

Texas Register

Volume 14, Number 10, February 7, 1989

Pages 645-721

In This Issue...

Emergency Sections

Texas Department of Agriculture

651-Marketing Division

Texas Department of Labor and Standards

651-Tow Trucks

State Board of Insurance

652-Property and Casualty Insurance

Industrial Accident Board

652-Medical Benefits

Texas Water Commission

652-Water Districts

Comptroller of Public Accounts

655-Tax Administration

Proposed Sections

Office of the Secretary of State

657-Trademark Section: Practice and Procedure

Texas Department of Agriculture

669-Marketing Division

Texas Animal Health Commission

669-Brucellosis

Credit Union Department

671-Charting, Operations, Mergers, Liquidations

Railroad Commission of Texas

671-Transportation Division

Texas Department of Labor and Standards

673-Tow Trucks

Texas Education Agency

673-Budgeting, Accounting, and Auditing

Texas Optometry Board

673-Interpretations

Texas Department of Health

674-Home Health Care Agencies

Texas Department of Mental Health and Mental Retardation

679-Systems Administration

State Board of Insurance

679-General Adjudication

Texas Air Control Board

680-Control of Air Pollution from Sulfur Compounds

Adopted Sections

Texas Animal Health Commission

691-Brucellosis

State Banking Board

691-Miscellaneous

Credit Union Department

691-Texas Share Guaranty Credit Union

692-Terminology

693-Transactions Exempt From Registration

693-Administrative Guidelines for Registration of Equipment Programs

Texas Education Agency

693-adaptations for Special Populations

693-Public School Finance-Personnel

Texas Optometry Board

694-Interpretations

Industrial Accident Board

694-Medical Benefits

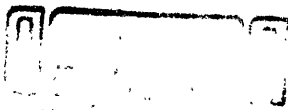
Comptroller of Public Accounts

694-Tax Administration

Texas Department of Human Services

695-ICF/SNF

696-Purchased Health Services



98 10 Texas Register

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Governor—appointments, executive orders, and proclamations

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

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

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings—notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

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

Texas Rehabilitation Commission

697-Memoranda of Understanding with Other State Agencies

Open Meetings

699-Texas Department of Agriculture
699-Texas Air Control Board
699-Texas Commission for the Blind
699-Texas Department of Commerce
700-Texas Cosmetology Commission
700-Texas Commission for the Deaf
700-Texas Education Agency
701-Texas Employment Commission
701-Texas Department of Health
702-Texas Health and Human Services Coordinating Board
702-Texas Department of Human Services
702-State Board of Insurance
703-Texas Department of Labor and Standards
703-Texas Commission on Law Enforcement Officer Standards and Education, Law Enforcement Management Institute
703-Board for Lease of State owned Lands
704-Texas Department of Mental Health and Mental Retardation
704-Board of Nurse Examiners
704-Pan American University
705-Board of Pardons and Paroles
705-Texas Parks and Wildlife Department
705-State Pension Review Board
705-Texas State Board of Pharmacy
706-Texas State Board of Public Accountancy
706-Public Utility Commission of Texas
707-Railroad Commission of Texas
708-School Land Board
708-State Securities Board
708-Board of Tax Professional Examiners
708-Texas State Technical Institute
708-Texas State University System, Board of Regents
708-Texas Water Commission
709-Regional Meetings

In Addition

Texas Department of Agriculture

711-State Plan Public Hearings

Texas Department of Agriculture

711-Request for Proposals

Office of the Attorney General

712-Notice of Contract Award

State Department of Banking

712-Notices of Application

Bond Review Board

713-Notice of Bonds Exempt from Review

Texas Department of Commerce

713-Consultant Contract Award

713-Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds

Office of Consumer Credit Commissioner

714-Notice of Rate Bracket Adjustment

714-Notice of Rate Ceiling

Texas Department of Health

715-Agreed Orders

716-Emergency Cease and Desist and Impoundment Order

716-Rescission of Order

716-Revocation of a Radioactive Material License

Texas Higher Education Coordinating Board

716-Consultant Contract Award

717-Consultant Proposal Request

State Board of Insurance

717-Company Licensing

Texas Department of Mental Health and Mental Retardation

718-Consultant Proposal Request

Texas Racing Commission

718-Notice of Application Period

Railroad Commission of Texas

718-Invitation of Bids-Alcoa

719-Request for Proposals

The University of Texas M.D. Anderson Cancer Center

719-Consultant Proposal Request

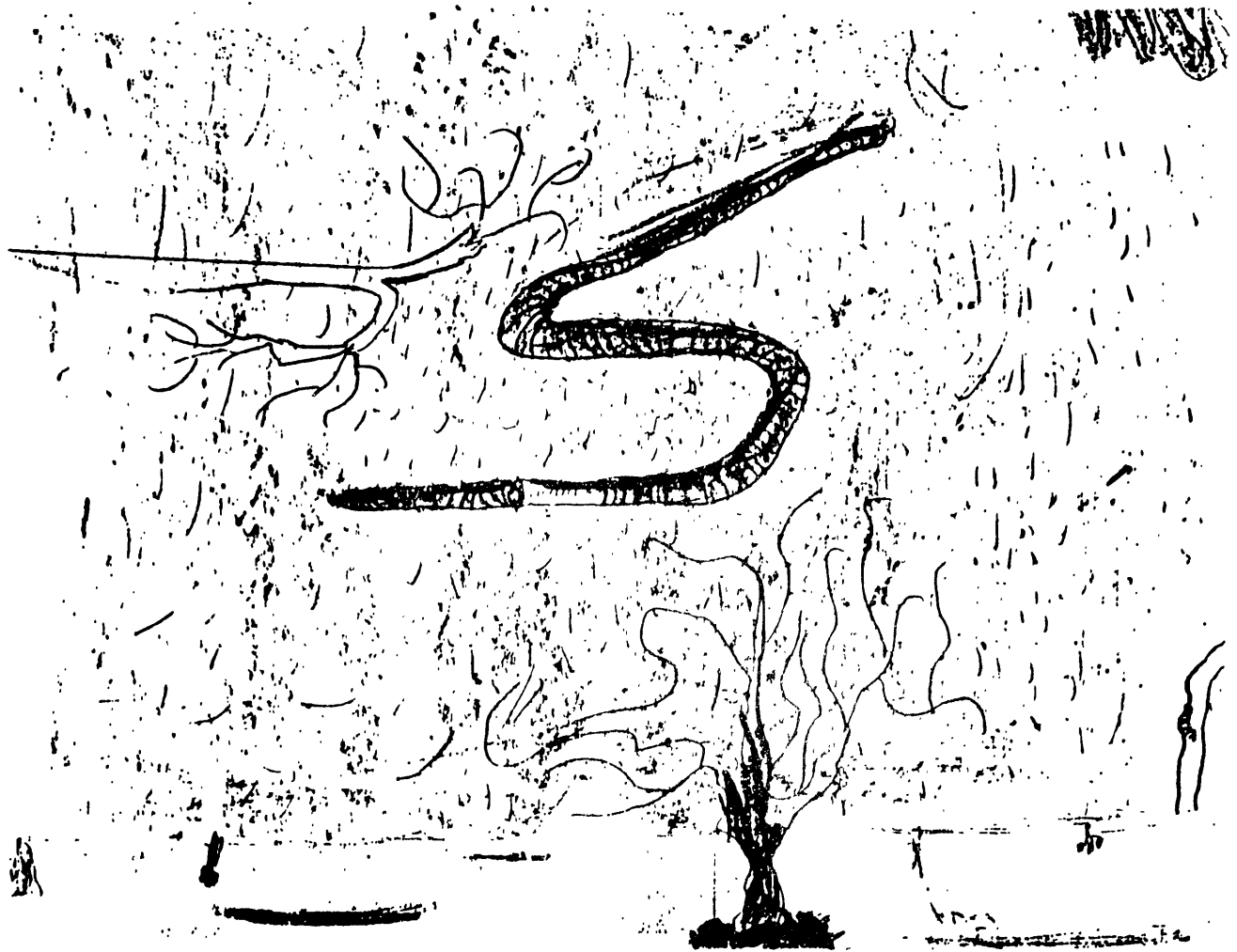
Texas Water Commission

720-Enforcement Order

720-Notice of Application for Waste Disposal Permit

Profiles

721-Administrative Law in Texas



Name: George Hernandez

Grade: 6

School: Roscoe Wilson Elementary, Lubbock

TAC Titles Affected

TAC Titles Affected—January

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

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State

- 1 TAC §§93.1-93.6—657
- 1 TAC §§93.1-93.7—657
- 1 TAC §§93.41-93.44—658
- 1 TAC §§93.41-93.45—658
- 1 TAC §§93.51-93.54—658
- 1 TAC §§93.51-93.55—659
- 1 TAC §§93.61-93.68—659
- 1 TAC §§93.81, 93.82—660
- 1 TAC §§93.91-93.93—663
- 1 TAC §§93.91-93.94—663
- 1 TAC §§93.101-93.103—663
- 1 TAC §§93.101, 93.102—663
- 1 TAC §§93.111-93.116—665
- 1 TAC §§93.111-93.117—665
- 1 TAC §§93.131-93.134—666
- 1 TAC §93.141—666
- 1 TAC §§93.141, 93.142—666
- 1 TAC §93.151—667
- 1 TAC §§93.151-93.154—667
- 1 TAC §93.161-93.164—667
- 1 TAC §93.171—668
- 1 TAC §§93.181-93.183—668

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

- 4 TAC §§17.70-17.74—651, 669
- 4 TAC §35.2—691

Part II. Animal Health Commission

- 4 TAC §35.1—669
- 4 TAC §35.2—670, 691

TITLE 7. BANKING AND SECURITIES

Part III. State Banking Board

- 7 TAC §31.5—691

Part VI. Credit Union Department

- 7 TAC §91.701—671
- 7 TAC §95.6—691
- 7 TAC §95.101—691
- 7 TAC §107.2—692
- 7 TAC §109.7—693
- 7 TAC §§141.1-141.8—693

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

- 16 TAC §§5.502, 5.504-5.508—671

Part IV. Texas Department of Labor and Standards

- 16 TAC §80.3—651, 673

TITLE 19. EDUCATION

Part II. Texas Education Agency

- 19 TAC §89.245—693
- 19 TAC §109.61—673
- 19 TAC §121.32—693

TITLE 22. EXAMINING BOARDS

Part XIV. Texas Optometry Board

- 22 TAC §279.5—694
- 22 TAC §279.9—673

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

- 25 TAC §§115.1-115.6, 115.8, 115.12-115.14, 115.17—674

Part II. Texas Department of Mental Health and Mental Retardation

- 25 TAC §401.49—679

TITLE 28. INSURANCE

Part I. State Board of Insurance

- 28 TAC §1.407—679

28 TAC §5.11—652

Part II. Industrial Accident Board

28 TAC §42.112—652

28 TAC §§42.307-42.309—694

**TITLE 31. NATURAL RESOURCES
AND CONSERVATION**

Part III. Texas Air Control Board

31 TAC §§112.42, 112.43—680

31 TAC §112.43—680

Part IX. Texas Water Commission

31 TAC §293.59—652

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.141—694

34 TAC §3.545—655

**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

Part I. Texas Department of Human Services

40 TAC §16.1511—696

40 TAC §16.1513—696

40 TAC §29.606—696

40 TAC §29.1109—697

Part II. Texas Rehabilitation Commission

40 TAC §115.4—697



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 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 17. Marketing Division

Certification of Farmers Market

• 4 TAC §§17.70-17.74

The Texas Department of Agriculture adopts on an emergency basis §§17.70-17.74, concerning requirements for certification of farmers markets. These sections are adopted on an emergency basis in order to identify for the public, at the opening of the farmer's market season, those markets that meet Texas Department of Agriculture certification standards with respect to the sale of quality goods. Certification assures the public that the produce purchased at these markets is of good quality. These sections establish procedures for the certification of a farmer's market.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Texas Agriculture Code, §11.001, which provide the Texas Department of Agriculture with the authority to promulgate rules necessary and proper to carry out its programs and responsibilities.

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

Applicant—A farmer's market manager, or other members of the governing body for a specified farmers market location.

Certified farmers markets—Locations recognized by the state agriculture commissioner, where Texas agricultural products are sold by Texas producers directly to consumers.

Commissioner—Commissioner of the Texas Department of Agriculture.

Farmers market—A well-located site with or without permanent facilities where agricultural producers sell their own products directly to consumers.

§17.71. Issuance of Certification Plaque and Certificate. Upon certification of a farmers market, the state agriculture commissioner shall issue, at no cost to the market, a certified farmers market plaque and certificate. The plaque shall be prominently

displayed at the main entrance to the market. Certified farmers markets agree to comply with local municipal, county, and state health and safety regulations, and general requirements of the Texas Department of Agriculture.

§17.72. Application Process.

(a) An applicant seeking certification must submit a completed application on a form approved by the Texas Department of Agriculture to the state headquarters in Austin. Application forms may be obtained from any district office and/or state headquarters of the Texas Department of Agriculture.

(b) Within 30 days of receipt of an application for certification, the commissioner or an authorized agent shall notify an applicant in writing, of the approval or denial of his application.

§17.73. Eligibility Requirements. A farmers market may be certified if:

(1) a completed farmers market application form is submitted;

(2) the applicant has filed with the Department of Agriculture at the state headquarters office in Austin, a copy of the market's by-laws and a list of the association members;

(3) on an annual basis, at least 50% of all agricultural products sold at market locations are produced in Texas, and at least 50% of the sellers are Texas farmers and ranchers; and

(4) all agricultural products sold at the applicant market shall be of good quality, as determined by the commissioner.

§17.74. Appeal.

(a) A certified farmers markets' certification may be withdrawn, for failure to adhere to any of the requirements set out in §17.73 of this title (relating to Eligibility Requirements) violation of any general rules and regulations of Texas Department of Agriculture.

(b) Proceedings for the revocation of certification shall be conducted in the manner provided for contested cases by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and Chapter 1 of this title (relating to General Practice and Procedure).

Issued in Austin, Texas, on January 26, 1989.

TRD-8900748

Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Effective date: January 26, 1989

Expiration date: May 26, 1989

For further information, please call: (512) 463-7583

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 80. Tow Trucks

• 16 TAC §80.3

The Texas Department of Labor and Standards adopted on an emergency basis an amendment to §80.3, concerning registration requirements. Subsection (1) is being added to this section because of difficulties the department has encountered with the initial renewal cycle of this registration program. The renewal cycle remains in progress, and this subsection will clarify registration requirements and procedures, resulting in an improved registration process for the industry.

The amendment is adopted on an emergency basis pursuant to the Texas Tow Truck Act, Texas Civil Statutes, Article 6687-9b, which gives the Texas Department of Labor and Standards rulemaking authority.

§80.3. Registration Requirements.

(a)-(k) (No change.)

(l) If a tow truck owner is retiring a truck and replacing it, or replacing a truck that is being put out of service due to fire, theft, or irreparable damage, the owner may submit the required information for the new truck to the department, along with a \$25 duplicate registration fee, and a replacement certificate of registration will be issued that will remain valid for the replacement truck until the expiration date on the original certificate of registration for the truck being replaced.

Issued in Austin, Texas, on January 16, 1989

TRD-8900784

Joseph L. Huertas
Program Manager
Texas Department of Labor
and Standards

Effective date: January 27, 1989

Expiration date: May 27, 1989

For further information, please call: (512) 463-2906

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter A. Automobile Insurance

Certificates of Assumption

• 28 TAC §5.11

The State Board of Insurance adopts on an emergency basis an amendment to §5.11, concerning requirements for certificates of assumption of the contract liabilities of automobile insurance policies. Section 5.11 was adopted on an emergency basis and became effective on December 19, 1988. Notice of the emergency adoption of §5.11 appeared in the December 27, 1988, issue of the *Texas Register* (13 TexReg 6383). The State Board of Insurance finds that an imminent peril to the public welfare requires adoption of this amendment on an emergency basis to prevent a lapse in coverage for policyholders of an insurance company in conservation, as well as receivership. The amendment allows assumption concerning policies for a company in conservatorship, as well as receivership, for which a reinsurance agreement approved by commissioner's order, by board order, or by court order applies.

The amendment is adopted on an emergency basis under the Insurance Code, Article 5.06 and Article 5.10, which authorizes the State Board of Insurance to prescribe and adopt forms, certificates, and rules necessary to carry out the regulation of automobile insurance in this state.

§5.11. Certificates of Assumption. A certificate of assumption may be attached only to a policy issued for a company in receivership or conservatorship, for which a reinsurance agreement approved by a court order, commissioner's order, or board order applies. For utilization under this section, the State Board of Insurance adopts by reference a certificate of assumption form which is published by the State Board of Insurance and available from the Automobile and Miscellaneous Lines Division of the State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

Issued in Austin, Texas, on January 31, 1989.

TRD-8900875 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: January 31, 1989

Expiration date: April 18, 1989

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

Part II. Industrial Accident Board

Chapter 42. Medical Benefits

Subchapter B. Medical Cost Evaluation

• 28 TAC §42.112

The Industrial Accident Board is renewing the effectiveness of the emergency adoption of new §42.112, for a 60-day period effective February 1, 1989. The text of new §42.112 was originally published in the January 3, 1989, issue of the *Texas Register* (14 TexReg 16).

Issued in Austin, Texas on January 31, 1989.

TRD-8900878 Inez "Tippy" Foster
Acting Executive Director
Industrial Accident Board

Effective date: February 1, 1989

Expiration date: February 4, 1989

For further information, please call: (512) 448-7960

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 293. Water Districts

Economic Feasibility of Projects

• 31 TAC §293.59

The Texas Water Commission adopts on an emergency basis new §293.59, concerning the analysis of proposed bond issues, bond amendments, and extension of time applications for bond issues, to assure that the proposed projects are economically feasible.

It is the position of the commission that the provision of adequate water supply service and sewage treatment services directly impacts the public health, safety, and welfare. Because there is a need to provide for regulatory standards for the analysis of proposed bond issues, bond amendments, and extension of time applications for bond issues, to assure that the proposed projects are economically feasible and will protect the public health, safety, and welfare, the commission finds that an urgent need exists to adopt this new section on an emergency basis in order to have a regulatory system in effect to determine the economic feasibility of these projects.

The new section is adopted on an emergency basis under of the Texas Water Code, §§5.103, 5.105 and 5.235, which provide the Texas Water Commission with the rulemaking authority 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 policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.59. Economic Feasibility of Project.

(a) In addition to determining the engineering feasibility of a project, the commission shall also determine the economic feasibility of each proposed bond issue, bond amendment, and extension of time application for a bond issue. The staff of the commission shall use the following sections in making its economic feasibility analysis. In its written recommendations to the commission which analyzes the particular application, the staff shall always address the economic feasibility.

(b) Economic feasibility is the determination of whether the land values, existing improvements, and projected improvements in the district will be sufficient to support a reasonable tax rate for debt service payments for existing and proposed bond indebtedness while maintaining competitive utility rates. Utility rates which do not exceed the rates of the largest city in the geographic area in which the district is located are conclusively deemed to be competitive. Economic feasibility is influenced by many factors and varies widely depending on economic conditions, the real estate market, the number of competing projects and geographic location.

(c) Projected debt service tax rate is the tax rate required to meet projected annual debt service requirement using projected assessed valuations and an appropriate tax collection rate. The projected annual debt service requirement shall include the previous and proposed debt. The projected debt service tax rate for any bond issue shall be shown in the cash flow table as a level or decreasing tax rate.

(d) No-growth debt service tax rate is the tax rate required to meet projected annual debt service requirements using the current assessed value and a 100% tax collection rate. The current value is determined by either:

(1) the most recent certificate of assessed valuation from the central appraisal district; or

(2) a certificate of estimated assessed valuation from the central appraisal district. Projected annual debt service requirements shall include the previous and proposed debt. The no-growth debt service tax rate for any bond issue shall be shown on the cash flow table as a level or decreasing tax rate.

(e) Combined no-growth debt service tax rate is the sum of the following:

(1) no-growth debt service tax rate of the district;

(2) projected no-growth debt service tax rate of all overlapping entities specifically attributable to water, sewer, drainage, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's pre-

cinct. In other words, for road districts or road utility districts that are as large as one county commissioner's precinct, the road district tax is not counted;

(3) an equivalent surcharge tax rate for water and sewer surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, and drainage if the district is located within a city;

(5) current or proposed maintenance tax levy, if any; and

(6) less any equivalent tax rebate or other payments.

(f) Combined projected debt service tax rate is the sum of the following:

(1) projected debt service tax rate of the district;

(2) projected debt service tax rate of all overlapping entities specifically attributable to water, sewer, and drainage, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct;

(3) an equivalent surcharge tax rate for water and sewer surcharge, if any;

(4) city tax rate specifically attributable to water, sewage and drainage if the district is located within a city;

(5) current or proposed maintenance tax levy, if any;

(6) less any equivalent tax rebate or other payment.

(g) A surcharge is a flat charge in addition to rates imposed on residents receiving water and/or sewer service from resources of a city or other entity and supplied through district facilities. Surcharge revenues are placed in the district's debt service fund and are intended to be used to meet the debt service requirement on the district's bonds.

(h) For districts collecting surcharge revenues, the equivalent surcharge tax rate shall be calculated as follows.

(1) For residential development with similar house prices:

$$\text{equivalent tax rate} = \frac{\text{monthly surcharge} \times 12 \times 100}{\text{average house price}}$$

(2) For mixed-use development and diverse house prices:

$$\text{equivalent tax rate} = \frac{\text{total annual surcharge revenues at projected build out} \times 100}{\text{total assessed value of district at buildout}}$$

(3) For purposes of this calculation, no adjustments shall be made for projected collection rate of the surcharge, interest earnings on the surcharge account,

or other factors.

(i) For districts receiving a rebate for taxes paid to a city or other entity for

water, sewer, drainage, or road service, the equivalent tax rebate shall be calculated as follows.

$$\frac{(\text{total amount rebated by entity to district}) \times 100}{\text{certified assessed value of district}}$$

(j) The assessed value is the appraised value after considering exemptions and special valuations and is the amount to which the tax rate is applied to determine the total tax levy.

(k) For a district's first bond issue, the following paragraphs apply except that paragraphs (5), (6), (7), (8), and (10) are only applicable to a district that has a developer as defined by Texas Civil Statutes, Water Code, §50.026(d).

(1) The district shall provide the current and projected tax rates of all entities levying or proposing to levy taxes on land within the district and a comparison of such taxes with the total tax levy on all competing projects in the same market area, as defined in the market study, if applicable, shall be provided.

(2) A cash flow analysis to determine the projected debt service revenue

and projected tax rate shall be provided. It should include the following assumptions.

(A) Each ending debt service balance in the cash flow analysis will be not less than 25% of the following year's debt service requirement.

(B) Interest income will only be shown on the ending debt service balance for the first two years.

(C) A 90% tax collection rate shall be used in all the projected tax rate calculations and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(D) The projected tax rate shall be level or decreasing for the life of the bonds.

(3) The combined projected debt service tax rate shall not exceed the following:

(A) \$1.50 in Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) \$1.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties;

(C) \$1.00 in all other counties.

(4) The combined no-growth debt service tax rate shall not exceed the following:

(A) \$2.50 in Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) \$2.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties;

(C) \$2.00 for all other counties.

(5) The following apply to tax assessor's certificate.

(A) If the valuations contained in the certificate of certified assessed valuation are at least 25% higher than those contained in the previous year's certified valuation, a written explanation from the district of such increase and a detailed calculation demonstrating how the value was derived shall be provided.

(B) In determining the projected or no-growth debt service tax rates, a certificate of estimated assessed valuation may be used under the following conditions:

(i) the developer or landowner to receive bond proceeds shall certify, represent, and agree that it will not challenge and attempt to reduce its valuations below the values shown on the certificate for the life of the bonds;

(ii) if the valuation contained in the certificate of estimated taxable valuation is at least 25% higher than that contained in the most recent certified valuation, a written explanation from the district of such increase shall be provided;

(iii) if the estimated taxable valuation results in an exemption from §293.47 of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer) and the final certificate of taxable value is not sufficient for an exemption from that section, the developer will be obligated to refund to the district the difference in the bond issue requirement without developer contribution and with developer contribution plus interest at the bond interest rate to the district; and

(iv) developed land values will not be used in the commission's analysis for lots which do not have completed water, sewer, and drainage facilities and roads constructed to county or city standards, as applicable, at the time of development.

(6) At the time of approval of the bond sale, the following shall apply:

(A) all underground water, sewer, and drainage facilities to be financed with proceeds from the proposed bond issue shall be at least 95% complete as certified by the district's engineer;

(B) all groundwater, surface water, waste discharge permits or other per-

mits, needed to secure capacity to support the projected buildout shall have been obtained;

(C) sufficient lift station, water plant, and sewage treatment plant capacity, as applicable depending on the type of district, to serve the connections projected for a period of not less than 18 months shall be either 95% complete as certified by the district's engineer or available in existing plants pursuant to executed contracts for capacity in plant(s) owned by other entities (but in no event less than 50,000 gallons per day water plant and sewage treatment plant capacity);

(D) water supply, lift station, and wastewater treatment capacity needed to support the projected buildout used to support the feasibility of the subject bond application shall be existing or funds for that capacity shall be included in the bond issue or secured by a letter of credit or other acceptable guarantees approved by the commission; and

(E) all street and road construction to provide access to the areas provided with utilities to be financed with proceeds from the proposed bond issue shall be 95% complete as certified by the district's engineer. All streets and roads shall be constructed in accordance with county standards, as appropriate.

(7) At least 25% of the projected value of houses, buildings, and/or other improvements shown in the projected tax rate calculations shall be completed prior to advertising for the bond issue. The projections used to satisfy this section shall also be used in the calculations required by subsection (k)(2) and (3) of this section.

