | |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

Issued in Austin, Texas, on December 4, 1990.

TRD-9013017 William S. Nail
General Counsel
Employees Retirement System of Texas

Filed: December 4, 1990

For further information, please call: (512) 867-3213

◆ ◆ ◆
**Texas Employment Commission
Consultant Contract Award**

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Employment Commission (TEC) furnishes this notice of a consultant contract award. The consultant proposal request was published in the October 9, 1990, issue of the *Texas Register* (15 TexReg 5966) and amended to extend the deadline for submission in the October 26, 1990, issue of the *Texas Register* (15 TexReg 6219).

Description of Service. This private consultant shall provide services to assist the Texas Employment Commission in developing and implementing a comprehensive UI Tax System.

Name of Consultant. The consultant selected is Andersen Consulting, 701 Brazos Street, Austin, Texas 78701.

Amount of Contract. The total value of the contract is a sum not to exceed \$3,630,000.

Due Date. Deliverables due December 14, 1990, to September 30, 1992.

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

TRD-9013043 C. Ed Davis
Special Counsel
Texas Employment Commission

Filed: December 4, 1990

For further information, please call: (512) 463-2291

◆ ◆ ◆
**Governor's Energy Division
Request for Proposals**

Notice of Invitation. The Governor's Energy Management Center (GEMC) invites proposals from qualified local governments, regional councils of governments, and nonprofit organizations to implement recycling programs in the following categories.

Local projects: Grants will be awarded to local governments and local nonprofit organizations to start or expand recycling programs, including drop-off centers, curb-side programs, yard waste diversion programs and education programs. Maximum: \$20,000.

Regional projects: Grants will be awarded to regional councils of governments and nonprofit organizations to coordinate recycling efforts in multi-county areas. Maximum: \$200,000. (Regional recycling projects must be consistent with regional waste management plans developed by regional councils with funds from the Texas Department of Health.)

Demonstration projects: Certain materials have proven difficult to recycle. Projects will be selected to demonstrate the collection, processing and marketing of Request for Proposals these materials. These materials, and the maximum available for innovative approaches to recycling

them, include plastics (\$50,000), auto tires (\$100,000), appliances (\$50,000), motor oil (\$50,000) and construction materials (\$100,000). Local governments, regional councils of governments and nonprofit organizations are eligible for these grants. (Proposals to demonstrate the recycling of other materials will be considered. However, you are strongly urged to contact the GEMC before preparing such proposals.)

Restriction on the Use of Fund. This program is funded with oil overcharge funds appropriated to the Governor's Energy Management Center by the 71st Texas Legislature. A minimum 20% matching funds is required.

Oil Overcharge funds are monetary settlements returned to the states as a result of litigation by the United States Department of Energy (DOE) against certain oil companies for violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in certain energy programs deemed to provide restitution to citizens aggrieved by the overcharges.

Funds are subject to program guidelines of the DOE State Energy Conservation Plan (SECP) and the United States v. Exxon court decision, and may not be used to pay indirect or administrative costs. The funds may be used to supplement existing programs, but may not supplant funds already allocated to the programs.

Projects selected will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and all are subject to approval by the Governor's office. No advance payments are allowable.

Contact Person. To obtain a copy of the proposal format, or for more information, contact Douglas Key, Governor's Energy Management Center, P.O. Box 12428, Austin, Texas 78711, (512) 463-1870. Proposal formats will be sent via regular mail, not by express mail or by fax machine.

Closing Date. Six copies of the proposal should be sent to: Blanche Saldivar, Governor's Energy Management Center, P.O. Box 12428, Austin, Texas 78711.

The Energy Management Center is located in Room 620 of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78701. In order to be considered, proposals must be received or postmarked by February 22, 1991; no extensions will be granted. Proposals may not be submitted by fax machine.

Selection Criteria. Proposals must adhere to the format provided by the Energy Management Center. Proposals will be evaluated using the following criteria: the soundness of the project, the reasonableness of the proposed work plan, the quality of the goals and objectives set forth in the proposal, and the overall clarity of the project summary (30%); the proposer's experience with recycling and/or waste management programs (20%); the level of community support (10%); the proposer's plan for promoting the program to the community (10%); the degree to which the proposer has examined the marketing climate for materials collected and used this information to develop the proposal (20%); the reasonableness and clarity of the budget (10%).