(8) A written agreement must be executed between the district and the developer and any other landowner and their respective lenders receiving proceeds of the bonds which permanently waive the right to claim agricultural, open-space, timberland, or inventory valuation for any land, homes, or buildings which they own in the district with respect to taxation by the district. The agreement shall be permanently binding on such developer, other landowners, their respective lenders, any related or affiliated entities and their successors and assignees, unless such exemptions were in effect at the time of the commission's approval of the bond issue and such exemptions were shown in the projected tax rate calculations. Such developer, landowners, and lenders shall record covenants running with the land to such effect, which shall not be modified or released without written authorization of the commission, and shall provide recorded copies to the commission prior to the approval of the bond issue.

(9) One or more of the foregoing requirements may be waived for good

cause by commission order if all of the facilities proposed under a bond issue application are essential because of valid orders, permits, or actions against the district by a governmental agency or court. If only a portion of the bond issue is for facilities essential because of valid orders, permits, or actions against the district by a governmental agency or court and if a waiver of any of the foregoing requirements is requested, all nonessential projects may be deleted from the bond issue if not feasible under the other provisions of these rules.

(10) A current market study is required for districts using growth projections to support the feasibility of the bond issue. The market study will meet the guidelines set out in the Bond Application Report Format. The market study provided will specifically address the projected building program for the three years subsequent to filing of the bond application and the period of projected build-out shown in the bond application and the competing projects in the surrounding market area. The study shall contain a detailed description of the proposed development and the houses, buildings, and other improvements which are proposed.

(11) Requirements of subsection (k)(6) and (7) of this section shall not apply in the following cases where:

(A) the no-growth debt service tax rate for a district containing 2,000 acres or more providing only drainage facilities does not exceed \$1.30, or the no-growth debt service tax rate of a district providing major water and sewage facilities which it finances by the issuance of its bonds to an area containing 2,000 acres or more does not exceed \$1.30, and the combined no-growth debt service tax rate does not exceed \$2.00, and, with respect to each of the described cases, the developer has completed a substantial amount of major thoroughfare or other infrastructure to serve the district;

(B) the district has an acceptable credit rating as defined in §293.47(b)(4) of this title (relating to §293.47-Thirty Percent of District Construction Costs to be Paid by Developer) or a credit enhanced rating as defined in paragraph (5); or

(C) the district is providing water, sewer, and drainage facilities and the combined no-growth debt service tax rate of all overlapping entities specifically attributable to water, sewage, and drainage, and roads if the entity is a special district encompassing less than one county commissioner's precinct, if any, does not exceed the following:

(i) \$1.50 in Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(ii) \$1.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties;

(iii) \$1.00 in all other counties.

(12) For the immediately preceding exceptions in paragraph (11)(A) or (C) of this subsection, the developer shall provide a guarantee for its 30% share, if required pursuant to §293.47, of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer), in the form and manner required by subsection (g). For the immediately preceding exceptions in paragraph (11)(B) or (C) of this subsection, the developer shall provide a paving guarantee pursuant to §293.48 of this title (relating to Street and Road Construction by Developer).

(1) For a district's second and subsequent bond issues, all of the foregoing sections of subsection (k) of this section shall apply except as listed following. Paragraphs (2), (3), (4), and (5) of this subsection only apply to districts that have a developer as defined by Texas Civil Statutes, Water Code, §50.026(d).

(1) A 90% tax collection rate shall be used in the projected tax rate calculations unless the district demonstrates that its historical collection rate is higher, and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(2) The water, sewer, and drainage facilities financed by the district under previous bond issues and all road and street construction to serve such connections shall be at least 95% complete as certified by the district's engineer.

(3) Sufficient lift station, water plant, and sewage treatment plant capacity to serve the connections shown in the tax rate calculations submitted in prior bond issues shall be at least 95% complete as certified by the district's engineer, unless the district is a participant in a regional surface water or wastewater plant, a permit sufficient for the expansion has been issued, and either:

(A) funds are available to finance such capacity and any additional capacity necessary for a feasible expansion;

(B) sufficient capacity is contractually available to serve all such prior connections; or

(C) the plant is under construction with sufficient capacity to serve all such prior connections.

(4) Houses and/or buildings equal to 75% of the value of houses and/or buildings used in the projected tax rate calculations contained in all prior bond issues shall be completed. The equivalent 75% value may be located on either:

(A) the area developed from the proceeds of the prior bond issues; or

(B) a combination of the area developed from the proceeds of prior bond issues, the proposed bond issue, and future bond issues.

(5) The requirements of subsection (k)(10) of this section shall apply, unless the district requests and the commission, in its discretion waives such requirement for one of the following reasons:

(A) the value of the houses and/or buildings within the areas to be served by the proposed bond issue is 50% of the proposed value of the houses and/or buildings shown in the projected tax rate calculations;

(B) the district has an acceptable credit rating as defined in §293.47(b)(4) of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer) or a credit enhanced rating as defined in paragraph (5); or

(C) the district has ratio of debt to assessed valuation as provided in §293.47(a)(1) of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer).

(m) A district may request a variance if it does not meet the guidelines contained in subsections (k) and (1) of this section, and a majority of the district's board of directors finds by resolution that the district would be justified in requesting a variance, it may request a variance. The district will be responsible for providing sufficient documentation to justify any request for a variance. The commission will only grant variances in exceptional cases and may deny any request for a variance. In determining whether to grant a variance, the following factors shall be considered:

(1) the degree of variation from the guidelines;

(2) the past history of the district with respect to its projections versus actual build-out and compliance with commission rules;

(3) the past history of the developer and related or affiliated entities with respect to its projections versus actual build-out and its compliance with commission rules and agreements with the district and other districts in which it developed land;

(4) other factors peculiar to the district, such as the area in which situated, economic factors, the adjoining competitive developments and their status;

(5) the financial resources of the

developer and its lender and any special commitments, obligations, or expenditures for the project;

(6) past history of the market area in which the project is located; and

(7) other factors which may affect the feasibility of the project.

Issued in Austin, Texas, on January 27, 1989.

TRD-8900834

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: January 27, 1989

Expiration date: May 27, 1989

For further information, please call: (512) 463-8087

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Bingo Regulation and Tax

• 34 TAC §3.545

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.545, for a 60-day period effective January 31, 1989. The text of amended §3.545 was originally published in the October 11, 1988, issue of the *Texas Register* (13 TexReg 5031).

Issued in Austin, Texas on January 27, 1989.

TRD-8900788

Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Effective date: January 31, 1989

Expiration date: April 1, 1989

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

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.545, for a 60-day period effective January 31, 1989. The text of amended §3.545 was originally published in the January 31, 1989, issue of the *Texas Register* (14 TexReg 610).

Issued in Austin, Texas on January 31, 1989.

TRD-8900892

Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Effective date: January 31, 1989

Expiration date: April 1, 1989

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

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption

tion of amended §3.545, for a 60-day period effective January 31, 1989. The text of amended §3.545 was originally published in the December 27, 1988, issue of the *Texas Register* (13 TexReg 6383).

Issued in Austin, Texas on January 31, 1989.

TRD-8900891 Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Effective date: January 31, 1989

Expiration date: April 1, 1989

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

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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 1.

ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 93. Trademark Section: Practice and Procedure

General Information and Correspondence

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

The Office of the Secretary of State proposes the repeal of §§93.1-93.7, 93.41-93.44, 93.51-93.54, 93.61-93.68, 93.81, 93.82, 93.91-93.93, 93.101-93.103, 93.111-93.116, 93.131-93.134, 93.141, 93.142, 93.151, 93.161-93.164, 93.171, and 93.181-93.183, concerning the rules of practice and procedure of the trademark office. Simultaneously with this proposal for repeal, the Office of the Secretary of State proposes new sections, concerning practice and procedure of the trademark office.

Lorna Wassdorf, special assistant, statutory filings division, has determined that for the first five-year period the sections will be in effect, there will be no fiscal implications as a result of enforcing or administering the repeals.

Ms. Wassdorf also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be to provide both the public and the Office of the Secretary of State with up-to-date, readily understandable rules concerning the filing of trademark documents pursuant to the Texas Business and Commerce Code, Chapter 16. There is no anticipated economic cost to individuals who are required to comply with the proposed new sections.

Comments on the proposal to repeal the existing sections may be submitted to Lorna Wassdorf, Special Assistant, Statutory Filings Division, P.O. Box 13697 Austin, Texas, 78711-3697, (512)463-5586.

The repeals are proposed under Texas Civil Statutes, Article 6251-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

reasonable necessary to carry out its ministerial duties under the Act.

• 1 TAC §§93.1-93.7

§93.1. All Communications to be Addressed to the Secretary of State of Texas.

§93.2. Business to be Transacted in Writing.

§93.3. Business to be Conducted With Decorum and Courtesy.

§93.4. Nature of Correspondence.

§93.5. Identification of Application for Registration.

§93.6. Receipt of Letters and Papers.

§93.7. Times for Taking Action; Expiration on Saturday, Sunday, or Holiday.

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 January 23, 1989.

TRD-8900764

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

The Office of the Secretary of State proposes new §§93.1-93.6, 93.41-93.45, 93.51-93.55, 93.61-93.68, 93.81, 93.82, 93.91-93.94, 93.101, 93.102, 93.111-93.117, 93.131-93.134, 93.141, 93.151-93.154, 93.161-93.164, 93.171, and 93.181-93.183, concerning the rules of practice and procedure of the trademark office. Simultaneously with this proposal for new sections, the Office of the Secretary of State proposes the repeal in its entirety of Chapter 93 of this title, entitled Trademark Section: Practice and Procedure. The proposed new sections reorganize and clarify existing practices and procedures. They also add new provisions concerning conflicting pending applications and suspension of action by the trademark office.

Lorna Wassdorf, special assistant, Statutory Filings Division, has determined that for the first five-year period the sections will be in effect there will be no fiscal implications as a result of enforcing or administering the sections.

Ms. Wassdorf also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide both the public and the Office of the Secretary of State with up-to-date, readily understandable rules concerning the filing of trademark documents pursuant to the Texas Business and Commerce Code, Chapter 16. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposed sections may be submitted to Lorna Wassdorf, Special Assistant, Statutory Filings Division, P.O. Box 13697, Austin, Texas 78711-3697, (512)463-5586.

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

• 1 TAC §93.1, §93.6

§93.1. Address. All letters and other communications to the trademark office should be addressed to: Secretary of State of Texas, Corporations Section: Trademark Office, P.O. Box 13697, Austin, Texas 78711-3697. Correspondence is not received in the trademark office on Saturdays, Sundays, or legal holidays.

§93.2. Business to be Transacted in Writing. All business with the trademark office should be transacted in writing. The action of the trademark office will be based exclusively on the written record in the office.

§93.3. Business to be Conducted with Decorum and Courtesy. Applicants and their attorneys or agents are required to conduct their business with the secretary of state with decorum and courtesy. Written complaints against examiners and other employees must be kept separate from any application file.

§93.4. Correspondence.

§93.4. Correspondence.

(a) A letter relating to a trademark application should identify the name of the applicant, the mark, and the reference number appearing on the office action letter.

(b) Each application file should be complete in itself. Although the response submitted for two or more applications may be identical, a separate response should be provided for each application.

(c) A letter relating to a registered trademark should include the name of the registrant, an identification of the mark, the registration number, and the date of registration.

§93.5. Times for Taking Action: Expiration on Saturday, Sunday, or Holiday. Whenever periods of time are specified in these sections in days, calendar days are intended. When the day, or the last day, fixed by statute or by these sections for taking any action in the Office of the Secretary of State falls on Saturday, Sunday, or on a legal holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.

§93.6. Access to Applications. Copies of pending applications and accompanying letters and documents will be available for public inspection. Copies of the papers will be furnished upon paying the appropriate fee.

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 January 23, 1989.

TRD-8900762 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Representation

• 1 TAC §§93.41-93.44

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.41. Applicants May be Represented by

an Attorney.

§93.42. Recognition for Representation.

§93.43. Correspondence Held with Attorney or Agent.

§93.44. Revocation of Power of Attorney or Authorization of Agent.

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

Issued in Austin, Texas, on January 23, 1989.

TRD-8900765 Lorna Wassdorf
Special Assistant
Secretary of State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §§93.41-93.45

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.41. Applicants May be Represented by an Attorney. The owner of a trademark may file the application for registration of the mark, or an attorney may represent the owner. The Office of the Secretary of State cannot aid in the selection of an attorney.

§93.42. Recognition for Representation. When an attorney at law acting in a representative capacity appears in person or signs a paper in practice before the trademark office, the personal appearance or signature shall constitute a representation to the secretary of state that the attorney is authorized and qualified to represent the particular party. Further proof of authority to act in a representative capacity may be required.

§93.43. Correspondence with Attorney or Agent. The trademark office will correspond with the attorney or other recognized person representing the applicant. The trademark office will not undertake dual correspondence. If more than one attorney or agent appears, the trademark office will correspond with the last one appearing, unless otherwise requested.

§93.44. Revocation of Power of Attorney or Authorization of Agent. Authority to represent an applicant may be revoked at any stage in the registration proceedings upon notification to the secretary of state. Once revoked, the secretary of state will commu-

nicate directly with the applicant or with any other person authorized by the applicant.

§93.45. Representation by Non-Lawyers. Recognition of any person under this chapter is not to be construed as sanctioning or authorizing the performance of any acts regarded as the unauthorized practice of law.

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 January 23, 1989

TRD-8900761 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Application for Registration

• 1 TAC §§93.51-93.54

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

The repeals are proposed under Texas civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.51. Requirements for Receiving a Filing Date.

§93.52. Date of Receipt.

§93.53. Papers Not Returnable.

§93.54. Pending Application; Access to Applications.

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 January 23, 1989.

TRD-8900766 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §§93.51-93.55

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.51. *Date of Receipt.*

(a) Applications accompanied by the appropriate filing fee will be given a date of receipt for purpose of processing as received by the Office of the Secretary of State. The application will be held pending final determination of the mark's registrability by an examiner.

(b) Applications delivered without the appropriate filing fee will not be accorded a date of receipt for purposes of processing and will be returned to the remitter.

§93.52. *Papers Not Returnable.* After an application is filed the papers will not be returned for any purpose. The office will furnish copies to the applicant upon request and payment of the copy cost.

§93.53. *Filing Fee Not Refundable.* The filing fee accompanying each trademark application, renewal, or assignment is not refundable, regardless of whether the application, renewal, or assignment is subsequently approved, rejected, or abandoned.

§93.54. *Conflicting Pending Applications.*

(a) Once an application is given a date of receipt, pursuant to §93.51 of this title (relating to date of receipt), the trademark office will not file any subsequently received application which is likely to cause confusion or mistake, or to deceive because, when applied to the applicant's goods or services, it resembles a prior received unabandoned application. The subsequently received application will be given a date of receipt, it will be held pending until the trademark office makes final determination of the registration of the prior received application.

(b) When applications have the same date of receipt, pursuant to §93.51 of this title (relating to Date of Receipt), the application with the later date of execution will be held pending a final determination of the application with the earlier date of execution.

§93.55. *Requirements for Receiving a Filing Date.*

(a) Materials submitted for registration of a mark will receive a filing date only if each of the following items is received:

(1) written application for registration, in duplicate (an original and one

copy);

(2) a drawing of the mark, in duplicate;

(3) at least two specimens of the mark as actually used; and

(4) the filing fee for at least one class of goods or services.

(b) Compliance with one or more of the rules relating to the elements specified in subsection (a) of this section may be required before the application is further processed.

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 January 23, 1989.

TRD-8900760

Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §§93.61-93.68

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.61. *Application Must be in English.*

§93.62. *Application to be Signed and Sworn to by Applicant.*

§93.63. *Requirements for Application.*

§93.64. *Description of Mark.*

§93.65. *Identification of Prior Registrations.*

§93.66. *Use by Predecessor by Related Companies.*

§93.67. *Proof of Distinctiveness.*

§93.68. *Service Mark.*

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 January 23, 1989.

TRD-8900767

Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.61. *Application to be Clear and Legible.* The application must be in English. All documents must be clear and legible, written with black ink on white paper, so that clear microfilm copies may be made. The application should be written on only one side of the paper. The trademark office prefers that applicants use the secretary of state's prescribed form.

§93.62. *Application to be Signed and Sworn to by Applicant.* The applicant or his agent must sign and verify (swear to the truth of) the application. A corporate officer should sign and verify an application made by a corporate applicant.

§93.63. *Requirements for Application.* The applicant shall include in the application the following:

- (1) the name of the applicant;
- (2) the business address of the applicant;
- (3) the state of incorporation of the applicant if the applicant is a corporation;
- (4) a narrative description of the mark;
- (5) a description of the goods or services in connection with which the mark is being used;
- (6) the manner in which the mark is being used in connection with the goods or services;
- (7) the class in which the applicant believes the goods or services belong;
- (8) the date on which the applicant first used the mark anywhere in connection with goods or services;
- (9) the date on which the applicant first used the mark in Texas in connection with goods or services;
- (10) an appointment of the sec-

retary of state as the applicant's agent for service of process only in suits relating to the registration which may be issued if the applicant:

(A) is or becomes:

(i) a nonresident individual, partnership, or association; or

(ii) a foreign corporation without a certificate of authority to transact business in this state; or

(B) cannot be found in this state;

(11) a statement that the applicant believes he is the owner of the mark and that, to the best of his knowledge, no other person is entitled to use the mark in this state:

(A) in the identical form used by the applicant; or

(B) in a form that is likely, when used in connection with the goods or services, to cause confusion or mistake, or to deceive, because of its resemblance to the mark used by the applicant.

§93.64. Description of Mark.

(a) The application must include a description of the mark. If the mark is displayed in color or a color combination, and if color is considered to be a feature of the mark, color should be described in the application.

(b) If the mark consists of words and design or design only, a description of the mark shall include a categorization of the design by numeric code as used by the United States Patent and Trademark office. If the applicant does not include a numeric design code, the secretary of state will assign one.

§93.65. Identification of Prior Registrations. Prior registrations of the same or similar marks owned by the applicant should be identified in the application.

§93.66. Use by Predecessor or by Related Companies.

(a) An applicant may assert a date of first use by a predecessor in title, or by a related company, if the use inures to the benefit of the applicant. The application must include a statement that the first use was by the predecessor in title or by the related company.

(b) If the applicant is not using the mark, but one or more related companies are using the mark, and their use inures to the benefit of the applicant, the application must indicate this fact.

(c) The trademark office may inquire into the relationship and may require appropriate evidence showing that the use by related companies inures to the benefit of the applicant.

§93.67. Proof of Distinctiveness.

(a) An applicant may seek registration of a mark otherwise unregistrable by reason of Texas Business and Commerce Code, §16.08(a)(5)(A) (B), or (C) which the applicant believes has become distinctive as applied to the applicant's goods or services. To support the claim of distinctiveness the applicant may submit sworn affidavits, depositions, or other evidence showing duration, extent, and nature of use of the mark. The applicant also may submit evidence of advertising expenditures made in connection with the mark; the evidence should identify the types of media and should include typical advertisements. Additional evidence may include affidavits, letters, or statements from the trade or public.

(b) An applicant may seek registration of a mark otherwise unregistrable by reason of Texas Business and Commerce Code, §16.08(a)(5)(A) (B), or (C) which the applicant believes has become distinctive of the applicant's goods or services because of the applicant's substantially exclusive and continuous use for the five years preceding the date on which the applicant filed its application for registration. Sworn statements in the application may, in appropriate cases, be accepted as prima facie evidence of distinctiveness. The trademark office, however, may require further evidence.

§93.68. Service Mark. In an application to register a service mark, the application shall specify and contain all the elements required by the preceding sections for trademarks, but shall be modified to relate to services instead of to goods wherever necessary.

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 January 23, 1989.

TRD-8900759

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Drawing

• 1 TAC §93.81, §93.82

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Office of the Secretary of State or in the Texas

Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.81. Drawing Required.

§93.82. Requirements for Drawings.

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 January 23, 1989.

TRD-8900768

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §93.81, §93.82

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.81. Drawing Required.

(a) The drawing shall be a substantially exact representation of the trademark as actually used on or in connection with the goods.

(b) The drawing of a service mark shall be a substantially exact representation of the mark as used in the sale or advertising of the services. If the mark cannot be represented by a drawing, the application must contain an adequate representation of the mark.

(c) If the application is for the registration of a word, letter, or numeral, or any combination thereof, not depicted in special form, the drawing shall be the mark typed in capital letters.

§93.82. Requirements for Drawings.

(a) Drawings must be clear and legible, written with black ink on white paper, so that clear microfilm copies can be made.

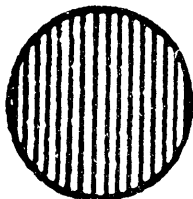
(b) The drawing sheet should be no larger than 8 1/2 inches by 11 inches.

(c) The drawing sheet should contain a heading listing the applicant's name, the applicant's post office address, the dates of first use, and the goods or services de-

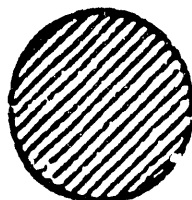
scribed in the application.

(d) Where color is a feature of a mark, the color or colors shall be designated by the linings accepted by the United States Patent and Trademark Office. Those linings are shown in the following color chart:

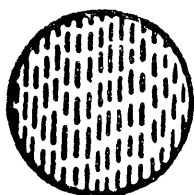
**RED OR
PINK**



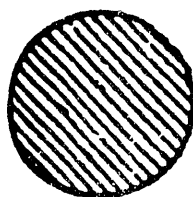
BROWN



**VIOLET OR
PURPLE**



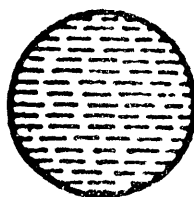
GREEN



BLUE



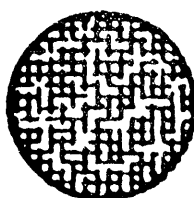
**GRAY OR
SILVER**

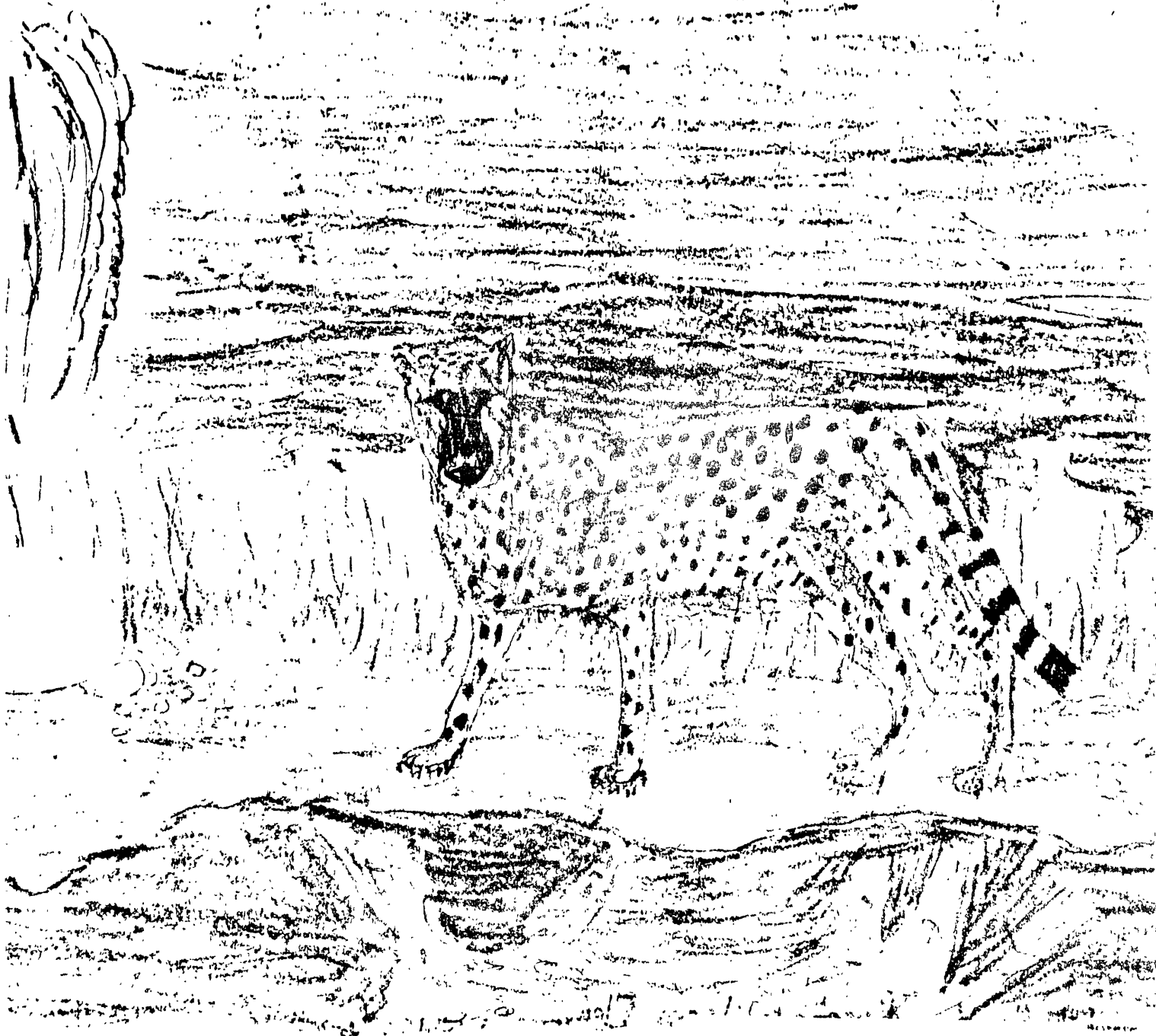


ORANGE



**YELLOW OR
GOLD**





Name: Elizabeth Ashdown

Grade: 6

School: Roscoe Wilson Elementary, Lubbock

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

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TRD-8900758

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Specimens

• 1 TAC §§93.91-93.93

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.91. Inclusion in Application.

§93.92. Facsimiles.

§93.93. Specimens or Facsimiles in the Case of a Service Mark.

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

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TRD-8900769

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
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Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §§93.91-93.94

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.91. Inclusion in Application. The application must include two specimens of the trademark or service mark as it is used in Texas.

§93.92. Specimens in the Case of a Trademark.

(a) The specimens for a trademark shall be labels, tags, containers, or displays associated with the goods.

(b) In the case of goods for which the mark is applied by means of stamp impression or stencil, the specimen may be a representation or impression of the stamp or stencil on a piece of paper.

§93.93. Specimens in the Case of a Service Mark.

(a) An application for registration of a service mark should include specimens of the mark as used in the sale or advertising of the services.

(b) In the case of service marks not used in printed or written form, the secretary of state may accept conventional audio or video recordings.

§93.94. Facsimiles. When the manner of use of the trademark or service mark prevents the applicant from providing specimens, the applicant may provide two copies of a suitable photograph. The photograph should be no larger than 8 1/2 inches by 11 inches. The photograph should clearly show the mark and the item on which it is used. Black and white matte finish photographs are most suitable for permanent microfilm reproduction.

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

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Lorna Wassdorf
Special Assistant, Statutory
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Office of the Secretary of
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For further information, please call: (512) 463-5586

Classification

• 1 TAC §§93.101-93.103

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.101. Classification of Goods and Services

§93.102. Single Application Coverage.

§93.103. Combined Applications.

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 January 23, 1989.

TRD-8900770

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §93.101, §93.102

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Business and Commerce Code Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.101. Classification of Goods and Services.

(a) In accordance with Texas Business and Commerce Code, §16.09(d), the trademark office uses the international classification of goods and services used by the United States Patent and Trademark Office. That classification is set forth in this section. The classification shall not limit or extend an applicant's rights.

(b) The classes of goods and services are as follows:

(1) chemicals used in industry, science, and photography, as well as in agriculture, horticulture, and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry;

(2) paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers, and arts;

(3) bleaching preparations and other substances for laundry use; cleaning, polishing, scouring, and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices;

(4) industrial oils and greases; lubricants; dust absorbing, wetting and

binding compositions; fuels (including motor spirit) and illuminants; candles, wicks;

(5) pharmaceutical, veterinary, and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides;

(6) common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores;

(7) machines and machine tools; motors (except for land vehicles); machine coupling and belting (except for land vehicles); agricultural implements; incubators for eggs;

(8) hand tools and implements (hand operated); cutlery, forks, and spoons; side arms; razors;

(9) scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, and data processing equipment; fire-extinguishing apparatus; computer software and hardware;

(10) surgical, medical, dental, and veterinary apparatus and instruments, artificial limbs, eyes, and teeth; orthopedic articles; suture materials;

(11) apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary purposes;

(12) vehicles; apparatus for locomotion by land, air, or water;

(13) firearms; ammunition and projectiles; explosives; fireworks;

(14) precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments;

(15) musical instruments;

(16) paper, cardboard and goods made from these materials, not included in other classes; printed matter, bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing

cards; printers' type; printing blocks;

(17) rubber, gutta-percha, gum, asbestos, mica, and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal;

(18) leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks, and traveling bags; umbrellas, parasols, and walking sticks; whips, harness, and saddlery;

(19) building materials (nonmetallic); nonmetallic rigid pipes for building; asphalt, pitch, and bitumen; nonmetallic transportable buildings; monuments, not of metal,

(20) furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, and substitutes for all these materials, or of plastics;

(21) household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain, and earthenware not included in other classes;

(22) ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials;

(23) yarns and threads, for textile use;

(24) textiles and textile goods, not included in other classes; bed and table covers;

(25) clothing, footwear, headgear;

(26) lace and embroidery, ribbons and braid; buttons, hooks, and eyes, pins and needles; artificial flowers;

(27) carpets, rugs, mats, and matting, linoleum and other materials for covering existing floors; wall hangings (nontextile);

(28) games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees;

(29) meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and milk products; edible oils and fats; salad dressings; preserves;

(30) coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry, and confectionery, ices; honey, trea-

cle; yeast, baking-powder; salt, mustard; vinegar, sauces (except salad dressings); spices; ice;

(31) agricultural, horticultural, and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt;

(32) beers; mineral and aerated waters and other nonalcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages;

(33) alcoholic beverages (except beers);

(34) tobacco; smokers' articles; matches;

(35) advertising and business: advertising agencies; accounting, employment agencies; mail, commercial, and newspaper advertising; printing; telephone answering; promotional activities; data processing;

(36) insurance and financial: Bond and stock brokerages; real estate management, appraisal, brokerage and leasing; banking, credit; pawn brokers, bonding agents, insurance underwriters;

(37) construction and repair: Of highways, buildings, or machinery; custom tailoring, dry cleaning and laundry; electrical service; project inspection; interior decoration; tool and equipment maintenance; painting; pest control; jewelry repair; janitorial service; rental of construction equipment; real estate planning and development;

(38) communication: Closed circuit TV; public address system; radio and television broadcasting; radio paging; telegraph or telephone service; teleprinter communication;

(39) transportation and storage: Messenger service; packing or storing of goods and transport thereof; rental of vehicles; taxicab and transport service; travel agencies;

(40) material treatment: Dyeing; eyeglass grinding; machining and casting, metal plating, soldering; photofinishing; textile fabric finishing; weed control by chemical treatment;

(41) education and entertainment: Collecting historical study material, conducting study courses; piano lessons; dancing lessons; horse shows; ice skating exhibitions; museum displays, lectures, demonstrations; production or performance, or both, of plays, concerts, etc.; radio and television programs; rental of books; rental of video cassettes and equipment; and

(42) miscellaneous: Includes all services not otherwise classified. Retail store services; computer services, programming, time sharing, engineering of hardware; detective agencies; drafting; funeral establishments; hotels, motels, restaurants,

catering; laboratory or psychological testing; professional research, planning, development, or consultation; beauticians; photography; charitable organizations; trade associations; utility suppliers. Services of renting or inspecting specific goods are classified according to where the goods are most likely to be in use, e.g.: rental of vehicles (class 39).

§93.102. Single Application Coverage.

An application may state that the mark is in use with any number of goods or services contained within one class. The application must identify each of the goods or services. The mark must be in use with each of the goods or services. A separate application will be required for each class sought for registration.

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 January 23, 1989.

TRD-8900756

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

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For further information, please call: (512) 463-5586

Examination of an Applicant and Action by Applicants

• 1 TAC §§93.111-93.116

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.111. Action by Examiner.

§93.112. Period for Response.

§93.113. Reexamination.

§93.114. Final Action.

§93.115. Abandonment.

§93.116. Express Abandonment.

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 January 23, 1989.

TRD-8900771

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
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Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §§93.111-93.117

The new sections are proposed under Texas Civil Statutes Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.111. Action by Examiner.

(a) A trademark examiner will examine applications for registration. The applicant will be notified in writing of any formal requirements or objections to the application for registration.

(b) An examiner may require the applicant to furnish any information and exhibits reasonably necessary to the proper examination of the application.

§93.112. Period for Response. A written response must be received by the trademark office within sixty days from the date of mailing of any action by an examiner. The response may be made with or without amendment and should include proper action by the applicant as the nature of the action and the case may require.

§93.113. Suspension of Action by the Trademark Office.

(a) Upon written request of the applicant, the trademark office may suspend action for a period of up to six months if a proceeding is pending before the United States Patent and Trademark Office or a court which is relevant to the issue of registrability of the applicant's mark. An applicant's written request for a suspension of action under this section filed within the 60 day response period may be considered responsive to an examiner's action.

(b) The request should include the following information:

(1) an identification of the application;

(2) a statement that the applicant requests suspension of trademark office action;

(3) an identification of the pending proceeding including the name of the court, file name, and cause number; and

(4) a brief statement of the relevance of the pending proceeding to the application before the trademark office.

(c) No later than upon request for suspension, the applicant should address all trademark office objections other than that on which the suspension is based.

(d) The trademark office shall send written notice of the acceptance or rejection of the request to the applicant. If the office accepts the request, the office shall make appropriate notations on the application file.

(e) The applicant shall notify the trademark office within 20 days of the resolution of any proceeding.

(f) If the proceeding remains pending at the end of the initial or any subsequent suspension period, the applicant shall provide written notice of this fact to the trademark office. The trademark office may suspend action for an additional period of up to six months. If the applicant does not provide notice by the end of the initial or any subsequent suspension period, the application will be deemed abandoned.

§93.114. Reexamination. After response by the applicant, an examiner will reexamine or reconsider the application. If the application is again refused registration, and if the refusal is not stated to be final, the applicant may respond again.

§93.115. Final Action. When a refusal of registration is stated to be a final action, the applicant's response is limited to an appeal pursuant to Texas Business and Commerce Code, §16.24.

§93.116. Abandonment. If within 60 days of the date of mailing an action, an applicant fails to respond or fails to respond completely, the application will be deemed abandoned.

§93.117. Express Abandonment. An applicant may abandon an application by executing and filing a written abandonment with the trademark office.

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 January 23, 1989

TRD-8900771

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Amendments

• 1 TAC §§93.131-93.134

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.131. Amendments to Application.

§93.132. Amendments to Description or Drawing.

§93.133. Form of Amendment.

§93.134. Disclaimer by Amendment.

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 January 23, 1989.

TRD-8900772 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC §§93.131-93.134

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.131. Amendments to Application.

(a) The application may be amended to correct informalities, or to avoid objections made by the trademark office, or for other reasons arising in the course of examination. Amendments to the dates of use are made only by sworn affidavit; an examiner may require additional evidence.

(b) Additions to the specified goods or services will not be permitted unless the mark was in actual use on all of the proposed additional goods or services at the time the application was filed. The examiner may require additional specimens (or facsimiles) and a supplemental sworn affidavit by the applicant.

(c) An applicant may not amend a verification or declaration. A substitute or supplemental verification must be filed to correct a faulty or defective verification.

(d) An examiner may require the submission of a new application and filing fee when proposed amendments substantially change the nature of the mark.

§93.132. Amendments to Description or Drawing. The trademark office will permit amendments to the description or drawing of the mark only if warranted by the specimens or facsimiles as originally filed. Amendments to the description or drawing supported by additional specimens may require a sworn affidavit alleging that the mark shown in the amended drawing was in actual use prior to the filing date of the application.

§93.133. Form of Amendment.

(a) In every amendment the applicant must indicate the exact word or words to be stricken out or inserted in the application. The applicant must indicate precisely where it is inserting or deleting the words. Additions or insertions on the application must be made by the applicant, applicant's agent, or attorney.

(b) An examiner may require the applicant to rewrite the entire application if the number or nature of amendments makes it difficult to consider the application. The examiner also may require the entire application to be rewritten to clarify the record.

§93.134. Disclaimer by Amendment.

(a) An examiner may require a disclaimer of any or all descriptive words, abbreviations, names, symbols, terms, slogans, or elements of a mark otherwise registrable.

(b) An applicant may voluntarily disclaim a component of a mark sought to be registered.

(c) An applicant's failure to comply with a request for disclaimer is sufficient basis for a final action denying registration.

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 January 23, 1989.

TRD-8900754 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Allowance

• 1 TAC §§93.141, §93.142

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.141. Registration.

§93.142. Allowance of Application.

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

Issued in Austin, Texas, on January 23, 1989.

TRD-8900773 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

• 1 TAC§93.141

The new section is proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.141. Registration.

(a) If an examiner determines that all requirements have been met and the application is in condition for registration, the examiner will endorse the word "filed" and the date of filing on both the original and the copy of the application.

(b) The date of filing will be the date of receipt for examination, or the date of last receipt for reexamination. The date of filing may not be a date before the date on which the application is found to conform to law.

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 January 23, 1989

TRD-8900753 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

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For further information, please call: (512) 463-5586

◆ ◆ ◆
• 1 TAC §93.151

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

The repeal is proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.151. Issuance.

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 January 23, 1989.

TRD-8900774 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

◆ ◆ ◆
• 1 TAC §§93.151-93.154

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.151. Issuance.

(a) When an examiner has adjudged a mark registrable, a certificate will be issued. The certificate will include:

- (1) the date on which the application for registration was filed;
 - (2) the act under which the mark is registered;
 - (3) the registration number;
 - (4) an identification of the mark; and if applicable
 - (5) a statement that the registration is made pursuant to Texas Business and Commerce Code, §16.08(b).
- (b) The duplicate of the application and any amendments will be attached to and will be a part of the certificate.

§93.152. Correction of Mistake by Trademark Office.

(a) If the records of the trademark office clearly disclose a material mistake in a certificate of registration, the office may issue a corrected certificate of registration. The registrant must submit its original certificate of registration in order to obtain a corrected certificate of registration.

(b) This section also applies to certificates issued upon renewal or assignment.

§93.153. Change of Address. Upon written notification by the registrant, the trademark office shall change a registrant's business address.

§93.154. Change of Name.

(a) Written notification of a change of name of a registrant, which does not constitute a change of entity or evidence a change of ownership, should be submitted to the trademark office.

(b) A corporation which has not filed evidence of its name change with the corporations section of the Office of the Secretary of State should include a certificate from the proper filing officer in the jurisdiction of incorporation evidencing the name 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 January 23, 1989.

TRD-8900752 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

◆ ◆ ◆
Term and Renewal

• 1 TAC §§93.161-93.164

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.161. Term of Original Registrations and Renewals.

§93.162. Renewal Period.

§93.163. Requirements of Application for Renewal.

§93.164. Refusal of Renewal.

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 January 23, 1989.

TRD-8900775 Lorna Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

◆ ◆ ◆
The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.161. Term of Registrations and Renewals. Unless cancelled in accordance with the Texas Business and Commerce Code, Chapter 16 or these rules, a registration remains in force for 10 years, and may be renewed for periods of 10 years.

§93.162. Renewal Period.

(a) An application for renewal may be filed by the registrant at any time within the six months before the date of expiration of the registration period.

(b) An application for renewal cannot be accepted after the registration period has expired.

§93.163. Requirements of Application for Renewal.

(a) An application for renewal of registration must be executed no more than six months before the expiration of the registration. It must include the following items:

- (1) the registrant's sworn affidavit setting forth the goods or services recited in the registration on or in connection with which the mark is still in use in Texas;
- (2) a specimen showing current use of the mark, in duplicate; and
- (3) the filing fee.

(b) If the mark is not in use in Texas at the time of filing the application for renewal, the registrant must recite sufficient facts to show that nonuse is due to special circumstances which excuse the

nonuse and is not due to any intention to abandon the mark.

§93.164. Refusal of Renewal.

(a) If the application for renewal is incomplete or defective, the renewal will be refused. The application may be completed or amended in response to a refusal.

(b) The application for renewal will be considered abandoned unless a response to an action by an examiner is made within 60 days or before expiration of the registration period, whichever occurs first.

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 January 23, 1989.

TRD-8900783 Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Assignment of Marks

• 1 TAC §93.171

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

The repeal is proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.171. Requirements for Assignments.

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 January 23, 1989

TRD-8900776 Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

The new section is proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out

its ministerial duties under the Act.

§93.171. Requirements for Assignments.

(a) Assignments of registered marks may be recorded with the secretary of state. An assignment may be recorded if it meets the following requirements:

(1) it is a written instrument executed by the registrant (assignor);

(2) it identifies the certificate of registration by registration number and date of registration (this information may be submitted as a separate statement if it is not contained within the assignment document);

(3) it is in English or, if not in English, it is accompanied by a translation signed by the translator; and

(4) it contains the name and address of the assignee (this information may be submitted as a separate statement if it is not contained within the assignment document);

(b) The original and duplicate original or photocopy of the assignment should be submitted with the filing fee to the secretary of state.

(c) Upon compliance with provisions of this section, the original and duplicate original or photocopy will be endorsed with the words Filed for Record in the Office of the Secretary of State, State of Texas and with the date on which the assignment was filed for record. The secretary of state shall file the duplicate original or photocopy, and return the endorsed original assignment to the assignee or the assignee's representative. The secretary of state also will send the assignee a new certificate of registration issued in the assignee's name for the remainder of the mark's term or registration, or the remainder of the mark's term of renewal.

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 January 23, 1989.

TRD-8900751 Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

Cancellation of Registration

• 1 TAC §§93.181-93.183

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

The repeals are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.181. Voluntary Cancellation.

§93.182. Administrative Cancellation.

§93.183. Judicial Cancellation.

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 January 23, 1989.

TRD-8900777 Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

The new sections are proposed under Texas Civil Statutes, Article 6252-13a, §4, and the Texas Business and Commerce Code, Chapter 16, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§93.181. Voluntary Cancellation.

(a) The secretary of state may cancel a registration upon receipt of a written request for cancellation executed by the registrant. The request must include the following:

(1) the mark to be cancelled, registration number, and date registered;

(2) the name and address of the registrant; and

(3) a statement that the registrant voluntarily requests cancellation of the mark by the secretary of state.

(b) The request for cancellation should be accompanied by:

(1) the certificate of registration; or

(2) the registrant's affidavit that the certificate has been lost.

§93.182. Administrative Cancellation. The secretary of state shall cancel a registration upon:

(1) finding that the registration was in force before May 2, 1962, it is more than 10 years old, and it has not been reregistered under Texas Business and Commerce Code, §16.14(c);

(2) finding that the registration was granted under Chapter 16 and was not renewed under Texas Business and Commerce Code, §16.14(a); or

(3) upon receipt of a cancellation pursuant to §93.181 of this title (relating to Voluntary Cancellation).

§93.183. Judicial Cancellation.

(a) A registration may be cancelled by a district or appellate court. The court must render a final judgment, which has become unappealable, cancelling the registration or finding that:

(1) the registered mark has been abandoned;

(2) the registrant under Texas Business and Commerce Code, Chapter 16, or under a prior act is not the owner of the mark;

(3) the registration was granted contrary to the provisions of Texas Business and Commerce Code, Chapter 16;

(4) the registration was obtained fraudulently; or

(5) the registered mark has become incapable of serving as a mark.

(b) A cancellation shall be filed in the trademark office upon receipt of a certified copy of the final judgment transmitted by the clerk of the court.

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 January 23, 1989.

TRD-8900750 Loma Wassdorf
Special Assistant, Statutory
Filing Division
Office of the Secretary of
State

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-5586

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 17. Marketing Division

Certification of Farmers Market

• 4 TAC §§17.70-17.74

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

The Texas Department of Agriculture pro-

poses new §§17.70-17.74, concerning requirements for certification of farmers market. The new sections set the standards for certification of a farmers market, and provide an appeals process for farmers market that fail to become certified. The new sections are proposed to define the requirements necessary to become a certified farmers market.

Audrey A. Arechiga, budget analyst, has determined that there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect will be an estimated additional cost of \$203 in 1989 and; \$250 in 1990-1993.

The cost of compliance with the sections for small businesses will be associated with submitting application and Farmer's Market Association by-laws will be \$5 per application (includes postage and copy).

Farmer's market already comply with local and state health/safety standards in order to legally sell produce. TDA certification would not add to cost of compliance with those regulations. None of the items above would be affected by implementation of these rules. No difference in cost of compliance of small and large businesses.

Paula De la Fuente, marketing specialist, has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the sections will be identification for the public of markets which sell good, quality Texas goods.

Comments on the proposal may be submitted to Barbara L. Moore, Bond Counsel, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The new sections are proposed under the Agriculture Code, Texas Civil Statutes, §11.001, which provide the Texas Department of Agriculture with the authority to promulgate rules necessary and proper to carry out its program and responsibilities.

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 January 26, 1989.

TRD-8900745 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-7583

Part II. Animal Health Commission

Chapter 35. Brucellosis

Subchapter A. Eradication of Brucellosis

• 4 TAC §35.1

The Texas Animal Health Commission proposes an amendment to §35.1, concerning definitions. The definition of a herd, if adopted

as proposed, would closely parallel the definition of a herd expressed in the USDA *Uniform Methods and Rules* and would better define what comprises a herd. A herd owner would be required to furnish proof that his cattle or bison which may be situated on different premises had not been commingled with other cattle or bison. The second definition of official backtag, if adopted, is needed because the term is used several times throughout the brucellosis regulations but has not been defined. This definition refers to the backtag approved by USDA which uniquely identifies each animal numerically.

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

Mr. Hayden also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the public will be served by assuring that all cattle or bison that have been exposed to an infected group of cattle are tested and to state clearly what is meant when reference is made to official backtag. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

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

The section is proposed pursuant to the Agriculture Code, Texas Civil Statutes, Chapters 161 and 163. This statute provides the commission with authority to propose rules.

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

Herd—

(A) All animals of the same species, such as cattle or bison, grouped on one or more parts of any single premises (lot, farm, or ranch) are considered a herd;

(B) Cattle or bison on two or more geographically separated premises where animals have been interchanged or animals from the different premises have been in contact. An owner will be required to furnish proof that cattle or bison from the different premises have not been interchanged or had contact. The results of the epidemiological investigation must also show a lack of contact between animals from the different premises;

(C) All cattle or bison on common premises, such as community pastures or grazing association units are considered a herd. Other groups of animals owned by the persons involved and located on other premises are considered to be part of this herd. Contact between the animals is assumed unless the epide-

miological investigation establishes animals from the affected herd and from the specific premise have not been interchanged or had contact.

(D) Quarantined feedlots and quarantined pastures are not considered to be herds. [A herd is all cattle that are in one premise, or more than one premise and that have had interchange or contact of cattle by usual management practices during a 12-month period.]

Official backtag—A veterinary services approved identification backtag that conforms to the national uniform tagging system. It uniquely identifies each individual animal with alphanumeric identification.

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 January 19, 1989.

TRD-8900724

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

Earliest possible date of adoption: March 10, 1989

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

• 4 TAC §35.2

The Texas Animal Health Commission proposes an amendment to §35.2, concerning general requirements for testing of blood and semen; use of the particle concentration fluorescence immunoassay (PCFIA) and concentration immunoassay technology (CITE) tests; and official backtag as a means of identifying cattle at a livestock market. The amendment, if adopted as proposed, will provide for testing of semen in addition to blood tests and will detail the use of the PCFIA and CITE tests for brucellosis which are currently approved and now in use. The official backtag will be added to the requirements for identifying test-eligible cattle at a livestock market.

Bill Hayden, director of administration, 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 or small businesses as a result of enforcing or administering the section.

Mr. Hayden also has determined that the public will be served by updating the regulation to include test procedures that have been duly approved and currently used in diagnosing brucellosis. The addition of an official backtag as required identification of test-eligible cattle at a livestock market will make identification of those cattle easier thus assuring more accurate traceback of infected animals to herds of origin. There will be no economic cost from this regulation to individuals who are required to comply with this section as proposed.

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

The section is proposed pursuant to the Agriculture Code, Texas Civil Statutes Chapters 161 and 163. This statute provides the commission with authority to propose rules.

§35.2 General Requirements

(a) Testing of blood and semen.

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

(b) Classification of cattle. Cattle shall be classified by approved personnel by an evaluation of titer responses for all cattle to serological tests, or by identification of *Brucella abortus* in specimens taken from these cattle. The following serological tests may be used for classification of cattle:

(1)-(6) (No change.)

(7) Standard tube agglutination test (STT) or standard plate agglutination test (SPT). The blood or semen titers of cattle and bison tested by the STT or SPT methods are interpreted in the following ways:

Interpretation of STT and SPT Results

Test Results

Test Interpretation

				Nonvaccinated	Officially Vaccinated
	1:50	1:100	1:200		
-	-	-	-	Negative	Negative
I	-	-	-	Suspect	Negative
+	-	-	-	Suspect	Negative
+	I	-	-	Suspect	Suspect
+	+	-	-	Reactor	Suspect
+	+	I	-	Reactor	Suspect
+	+	+	+	Reactor	Reactor

(- = No Agglutination; I = Incomplete Agglutination;

+ = Complete Agglutination.)

(8) Particle concentration fluorescence immunoassay (PCFIA) test. May be used to determine the brucellosis

disease status of test-eligible cattle and bison when conducted by methods ap-

proved by USDA, APHIS, VS. Cattle and bison are classified according to the fol-

lowing ratio between the test sample and a known negative sample (SN Ratio):

SN Ratio
Greater than .60
.26 to .60
.25 or lower

Classification
Negative
Suspect
Reactor

[(8) New tests under research. Laboratory tests approved by the executive director are authorized to be used in conjunction with tests listed in this subsection for evaluation of their future usefulness in the program.]

(9) Concentration Immunoassay technology (CITE) test. Used as a supplemental test in market channels where vaccinated cattle have been disclosed by use of the card and/or BAPA tests. CITE-negative animals may be classified as suspects and the remainder of the consignment may move unrestricted CITE-positive animals will be considered as reactors and the remainder of the consignment will be considered as exposed.

(10) New tests under research. Laboratory tests approved by the executive director are authorized to be used in conjunction with tests listed in this subsection for evaluation of their future usefulness in the program.

(c)-(d) (No change)

(e) Requirements of a market test.

(1) All test-eligible cattle in each consignment to the market shall be tested. Such tested animals shall be identified by official eartag and official backtag. All cattle from the same herd shall be considered as one consignment.

(2)-(6) (No change.)

(f)-(u) (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 January 19, 1989.

TRD-8900726

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

Earliest possible date of adoption: March 10, 1989

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

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

Chapter 91. Chartering, Operations, Mergers, Liquidations

Loans

• 7 TAC §91.701

The Credit Union Department proposes an amendment to §91.701, concerning loans, both personal and real estate, to include their limitations, restrictions, and terms.

John R. Hale, commissioner, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section

Mr. Hale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that credit unions will be provided greater latitude for providing competitive loan services to officials and employees without a material diminishment of regulatory safeguards. There is no anticipated economic cost to individuals who are required to comply with the section as proposed

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461-1.01, et seq., §11.07, which provide the Credit Union Department with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.701. Loans

(a)-(g) (No change.)