Final selection of contractors will be based on the recommendations of a proposal review panel. The GEMC reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this Request for Proposals. The review panel may request finalists to provide additional information or to meet with Energy Management Center staff in Austin prior to final

selection. No respondent, however, will be reimbursed for any costs incurred in the preparation, submission, or clarification of a proposal.

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

TRD-9012982 Auburn L. Mitchell
Director, Energy Division
Governor's Energy Division

Filed: December 3, 1990

For further information, please call: (512) 463-1931

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Texas Department of Human Services

Request for Information

The Texas Department of Human Services is interested in developing a request for proposals for one or more contracts to provide support to preventative health services programs.

We would like information about new approaches, techniques, and tools for providing such services. A request for proposals will be developed later, based in part on response to this request. New methods are sought to increase the use of preventative health services and follow-up treatment of health problems. Services are needed in support of the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT), the Medicaid-funded well-child care program. Other programs, including Family Planning, Maternal and Child Health, and Early Childhood Intervention Services may also be included. State agencies other than DHS may be involved.

Possible components of the service include: Client notification and outreach—contact identified low-income clients to inform them of the availability of preventive health services and encourage them to make use of the services. Scheduling support services—when requested by the client, provide assistance in finding a provider of services, making an appointment, and reminding clients to keep appointments. This may include appointments with specialty providers for follow-up treatment as well as appointments for screening services. Provider relations—working with providers of health care services to encourage them to participate in the programs, answer questions, and assist with paperwork and billing problems. May also include developing and maintaining current information about participating providers. Monitoring and reporting—maintaining information about which clients have received services, which need additional services, and which have been unwilling to participate, and providing data and reports as requested by DHS or other agencies. Other related services—other services that can be expected to result in better use of preventative health care and better provider relations may also be included.

Contact Person: Responses should be received no later than January 15, 1991, and sent to Jackie Drake, R.N.; Service Delivery W-317; Client Self-support Services; Texas Department of Human Services; P.O. Box 1409030; Austin, Texas 78714-9030; (512) 450-4144.

Issued in Austin, Texas, on December 5, 1990.

TRD-9013067 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: December 5, 1990

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

Texas Parks and Wildlife Department

Notice of Public Hearing to Consider License Revocation

Notice is hereby given to Raymond Lenoir, Jr., to show cause why, Resident General Commercial Fisherman's License Number 372-04289-1 should not be terminated and revoked for violations of the Texas Parks and Wildlife Commission to wit.

The Texas Parks and Wildlife Department has been presented with evidence that respondent has violated the following provisions of the Texas Parks and Wildlife Code.

Section 66.11. Sale and Purchase of Certain Fish.

(a) No person may buy or offer to buy, sell or offer to sell, possess for the purpose of sale, transport, or ship for the purpose of sale or barter or exchange freshwater crappie, base of the genus *Micropterus*, striped bass and hybrids or striped bass, white bass, welleye, sauger, northern pike, muskellunge, trout of the family Salmonidae, or flathead catfish.

A hearing on this violation will be held in Room, C-200 at the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin by a hearing officer designated by the executive director on December 28, 1990, beginning at 2 p.m. at which time all interested parties may appear and be heard. Evidence or testimony may be presented orally or in writing by affidavit or deposition. Written evidence should be filed with the department prior to the hearing date.

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

TRD-9012975 Jennifer Mellett
Hearing Officer
Texas Parks and Wildlife Department

Filed: December 3, 1990

For further information, please call: (512) 389-4805

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Texas State Occupational Information Coordinating Committee

Request for Proposals

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas State Occupational Information Coordinating Committee (TSOICC) invites proposals from qualified private and public concerns to review and evaluate several automated career information delivery systems (CIDS) for the improvement and expansion of career information delivery in Texas. The contractor will be required to perform all tasks necessary to evaluate systems based on the user requirements of each agency represented on a project advisory committee. In addition, the contractor will review and evaluate four pilot sites operating the current state-supported CIDS as part of JTPA's intake/assessment process.

Project Description. The purpose of this project is to evaluate existing automated CIDS with respect to the system requirements of eight major agencies. User requirements and system ratings will be determined with the assistance of a project advisory committee organized by TSOICC. The committee will be comprised of representatives from the following agencies and local organizations (user populations to be served are included in parentheses): Texas Education Agency (secondary students), Independent School Districts-high schools, middle schools, Education Service Centers; Texas Higher Education Coor-

minating Board (postsecondary students), Community colleges and technical institutes, Senior colleges and universities; Texas Department of Commerce (JTPA program participants), Private Industry Councils; Texas Employment Commission (unemployed persons); Texas Rehabilitation Commission (handicapped persons); Texas Department of Corrections (incarcerated adults); Texas Youth Commission (delinquent youth); Texas Department of Human Services (welfare recipients).