(h) Loans to officials. The limitations specified under the Texas Credit Union Act, §7.05, may be increased by written board policy up to limits of \$15,000 for unsecured indebtedness and \$25,000 for secured indebtedness, plus pledged shares and deposits, provided that any loans granted pursuant to such increased limits are reported to the board of directors within 30 days of ap-

proval and the credit union's estimated solvency ratio (ESR) was 104 or greater at the time of approval and as reported in the most recent report of examination, unless waived by the commissioner.

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 January 26, 1989.

TRD-8900741

John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 837-9236

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter W. Registration of Commercial Carriers

• 16 TAC §§5.502, 5.504-5.508

The Transportation Division of the Railroad Commission of Texas proposes amendments to §§5.502 and 5.504-5.508, concerning applications for registration of commercial motor vehicles, cab cards, identification decals, cancellation of registration, implementation, temporary registration of international commercial carriers, and leasing of commercial motor vehicles. The amendments are proposed to eliminate the requirement of, and accordingly all references to, identification decals for commercial motor vehicles. The amendments will end the requirement that all commercial carriers obtain identification decals to place on the windshields of commercial motor vehicles

Jackye Greenlee, assistant director-central operations, has determined that for the first five-year period the proposed sections will be in effect, the fiscal implication for state government as a result of the proposed sections will be a reduction in costs of \$32,500 for each year 1989-1993. There will be no additional revenue to state government. There will be no fiscal implications for local governments or small businesses

Ronald D. Stutes, hearings examiner, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a reduction in state expenditures incurred in implementing the commercial motor vehicle registration requirement. There is no anticipated cost to individuals who are required to comply with the proposed sections.

Public comment is invited and may be submitted within 30 days to Ronald D. Stutes, Hearings Examiner, Legal Division, and Raymond Bennett, Director, Transportation/Gas Utilities Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

The amendments are proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §4(a)(13), which authorize the commission to register commercial motor vehicles.

§5.502. Applications for Registration of Commercial Motor Vehicles.

(a) Registration required. A commercial carrier shall not operate any commercial vehicle upon the public streets and highways of this state unless the commission has approved an application for the registration of such vehicle as prescribed by this subchapter. Each commercial carrier is responsible for the registration of all commercial motor vehicles used in its operations. A commercial carrier shall report to the commission any change in its operations prior to undertaking such changes by the filing of a supplemental application. A commercial carrier shall not operate any commercial motor vehicle without a valid cab card issued for that vehicle [or without a valid identification decal attached to the windshield of the vehicle] pursuant to §5.504 of this title (relating to Cab Cards; Identification Decals).

(b)-(g) (No change.)

(h) Supplemental equipment report. Before a commercial carrier which has commercial vehicles registered with the commission begins operating any commercial vehicle not currently registered, the carrier shall file with the commission a supplemental equipment report. The supplemental equipment report shall be accompanied by a registration fee of \$1.00 per vehicle. The director will issue a cab card with the carrier's existing registration number[, and an identification decal] for each additional unit.

(i) (No change.)

§5.504. Cab Cards; Identification Decals.

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

(g) Form of identification decal. The identification decal referred to in this section shall be in the form prescribed by the director.

(h) Use of identification decal. The

identification decal shall be attached to the inside of the windshield of the commercial motor vehicle for which it was issued, in the far left corner directly above the motor vehicle inspection sticker, if any. The identification decal shall not be used for any commercial motor vehicle except the vehicle for which it was originally issued.

(i) Conflicting state laws. If any law of the state where the commercial motor vehicle is registered, or any political subdivision thereof, prohibits the placement of the identification decal as required by subsection (h) of this section, the decal shall be placed in a permissible place on the windshield, if any. If placement of the decal on the windshield is prohibited, the decal shall be attached to the front left window of the commercial motor vehicle.

(j) Destruction of identification decal. Each commercial carrier shall destroy an identification decal immediately upon its expiration or at the time the carrier discontinues use of a commercial motor vehicle for which the identification decal has been issued. If a new commercial motor vehicle is to be substituted for the discontinued vehicle, a new identification decal may be obtained using the same procedures as for the addition of a new vehicle.

(k) Alteration of identification decal. Any erasure, alteration, or unauthorized use of an identification decal shall render it void.

(l) Replacement of identification decal. If an identification decal is lost, destroyed, mutilated, becomes illegible, or if the windshield to which it is attached is replaced, a new identification decal may be issued under the same procedures as for the addition of a new vehicle.]

§5.505. Cancellation of Registration.

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

(c) Surrender of cab cards, and cessation of operations. Upon issuance of a commission order cancelling or suspending a commercial carrier's registration under this section, the commercial carrier shall immediately return to the commission all cab cards issued to the commercial carrier[, and remove all identification decals on the carrier's vehicles.] The commercial carrier shall concurrently cease all operations of commercial motor vehicles.

§5.506. Implementation.

(a) Registration.

(1) No commercial carrier shall be required to register its commercial motor vehicles, nor shall any commercial carrier be required to have cab cards in its vehicles, [or identification decals attached to the windshields of its vehicles,] prior to April 1, 1988 [February 1, 1988]. A commercial carrier may register the vehicles which it operates any time after September 1, 1987.

(2)-(3) (No change.)

(b) Insurance.

(1) (No change.)

(2) The commission will not issue a cab card [or an identification decal] until the commercial carrier has registered the commercial motor vehicles which it operates, and has filed evidence of liability insurance.

(c) (No change.)

§5.507. Temporary Registration of International Commercial Carriers.

(a) (No change.)

(b) Alternative Systems. An international commercial carrier may meet the requirement that it must register as a commercial motor vehicle with the commission either under the provisions of §§5.501-5.506 of this title (relating to Definitions; Applications for Registration of Commercial Motor Vehicles; Liability Insurance for Commercial Carriers, Cab Cards; Identification Decals); Cancellation of Registration; and Implementation) or the provisions of subsection (c) of this section.

(c) (No change.)

§5.508. Leasing of Commercial Motor Vehicles.

(a) (No change.)

(b) Registration of commercial motor vehicles under short term lease.

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

(3) A commercial motor vehicle registered with the commission under the provisions of this subsection shall not be required to be in compliance with the requirements of §5.504 of this title (relating to Cab Cards; Identification Decals).

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

(c) Registration of substitute vehicles.

(1) A substitute vehicle operated under the provisions of this subsection shall not be required to comply with the requirements of §5.504 of this title (relating to Cab Cards; Identification Decals).

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

(d) (No change.)

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

Issued in Austin, Texas, on January 30, 1989.

TRD-8900874

Cril Payne
Assistant Director, Legal
Division
Railroad Commission of
Texas

Earliest possible date of adoption: March 10, 1989

Part IV. Texas Department of Labor and Standards

Chapter 80. Tow Trucks

• 16 TAC §50.3

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

The Texas Department of Labor and Standards proposes an amendment to §80. 3, concerning subsection (1) is being added to this section to clarify registration requirements and procedures.

Joseph L. Huertas, program manager, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Huertas 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 reduced registration costs. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Joseph L. Huertas, Program Manager, Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 6687-9b, which provide the Texas Department of Labor and Standards with the authority to adopt rules regarding minimum safety and insurance standards for the operation of tow trucks.

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 January 16, 1989.

TRD-8900783

Joseph L. Huertas
Program Manager
Texas Department of Labor
and Standards

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 463-2906

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter D. Adoptions by Reference

• 19 TAC §109.61

The Texas Education Agency proposes an amendment to §109.61, concerning the adoption by reference of the financial accounting manual for school districts and regional education service centers, Bulletin 679. The amended bulletin includes a change in procedures to allow school districts to budget and report general fund expenditures for certain debt service and capital outlay by major program areas, and a new audit requirements section that complies with general standards for government audits adopted in 1988. The bulletin also includes the addition of fund and revenue codes for federally assisted programs initiated since the last change to the bulletin, a new procedure to give guidance to school districts to account for long-term financing from dedicated tax revenues of certain non-real property, and editorial changes for clarification.

Lynn M. Moak, deputy commissioners for research and information, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. This change will result in a cost to local school districts if they have not met previous audit standards, but there is no way to estimate this cost. There may be some additional training and certification costs for auditing firms who wish to continue doing school audits, but there is no way to estimate this cost either.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the section will provide a more uniform accounting procedure for school districts statewide, resulting in more accurate data for policy-making and administrative purposes. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §11.72(a)(1) and (3), which directs the State Board of Education to adopt budgets for operation of the Foundation School Program and other programs, and to establish procedures for budgetary control, expending, auditing, and reporting on expen-

ditures within budgets adopted.

§109.61. Financial Accounting Manual.

(a) The rules for financial accounting are described in the official Central Education Agency bulletin, Financial Accounting Manual, Bulletin 679, as amended February 1989 [April 1988], which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays and Sundays, at the Central Education Agency, 1701 North Congress Avenue, Austin, Texas, 78701.

(b) (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 January 20, 1989.

TRD-8900798

W.N. Kirby
Commissioner of Education

Proposed date of adoption: February 11, 1989

For further information, please call: (512) 463-9212

TITLE 22. EXAMINING BOARDS

Part XIV. Texas Optometry Board

Chapter 279. Interpretations

• 22 TAC §279.9

The Texas Optometry Board proposes new §279.9, concerning affirmative disclosure in regard to advertising of contact lenses. This section will require that any advertising of price of contact lenses shall disclose the number of lenses to be included in the quoted price. This will eliminate misleading or deceptive advertising and the consumer will fully understand what will be received for the price quoted.

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

Ms. Ewald also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that advertising will be affirmative disclosure, eliminating misleading or deceptive advertising. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 9101 Burnet Road, Suite 214, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the

authority to promulgate procedural and substantive rules.

§279.9. Board Interpretation Number Nine. Any advertisement of price of contact lenses shall affirmatively disclose the number of lenses included for the price specified.

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 January 24, 1989.

TRD-8900743 Lois Ewald
Executive Director
Texas Optometry Board

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 835-1938

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 115. Home Health Care Agencies

Licensing and Regulation

• 25 TAC §§115.1-115.6, 115.8, 115.12-115.14, 115.17

The Texas Department of Health proposes amendments to §§115.1-115.6, 115.8, 115.12-115.14, and 115.17, concerning home health care agencies. The sections cover purpose; definitions; unregulated agency; exemptions' application and issuance of temporary license for first time applicants (unregulated facilities' new agencies, and certain relocations); inspections; conditions of annual license; license denial, suspension or revocation; home health aides' training course, duties; licensing fees; and branch offices.

The amendments concern initial license fees and screening criteria for corporate applicants. These amendments also provide clarification regarding unregulated agencies, exemptions, inspections, condition of license' license denial, suspension and revocation, home health aide training, and branch offices.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications for small businesses as a result of enforcing or administering the sections. The cost of compliance with the sections for small businesses will be the initial home health service license fee. The cost of reproduction and postage for initial corporate applicants to submit the proposed application documents will be an additional cost.

Comparing the cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the sections is based on the cost per employee. A small home health agency's cost is \$120 per employee versus a \$40 per employee for a large business. This cost is based on the

initial license fee. Initial home health agency corporate applicants will have an additional cost for reproduction and postage to submit the proposed application documents. The number of documents submitted by each corporate applicant will vary and therefore the cost cannot be determined. There will be no effect on state or local government.

Mr. Seale also has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be the license fees, screening of corporate applicants' and providing clarification to existing rules to ensure a control of the quality of home health agencies. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Nance Kerrigan, Director, Health Facility Licensure and Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245. Public comments will be accepted for 30 days after publication of the proposal in the *Texas Register*. In addition, the department will hold a public hearing Wednesday, February 22, 1989, at 9 a.m. in the auditorium, 1100 West 49th Street, Austin, Texas 78756.

The amendments are proposed under Texas Civil Statutes, Article 4447u, §4, which provide the Texas Board of Health with the authority to adopt rules covering home health care agencies; and Article 4414b, §1.05, which provide the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§115.1. Purpose.

(a) (No change.)

(b) These sections provide minimum standards for Class A and Class B home health agency licenses, [and] hospice services designation, home dialysis designation, procedures for granting, denying, suspending, and revoking a license, and requirements for home health aide training programs.

§115.2. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

Presurvey conference—A conference held with department staff and the applicant and/or his or her representative to review licensure standards and survey documents and provide consultation prior to the on-site licensure inspection.

§115.3. Unregulated Agency.

(a) (No change.)

(b) If the director has reasonable cause to believe that a person may be providing home health services without a license, the person shall be so notified in

writing by certified mail, return receipt requested, and should submit to the department the following information within 10 days of receipt of the notice: [Personnel for the Health Facility Licensure and Medicare Certification Division of the department shall schedule an appointment with the person to determine whether the person is providing home health services. If the director determines that a person may be providing home health services, the person will be notified of the determination by certified mail and will be required to submit an application for a license or a claim for exemption in accordance with these rules within 10 days of receipt of notice.]

(1) an application for a license and the appropriate license fee; or

(2) a claim for exemption in accordance with §115.4 of this title (relating to Exemptions), including any and all documentation necessary to establish that home health services are not being provided. Documentation shall include a notarized statement attesting to the fact that home health services are not provided or that a person is exempt and a statement of the type(s) of service(s) that are provided.

(c) If an application is submitted pursuant to subsection (b)(1) of this section, the application will be processed in accordance with §115.5 of this title (relating to Application and Issuance of License for First Time Applicants). [If a person refuses to cooperate in the investigation, the director shall notify the person by certified mail that provision of home health services is unlawful without a home health service license. The director may refer the case for injunctive relief to the attorney general.]

(d) If the person submits a claim for exemption, the exemption claim will be processed in accordance with §115.4 of this title (relating to Exemptions).

§115.4. Exemptions.

(a) If a person is uncertain about the application of the licensing provisions of the statute, a written claim for exemption, including all documentation supporting the exemption claim, may be submitted to the department. [When there is a question about the subject of regulation status of a person, and the person claims exemption under the statute, §6, the director shall ask the person to make a written claim to the department, citing the subsection of the statute under which exemption is claimed and including any and all documentation supporting the exemption claim.]

(b) The director shall evaluate the claim for exemption and notify the person by certified mail, return receipt requested, of the proposed decision to grant or deny the claim within 30 days following the department's receipt of the claim

for exemption. If the documentation submitted is determined to be insufficient by the director, the person shall be so notified in writing within 30 days of the department's receipt of the documentation and shall have 10 days to respond. Following receipt of the response, if any, the director shall notify the person in writing within 10 days of the proposed denial or the approval of the claim. [The director shall evaluate the information received and determine if a person is exempt. The director shall notify the person in writing upon completion of the evaluation.]

(c) If the claim for exemption is proposed to be denied, the person shall have the right to request informal reconsideration of the decision by the bureau chief. The request shall be made by written letter within 10 days of the receipt of the denial and shall include any further documentation supporting exemption.

§115.5. Application and Issuance of Temporary License for First Time Applicants (Unregulated Facilities, New Agencies, and Certain Relocations).

(a) All first-time applications for licensing [including those from unregulated operating facilities,] are applications for a temporary license. The application for a temporary license is also an application for the first annual license.

(b) Upon written request, the director shall furnish a person with an application form for a home health agency license. The applicant shall be at least 18 years of age, and shall submit to the director a separate and accurate [the] application form for each license, required documentation, and the license fee. The applicant shall apply for [either] a Class A or [a] Class B license or a Class A or Class B branch office license and indicate whether hospice service or home dialysis designation is requested. The applicant shall retain a copy of all documentation that is submitted to the director. The address provided on the application must be the address from which the agency will be operating.

[(1) If the applicant does not hold a current home health agency license, a representative of the department shall schedule a meeting with the applicant in order to inform the applicant of the standards for the operation of an agency.]

(1)(2) The applicant shall provide the name of the owner of the proposed agency [service] or a list of names of all persons who own an interest in the proposed agency [service] and a list of any businesses with which the proposed agency [service business] subcontracts and in which the owner or owners of the proposed agency [service business] hold as much as 5.0% of the ownership.

(2)(3) The applicant shall submit [with the application its organizational

structure,] a proposed [annual] budget covering the period of time of the license and a notarized [an] affidavit attesting to the following:

(A) that neither the agency nor any of its owners have [has] been adjudged insolvent or bankrupt in a state or federal court;

(B) that neither the agency nor any of its owners are parties [in a proceeding which is pending] in a state or federal court [proceeding] to [make] a [judgment of] bankruptcy or insolvency proceeding with respect to [either] the agency or any of its owners; and

(C) that the agency has the financial resources [ability] to meet its proposed [annual] budget, and to provide the services required by the statute and by the department during the term of the license.

(3) The applicant shall provide its organizational structure, a list of management personnel, and a job description of each administrative and supervisory position. The job description must contain at a minimum the job title, qualifications including education and training, job responsibilities and a plan to provide annual continuing education and training.

(4) The applicant shall provide its written plan for the orderly transfer of care of the applicant's clients and clinical records if the applicant is unable to maintain or deliver home health services under the license.

(5) The applicant shall provide a notarized statement attesting that the applicant is capable of meeting the minimum state licensing standards for the provision of home health care under the statute.

(6) If an applicant for a license, other than a renewal or a branch office license, proposes to operate an agency through a partnership, corporation, or other business entity that includes members that are not individuals or through a corporation in which any of the stock is owned by another corporation, the applicant must submit the following additional documentation with their application:

(A) a certificate of incorporation issued by the secretary of state of the State of Texas for a Texas corporation which has full authority to operate a home health agency, or a statement executed by one of the proposed directors or principal stockholders of the proposed corporation that the Texas corporation remains to be legally incorporated and the certificate of incorporation will be

forwarded to the director prior to approval of the application:

(B) each parent or health-related subsidiary of the Texas corporation which is a corporation shall submit a copy of its certificate of incorporation and bylaws. Each parent or health-related subsidiary of the Texas corporation shall submit a copy of any agreements with the Texas corporation and a narrative description of the relationship between the Texas corporation and the parent or subsidiary;

(C) a notarized affidavit from each stockholder holding at least 10% of the stock of the Texas corporation and from each parent or health-related subsidiary of the Texas corporation attesting to the following:

(i) that the affiant has not been adjudged insolvent or bankrupt in a state or federal court;

(ii) that the affiant is not a party in a state or federal court to a bankruptcy or insolvency proceeding with respect to the affiant;

(iii) that the affiant has the financial resources to meet the affiant's obligations which have arisen or which may arise due to the Texas corporation's ownership and operation of the agency; and

(iv) that the affiant, within the full extent allowed by the law, shall conduct the affairs of the Texas corporation in the best interest of the agency and the public in order to provide proper care for those to be served by the agency;

(D) a stockholder holding at least 10% of the stock of the Texas corporation shall submit a list of all health care, adult care, or mental health facilities, programs, or agencies which are or have been owned, in whole or in part; controlled, directly or indirectly, or operated by the stockholder. This list shall include the name and address, the dates of ownership, control or operation by the stockholder, and any disciplinary actions taken against the facilities, programs or agencies; and

(E) evidence of the establishment of a registered agent as required by the Texas Business Corporation Act, Texas Civil Statutes, Article 2.09, to receive service of process in Texas.

(7) Information received by the department pursuant to subsection (b) (6) of this section that relates to the competence and financial resources of the applicant is confidential and may not be disclosed to the public.

(8) The department may not approve an application containing the documentation required by subsection (b)(6) of this section unless the department is satisfied that approval is justified based on the competence, history, and financial resources of the Texas corporation, each parent or health-related subsidiary of the proposed Texas corporation, and the directors, officers, controlling persons, and principal stockholders of the Texas corporation and any parent or health-related subsidiary of the Texas corporation.

(9) If an applicant is a corporation, it shall provide a notarized certification that the tax owed to the state under the Tax Code, Texas Codes Annotated, Chapter 171, is not delinquent or that the corporation is exempt from the payment of the tax and is not subject to the Tax Code, Chapter 171.

(c) Upon receipt of the application, including the required documentation and the fee, the director shall review the material to determine whether it is complete [and substantiates compliance with standards requiring the submittal of documentation]. All documents submitted with the original application shall be certified copies and/or originals. The time periods for processing an application shall be in accordance with §113.2 of this title (relating to Time Periods for Processing and Issuing Licenses for Health Care Providers).

(d)[(1)] Once the [if the director determines that the] application is complete and correct, a presurvey conference may be [is] held at the office designated [survey office.] by the department. All applicants are required to attend a presurvey conference unless the designated survey office waives the requirement. The surveyor shall verify [verifies] compliance with the applicable provisions of this chapter [minimum standards] and recommend [recommends] that the agency be issued a temporary license[,] or that the application be denied pursuant to §115.12 of this title (relating to License Denial, Suspension, or Revocation). If the surveyor recommends issuance of a temporary license, the department will issue a temporary license within 30 days. The temporary license is valid for six months from the date of issuance [unless revoked by the department] and is not renewable. The director shall mail [send] the temporary license to the licensee. [with a cover letter which includes.] A license shall not be materially altered.

(1)[(A)] [a statement that] Continuing compliance with the minimum standards and [these rules] the provisions of this chapter for the class of license applied for is required during the temporary licensing period in order for an annual license to be issued. [;]

[(B) a statement that the law provides that a surveyor from the department will inspect the agency prior to the issuance of the first annual license; and]

(2)[(C) a statement that] The agency shall comply with §115.8 of this title (relating to Conditions of Annual License).

(e)[(2)] If the director determines that compliance with minimum standards and [these rules] the provisions of this chapter is not substantiated after [resubmission of an application,] the issuance of a temporary license, the director shall propose to deny the annual [issuance of a] license and shall notify an [the] applicant of a license denial as provided in §115.12 of this title (relating to License Denial, Suspension, or Revocation).

(f)[(d)] A department surveyor shall inspect the agency within three months after the issuance of the temporary license. All first time applicants for an annual license must be providing services to one or more patients at the time of the survey. No initial annual license shall be issued until an owner has complied with §115.6 of this title (relating to Inspections).

(g)[(e)] If an applicant decides not to continue the application process for a temporary, initial annual, or renewal of an annual license, the application may be withdrawn. If a temporary or annual license has been issued, the applicant shall return the temporary or annual license to the director with its written request to withdraw [for withdrawal]. The director shall acknowledge receipt of the request to withdraw.

§115.6. Inspections.

(a) An on-site inspection shall determine if the requirements of the statute and this chapter [standards for licensing] are being met. The department or its authorized representatives may enter the premises of a license applicant or license holder after reasonable prior notice and at reasonable times to make an inspection incidental to the issuance of a license, and at other times as it considers necessary to insure compliance with the statute and the rules adopted under the statute. Prior to an inspection, the surveyor shall notify the agency of the date and time of the visit. A standard-by-standard evaluation is required before the initial [first] annual license is issued [, and may be required if an agency has not demonstrated reasonable compliance with standards.] unless waived at the discretion of the department. At the discretion of the department, an on-site inspection may be conducted for renewal of a license or issuance of a branch office license.

(b) The department's authorized representative shall hold a conference with the person who is in charge of a

home health agency prior to commencing the on-site inspection for the purpose of explaining the nature and scope of the inspection. The department's representative shall hold a conference with the person who is in charge of the agency when the inspection is completed, and the department's representative shall identify any records that were duplicated. Any agency records that are removed from an agency shall be removed only with the consent of the agency.

(c)[(b)] After an inspection is completed, the surveyor shall submit [prepare] a compliance record to the department which contains the following:

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

(3) a plan of correction proposed by the agency and the date(s) by which correction(s) must be made; and

(4) statements that not all standards were evaluated, if applicable. [; and]

[(5) signed comments by the applicant, if requested by the applicant.]

(d)[(c)] The surveyor shall request the owner [applicant] or person in charge to sign the compliance record as an acknowledgment of receipt of a copy of the record [form] at the completion of the on-site survey. Signing the form does not indicate agreement with any part of the compliance record [description of noncompliance stated on the form]. If a person declines to sign the record [form], the surveyor shall note the declination [on the compliance form] and the name of the person in charge on the compliance record. Any written comments of the owner or person in charge concerning the compliance record shall be attached to and become a part of the record. The surveyor shall leave a copy of the compliance record [form] at the agency, and, if the person in charge is not the owner [applicant], shall mail a copy to the owner [applicant]. If at the time of inspection the person in charge declines to provide a plan of correction, the director will notify the agency by certified mail, return receipt requested, that a plan of correction shall be submitted to the agency within 30 days of receipt of the notice.

(e)[(d)] The surveyor shall prepare a summary report of each inspection and submit it to the director for evaluation and decision. If the director determines the agency is not meeting minimum standards, the director shall notify [notifies] the agency in writing of the [unmet] standards and request that the agency prepare the plan of correction necessary for compliance. If the plan of correction is not acceptable, the director will notify the applicant in writing within 10 days of receipt of the plan of correction and request that the plan of correction be resubmitted within a specified period of time, but no later than 30 days from the date of the direc-

tor's letter.

(1) If the inspection relates to [is for] the issuance of the initial [first] annual license, the agency shall come into compliance no later than 30 days prior to the expiration of the temporary license. If evidence of compliance is not provided to the department prior to expiration of the temporary license, an initial annual license shall be denied to the applicant [If the director decides to allow the temporary license to expire without issuing an annual license, the agency shall be notified of the proposed denial of the first annual license] in accordance with §115.12 of this title (relating to License Denial, Suspension, or Revocation).

(2) If the inspection is conducted in order to determine compliance with standards, the agency shall come into compliance no later than [in accordance with] the dates designated in the plan of correction. [If the agency fails to comply, the director may propose to suspend or revoke the license in accordance with §115.12 of this title (relating to License Denial, Suspension, or Revocation)].

(3) A citation of noncompliance with the provisions of the statute or this chapter (relating to Home Health Care Agencies) in a compliance record shall constitute a complaint pursuant to §115.15(b) of this title (relating to Complaints); provided, however, the correction of all deficiencies in the compliance record shall cause any investigation which may have been initiated to be closed.

(4) The department shall verify the correction of deficiencies by mail or by an on-site inspection.

§115.8. Conditions of Annual License.