Project advisory committee members will: assist in determining system requirements; involve prospective and existing users; and participate in the review and evaluation process, including CIDS demonstrations. The contractor will coordinate and facilitate all committee meetings, including system demonstrations and other meetings, as required.

The primary objectives to be achieved by a statewide CIDS are: to improve the accessibility and dissemination of career information needed for vocational and career counseling, career decision making, job placement, job search, and teaching; to provide the most cost-effective computer-based career information system and delivery mechanism(s) which allow for maximum site distribution (user access) at minimum cost; to promote a system which operates on standard equipment that is reliable, widely available, and applicable to a variety of users; to promote the use of labor market information already being maintained by existing federal/state/local systems, such as statewide and substate occupational demand projections; to provide a system which is available at times and places convenient for users.

Based on preliminary research conducted by TSOICC staff, six systems have been identified as statewide-eligible CIDS, as follows: CIS, CHOICES, COIN, DISCOVER, GIS, and VISIONS. The contractor may wish to add other appropriate systems to this preliminary list of CIDS to be evaluated.

A separate component of this evaluation deals specifically with four JTPA pilot sites, which will field test the current state-supported automated CIDS as part of the intake/assessment process. This component is described in further detail in the section titled "JTPA Pilot Site Evaluation."

Project Timeline. It is estimated that the conduct of this project shall begin February 11, 1991, for a period of less than four months. JTPA pilot sites shall be reviewed no earlier than March 18, 1990. All project tasks and deliverables shall be completed not later than May 31, 1991.

Project Budget. Project funds being provided for this project will not exceed \$34,400. The contractor's proposed budget should provide a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appear to be cost effective with respect to the number of staff, project time required, proposed tasks and deliverables.

Eligible Applicants/Qualifications/Staff Management. Eligible applicants shall be institutions of higher education, community/junior colleges and technical institutes, private-for-profit entities and private-not-for-profit entities.

The contractor must have demonstrated experience in conducting independent reviews and evaluations of automated systems, including software, data, hardware, system operations, and maintenance relative to the needs defined by specific user groups, especially participating agencies. The name of the agency or agencies served must be cited, the kinds of activities that were performed by the proposer must be described, and the name of a contact person from each employing agency must be provided.

The contractor must provide the names, qualifications and experience of project staff. Also provided must be a description of the utilization of personnel and resources to accomplish each objective of the project. The application must clearly show the role, function and organizational structure of all proposed staff. An appendix to the proposal must contain resumes of project staff members. If the proposer plans to use external consultants or subcontractors, a staff organization and resumes of consultants and/or subcontractors must be included.

The proposer will specify to the degree possible the activities which are to be undertaken. Timelines showing beginning and ending dates are to be included, as is the naming of persons for critical products and services.

Application Procedure. Applications must be either hand delivered to the Texas State Occupational Information Coordinating Committee at its office: Room 526T, Texas Employment Commission (TEC) Building, 12th and Trinity, Austin, or mailed to: TSOICC, Room 526T, TEC Building, 12th and Trinity, Austin, Texas 78778, and received no later than 5 p.m. on Monday, January 28, 1991. A minimum of 10 copies of the proposal should be submitted. This Request for Proposals does not commit the TSOICC to pay for any cost incurred prior to the execution of a contract or prior to fund availability from TSOICC member agencies. The TSOICC reserves the right to accept or reject any or all proposals submitted under this RFP, and to negotiate modifications to improve the quality or cost-effectiveness of any proposal or to vary the provisions set forth herein at any time prior to the execution of a contract.

All proposals must be submitted on 8-1/2" x 11" paper, typed and double-spaced with sequentially numbered pages. Major components of the proposal should be presented in the following order: project design, management plan, staff qualifications, and budget. All pages must be stapled or bound together. All proposals and their accompanying attachments become the property of TSOICC upon submission. Materials will not be returned. A project advisory committee will be responsible for proposal review and selection.

A bidders meeting will be conducted at 2 p.m. on Thursday, January 3, 1990, in Room 304T, TEC Building, 12th and Trinity, Austin, for interested parties. A copy of the complete RFP may be picked up at the TSOICC office on or after Friday, December 14, 1990.

For additional information regarding this RFP, contact Joni Gilton, CIDS Project Manager, Texas State Occupational Information Coordinating Committee, at the preceding address or call (512) 463-2399.

Issued in Austin, Texas, on December 5, 1990.

TRD-9013068
Richard C. Froeschle
Executive Director
Texas State Occupational Information
Coordinating Committee

Filed: December 5, 1990

For further information, please call: (512) 463-2399.

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Texas Water Commission
Notice of Application For Waste
Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of November 26, 1990 to November 30, 1990.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

City of Lubbock, Lubbock Power and Light; Holly Avenue Steam Electric Station; located at 3500 East Slaton Highway in the City of Lubbock, Lubbock County; 01895; amendment.

Southern Clay Products, Inc.; Gonzales; Abercrombie bentonite clay mines; located approximately 3.6 miles east of the intersection of FM Road 532, Loop 146 and U.S. Highway 90A and approximately 3/4 mile south of U.S. Highway 90A near the City of Gonzales, Gonzales County; 03302; new.

Southern Clay Products, Inc.; Gonzales; Johnson benetonite clay mines; located adjacent to an unnamed county road, approximately 5.4 miles south of the intersection of FM Road 3282 and U.S. Highway 183 and approximately 1.5 miles southwest of the Terrysville cemetery near the City of Gonzales, Gonzales County; 03306; new.

Southern Clay Products, Inc.; Concord; Troup Operation, a ball clay mine; located approximately one mile southwest of the intersection of FM Road 856 and FM Road 13 and 1.8 miles north-northwest of the Town of Concord, Cherokee County; 02973; amendment.

H.R.D. Corporation doing business as Marcus Oil and Chemical; Houston; Houston plant which manufactures food grade polyethylene wax using a by product stream from a polyethylene plant; located at 14549 Minetta Street in the City of Houston, Harris County; 01063; amendment.

Northwest Harris County Municipal Utility District Number 5; Houston; wastewater treatment facilities; located at 14950 Cypress Green Drive, approximately 0.5 mile east of the intersection of Spring Cypress Road and Telge Road in Harris County; 11824-01; amendment.

Johannes Herman Degoede; Winnsboro; dairy; located on the south side of State Highway 154 and FM Road 2869 in Wood County; 03271; new.

City of Fairfield; Walnut Creek Wastewater Treatment Plant; located approximately 4,000 feet north of the intersection of U.S. Highway 84 and FM Road 488, approximately 5,000 feet northeast of the intersection of U.S. Highways 75 and 84 in Freestone County; 10168-01; renewal.

Roger C. Finholt, Jan D. Littlejohn, and Carlo J. Farina, Jr. Doing Business As F.F.L. Development Company Number 2 Partnership; Irving; West Beach Addition Wastewater Treatment Facilities; located approximately 2,000 feet southeast of the intersection of Medlin Road and White Chapel Road and approximately 2.2 miles due north of the intersection of State Highway 114 and White Chapel Road in Denton County; 13108-01; renewal.

Northwest Mitchelldale, Inc.; Houston; wastewater treatment facilities; located at the southern boundary of Deauville Plaza which is immediately southwest of the intersection of Northwest Freeway and West 34th Street in Harris County; 12108-01; renewal.

F & S Dairy; Hico; Dairy; located on the south side of FM Road 219, approximately one mile east of the intersection of FM Road 219, and State Highway 281 in Hamilton County; 03256; new.

Howard Halbert; Blum; dairy; located two miles northeast of the intersection of State Highway 174 and FM Road 933, one mile east of Blum in Hill County; 03268; new.

Don Parrish Dairy, Inc.; Evant; dairy; located on an unnamed county road approximately 2.6 miles north of State Highway 84 and three miles southwest of the intersection of State Highway 84 and FM Road 1047 in Hamilton County; 03288; new.

George W. Carpenter; McAllen; dairy; located at the southeast corner of FM Road 1926 and Gonzales Road in Hidalgo County; 03267; new.

International Paper Company; Navasota; hazardous industrial solid waste facility; located at Route 6 North, Navasota, Grimes County; HW-50266; new; 45-day.