(a) No license may be transferred from one person to another person. If a person is considering acquisition of a licensed agency, in order to insure continuity of patient services, the person should submit a license application at least 60 days prior to the acquisition for each place of business in accordance with §115.5 of this title (relating to Application and Issuance of Temporary License for First Time Applicants (Unregulated Facilities, New Agencies, and Certain Relocations)). The on-site inspection required by §115.5(f) of this title (relating to Application and Issuance of Temporary License for First Time Applicants (Unregulated Facilities, New Agencies, and Certain Relocations)) may be waived by the department. A temporary license issued for the newly-acquired home health agency will be effective the date the ownership was transferred. The previous license will be void on that date.

(b) No license may be transferred from one location to another without prior

approval from the department as provided in this subsection. If an agency is considering relocation, the agency shall complete and submit a form provided by the department 30 days prior to the intended relocation.

(1) A relocation shall be approved by the department for a Class A agency if the new location is within the existing service area. The department will provide written notification to the home health agency amending the annual license to reflect the new location.

(2) A relocation shall be approved by the department for a Class B agency if the new place of business is within 50 miles of the previous location. The department will provide written notification to the home health agency amending the annual license to reflect the new location.

(3) All other relocations shall require the submission of an [not be approved, and the licensee shall submit a new] application for a temporary license in accordance with §115.5 of this title (relating to Application and Issuance of Temporary License for First Time Applicants (Unregulated Facilities, New Agencies, and Certain Relocations)).

(c) An agency must notify the department in writing of any change in its telephone number within a reasonable period of time.

(d) If an agency changes the name under which it is licensed, it must notify the department within five business days after the effective date of the name change. The department shall determine if the change is a transfer under subsection (a) of this section.

(e) An agency shall implement and enforce the applicable provisions of Texas Codes Annotated, the Human Resources Code, Chapter 102 (relating to Rights of the Elderly).

(f) An [The] agency shall notify the department in writing and within a reasonable period of time of any of the following:

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

(4) cessation of operation of the agency. The annual license shall be mailed or returned to the department at the end of the day home health services were terminated [notification of termination of provision of home health services]; and

(5) if a Class A agency, any change [notification of changes] in certified status.

(g) An agency must respect the rights and privileges of other agencies and of the patients. In order to preserve the rights of the patient, the solicitation of referrals by coercion or harassment [by an

agency will be considered a violation of these rules] is prohibited.

(h) An annual license shall not be materially altered.

§115.12. License Denial, Suspension, or Revocation.

(a) The department may deny, suspend, suspend on an emergency basis, or revoke a temporary, annual, or branch office [issuing a] license to an applicant or [an] agency if the applicant or agency fails to comply with any provision of the statute or this chapter [these rules].

(b) The department may take action under subsection (a) of this section [suspend the license of an agency for one or more of the following reasons]:

(1) If a Class A agency's provider agreement under Title XVIII of the Social Security Act has been terminated by the certifying body, Health Care Financing Administration, or if the agency withdraws its certification or its request for certification [violation of the provisions of the statute or of any of the standards in these rules]; or

(2) for fraud, misrepresentation, or concealment [misstatement] of a material fact on any documents required to be submitted to the department or required to be maintained by the agency pursuant to this chapter [these rules];

[(3) commission by the agency or its personnel of a false, misleading, or deceptive act or practice as that term is defined in the Deceptive Trade Practices Consumer Protection Act, §17.46(b); and

[(4) materially altering any license issued by the department.]

(c) The department may suspend or revoke an existing valid license, or disqualify a person from receiving a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation. [The department may revoke the license of an agency for one or more of the following reasons:]

(1) In determining whether a criminal conviction directly relates to an occupation, the department shall consider: [a repeat violation within a 12-month period which resulted in a license suspension;]

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(C) the extent to which a

license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

(2) In addition to the factors that may be considered under subsection (c)(1) of this section, the department in determining the present fitness of a person who has been convicted of a crime, shall consider the provisions of Texas Civil Statutes, Article 6252-13c, §4(c)(1)-(7). [an intentional or negligent act by the agency or its employees which materially affects the health and safety of a patient;]

(d) Upon a licensee's felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision, his license shall be revoked.

(e)[(d)] If the director [of the Health Facility Licensure and Certification Division of the department] proposes to deny, suspend, or revoke a license, the director shall notify the agency by certified mail, return receipt requested, of the reasons for the proposed action and offer the agency an opportunity for a hearing. The agency must [may] request a hearing within 30 days of receipt of the notice [after the date the agency receives notice]. The request must be in writing and submitted to the Director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a; and §§1.21-1.34 [1.32] of this title (relating to Formal Hearing Procedures). If the agency does not request a hearing, in writing, within 30 days of receipt of the notice, [after receiving the notice of the proposed action,] the agency is deemed to have waived the opportunity for a hearing and the proposed action shall be taken.

(f)[(e)] The department may suspend or revoke a license to be effective immediately when the health and safety of persons are threatened. The department shall notify the agency of the emergency action by certified mail, return receipt requested, or personal delivery of the notice and [shall notify the agency] of the date of a hearing, which shall be within seven days of the effective date of the suspension or revocation. The effective date of the emergency action shall be stated in the notice. The hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.34 [1.32] of this title (relating to Formal Hear-

ing Procedures).

(g) If a person violates the licensing requirements of this Act, the department may petition the district court to restrain the person from continuing the violation.

(h) If a person operates a home health agency without a license issued under the Act, the person is liable for a civil penalty of not less than \$100 nor more than \$500 for each day of violation.

(i)[(f)] A person who has had an agency license revoked or denied under this section, may not apply for a home health agency license for one year following the date of revocation.

§115.13. Home Health Aides; Training Course; Duties.

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

(e) A request for approval of a home health aide training program shall be submitted to the director with the following documentation:

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

(5) lesson plans which include objectives, content, lab experience, homework, and teaching techniques;

(6)-(8) (No change.)

(9) If LVN instructors are used, the RN supervisor must submit:

(A) the RN's schedule of supervisory activity of LVNs and students in class and clinical settings;

(B) a checklist used for supervisory visits made for class and clinical settings;

(C) statement that lesson plans have been approved by the RN;

(D) RN's supervisory log documenting date, time spent, location, individuals contacted, activity performed, problems noted, and follow-up required; and

(E) Job description for LVN and RN.

(f) If the director proposes to disapprove a home health aide training program, the director shall notify the applicant by certified mail, return receipt requested, of the reasons for the proposed action. The applicant may request a hearing within 30 days of receipt of the requested notice [after the applicant receives notice]. The request must be in writing and submitted to the Director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A hearing shall be conducted

pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.34 [1.32] of this title (relating to Formal Hearing Procedures). If the applicant does not request a hearing in writing within 30 days after receiving notice of the proposed action, the applicant [agency] is deemed to have waived the opportunity for a hearing and the proposed action shall be taken by the department.

(g) (No change.)

§115.14. Licensing Fees.

(a) The schedule of fees for licensure as a Class A and Class B home health agency is as follows:

(1) initial license fee-\$600 [\$450];

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

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

§115.17. Branch Offices.

(a) The department may issue a branch office license to a person who holds a current Class A or Class B license. Upon written request, the director shall furnish a license holder with an application for a branch office license. The applicant shall submit a complete application and the required fee to the director in accordance with §115.5 of this title (relating to Application and Issuance of Temporary License for First Time Applicants (Unregulated Facilities, New Agencies, and Certain Relocations)). The applicant shall retain a copy of all documentation that is submitted to the director. The director will notify the designated survey office of the agency's request to establish a branch office. The designated survey office will conduct a review of the applicant's request to establish a branch office. The survey office will notify the director of its recommendation to approve or disapprove the branch office request. The department will issue the branch office an annual license, upon compliance by the agency with this section. The branch office license expires on the same expiration date as the Class A or Class B annual license and is renewed with the parent agency's annual license. The director will mail the branch office license to the licensee. A branch office license shall not be materially altered.

(b) Branch offices shall comply with the requirements of this chapter relating to the parent agency and its annual license.

(c)[(b)] A person who holds a Class A agency license who applies for a branch office license shall comply with the standards for certified agencies and branch offices of the Social Security Act and the rules adopted thereunder as required in §115.9 of this title (relating to Standards for

a Class A License).

(d)[(c)] A person who holds a Class B agency license who applies for a branch office license shall meet the following requirements for the branch office.

(1) All approved services provided by the parent agency shall be available to the area served by the branch office. A branch office location shall be no further than 50 miles from the Class B parent agency.

(2) On-site supervision will be conducted by [from] the parent agency of [to] the branch office at least monthly. More frequent supervision may be required considering the size of the service area and the scope of approved services provided by the parent agency. Supervision will be provided by the administrator and/or appropriate licensed professional personnel. The supervisory visits must be documented and include the date of the visit; the content of the consultation; the individuals in attendance; and the recommendations of the staff.

(3) (No change.)

(e)[(d)] The department shall issue to or renew a branch office license for [to] applicants who meet the requirements of this section. [A branch office license may be denied, suspended, or revoked in accordance with the provisions of §115.12 of this title (relating to License Denial, Suspension, or Revocation).

[(e) A branch office license expires on the same date as the license of the parent agency, and a branch office license may be renewed with the parent agency's annual license.

[(f) A branch office license is subject to the same conditions as the parent agency's annual license under §115.8 of this title (relating to Conditions of Annual License).

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 January 26, 1989.

TRD-8900824

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

Propose date of adoption: August 6, 1989

For further information, please call: (512) 458-7245

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 401. Systems Administration

Subchapter B. Interagency Agreements

• 25 TAC §401.49

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §401.49, concerning the adoption by reference of memorandum of understanding: community resource coordination groups for youth. Senate Bill 298 of the 70th Texas Legislature requires TDMHMR to adopt by rule the joint memorandum, which establishes a system that ensures coordination of services between agencies for multiproblem children and youth.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that there will be no fiscal cost to state or local government or small businesses as a result of administering the sections as proposed, although the agreement may require the reallocation of existing staff resources.

Mrs. Dillard also has determined that for each year of the first five years the section is in effect the public benefit anticipated is the provision of public notice concerning interagency agreements affecting services to Texas citizens. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

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

§401.49. Memorandum of Understanding: Community Resource Coordination Groups for Youth.

(a) TDMHMR adopts by reference as Exhibit F a joint memorandum of understanding with TDHS, the Texas Commission for the Blind, TDH, TEA, the Texas Juvenile Probation Commission, TRC, and the Texas Youth Commission concerning the establishment of community resource coordination groups for youth.

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

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

Issued in Austin, Texas, on January 31, 1989.

TRD-8900828

Patilou Dawkins
Chairman
Texas Board of Mental
Health and Mental
Retardation

Earliest possible date of adoption: March 10, 1989

For further information, please call: (512) 485-4670

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 1. General Administration

Subchapter C. Maintenance Taxes

• 28 TAC §1.407

The State Board of Insurance proposes new §1.407, concerning assessment of maintenance taxes for 1989. New §1.407 was adopted on an emergency basis and became effective on December 30, 1988. Notice of the emergency adoption appeared in the January 6, 1989, issue of the *Texas Register* (14 TexReg 99). The new section is necessary in order to record rates of assessment for 1989 for maintenance taxes which the Insurance Code and the Texas Health Maintenance Organization Act require the board to determine annually on various types of insurance and related activities. Timely payment of the taxes is necessary to provide adequate support for the proper functioning of administrative regulation of insurance and related activities in Texas. The new section assesses maintenance taxes for 1989 on the basis of gross premiums for calendar year 1988 or on some other statutorily designated basis. New §1.407 would set rates of assessment and would apply those rates to life insurance; motor vehicle insurance; casualty and fidelity insurance and guaranty and surety bonds; fire and allied lines insurance, including inland marine; workers' compensation insurance; title insurance; health maintenance organizations; third party administrators; and corporations issuing prepaid legal services contracts.

Susan Grotevant, deputy insurance commissioner for administrative services, has determined that, for the first five-year period that the proposed section is in effect, there will be no fiscal implications for state or local government or for small businesses as a result of enforcing or administering the section.

Mrs. Grotevant has also 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 promulgation of a rate which will facilitate the proper collection of maintenance taxes to maintain the State Board of Insurance. The anticipated economic cost to persons who are required to comply with the proposed section will be payment of the tax at the rate specified. The amount of tax will depend on the type and amount of insurance written or business done.

Comments on the proposal may be submitted

to Travis Woodland 0322, Manager of Accounting, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new section is proposed under the Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-5, and 23.08; and the Texas Health Maintenance Organization Act, §33, which provides authorization for the State Board of Insurance to assess maintenance taxes for the lines of insurance and related activities specified in the proposed section.

§1407. Assessment of Maintenance Tax, 1989.

(a) The following rates for maintenance taxes are assessed on gross premiums of insurers as delineated in this section for the calendar year 1988 for the lines of insurance specified.

(1) For motor vehicle insurance, pursuant to the Insurance Code, Article 5.12, the rate is .067 of 1.0%.

(2) For casualty and fidelity insurance, guaranty and surety bonds, pursuant to the Insurance Code, Article 5.24, the rate is .343 of 1.0%.

(3) For fire insurance and allied lines, including inland marine, pursuant to the Insurance Code, Article 5.49, the rate is .729 of 1.0%.

(4) For workers' compensation, pursuant to the Insurance Code, Article 5.68, the rate is .163 of 1.0%.

(5) For title insurance, pursuant to the Insurance Code, Article 9.46, the rate is .156 of 1.0%.

(b) The rate for the maintenance tax to be assessed on gross premiums for the calendar year 1988 for life insurance, pursuant to the Insurance Code, Article 4.17, is .032 of 1.0%.

(c) The following rates for maintenance taxes are assessed for the calendar year 1988 for the entities specified.

(1) For health maintenance organizations, pursuant to the Texas Health Maintenance Organization Act, §33, the rate is \$.98 for each enrollee.

(2) For third party administrators, pursuant to the Insurance Code, Article 21.07-5, the rate is 1.000 of 1.0% of the correctly reported gross amount of administrative or service fees.

(3) For corporation issuing prepaid legal services contracts, pursuant to the Insurance Code, Article 23.08, the rate is 1.000 of 1.0% of correctly reported gross revenues.

(d) The taxes assessed under subsection (a) of this section shall be due and payable to the State Board of Insurance as follows: 50% on March 1, 1989, or on the date upon which the annual statement for such insurer is required to be filed during 1989 with the State Board of Insurance; and

50% on September 15, 1989. This subsection shall not apply to those insurers whose maintenance tax liability for the previous tax year was less than \$2,000 on each of the lines of insurance specified in the Insurance Code, Article 5.12, 5.24, 5.49, 5.68, and 9.46. Insurers not qualified to remit maintenance taxes on a semiannual basis shall remit 100% of such taxes on March 1, 1989, or on the date upon which the annual statement for such insurer is required to be filed during 1989 with the State Board of Insurance.

(e) Taxes assessed under the subsection (b) or (c) of this section shall be due and payable to the State Board of Insurance as follows: 50% on March 1, 1989, or the date upon which the annual statement for such insurer is required to be filed during 1989 with the State Board of Insurance; and 50% on September 15, 1989.

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 January 25, 1989.

TRD-8900720

Nicholas Murphy
Chief Clerk
State Board of Insurance

Proposed date of adoption: March 10, 1989

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 112. Control of Air Pollution from Sulfur Compounds

Control of Sulfuric Acid

• 31 TAC §112.42, §112.43

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

The Texas Air Control Board (TACB) proposes the repeal of §112.42, concerning calculation methods, and §112.43, concerning effective date. In concurrent action, the TACB proposes to add the text of existing §112.42, concerning calculation methods, with minor modification as a new §112.43, concerning calculation methods. Existing §112.43, concerning effective date, is proposed for repeal since a separate section to establish an effective date is no longer necessary. The text of the sections to be repealed will not be published.

Mr. Bennie Engelke, director of management and staff services, has determined that for the first five-year period the proposed section is

in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Les Montgomery, director of technical support and regulation development program, has determined that for each of the first five years the repeals as proposed are in effect the public benefit anticipated will be a clearer and more easily understood regulation. There is no anticipated economic cost to individuals as a result of the proposed repeals.

Public hearings on the proposed repeals are scheduled for the following times and places: February 8, 1989, 7 p.m., John Grey Institute Auditorium, Lamar University Campus, 8550 Florida Avenue, Beaumont; and February 9, 1989, 11 a.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed sections are available at the TACB central office and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearing. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on February 10, 1989, at the TACB central office will be included in the hearing record. Comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The repeals are proposed under Texas Civil Statutes, Article 44775, 3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§112.42. Calculation Methods.

§112.43. Effective Date.

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 January 7, 1989.

TRD-8900836

Allen Eli Ball
Executive Director
Texas Air Control Board

Proposed date of adoption: May 30, 1989

For further information, please call: (512) 451-5711, ext. 354

• 31 TAC §112.43

The Texas Air Control Board (TACB) proposes new §112.43, concerning calculation methods. The only intent of this proposal is to renumber the current §112.42, concerning calculation methods, and to make minor format changes to formulas presented for exit stack gases. No other change is proposed for the text of the new section. However, in accordance with Texas Register policy, the TACB is proposing to repeal the current §112.42, concerning calculation methods, and the current §112.43, concerning effective date.

Mr. Bennie Engelke, director of management and staff services, has determined that for the first five-year period the section as proposed is in effect, there will be no fiscal implications for state or local governments or small businesses.

Mr. Les Montgomery, director of technical support and regulation development program, has determined that for each of the first five years the section as proposed is in effect the public benefit anticipated will be a clearer and more easily understood regulation. There is no anticipated economic cost to individuals as a result of the proposal.

Public hearings on the proposed section are scheduled for the following times and places: February 8, 1989, 7 p.m., John Grey Institute Auditorium, Lamar University Campus, 8550 Florida Avenue, Beaumont; and February 9, 1989, 11 a.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed section are available at the TACB central office and at all TACB regional offices. Public comment, both oral and written, on the proposed change is invited at the hearing. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on February 10, 1989, at the TACB central office will be included in the hearing record. Comments should be sent to

the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78722.

The new section is proposed under Texas Civil Statutes, Article 44775, 3.08(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§112.43. Calculation Methods.

(a) Application. Determination of the net ground level concentration shall be performed in accordance with the procedures outlined in §112.33 of this title (relating to Calculation Methods) for hydrogen sulfide and this section for sulfuric acid (H₂SO₄).

(b) Determination of compliance with emission limits. In most cases downwind samples will suffice; however, if the sampled properties are suspected of being influenced by an upwind source of H₂SO₄, then both upwind and downwind samples will be taken. The concentration of H₂SO₄ in the downwind sample less the concentration in the upwind sample shall be used in determining whether the emissions from the property comply with the requirements of

§112.41 of this title (relating to Allowable Emissions). Calculated maximum allowable emission rates or ground level concentrations which are obtained by the method in subsection (c) of this section, may be used in determining whether a property is in compliance with the emission limits specified.

(c) Calculations of H₂SO₄ concentrations from stack samples and measurements. The maximum allowable H₂SO₄ emission rate which may be made from a stack on property to comply with the emission limit set forth in §112.41 of this title (relating to Allowable Emissions) may be calculated by Sutton's equation which has been modified to consider the critical wind speed and to correspond to a one-hour sample. Additional credit on stack emissions can be obtained if the distance from the stack to the property line is greater than 30 stack heights. Those properties with greater than 30 stack heights to the property line should contact the executive director to obtain the proper correction factor.

(1) For exit stack gas for temperature of less than 125F. The following calculations shall be used for exit stack gas for temperatures of less than 125F:

(A) The H_2SO_4 ambient air level of 80 ug/M^3 for one hour is used.

$$Q_A = 5.56 \times 10^{-4} V_s d_s^2 \left[\frac{1}{\left(\frac{d_s}{h_s} \right)^{1.29}} \right] \quad (\text{Equation 1})$$

Where:

Q_A = emission rate, lbs/hr.

V_s = stack exit velocity, ft/sec.

d_s = exit stack diameter, ft.

h_s = physical stack height, ft.

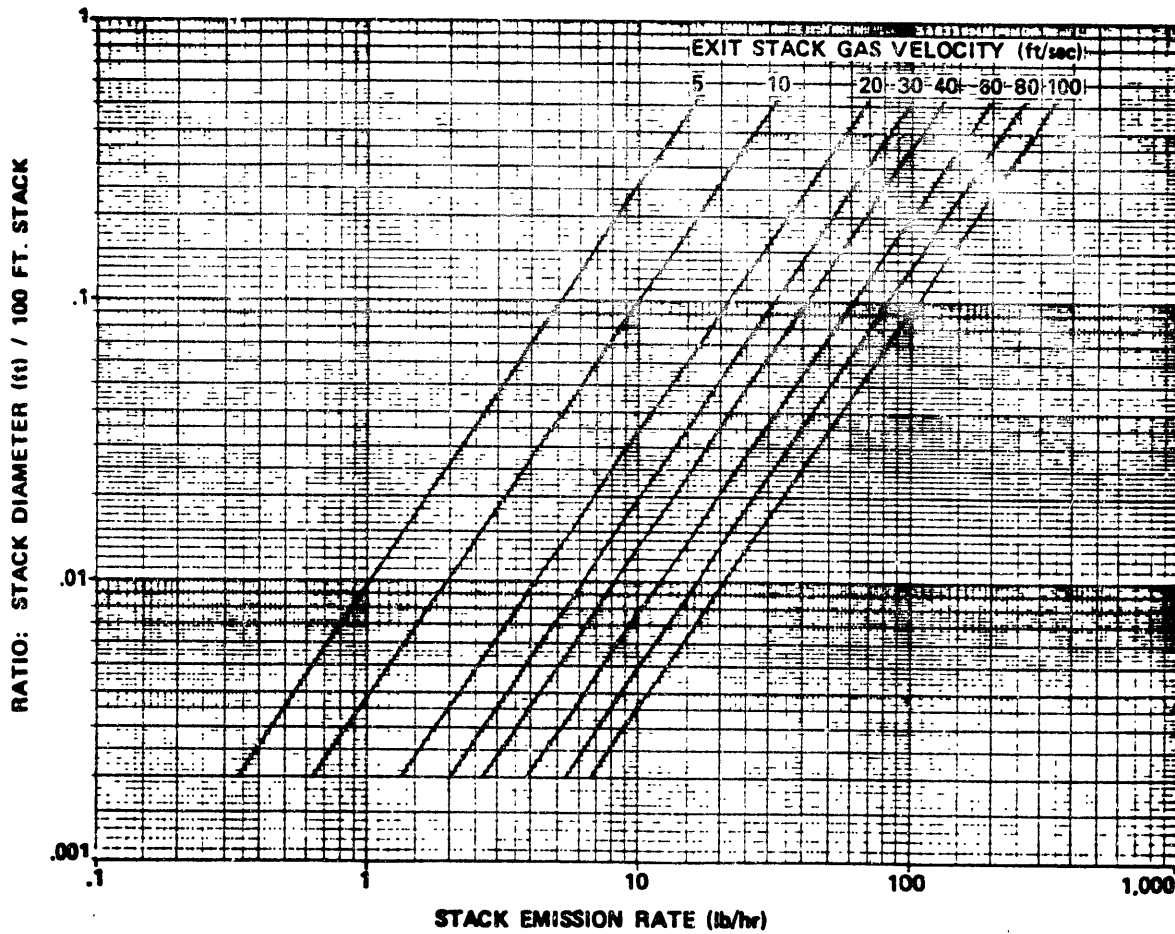
(B) To plot Graph IV, assume a basic stack height of 100 ft. and plot $\left(\frac{d_s}{100} \right)^{1.29}$

for various stack diameters versus stack velocity.

GRAPH IV

SULFURIC ACID MIST

EXIT STACK GAS TEMPERATURE LESS THAN 125°F



(2) For exit stack gas for temperature greater than 125°F. The following calculations shall be used for exit stack gas for temperatures greater than 125°F:

(A) The H_2SO_4 ambient air level of 80 ug/ M^3 for one hour is used.

$$Q_A = 12.32 \times 10^{-4} V_s d_s \left[1.5 + 0.82 d_s \left(\frac{\Delta T}{T_s} \right) \right] h_s$$

(Equation 2)

Where:

Q_A = emission rate, lbs/hr.

V_s = stack exit velocity, ft/sec.

d_s = exit stack diameter, ft.

h_s = physical stack height, ft.

ΔT = temperature difference between stack gas and the outdoor atmosphere in °Rankine (°R).

An outdoor temperature of 90°F (550°R) is assumed in preparing dispersion graphs.

T_s = stack exit temperature in °R.

(B) To plot Graph V, assume a basic stack height of 100 feet and an exit velocity of 20 feet per second. Let stack gas temperature vary with stack diameter.

(3) Examples. The following are examples of stack emission calculations:

(A) Example 1. (Temperature of stack gas less than 125F) How many pounds per hour of H₂SO₄ can be discharged from a 200 foot stack having a four foot exit diameter (ID) and a 30 foot per second exit gas velocity? The temperature of the exit gases is 100F solution.

(i) The ratio of stack diameter to 100 feet is $4/100 = 0.04$. 100

(ii) Enter ordinate of Graph I with 0.04; go horizontally to intersection of 30 feet per second velocity curve. At this intersection, read on the abscissa 17 pounds per hour. This is the permitted value for a 100 foot stack.

(iii) Correct emissions for a 200 foot stack. Enter Graph I at 200 feet and obtain correction factor of 2.3. Thus, the emissions become $17 \times 2.3 = 39$ pounds per hour.