Safety-Kleen Corporation; Irving; commercial Class I hazardous industrial solid waste storage and processing facility; located on the west side of Suzanne Drive, 500 feet south of Grauwlyer Road, and 1,000 feet east of Loop 12 in Dallas County; HW-50218; new; 45-day.

Issued in Austin, Texas, on November 30, 1990.

TRD-9013042 Brenda W. Foster
Chief Clerk
Texa Water Commission

Filed: December 4, 1990

For further information, please call: (512) 463-7906

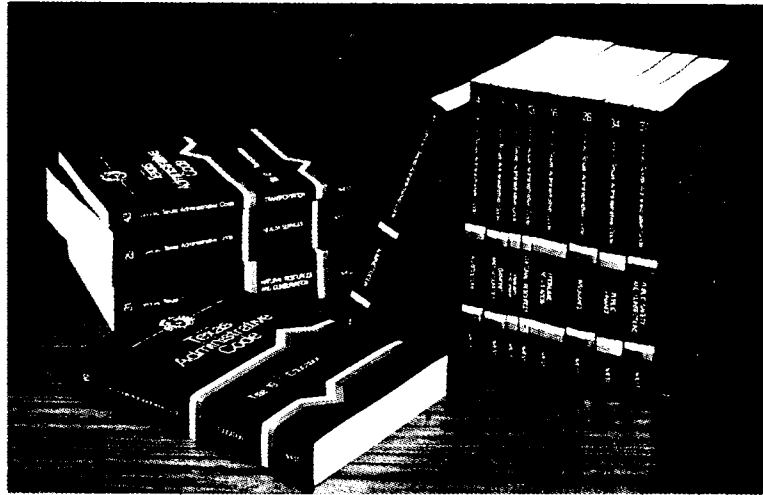


1990-'91 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for upcoming issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

| FOR ISSUE PUBLISHED ON | ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M. | ALL NOTICES OF OPEN MEETINGS BY 10 A.M. |
|------------------------|---|---|
| Friday, November 23 | Monday, November 19 | Thursday, November 20 |
| *Tuesday, November 27 | NO ISSUE PUBLISHED | |
| Friday, November 30 | Monday, November 26 | Tuesday, November 27 |
| Tuesday, December 4 | Wednesday, November 28 | Thursday, November 29 |
| Friday, December 7 | Monday, December 3 | Tuesday, December 4 |
| Tuesday, December 11 | Wednesday, December 5 | Thursday, December 6 |
| Friday, December 14 | Monday, December 10 | Tuesday, December 11 |
| Tuesday, December 18 | Wednesday, December 12 | Thursday, December 13 |
| Friday, December 21 | Monday, December 17 | Tuesday, December 18 |
| Tuesday, December 25 | Wednesday, December 19 | Thursday, December 20 |
| *Friday, December 28 | NO ISSUE PUBLISHED | |
| *Tuesday, January 1 | Friday, December 21 | Thursday, December 27 |
| Friday, January 4 | NO ISSUE PUBLISHED | |
| Tuesday, January 8 | Wednesday, January 2 | Thursday, January 3 |
| Friday, January 11 | Monday, January 7 | Tuesday, January |
| Tuesday, January 15 | Wednesday, January 9 | Thursday, January 10 |
| Friday, January 18 | Monday, January 14 | Tuesday, January 15 |
| Tuesday, January 22 | Wednesday, January 16 | Thursday, January 17 |
| Friday, January 25 | 1990 ANNUAL INDEX | |
| Tuesday, January 29 | Wednesday, January 23 | Thursday, January 24 |
| Friday, February 1 | Monday, January 28 | Tuesday, January 29 |
| Tuesday, February 5 | Wednesday, January 30 | Thursday, January 31 |
| Friday, February 8 | Monday, February 4 | Tuesday, February 5 |
| Tuesday, February 12 | Wednesday, February 6 | Thursday, February 7 |
| Friday, February 15 | Monday, February 11 | Tuesday, February 12 |
| Tuesday, February 19 | Wednesday, February 13 | Thursday, February 14 |
| *Friday, February 22 | Friday, February 15 | Tuesday, February 19 |
| Tuesday, February 26 | Wednesday, February 20 | Thursday, February 21 |
| Friday, March 1 | Monday, February 25 | Tuesday, February 26 |
| Tuesday, March 5 | Wednesday, February 27 | Thursday, February 28 |
| Friday, March 8 | Monday, March 4 | Tuesday, March 5 |
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