(B) Example 2. (Temperature of stack gas greater than 125F.) How many pounds per hour of H₂SO₄ can be discharged from a 200 foot stack having a four foot exit diameter (ID) and a 30 foot

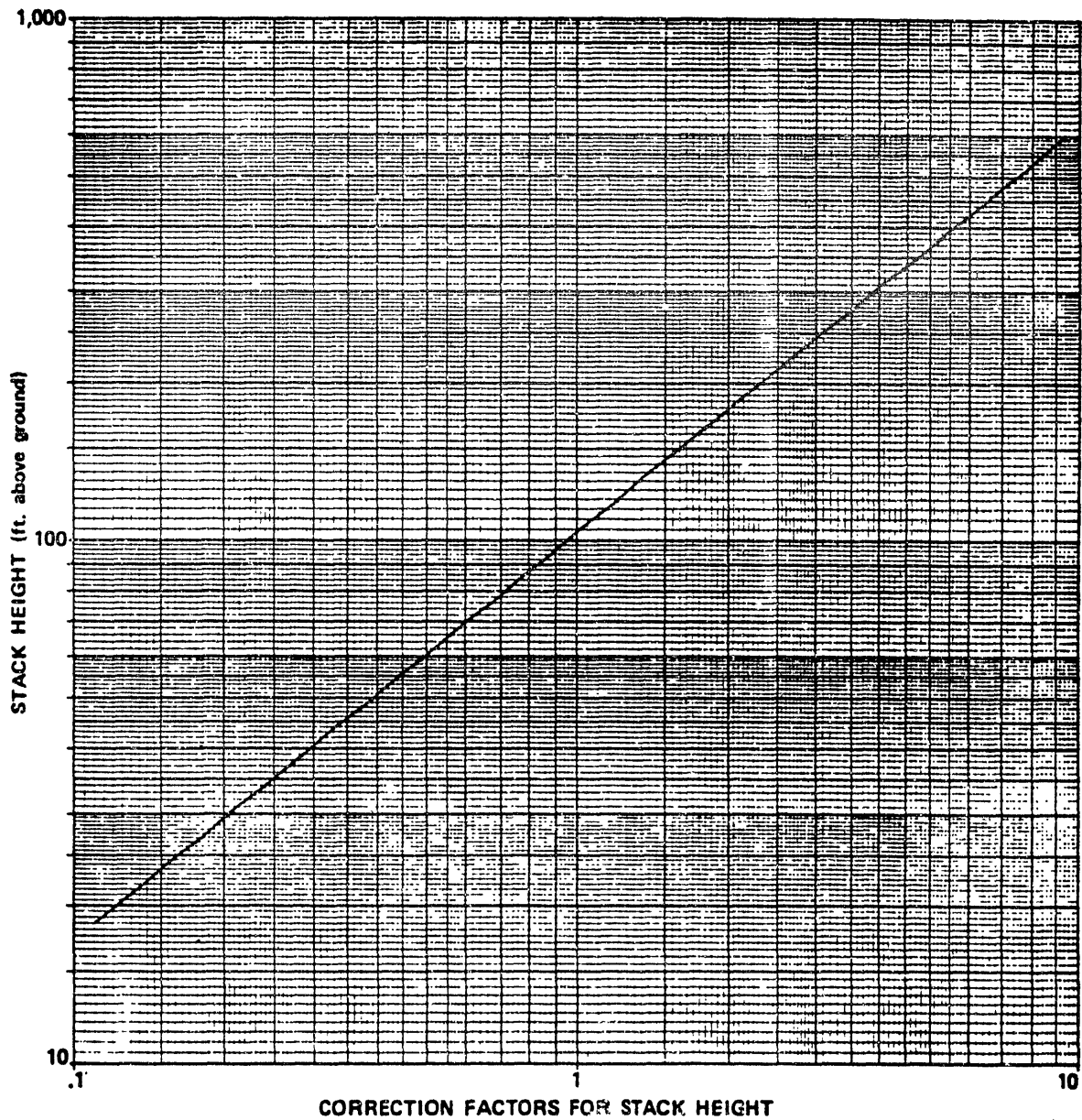
per second exit gas velocity? The temperature of the exit gases is 400F. Solution.

(i) Enter ordinate of Graph V with 400; go horizontally to intersection of four feet diameter and read on abscissa 26 pounds per hour emission. This is the permitted value for a 100 foot stack and exit velocity of 20 feet per second.

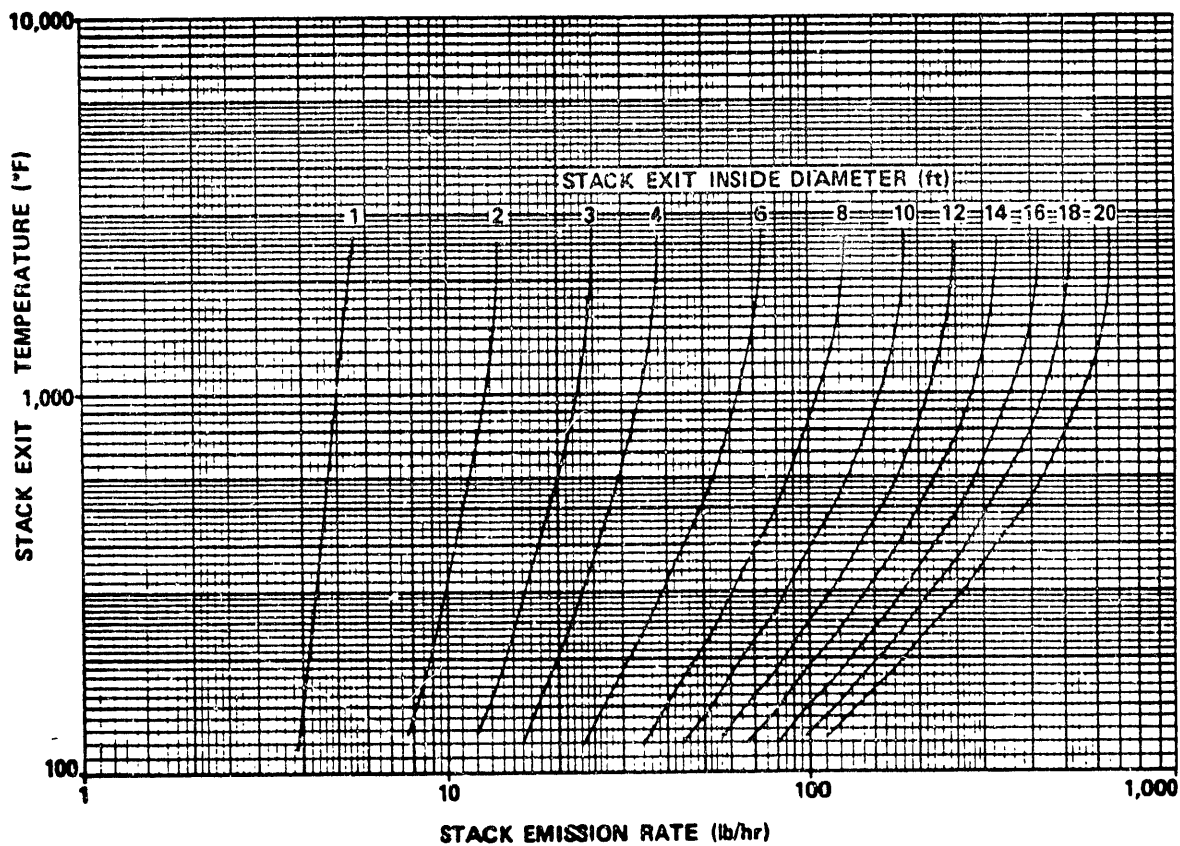
(ii) Correct for stack height. Thus, $200/100 = 2$. We now have $26 \times 2 = 52$ pounds per hour.

(iii) Correct for stack exit velocity of 30 feet per second. This is a direct ratio and becomes $30 = 1.5$. 20 The emission now is $52 \times 1.5 = 78$ pounds per hour.

GRAPH I
CORRECTION FACTORS
STACK GAS TEMPERATURE EQUAL OR LESS THAN 125°F



GRAPH V
SULFURIC ACID MIST
EXIT TEMPERATURE GREATER THAN 125°F



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 January 27, 1989.

TRD-8900835

Allen Eli Boll
Executive Director
Texas Air Control Board

Proposed date of adoption: May 30, 1989

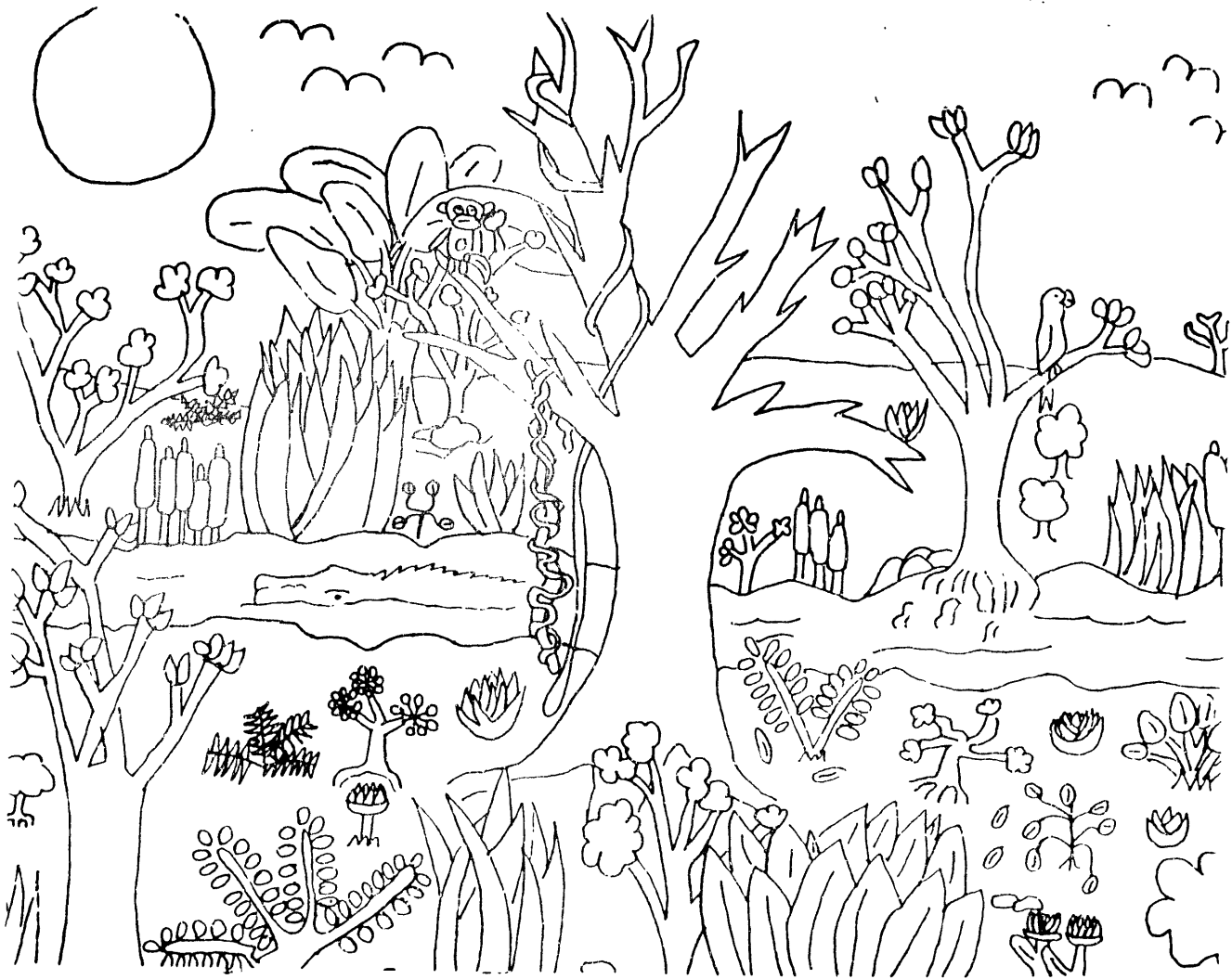
For further information, please call: (512)
451-5711, ext. 354



Name: Carly Moore

Grade: 5

School: Bedford Heights Elementary,
Hurst-Euless-Bedford



Name: Nikki Spiers

Grade: 5

School: Bedford Heights Elementary,
Hurst-Euless-Bedford

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 4. AGRICULTURE Part II. Animal Health Commission

Chapter 35. Brucellosis

Subchapter A. Eradication of Brucellosis

• 4 TAC §35.2

The Texas Animal Health Commission adopts an amendment to §35.2, without changes to the proposed text as published in the October 11, 1988, issue of the *Texas Register* (13 TexReg 5033).

The amendment was necessary for the agency to have authority to require a slaughter plant to keep license plate numbers of vehicles delivering cattle to slaughter.

The amendment states that a slaughter plant is required to record the license tag number of a vehicle delivering cattle to slaughter on slaughter records if the cattle are delivered by someone rather than the slaughterer or slaughterer's agent.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Agriculture Code, Texas Civil Statutes, Chapters 161 and 163, which provide the commission with authority to adopt rules and sets forth the duties of the commission to protect domestic animals in the state from disease.

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 January 15, 1989

TRD-8900725 John W. Holcombe
Executive Director
Texas Animal Health
Commission

Effective date: February 16, 1989

Proposal publication date: October 11, 1988

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



TITLE 7. BANKING AND SECURITIES

Part III. State Banking Board

Chapter 31. Miscellaneous

General Rules

• 7 TAC §31.5

The State Banking Board adopts an amendment to §31.5, without changes to the proposed text as published in the October 7, 1988, issue of the *Texas Register* (13 TexReg 4939).

Adoption of the amendment will provide for continued function of the board in official meetings in the absence of the state treasurer.

Paul J. Williams, deputy treasurer, is named as a substitute member of the State Banking Board in the absence of the state treasurer.

No comments were received regarding adoption of the amendment.

The amendment to the section is adopted pursuant to Texas Civil Statutes, Article 342-115, which provide the State Banking Board with the authority to prescribe, by rule, the individual who is authorized to sit as a substitute member of the board when the state treasurer is unable to personally attend an official meeting of the State Banking Board.

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

Issued in Austin, Texas, on January 31, 1989

TRD-8900877 Ann Graham
General Counsel
Department of Banking

Effective date: February 21, 1989

Proposal publication date: October 7, 1988

For further information, please call: (512) 479-1200



Part VI. Credit Union Department

Chapter 95. Texas Share Guaranty Credit Union

General

• 7 TAC §95.6

The Credit Union Commission adopts new §95.6 without changes to the proposed text

as published in the November 8, 1988, issue of the *Texas Register* (13 TexReg 5623).

The new section provides the method for depositors, shareholders, and/or creditors of a credit union to appeal a determination that was made by the Texas Share Guaranty Credit Union while acting as either the conservator or liquidating agent of that credit union, and request relief from it.

The new section states that if the Texas Share Guaranty Credit Union, when in the role of either the conservator or liquidating agent of a credit union, makes a determination regarding the allowing or disallowing of claims, security, preference, or priority, any depositor, shareholder, and/or creditor of that credit union who disagrees with the determination, can, within 30 days of the determination, file in writing an objection to the determination, setting forth the facts and applicable law, and stating the basis for appeal and the relief sought. The Credit Union Commissioner will make the determination as to the validity of the objection to the determination and rule on the matter.

No comments were received on this section.

The new section is adopted under Texas Civil Statutes, Article 2461-1107, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

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

Issued in Austin, Texas, on January 26, 1989

TRD-8900740 John R. Hale
Commissioner
Credit Union Department

Effective date: February 16, 1989

Proposal publication date: November 8, 1988

For further information, please call: (512) 837-9236



Powers

• 7 TAC §95.101

The Credit Union Commission adopts an amendment to §95.101, with changes to the proposed text as published in the November 8, 1988, issue of the *Texas Register* (13 TexReg 5623). The changes consisted of paragraph 11 being deleted and line three of paragraph 15 being amended to add, "and this Act."

The amendment adopted will strengthen Texas Share Guaranty Credit Union's ability to work with member credit unions and will

enhance that protection which is currently being provided the savings of credit union members.

The amendment strengthens Texas Share Guaranty Credit Union's ability to carry out its responsibilities as a guarantor of the savings of credit union members, a conservator rehabilitating delinquent credit unions and/or a liquidating agent.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provides the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§95.101. Powers. The TSGCU, pursuant to the Texas Credit Union Act, §11.10(e) may, in addition to the powers contained in the Texas Credit Union Act, §§4.01, 4.02, 10.01, and 10.02:

(1) purchase, hold, lease, receive, use, encumber, sell, exchange, transfer, lend, advance, convey, assign, give, grant, transmit, hypothecate, or dispose of property or funds of any description, nature, or kind or of any interest, rights, title, or privileges therein from or to any member credit union or any corporation, association, or person, provided that any gift, grant, or transfer of a similar nature shall be made only with the approval of the commissioner;

(2) declare and pay dividends on the membership investment fund;

(3) make any type of investment authorized by law;

(4) act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, custodian, or as depository for any money paid into court for member credit unions; accept funds or money for deposit by fiduciaries, trustees, or receivers, if managing or holding funds in behalf of a member credit union; accept funds or money for deposit by building and loan associations, savings banks and trust companies or insurance companies, if the membership or the primary ownership of the institutions, associations, or companies is confined or restricted to or for the benefit of member credit unions or organizations of member credit unions, or if the institutions, associations, or companies are designed to serve or otherwise assist operations of member credit unions; act as custodian of individual retirement accounts or of pension funds of member credit unions, or as trustee under pension and profit sharing plans of member credit unions;

(5) make deposits, purchase shares, and invest in legally chartered banks, trust companies, central credit unions, central-type credit union organizations, and savings and loan associations;

(6) impress a lien on the deposits, dividends, and interest of any member

credit union to the extent of any loans made to the member credit union directly or indirectly, on which the member credit union is a surety, and for any other obligations due by the member credit union;

(7) make or issue, with the approval of the commissioner, a guarantee or other form of written assurance to the appropriate person, association, corporation, or other entity which is reasonably necessary to facilitate the sale, conveyance, assignment, transfer, or other disposition of all or any part of the property or assets of a member credit union, and otherwise assist in the merger, consolidation, conservation, suspension, or liquidation of a member credit union upon the request and under the instruction of the commissioner;

(8) advance funds, with or without interest, in accordance with agreed terms and conditions, to aid member credit unions to continue to operate and to maintain solvency or to maintain account balances with any financial institution in connection with the assumption of receivables from a member credit union, or to meet liquidity requirements;

(9) purchase from a member credit union any equitable or other interest in its assets at book value or at some other value mutually agreed upon by such member and the board of directors of the TSGCU, notwithstanding that either of such values may exceed the market value of the assets so purchased, and upon such terms and conditions as the board of directors of the TSGCU may determine, provided however that all such terms, conditions, agreements, and values are approved in writing by the commissioner;

(10) exercise any setoff or lien rights which a credit union may have when TSGCU is acting as conservator or liquidating agent for such credit union;

(11) exercise rights of subrogation to the extent of all rights the depositors or shareholders may have against such credit union to the extent of any payments made by TSGCU to the depositors or shareholders of such credit union including the right to receive the same dividends as would have been payable to the depositor or shareholder;

(12) raise any defense to the payment of a claim or an insured account which the credit union could have raised and payment of an insured account to any person by TSGCU shall discharge TSGCU to the same extent that payment to such person by the credit union would have discharged it from liability for the insured account;

(13) acquire a promissory note or other asset upon which a nonmember is liable, provided such acquisition is made, in the discretion of TSGCU, to protect an inferior lien held by TSGCU, a member of TSGCU, or a member of a member of TSGCU. Such acquisitions shall not be sub-

ject to the restrictions of §91.701 of these rules;

(14) exercise the powers granted corporations organized under the laws of this state and such other additional incidental powers not inconsistent with these sections and this act, as may be necessary to enable the TSGCU to promote and carry on effectively its purposes;

(15) no agreement which tends to diminish or defeat the right, title, or interest of the TSGCU, in any asset acquired by it, either as security for a loan or by purchase shall be valid against the TSGCU unless such agreement shall be in writing; shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union; shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of said board; and shall have been, continuously, from the time of its execution, an official record of the credit union.

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 January 25, 1989.

TRD 8900742

John R. Hale
Commissioner
Credit Union Department

Effective date: February 16, 1989

Proposal publication date: November 8, 1988

For further information, please call: (512) 837-9236

Chapter 107. Terminology

• 7 TAC §107.2

The State Securities Board adopts an amendment to §107.2, without changes to the proposed text as published in the December 9, 1988, issue of the *Texas Register* (13 TexReg 6055).

The amendment states that applicants seeking to register securities with both the board and the Securities and Exchange Commission will be appraised of which means of communication may be utilized for purposes of the Act, §7.C

The amendment defines "telephone or telegraph" for purposes of the Securities Act, §7.C

No Comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provides that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 January 25, 1989.

TRD-8900715

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: February 15, 1989

Proposal publication date: December 9, 1988

For further information, please call: (512) 474-2233

Chapter 109. Transactions Exempt from Registration

• 7 TAC §109.7

The State Securities Board adopts an amendment to §109.7, without changes to the proposed text as published in the December 9, 1988, issue of the *Texas Register* (13 TexReg 6055).

The amendment includes the Standard and Poor's Corporation Daily News Section, which makes it clear that the publication is on par with the other Standard and Poor's Corporation volumes for purposes of the exemption contained in the Securities Act, §5.0.

The amendment includes the Standard and Poor's Corporation Records Daily News Section among the board's recognized securities manuals for purposes of the exemption.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 January 25, 1989.

TRD-8900714

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: February 15, 1989

Proposal publication date: December 9, 1988

For further information, please call: (512) 474-2233

Chapter 141. Administrative Guidelines for Registration of Equipment Programs

• 7 TAC §§141.1-141.8

The State Securities Board adopts amendments to §§141.1-141.8, without changes to the proposed text as published in the December 9, 1988, issue of the *Texas Register* (13 TexReg 6056).

The amendments allow for continued uniformity with other states in applying standards for the registration of equipment programs.

The amendments reflect recent changes to the North American Securities Administrators Association, Inc. (NASAA) equipment program guidelines.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 January 25, 1989.

TRD-8900713

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: February 15, 1989

Proposal publication date: December 9, 1988

For further information, please call: (512) 474-2233

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 89. Adaptations for Special Populations

Subchapter G. Special Education

Clarification of Provisions in Federal Regulations and State Law

• 19 TAC §89.245

The Texas Education Agency adopts new §89.245, with changes to the proposed text as published in the September 29, 1988, issue of the *Texas Register* (13 TexReg 4842). The new section concerns the adoption by reference of a memorandum of understanding on coordination of services to disabled persons among the agency, the Texas Department of Human Services, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, the Texas Commission for the Blind, and the Texas Commission for the Deaf.

The memorandum clarifies the financial and service responsibilities of each agency in relation to disabled persons and addresses how each agency shares data relating to services delivered to disabled persons. The text of the adopted memorandum is identical to what the Texas Department of Human Services published as adopted rules 40 TAC §§72.201-72.210, in the January 6, 1989, issue of the *Texas Register* (14 TexReg 115).

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §22.011, requiring the Texas Education Agency, the Texas Department of Human Services, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, the Texas Commission for the Blind, and the Texas Commission for the Deaf to adopt by rule a memorandum of understanding to facilitate the coordination of services to disabled persons.

§89.245. Memorandum of Understanding on Coordination of Services to Disabled Persons. Clarification of financial and service responsibilities of the Texas Department of Human Services, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Commission for the Deaf, and the Central Education Agency related to disabled persons are contained in the Memorandum of Understanding on Coordination of Services to Disabled Persons, which is adopted by reference as a rule of the Central Education Agency. The complete text of the memorandum of understanding may be found in the rules of the Texas Department of Human Services, Title 40, Chapter 72 (Memorandum of Understanding Concerning Coordination of Services to Disabled Persons). A copy of the memorandum of understanding is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

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 January 26, 1989.

TRD-8900761

W. N. Kirby
Commissioner of Education

Effective date: February 16, 1989

Proposal publication date: September 29, 1988

For further information, please call: (512) 463-9212

Chapter 121. Public School Finance-Personnel

Subchapter C. Years of Service for Salary Increment Purposes

• 19 TAC §121.32

The Texas Education Agency adopts an amendment to §121.32, without changes to the proposed text as published in the October 21, 1988, issue of the *Texas Register* (13 TexReg 5309). The amendment changes the

method of calculating full-time equivalent days for all employment of less than 100% of the day. Since districts are not expected to compensate retroactively individuals affected by the change, the revised method is effective beginning with the 1988-1989 school year.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program.

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

Issued in Austin, Texas, on January 19, 1989.

TRD-8900780 W. N. Kirby
Commissioner of Education

Effective date: February 16, 1989

Proposal publication date: October 21, 1988

For further information, please call: (512) 463-9212

TITLE 22. EXAMINING BOARDS

Part XIV. Texas Optometry Board

Chapter 279. Interpretations

• 22 TAC §279.5

The Texas Optometry Board adopts an amendment to §279.5, without changes to the proposed text as published in the November 11, 1988, issue of the *Texas Register* (13 TexReg 5671).

The amendment informs optometrists and their office assistants of the specific acts of basic competency that may be performed by each, incorporating acts associated with high-tech equipment used in the examination process.

The amendment identifies specifically those acts to be performed by the doctor and those permitted to be performed by the assistant.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4552, §214, which provide the Texas Optometry board with the authority to promulgate procedural and substantive rules.

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 January 24, 1989

TRD-8900744 Lois Ewald
Executive Director
Texas Optometry Board

Effective date: February 16, 1989

Proposal publication date: November 11, 1988

For further information, please call: (512) 835-1938

TITLE 28. INSURANCE

Part II. Industrial Accident Board

Chapter 42. Medical Benefits

Subchapter D. Dispute Resolution

• 28 TAC §§42.307-42.309

The Industrial Accident Board adopts new §§42.307-42.309. New §42.309 is adopted with changes to the proposed text as published in the December 16, 1988, issue of the *Texas Register* (13 TexReg 6194). New §42.307 and §42.308 are adopted without changes and will not be republished.

The new sections establish procedures for requesting board review and resolution of disputes arising over medical bills for services or goods provided under the Worker's Compensation Act, and liability for payment for the review. Section 42.309(d) is changed by adding a time period to the criteria for determining whether a health care provider has overutilized the board's dispute resolution system, and is consequently liable to pay for subsequent dispute resolution services.

The new sections are added to Subchapter D, concerning dispute resolution, of Chapter 42, concerning medical benefits.

Public comment was received regarding the need to include a time period in the criteria for determining overutilization of the board's dispute resolution system. As noted, the board agreed with this recommendation, and amended the section accordingly.

Public comment was received from associate director, Department of Legislative Affairs, Texas Medical Association.

The new sections are adopted under Texas Civil Statutes, Article 8307, §4(a), which authorize the board to adopt rules necessary to administer the Workers' Compensation Act, and Article 8306, §7b, which specifically authorizes the board to adopt rules to implement the guidelines for medical fees, charges, and treatment.

§42.309. Payment for the Review.

(a) The board shall set reasonable fees for reviewing fee and utilization disputes. The board may adjust these fees periodically, as necessary.

(b) The review fee shall be paid by check or money order, payable to Industrial Accident Board.

(c) The carrier, whether requester or respondent, shall be responsible to pay for the review, unless the board has found that the provider has overutilized the board's review system.

(d) A provider shall be found to have overutilized the board's review system after three separate disputes involving the provider have been presented to the board

for review, and have been resolved by the board against the provider within a 12-month period. The board will notify a provider when such finding is made, and shall maintain a record of such findings. In all subsequent reviews of that provider's bills, the provider, whether requester or respondent, shall be responsible to pay for the review.

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 January 26, 1989.

TRD-8900785 Inez Foster
Acting Executive Director
Industrial Accident Board

Effective date: February 17, 1989

Proposal publication date: December 16, 1988

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter I. Miscellaneous Occupation Tax

• 34 TAC §3.141

The Comptroller of Public Accounts adopts the repeal of §3.141, without changes to the proposed text as published in the December 23, 1988, issue of the *Texas Register* (13 TexReg 6321).

The section is being repealed in order that a substantially revised section dealing with the same subject matter may be adopted.

The section is being repealed in order to allow for a new section which provides guidance to affected attorneys. The due date for this tax was August 1, 1988.

No comments were received regarding adoption of the repeal.

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

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

Issued in Austin, Texas, on January 27, 1989.

TRD-8900786 Bob Bullock
Comptroller of Public
Accounts

Effective date: February 17, 1989

Proposal publication date: December 23, 1988

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

The Comptroller of Public Accounts adopts new §3.141, without changes to the proposed text as published in December 23, 1988, issue of the *Texas Register* (13 TexReg 6321).

The new section detailed the various requirements concerning the tax.

The due date for this tax was August 1, 1988. This new section was proposed in order to provide guidance to affected attorneys.

No comments were received regarding adoption of the new section.

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

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 January 27, 1989.

TRD-8900787

Bob Bullock
Comptroller of Public
Accounts

Effective date: February 17, 1989

Proposal publication date: December 23, 1988

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 16. ICF/SNF

Compliance with State and Local Laws

The Texas Department of Human Services adopts an amendment to §16.1511 and new §16.1513 in its Intermediate Care Facility and Skilled Nursing Facility (ICF/SNF) chapter. The amendment to §16.1511 is adopted with changes to the proposed text as published in the September 20, 1988, issue of the *Texas Register* (13 TexReg 4675). New §16.1513 is adopted without changes to the proposed text and will not be republished.

The amendment and new section are justified to allow for additional ICF/SNF beds in areas with high occupancy rates and to provide clinical settings that enhance classroom curricula for geriatric studies for medical professionals.

The amendment will function by establishing conditions for exemption from the moratorium on contracting for Medicaid teaching-nursing facilities and by providing a procedure for requesting extension of the December 31, 1988, deadline for current facility construction, licensing, and certification.

The new section will function by establishing conditions for exemption from the moratorium on contracting for additional ICF/SNF beds in areas experiencing high occupancy rates. The new section defines the threshold at which the moratorium is to be lifted, describes the procedure for selecting contractors to provide additional beds, and sets forth the requirements contractors must meet.

The department received five written comments on the proposed amendment and new section and an additional four oral comments at its board meeting on November 17, 1988. The commenters included two individuals and representatives of the following organizations: Beverly Enterprises, Chandler Nursing Center, Health Care and Retirement Corporation, Providence Hospital, and Texas Health Care Association. A summary of the comments and the department's responses follows.

One commenter recommended that the amendment require participating hospitals to be licensed as nursing homes by the Texas Department of Health and to meet all the requirements of licensed nursing homes in order to be reimbursed as Medicaid teaching-nursing facilities. The same commenter also recommended that the amendment require each teaching-nursing home to have a five-year affiliation agreement with an accredited school or nursing program, rather than a three-year agreement. The department agrees with both recommendations and has revised the amendment accordingly.

Two commenters expressed a concern that the amendment regarding teaching nursing homes would further reduce the state's already low nursing home occupancy rates; and a third commenter suggested that the amendment would open the teaching program to fraud and abuse if it included an incentive to add new beds. The department agrees with these comments and has revised the amendment to exclude facilities that have not been in existence for at least three years before the calendar year in which they apply to participate in Medicaid as teaching-nursing facilities.

Two commenters suggested that the department establish a preliminary demonstration project either by selecting one or two facilities to serve as teaching-nursing facilities in each DHS region, or by selecting one or two facilities in each of several catchment areas to be determined through a statewide needs assessment. The department believes that implementing these suggestions would introduce unnecessary complications into the teaching-nursing facility program. Accordingly, the department is not revising the amendment in response to this comment.

One commenter suggested that DHS require each prospective teaching-nursing facility to get letters from all the nursing homes within 50 miles, indicating that they themselves do not want to participate in the program. The department believes that the suggested requirement would place an impracticable and unnecessary burden on prospective teaching-nursing facilities. The department, therefore, is not revising the amendment in response to this comment.

One commenter recommended that the amendment require clinical training in teaching-nursing homes every semester. Because training requirements are adequately

addressed in the licensing process, the department is not revising the amendment in response to this comment.

Three commenters recommended that the amendment include a procedure for granting extensions of the December 31, 1988, deadline for current facility construction, licensing, and certification. The department agrees with this recommendation and is revising the amendment to permit applications to extend the deadline for as many as 120 days. To make this revision, the department has modified two paragraphs and added a third ((d)(2)-(4)) that did not appear in the proposed amendment.

With regard to the proposed new section, one commenter recommended that DHS announce open solicitation periods, not only through the *Texas Register*, but also through direct mailings and public notices in newspapers. The department disagrees with this recommendation because the *Texas Register* is readily available to prospective nursing facility contractors. The department, accordingly, is not revising the new section in response to this comment.

One commenter recommended that the new section limit liquidated damages to \$100 per bed rather than 5.0% of the estimated total cost of the facility when the 180-day deadline for completing foundation work is not met. The same commenter also recommended that liquidated damages be waived when there is good cause for a failure to meet construction deadlines. The department, however, is unwilling to weaken its incentives for timely construction and is not revising the new section in response to these recommendations.

One commenter stated that the new section's qualifying requirements for the secondary random-selection process will prohibit many small operators from participating because they cannot afford the advance costs. The commenter recommended that the department permit applicants to meet the qualifying requirements 60 days after being chosen in the random drawing. The department acknowledges that some small operators may find it difficult to qualify in advance. However, a capacity to meet the qualifying requirements in advance is itself an indicator of a contractor's capabilities. As written, the requirements safeguard timely construction by capable contractors. The department is not revising the new section in response to this comment.

One commenter recommended that the new section permit 120-bed blocks in counties with less than 1500 certified nursing facility beds, relax the 90% occupancy threshold in some circumstances, and base the calculation of the occupancy rate on the number of actual, operating certified Medicaid beds rather than the number of existing certified Medicaid beds. The department believes that each of these recommendations would undermine the intent of the moratorium on new construction by further depressing the state's nursing home occupancy rates. Accordingly, the department is not revising the new section in response to these recommendations.

Two commenters questioned the fairness of the lottery method in the new section. They argued that the method encourages unqualified speculators to compete with actual builders and operators of nursing homes. The

department disagrees with this comment. DHS decided to use a random selection process specifically because of the method's fairness and impartiality. The department believes that the new section's qualifying requirements will ensure that applicants are in fact capable of constructing facilities. The department is not revising the new section in response to this comment.

One commenter expressed the view that the new section is unconstitutional because the legislature has not authorized DHS to impose a moratorium or operate a lottery or in any way add to or take away from the licensing law for nursing homes and certification for Medicaid contracts. The department disagrees with this comment. DHS is the state agency authorized to administer the Medicaid program and to establish conditions, consistent with federal law, for contracting with providers for Medicaid services. The department's actions have no effect on the licensing law. The department, therefore, is not revising the new section in response to this comment.

• 40 TAC §16.1511

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

§16.1511. Additional Participation Requirements.

(a) (No change.)

(b) Except as specified in subsections (c) and (d) of this section and in §16.1513 of this title (relating to Random Selection and Contracting Procedures for Adding Beds in High Occupancy Areas), DHS does not accept applications for participation from or contract for nursing facility beds with any nursing facility unless it was granted by the Texas Health Facilities Commission before September 1, 1985, a valid certificate of need (CON) or other valid order that had the effect of authorizing the operation of the facility at the bed capacity for which participation is sought.

(c) If the provider meets all criteria, DHS may exempt the following facilities from the policy stated in subsection (b) of this section:

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

(10) converted facilities contracting to operate as teaching-nursing facilities. Facilities contracting under this exemption must meet each of the applicable following criteria.

(A) The facility must have been in existence for at least three years before the first day of the calendar year in which the facility applies to participate in Medicaid as a teaching-nursing facility.

(B) A hospital or nursing facility that converts to a teaching-nursing facility must convert at least an entire wing

or distinct part for operation as a teaching facility under the Medicaid program.

(C) A hospital participating as a teaching-nursing facility must be licensed by the Texas Department of Health as a nursing facility and must meet all the requirements of a licensed nursing facility.

(D) The facility must provide DHS with acceptable written documentation that it has entered into an affiliation agreement of at least five years' duration with a school offering an accredited family practice residency program and/or an accredited nursing program for registered or vocational nurses or both. The school must offer classroom training on its own campus or on the campus of an accredited college or university of which it is a part, and the curriculum must include a geriatric component. At the end of the five-year period, the facility may continue or discontinue the affiliation agreement at its own discretion.

(E) During the first year of the initial Medicaid contract for beds under this exemption, the department will not accept a change in the facility's ownership unless the new owner operates the facility under the same terms and conditions that existed at the time the exemption was granted. After the first year, the department will accept an ownership change as long as the change does not affect continuance of the affiliation agreement between the facility and a school for the remainder of the five years specified in subparagraph (D) of this paragraph.

(d) Providers who apply for exceptions under subsections (c)(1) or (c)(8) of this section must:

(1) (No change.)

(2) provide proof that construction has begun no later than March 1, 1988, by submitting to DHS a copy of the completed notice of construction start form sent to the Texas Department of Health (TDH); and

(3) either complete facility construction requirements and be licensed and certified by TDH no later than December 31, 1988; or

(4) document in writing their request for an extension if facility construction requirements and TDH licensing and certification were not completed by December 31, 1988. DHS grants extensions of as many as 120 days based on each provider's documentation provided in compliance with the department's notice.

(e)-(g) (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 January 31, 1989.

TRD-8900884

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 1, 1989.

Proposal publication date: September 20, 1988.

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

• 40 TAC §16.1513

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

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

Issued in Austin, Texas, on January 31, 1989.

TRD-8900885

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 1, 1989.

Proposal publication date: September 20, 1988.

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

Chapter 29. Purchased Health Services

Subchapter G. Hospital Services

• 40 TAC §29.606

The Texas Department of Human Services (DHS) adopts an amendment to §29.606 without changes to the proposed text as published in the December 23, 1988, issue of the *Texas Register* (13 TexReg 6322).

The amendment increases the minimum standard dollar amount from \$1,200 to \$1,500. The minimum standard dollar amount is applied to those hospitals whose standard dollar amount is less than the minimum.

The section will function by helping to assure the continued availability and accessibility of medically necessary inpatient hospital services for Medicaid recipients.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on January 27, 1989.

Effective date: February 17, 1989.

Proposal publication date: December 23, 1988.

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

Subchapter L. General Administration

The Texas Department of Human Services (DHS) adopts the repeal of existing §29.1109 and adopts new §29.1109, concerning coordination of Title XIX with Parts A and B of Title XVIII, in its Purchased Health Services rule chapter. The repealed section and new section are adopted effective January 1, 1989, to comply with the Medicare Catastrophic Coverage Act of 1988, §310 (Public Law 100-360). The Medicare Catastrophic Coverage Act of 1988, §301, requires states to provide Medicaid to certain Medicare beneficiaries (qualified Medicare beneficiaries) for the purpose of paying Medicare cost-sharing expenses. New §29.1109 specifies that DHS or its designee pays the Medicare Part A and B deductible and coinsurance liabilities on valid Medicare claims for qualified Medicare beneficiaries. Benefits for individuals eligible for Medicaid only as qualified Medicare beneficiaries are limited to medical assistance for Medicare deductible and coinsurance liabilities.

The adoption of the repeal and new section is justified to comply with federal requirements.

The adoption of the repeal will function by deleting obsolete material. The adoption of new §29.1109 will function by specifying DHS's responsibility for payment of Medicare deductible and coinsurance liabilities.

• 40 TAC §29.1109

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The repeal is adopted effective January 1, 1989, to comply with federal requirements.

§29.1109. Coordination of Title XIX with Parts A and B of Title XVIII.

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 January 30, 1989.

TRD-8900840

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: January 1, 1989.

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

• 40 TAC §29.1109

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The new section is adopted effective January 1, 1989, to comply with federal requirements.

§29.1109. Coordination of Title XIX with Parts A and B of Title XVIII.

(a) If a Medicaid recipient is eligible for Medicare coverage, the department or its designee pays the recipient's Medicare deductible and coinsurance liabilities as specified in this section. Payment of deductible and coinsurance liabilities is subject to the reimbursement limitations of the Texas Medical Assistance Program.

(1) For qualified Medicare beneficiaries as defined in the Social Security Act, §1905(p), the department or its designee pays the recipient's Part A and Part B deductible and coinsurance liabilities on valid Medicare claims. Benefits for individuals eligible for Medicaid only as qualified Medicare beneficiaries are limited to medical assistance for Medicare deductible and coinsurance liabilities.

(2) For individuals who are not qualified Medicare beneficiaries, the department or its designee pays the recipient's Part B deductible liability on valid, assigned Medicare claims. Payment of the recipient's Part B coinsurance liability and Part A deductible and coinsurance liabilities on valid, assigned Medicare claims is limited to claims for services that:

(A) are within the amount, duration, and scope of the Texas Medical Assistance Program; and

(B) would be covered by the Texas Medical Assistance Program, when the services are provided, if Medicare did not exist.

(b) By paying a recipient's deductible and/or coinsurance liabilities, the department or its designee satisfies its obligation to provide coverage for services that it would have paid for in the absence of Medicare coverage.

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 January 30, 1989.

TRD-8900841

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: January 1, 1989.

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

Part II. Texas Rehabilitation Commission

Chapter 115. Memoranda of Understanding with Other State Agencies

• 40 TAC §115.4

The Texas Rehabilitation Commission adopts new §115.4, without changes to the proposed text as published in the December 9, 1988, issue of the *Texas Register* (13 TexReg 6072).

The Texas Rehabilitation Commission adopts new §115.4, concerning coordinated services for multiproblem children and youth per Senate Bill 298, passed by the regular session of the 70th Texas Legislature, 1987, which requires the adoption by rule of a memorandum of understanding among the Texas Department of Human Services, Texas Commission for the Blind, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, and Texas Youth Commission, to coordinate and implement a system of community resource coordination groups for improved services to multiple problem children and youth.

The new section as adopted will function to eliminate duplication of effort and improve services to multiple children and youth.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Title 7, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations necessary to carry out the purposes of this section.

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 February 1, 1989.

TRD-8900907

Charles W. Schiesser
Assistant Commissioner for
Legal Services
Texas Rehabilitation
Commission

Effective date: February 22, 1989

Proposal publication date: December 9, 1988

For further information, please call: (512) 445-8124



Name: Eddie Ursua

Grade: 6

School: Roscoe Wilson Elementary, Lubbock

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

Monday, February 6, 1989, 7 p.m. The Texas Department of Agriculture met emergency session at the Mangorda County Courthouse, 1700 Seventh Street, Bay City. According to the agenda, the department received public comment regarding proposed amendments to the special exemptions for Erazoria Court under Texas Herbicide Regulations.

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

Filed: January 30, 1989, 2:50 p.m.

TRD-8900953

Thursday, February 16, 1989, 9 a.m. The Texas Department of Agriculture will meet at the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review alleged violation of Texas pesticide laws by Steve Freeman, holder of commercial applicator license.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: February 1, 1989, 2:11 p.m.

TRD-8900915

Thursday, February 16, 1989, 11 a.m. The Texas Department of Agriculture will meet at the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review alleged violation of Texas pesticide laws by Dale Peters, holder of commercial applicator license.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: February 1, 1989, 2:11 p.m.

TRD-8900916

Texas Air Control Board

Friday, February 10, 1989, 8:30 a.m. The Monitoring and Research Committee for the

Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda summary, the committee will consider report on the peer review of the fiscal year 1988 contract work performed for the TACB by the University of Texas Medical Branch at Galveston; consider fiscal year 1989 research contract with the University of Texas Medical Branch at Galveston; and discuss broadening the scope of the Medical Resources Advisory Panel.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas, (512) 451-5711.

Filed: February 1, 1989, 2:09 p.m.

TRD-8900925

Friday, February 10, 1989, 9 a.m. The Regulation Development Committee for the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda summary, the committee will review and consider for public hearing proposed revisions to Regulation VI, Permits.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas, (512) 451-5711.

Filed: February 1, 1989, 2:09 p.m.

TRD-8900924

Friday, February 10, 1989, 9:30 a.m. The Budget and Finance Committee for the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda summary, the committee will discuss and consider proposed emission inventory temporary service contract, and proposed purchases using fiscal year 1989 federal 105 supplemental grant funds.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas, (512) 451-5711.

Filed: February 1, 1989, 2:09 p.m.

TRD-8900923

Friday, February 10, 1989, 10:30 a.m. The Hearings Oversight Committee for the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda summary, the committee will discuss and consider report to the board.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas, (512) 451-5711.

Filed: February 1, 1989, 2:09 p.m.

TRD-8900922

Friday, February 10, 1989, 10:45 a.m. The Texas Air Control Board will meet in the TACB Auditorium, 6330 Highway 290 East, Austin. According to the agenda summary, the board will approve minutes of the January 13, 1989, meeting; hear public testimony, reports, and enforcement report; consider agreed enforcement orders; consider and act on proposed agency contract; hear report from the Hearings Oversight Committee; and discuss new business.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Filed: February 1, 1989, 2:10 p.m.

TRD-8900917

Texas Commission for the Blind

Friday-Saturday, February 10-11, 1989, 1:30 p.m. The Consumer Advisory Committee for the Texas Commission for the Blind will meet at the Criss Cole Rehabilitation Center, 4800 North Lamar Boulevard, Austin. According to the agenda, the committee will hear reports from the coordinator of consumer affairs and the executive director on Friday, and a report from the director of the center, and committee and subcommittee reports and discussions on Saturday.

Contact: Cecilia Berrios, (512) 459-2611.

Filed: January 31, 1989, 3:42 p.m.

TRD-8900894

Texas Department of Commerce

Tuesday, January 31, 1989, 1 p.m. The Board of Directors for the Texas Department of Commerce met for an emergency agenda revision in Suite 1140, 816 Congress Avenue, Austin. According to the

agenda summary, the board updated the tourism advertising campaign; updated the Tokyo office operations; updated the Texas Literacy Council; approved prior minutes; considered Enterprise Project applications for the City of San Antonio-Bausch and Lomb; City of Fort Worth-Tandy Corporation; and the City of Harlingen-Tex-Steel Corporation; appointed Steve Moore to the Tourism Advisory Committee; and met in executive session. The emergency status was necessary as certain information was not available.

Contact: Mary Lane, (512) 320-9660.

Filed: January 30, 1989, 3:17 p.m.

TRD-8900856

Texas Cosmetology Commission

The Texas Cosmetology Commission met at the Radisson Plaza Hotel, 700 San Jacinto, Austin. Dates, times, and agendas follow.

Sunday, February 5, 1989, 10 a.m. The commission met in executive session to review executive director applications.

Contact: Janis Rebold, 1111 Rio Grande, Austin, Texas 78701, (512) 463-3183.

Filed: January 27, 1989, 3:37 p.m.

TRD-8900808

Monday, February 6, 1989, 9 a.m. The commission met in executive session to hold TEC hearing regarding Norman Jenkins, pending litigation concerning Lynn Thompson, and enforcement personnel problems pertaining to districts.

Contact: Janis Rebold, 1111 Rio Grande, Austin, Texas 78701, (512) 463-3183.

Filed: January 27, 1989, 3:37 p.m.

TRD-8900807

Texas Commission for the Deaf

Friday, February 3, 1989, 10 a.m. The Texas Commission for the Deaf met in the Conference Room, 510 South Congress Avenue, Austin. According to the agenda summary, the commission welcomed guests and approved minutes; heard public comment, BEI report, director/staff reports, and chairperson's report; and met in executive session (if necessary).

Contact: Larry D. Evans, 510 South Congress Avenue, Suite 300, Austin, Texas 78704, (512) 469-9891.

Filed: January 26, 1989, 1:13 p.m.

TRD-8900736

Texas Education Agency

The State Board of Education of the Texas Education Agency will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

Thursday, February 9, 1989, 1:30 p.m. The Committee of the Whole will meet in Room 1-104, to review 1990-1991 budget request and public school finance, current mandates, and legislative recommendations on public education in Texas.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900936

Thursday, February 9, 1989, 4 p.m. The Committee on Personnel will meet in Room 1-111, to consider election of chair and adoption by resolution of board committee areas of jurisdiction; and review of committee agenda.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900937

Thursday, February 9, 1989, 4 p.m. The Committee on School Finance will meet in Room 1-104, to consider election of chair and adoption by resolution of board committee areas of jurisdiction; and review of committee agenda.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900938

Thursday, February 9, 1989, 4 p.m. The Committee on Students will meet in Room 1-104, to consider election of chair and adoption by resolution of board committee areas of jurisdiction; and review of committee agenda.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900939

Thursday, February 9, 1989, 4:30 p.m. The Committee on Permanent School Fund will meet in Room 1-109, to consider permanent school fund (PSF) securities transactions; review PSF investment portfolio; hear report of investment adviser; consider recommended PSF investment program for February, estimated funds from the PSF available for the February investment program, and appointment of the Investment Advisory Committee; hear progress report

on the conversion to the Depository Trust Corporation, PSF Ad Hoc Committee reports, and report of the assistant investment officer regarding the PSF.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900941

Thursday, February 9, 1989, 4:30 p.m. The Committee on Long-Range Planning will meet in Room 1-110, to consider election of chair and adoption by resolution of board committee areas of jurisdiction; review the long-range plan of the board for Texas public school education and related planning efforts of the board; consider schedule of activities for updating the current long-range plan for public education; review of options for board seating arrangements.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900942

Friday, February 10, 1989, 8:30 a.m. The Committee of the Whole will meet in Room 1-104, to consider public hearing on textbook proclamation 66; review Texas Academic Skills Program (TASP); consider adoption of the TASP test and approval of the preliminary passing standards; and discuss pending litigation. To the extent necessary, the discussion of the adoption of the TASP test and approval of the preliminary passing standards and supporting documentation will be held in executive session in accordance with Texas Civil Standards, Article 6252-17, and Texas Attorney General Opinions H-484 (1974) and H-780 (1976). The discussion of pending litigation will be held in executive session in accordance with Texas Civil Statutes, Article 6252-17, §2(e).

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900944

Friday, February 10, 1989, 1:30 p.m. The Committee on Personnel will meet in Room 1-111, to consider teacher appraisal procedures, legislative recommendations, Texas Academic Skills Program (TASP) test and approval of the preliminary passing standards, request and notification for cancellation or suspension of a certificate, current developmental efforts on administrator appraisal, and Sunset Advisory Commission recommendations regarding matters relating to personnel; review student achievement study. To the extent necessary, the discussion of the adoption of the TASP test and approval of the preliminary passing standards and supporting documentation will be

held in executive session in accordance with Texas Civil Standards, Article 6252-17, and Texas Attorney General Opinions H-484 (1974) and H-780 (1976).

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900945

Friday, February 10, 1989, 1:30 p.m. The Committee on School Finance will meet in Room 1-104, to consider memorandum of understanding for multiproblem children and youth, readoption of textbooks published by Kjos Music Company, proclamation 66, Apprenticeship and Training Advisory Committee, Texas governor's school, drug education inservice training materials, acquired immunodeficiency syndrome training and materials, 1990-1991 budget requests and public school finance, education performance improvement funds, data submission to the Texas Education Agency, and legislative recommendations on public education in Texas.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900943

Friday, February 10, 1989, 1:30 p.m. The Committee on Students will meet in Room 1-100, to consider University Interscholastic League 1988-1989 constitution and contest rules, legislative recommendations on public education in Texas, and textbook proclamation 66.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900946

Friday, February 10, 1989, 7 p.m. The board will meet in the Longhorn Room, Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda, the board will hear reports from Committee on the Permanent School Fund, Committee on School Finance, Committee on Students, Committee on Personnel, Committee on Long-Range Planning, and Committee of the Whole, concerning items discussed in meetings on Thursday and Friday, February 9 and 10, 1989.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900947

Saturday, February 11, 1989, 8:30 a.m. The board will meet in Room 1-104, to consider legislative recommendations, election of committee chairman, permanent school fund (PSF) February investment pro-

gram, and PSF Advisory Committee; hear PSF Ad Hoc Committee reports; consider board committees' jurisdiction, multiproblem children/youth, readoption of textbooks by Kjos Music Company, Apprenticeship and Training Advisory Committee, Texas governor's school, drug education training, acquired immunodeficiency syndrome training, 1990-1991 budget requests and public school finance, University Interscholastic League constitution and rules, teacher appraisal, and Texas Academic Skills Program (TASP). To the extent necessary, the discussion of the adoption of the TASP and approval of the preliminary passing standards and supporting documentation will be held in executive session in accordance with Texas Civil Statutes, Article 6252-17, and Texas Attorney General Opinions H-484 (1974) and H-780 (1976).

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 1, 1989, 4:36 p.m.

TRD-8900948

Texas Employment Commission

Wednesday, February 8, 1989, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will approve minutes of the previous meeting; consider memorandum of understanding with the Commission for the Deaf, internal procedures of commission appeals, action on tax liability cases and higher level appeals in unemployment compensation cases listed on Docket 6, and set date of next meeting.

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

Filed: January 31, 1989, 2 p.m.

TRD-8900879

Texas Department of Health

Sunday, February 5, 1989, 9 a.m. The Advisory Board of Athletic Trainers for the Texas Department of Health met in the Braid I Room, Woodfin Suites, 7685 Northcross Drive, Austin. According to the agenda summary, the board approved minutes; heard executive secretary's report, program administrator's report, and continuing education and test committee reports; discussed settlement of action concerning Lanny Leroy, Dawn-Carole Harris, Allen Speight, Bruce Atencio, Jeffery Pleasant, and Kari Icenogge; discussed ratification of physical therapists apprenticeship applications approved by the administrative services committee: Katherine H. De Fazio, Judy Foxworth, Todd Gann,

Michelle Mason, Kristy Nicely, Phillip Carter, and Dean Walker; discussed individual appeals regarding applications for Amy Barker, Ray Yeung, Jennie Hall, and Dr. Rene Arredondo; discussed proposed changed to 25 TAC §§313.1-313.13 to reorganize and clarify general requirements and guidelines; heard announcements and comments requiring no committee action; and set next meeting date. Board could take action on any agenda items.

Contact: Becky Benyhill, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7546.

Filed: January 26, 1989, 2:20 p.m.

TRD-8900749

Friday, February 10, 1989, 9:30 a.m. The Bureau of Chronically Ill and Disabled Children's Services General Advisory Committee of the Texas Department of Health will meet in Room M-418, 1100 West 49th Street, Austin. According to the agenda summary, the bureau will approve minutes of the October 14, 1988, meeting; discuss craniofacial center guidelines, hospital approval criteria, appropriations, reimbursement-update, IDDM and other medical coverage expansions, investigational treatments, workshop-update, and informational-updates on technology dependent children; consider ambulatory surgical center guidelines, home health, adopted children, and board actions; and discuss next meeting's agenda.

Contact: Janet S. Barkley-Booher, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7355.

Filed: February 1, 1989, 4:03 p.m.

TRD-8900934

Saturday, February 11, 1989, 9:30 a.m. The Bureau of Chronically Ill and Disabled Children's Services General Advisory Committee of the Texas Department of Health will meet in Room M-418, 1100 West 49th Street, Austin. According to the agenda summary, the bureau will approve minutes of the previous meeting; consider CIDC guidelines, approval of physicians, and medical center hospital response to questions regarding hospital's interim report; hear UTMB response to site visit report; consider Hermann Hospital response; hear Driscoll site visit report, Fort Worth Children's Hospital site visit report; consider guidelines for site review team, plan of action on cardiovascular outreach standards and review, discuss appropriations, and discuss next meeting's agenda.

Contact: Janet S. Barkley-Booher, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7355.

Filed: February 1, 1989, 4:03 p.m.

TRD-8900933

Texas Health and Human Services Coordinating Council

Tuesday, February 7, 1989, 8 a.m. The Confidentiality Work Group Work Session for the Texas Health and Human Services Coordinating Council will meet in Conference Room B, Texas Department of Health, 1100 West 49th Street, Moreton Building, Austin. According to the agenda summary, the group will approve minutes; review and discuss draft report; consider objectives for the next meeting; and discuss old and new business.

Contact: Greg Olsson, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: January 30, 1989, 3:50 p.m.

TRD-8900860

Tuesday, February 7, 1989, 4 p.m. The Youth Committee for the Texas Health and Human Services Coordinating Council will meet in emergency session in the Sergeant's Committee Room, State Capitol Building, Austin. According to the agenda, the committee will review and approve minutes; discuss final draft of youth study; adopt youth study; discuss possible legislation for THHSCC youth projects; and consider old and new business. The emergency status is necessary as the chairman of the youth committee has been out of state.

Contact: Greg Olsson, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: January 30, 1989, 3:50 p.m.

TRD-8900926

Texas Department of Human Services

Tuesday, February 7, 1989, 9:30 a.m. The Church Relations Advisory Group for the Texas Department of Human Services will meet on the Sixth Floor, West Tower, Conference Room 6W, 701 West 51st Street, Austin. According to the agenda summary, the group will discuss committee business; discuss budget request and legislative budget board recommendations, agency priorities, legislative subcommittee, concerns of members, and optional viewing of "The Hunger Next Door" video produced by Southern Baptist Radio and Television Commission; and consider surplus food commodities, welfare reform, and children's protective services.

Contact: Lucy Todd, P.O. Box 2960, Austin, Texas 78769, (512) 450-3135.

Filed: January 26, 1989, 3:59 p.m.

TRD-8900782

Wednesday, February 8, 1989, 9 a.m. The Advisory Committee for Child Care Ad-

ministrators for the Texas Department of Human Services will meet in Conference Room 4W, Fourth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the committee will hear assistant commissioner's report; discuss issues related to the RHH standards revision; child-placing agency standards revision; and administrator's licensing exam.

Contact: Doug Sanders, P.O. Box 2960, Austin, Texas 78769, (512) 450-3253.

Filed: January 30, 1989, 3:45 p.m.

TRD-8900359

Thursday, February 9, 1989, 10 a.m. The Advisory Committee for Services to Aged and Disabled of the Texas Department of Human Services will meet in Classroom 1, Second Floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the committee will hear deputy's report, report on legislative session, report on A&D specific legislative issues, and report on delivery of services to persons with disabilities; consider optional targeted case management services, revisions to 1915(c) medicaid home and community-based program for mentally retarded individuals, revisions to cost finding methodology for ICF/SNF nursing facilities, ICF-MR standards, and OBRA alternative disposition plans; consider rate adjustments for ICF/SNF, ICF/MR, state schools, hospice, changes to primary home care rate methodology, changes to family care rate methodology, adult foster care rate increase, and day activity and health services rate increase; and hear report on board action on adult protective services funding shortfall and annual report regarding other state agency's client abuse investigations.

Contact: Mary Ann Harvey, P.O. Box 2960, Austin, Texas 78769, (512) 450-3194.

Filed: February 1, 1989, 3:29 p.m.

TRD-8900928

Thursday and Friday, February 9 and 10, 1989, 10 a.m., daily. The Social Work Certification Advisory Council of the Texas Department of Human Services will meet in the Fourth and Fifth Floor, West Tower 9 and 10, 701 West 51st Street, Austin. According to the agenda, the council will welcome Cris Ros-Dukler; approve minutes of the previous meeting; review bylaws goals and objectives; hear annual report; consider election of officers; and hear staff report and conference committee report.

Contact: Michael Doughty, P.O. Box 2960, Austin, Texas 78769, (512) 450-3255.

Filed: February 1, 1989, 3:28 p.m.

TRD-8900930

Friday, February 10, 1989, 9 a.m. The Medical Care Advisory Committee of the Texas Department of Human Services will meet in Classroom 1, Second Floor, West Tower, 701 West 51st Street, Austin. Ac-

cording to the agenda summary, the committee will consider state legislative update, optional targeted case management services, 1915(c) medicaid home and community-based services program for mentally retarded individuals changes to primary home care reimbursement methodology, revisions to cost finding methodology for ICF/SNF nursing facilities, and revised intermediate care facilities for the mentally retarded standards for participation; consider adjustments to rates for ICF/SNF, ICF-MR, state schools, and ICF/SNF hospice room and board; consider day activity and health services rate increase; hear report on OBRA alternative disposition plan; consider home and community-based services waiver for persons with AIDS; hear report on delivery of services to persons with disabilities; and consider child protective services AIDS policy and special training for the care of medically needed children.

Contact: Carolyn Howell, P.O. Box 2960, Austin, Texas 78769, (512) 450-3053.

Filed: February 1, 1989, 3:28 p.m.

TRD-8900929

State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto, Austin. Dates, times, rooms, and agendas follow.

Tuesday, January 31, 1989, 10 a.m. The board submitted an emergency revised agenda for a meeting held in Room 414, to consider adoption on an emergency basis and authorization for publication as a proposal of an amendment to a rule as 28 TAC §5.11 concerning requirements for certificates of assumption of the contract liabilities of automobile insurance policies. The emergency status was necessary to prevent a lapse in coverage for policyholders of an insurance company in conservatorship.

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

Filed: January 30, 1989, 4:08 p.m.

TRD-8900865

Monday, February 6, 1989, 1:30 p.m. The board will meet in Room 414, to consider the appeal of Leonard Eugene Keen from commissioner's order 88-1118, concerning disciplinary action against Leonard Eugene Keen and concerning his group I, legal reserve life insurance agent's license, his group II, life, health, and accident insurance agent's license, and his local recording agent's license and refusal of renewal of those licenses.

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

Filed: January 27, 1989, 2:55 p.m.

TRD-8900797

Monday, February 6, 1989, 1:30 p.m. The Commissioner's Hearing Section submitted an emergency revised agenda for a meeting held in Room 342 to consider Docket 10224-Whether disciplinary action should be taken against Mickey Allen Hollenback, Bethany, Oklahoma, who holds a nonresident group I, legal reserve life insurance agent's license. The emergency status was necessary because Hollenback was spelled Hollenbeck.

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

Filed: January 30, 1989, 11:35 a.m.

TRD-8900848

Tuesday, February 7, 1989, 10 a.m. The board will meet in Room 414, to consider final action on 28 TAC §§5.6151-5.6158, extension of emergency effectiveness of 28 TAC §§19.1301-19.1320, and board orders on several different matters; discuss report from consultant on workers' compensation matters, proposals from consultants concerning management study relating to financial matters, and management study relating to administration and enforcement; consider personnel matters, pending and contemplated litigation, and solvency matters; and discuss state auditor staff draft regarding internal information management systems.

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

Filed: January 30, 1989, 4:08 p.m.

TRD-8900864

Tuesday, February 7, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342 to consider Docket 10237-Application of Clifton Mills Stulce, Tyler/Flint, for a group I, legal reserve life insurance agent's license and a local recording agent's license.

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

Filed: January 30, 1989, 11:35 a.m.

TRD-8900847

Wednesday, February 8, 1989, 10 a.m. The board will meet in Room 414 to consider an appeal by John Stephen Davis of commissioner's order 88-1216 concerning denial of an application from John Stephen Davis for a license as a legal reserve life insurance agent.

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

Filed: January 27, 1989, 2:55 p.m.

TRD-8900796

Friday, February 10, 1989, 10 a.m. The board will meet in Room 414, to consider appeal of Bertha V. Garcia from commis-

sioners' order 88-1217 concerning denial of applications from Bertha V. Garcia for renewal of legal reserve life insurance agent's license and life, health, and accident insurance agent's license.

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

Filed: January 27, 1989, 2:56 p.m.

TRD-8900795

Monday, February 13, 1989, 10 a.m. The board will meet in Room 414, to consider discuss and consider award of a contract in connection with a planned management study of the board relating to financial oversight and regulation and early warning system (pursuant to notice published in the *Texas Register* January 3, 1989).

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

Filed: January 30, 1989, 4:08 p.m.

TRD-8900863

Wednesday, February 15, 1989, 10 a.m. The board will meet in Room 414, to consider the appeal of Joseph James Walker from commissioner's order 88-1150 concerning disciplinary action against Joseph James Walker and concerning a license as a local recording agent and revocation of that license or monetary forfeiture in lieu of revocation of that license.

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

Filed: January 30, 1989, 4:09 p.m.

TRD-8900862

Thursday, February 16, 1989, 10 a.m. The board will meet in Room 414, to consider appeal of Ernesto Bautista, Jr., of commissioner's order 88-1037 concerning disciplinary action against Ernesto Bautista, Jr., and concerning licenses as a legal reserve life insurance agent and as a local recording agent and revocation of those licenses.

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

Filed: February 1, 1989, 2:38 p.m.

TRD-8900918

Wednesday, February 22, 1989, 1:30 p.m. The board will meet in Room 414, to consider the appeal I.H. Shah, M.D., F.R.C.S., from decision of the Texas Medical Liability Insurance Underwriters Association concerning a requested change in rating classification.

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

Filed: January 27, 1989, 2:56 p.m.

TRD-8900794

Texas Department of Labor and Standards

Monday, February 13, 1989, 2 p.m. The Manufactured Homeowners' Recovery Fund of the Texas Department of Labor and Standards will meet in the 10th Floor Conference Room, E.O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the department will approve minutes of the previous meeting; consider status of manufactured homeowners' recovery fund, claims pending, claims procedure, contract with department, governor appointments, new business, and date/place/time of next meeting.

Contact: James H. Keahey, 925 Colorado Street, Austin, Texas 78701, (512) 463-7337.

Filed: February 2, 1989, 9:59 a.m.

TRD-8900951

Texas Commission on Law Enforcement Officer Standards and Education Law Enforcement Management Institute

Thursday-Friday, February 16-17, 1989, 10 a.m. and 9:30 a.m. The Texas Commission on Law Enforcement Officer Standards and Education Law Enforcement Management Institute will meet in Suite 100, 1606 Headway Circle, Austin. According to the agenda summary, the commission will receive introductions; hear minutes of the December 1-2, 1989, board meeting; review first year activities; elect officers; hear report on curriculum advisory group; hear staff reports concerning application; selection procedures; and logo/insignia; and discuss staff activities.

Contact: Jack L. Ryle, 1606 Headway Circle, Suite 100, Austin, Texas 78754, (512) 834-9222.

Filed: January 30, 1989, 12:28 p.m.

TRD-8900850

Board for Lease of State-owned Lands

Monday, February 6, 1989, 9 a.m. The Board for Lease of Texas Department of Corrections for the Board for Lease of State-owned Lands met in Room 833, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board approved minutes of the previous board meeting; considered nominations, terms, condi-

tions, and procedures for the April 4, 1989, oil, gas, and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: January 27, 1989, 2:50 p.m.

TRD-8900792

Thursday, February 9, 1989, 2 p.m. The Board for Lease of Texas Parks and Wildlife Lands for the Board for Lease of State-owned Lands will meet in Room 833, Stephen F. Austin Building 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve minutes of the previous meeting; consider nominations, terms, conditions, and procedures for the April 4, 1989, oil, gas, and other minerals lease sale; easement applications; and renewal easement applications.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: February 1, 1989, 11:43 a.m.

TRD-8900910

Texas Department of Mental Health and Mental Retardation

The Texas Department of Mental Health and Mental Retardation submitted emergency revised agendas for meetings held in the Auditorium, 909 West 45th Street, Austin. Dates, times, and agendas follow.

Thursday, February 2, 1989, 11 a.m. The Board Planning and Policy Development Committee considered board policy manual, adoption of new subchapter governing continuity of services-MR campus-based services, adoption of new subchapter governing standards of TDMHMR-quality assurance, response to governor's audit team report, role of CPAC, joint statement TCADA/TDMHMR, recommendations for designation of single portal authority(s), and amendments to rules governing designation as single portal authority. If deaf interpreters are required, notify TDMHMR, Ernest Fuentes, (512) 465-4585, 72 hours prior to meeting. The emergency status was necessary because the Single Portal Review Committee had determined that no recommendations should be made without this rule change.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: January 30, 1989, 4:33 p.m.

TRD-8900870

Friday, February 3, 1989, 9 a.m. The Board of MHMR heard citizens' comments (limited to three minutes); approved minutes of the December 9, 1988, meeting; and considered issues. If deaf interpreters are required, notify TDMHMR, Ernest Fuentes,

(512) 465-4585, 72 hours prior to meeting. The emergency status was necessary because the Single Portal Review Committee has determined that no recommendations should be made without this rule change.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: January 30, 1989, 4:33 p.m.

TRD-8900871

Board of Nurse Examiners

Friday, February 10, 1989, 9:30 a.m. The Advisory Committee for ANP's for the Board of Nurse Examiners will meet in the Conference Room, Suite 104, Board Office, 9101 Burnet Road, Austin. According to the agenda summary, the committee will review Rule 219, advanced nurse practitioner program; review the purpose of the committee; and consider recertifying of ANP's and a statement on protocols. The public is invited to attend.

Contact: Aileen Kishi, Box 140466, Austin, Texas 78714, (512) 835-4880.

Filed: January 31, 1989, 3:42 p.m.

TRD-8900893

Pan American University

Tuesday, February 7, 1989. The Board of Regents of Pan American University will meet in the Boardroom, Administration Building, Pan American University, Edinburg. Times and agendas follow.

10 a.m. The Buildings and Grounds Committee will consider selection of architect/engineering firm for parking lot, approval of gas contract, and informational items.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg Texas, (512) 381-2100.

Filed: February 1, 1989, 9:40 a.m.

TRD-8900906

10:10 a.m. The Finance Committee will consider budget changes, approval of higher education assistance fund-PAU-B, approval to solicit bids for the bookstore, and informational items.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg Texas, (512) 381-2100.

Filed: February 1, 1989, 9:40 a.m.

TRD-8900905

10:20 a.m. The Development Committee will consider acceptance of \$25,000-Southwestern Bell Foundation, acceptance of \$10,000-Virginia Watland (gift-in-kind), acceptance of \$8,200-Cochran Estate, acceptance of \$5,250-Wilcox Trust, acceptance of \$45,000-Levi Strauss Foundation, and informational items.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg Texas, (512) 381-2100.

Filed: February 1, 1989, 9:40 a.m.

TRD-8900904

10:30 a.m. The Student Affairs Committee will consider informational items.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg Texas, (512) 381-2100.

Filed: February 1, 1989, 9:40 a.m.

TRD-8900903

10:40 a.m. The Brownsville Committee will consider informational items.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg Texas, (512) 381-2100.

Filed: February 1, 1989, 9:40 a.m.

TRD-8900902

10:50 a.m. The Academic Affairs Committee will consider new program approvals-master's concerning public administration, speech communications, and theatre; consider new program approvals-bachelors concerning anthropology and interdisciplinary studies and approval for non-substantive response to Senate Bill 994-education programs PAU-E and PAU-B; consider for PAU-B-new program approvals-bachelor of science concerning kinesiology, mathematics, and biology; consider for PAU-B new program approvals-bachelor of arts concerning liberal arts and sciences. The committee will meet in executive session to consider offers of employment for tenure and tenure-track faculty and executive administrators at PAU-E and PAU-B, offer of employment for Kevin Wall, new hires, and leaves of absence.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg Texas, (512) 381-2100.

Filed: February 1, 1989, 9:40 a.m.

TRD-8900901

11 a.m. The board will approve minutes of the December 6, 1988, meeting and certified executive session agenda of December 6, 1988; discuss, consider, and act on board committee reports and recommendations and executive session items; and consider president's informational items and set date for next meeting.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg Texas, (512) 381-2100

Filed: February 1, 1989, 9:40 a.m.

TRD-8900900

Board of Pardons and Paroles

Monday-Friday, February 6-10, 1989, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releaseses subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: January 29, 1989, 11:28 a.m.

TRD-8900791

Tuesday, February 7, 1989, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will consider minutes of the January 5, 1989, meeting, including review of rules; hear recommendations regarding HH/PPT facilities; preliminary rel. special needs; personnel manual review; ratification of memorandum regarding discipline cases; special review; circulation of memorandum at time of 94.5 crisis; hazardous duty pay; extension of HH contract; project charter contract approval; status of par. sel. process audit recommendations; status of Prior Property; status of Sunset Commission recommendations; status report/parole officer 75-1 ration; important communication concerning sensitive information; PIA parole violator policy; TDCAA-board liaison committee; board smoking policy; receive public input and comments; hear executive director's report; discuss TCADA grant; PIA/PPT criteria; research agreement; and Bexar County facility.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 459-2749.

Filed: January 30, 1989, 4:23 p.m.

TRD-8900869

Tuesday, February 7, 1989, 1:30 p.m. The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: January 27, 1989, 11:27 p.m.

TRD-8900790

Texas Parks and Wildlife Department

Wednesday, February 8, 1989, 6 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 200 Academy Drive, Austin. According to the agenda summary, the commission will discuss items on the public hearing agenda scheduled for 9 a.m., February 9, 1989.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 31, 1989, 2:20 p.m.

TRD-8900883

Thursday, February 9, 1989. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Complex Building B, Parks and Wildlife Headquarters, 4200 Smith School Road, Austin. Times and agendas follow.

9 a.m. The commission will consider proposed 1989-1990 early season migratory game bird proclamation, land and water conservation fund-local park fund, and selection process.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 31, 1989, 2:20 p.m.

TRD-8900882

9 a.m. The commission will approve minutes of the previous meeting; consider presentation of certificates, resolutions protecting waterfowl and commending William Armstrong, funding for local parks, funding projects from boat ramp program, artwork approval, power line easement-Inks Lake, power line easement-Mustang Island, oil and gas lease-Neasoney WMA, oil and gas lease-San Jacinto Battleground, oil and gas lease-Matador WMA, grazing lease contracts-Wetland WMA, phase 3 design development-San Marcos Fish Hatchery, history of bighorn sheep, elk, and cooperative agreement programs.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 31, 1989, 2:20 p.m.

TRD-8900881

Noon. The commission will meet in closed session to approve court reporter minutes; consider land acquisition-Harris County, road easement-Hudspeth and Culberson Counties, land acquisition-Matagorda County, and Battleship Texas litigation.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 31, 1989, 2:20 p.m.

TRD-8900880

State Pension Review Board

The Legislative Advisory Committee of the State Pension Review Board will meet in Senate Reception Room 214, Capitol Building, Austin. Dates, times, and agendas follow.

Tuesday, February 7, 1989, 8:30 a.m. The committee will consider preparation of impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Betty Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: January 30, 1989, 10:58 a.m.

TRD-8900846

Tuesday, February 14, 1989, 8:30 a.m. The committee will consider preparation of impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Betty Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: January 30, 1989, 10:58 a.m.

TRD-8900845

Tuesday, February 21, 1989, 8:30 a.m. The committee will consider preparation of impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Betty Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: January 30, 1989, 10:58 a.m.

TRD-8900844

Tuesday, February 28, 1989, 8:30 a.m. The committee will consider preparation of impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Betty Allen, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: January 30, 1989, 10:58 a.m.

TRD-8900843

Texas State Board of Pharmacy

Tuesday and Wednesday, February 7 and 8, 1989, 8:30 a.m., daily. The Texas State Board of Pharmacy will meet in the Embassy Suites Hotel, North, 5901 North IH-35, Austin. According to the agenda summary, the board will hear testimony and review evidence of alleged violations of those laws which persons are subject to administrative sanctions and what forms the sanctions are to take; approve business and disciplinary hearing minutes of November

29-December 1, 1988; discuss and review TSBP budget hearing, proposed legislation, and *Facts and Comparisons* compared to other drug information references; hear TSBP fiscal year 1988 annual report, hear a report on the January 10, 1989, meeting of the TSBP Advisory Committee on Automated Technology, hear an update of the contract for the fiscal year 1989 summer policy meeting location at Barton Creek Conference Center, administrative summary of Division of Operation personnel changes, and presentation on testing and measurement criteria for the jurisprudence exam; and consider proposed rule 281 concerning definition of "Act" and 281.24 concerning amendment of definition of "unprofessional conduct" and proposed agreed board orders. The board will also meet in executive session to discuss litigation and personnel matters.

Contact: Fred S. Brinkley, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754, (512) 832-0661.

Filed: January 27, 1989, 3:34 p.m.

TRD-8900809

Texas State Board of Public Accountancy

Thursday, February 2, 1989, 1 p.m. The Panel Hearing for the Texas State Board of Public Accountancy met in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the panel considered complaint 86-02-02L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: January 30, 1989, 9 a.m.

TRD-8900839

Friday, February 10, 1989, 9 a.m. The Technical Standards Review Committee for the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the committee heard January status report; recommendations regarding specific complaints-licensees: Complaints 88-11-11L, 88-09-05L, and 88-09-08N; discuss Grudzinski; complaints 88-09-13L and 86-11-12L; and Novier; standard agenda items: review of backlog of complaints; and discuss new system to monitor status of peer review cases.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: January 30, 1989, 9 a.m.

TRD-8900913

Public Utility Commission of Texas

The Public Utility Commission will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Tuesday, February 7, 1989, 9 a.m. The Hearings Division will consider Dockets 8316, 8325, 8283, 8481, 8286, 8287, 8043, 8266, 8358, and 8423; set the rate of interest pursuant to overbillings under §23.45(g); consider and act in regard to docketing office of public utility counsel's petition on Tax Reform Act filed January 12, 1988; and consider proposed change to procedural rule §21.81 concerning discovery and project 8613 concerning WATS prorate rulemaking.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1989, 4:17 p.m.

TRD-8900868

Tuesday, February 7, 1989, 2 p.m. The Administrative Division will discuss an advisory task force for the commission's management audit.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1989, 4:18 p.m.

TRD-8900850

Tuesday, February 7, 1989, 2 p.m. The Administrative Division will approve minutes of the previous meeting; hear reports, discussion, and action of budget and fiscal matters; hear report on agency matters relating to 71st legislative session and report from chairman on the Mid-American Regulatory Commissioner's winter meeting in San Antonio; consider ratification of contract approved with Peat Marwick Main & Company to perform comprehensive management audit of commission, approval of TECA expenses relating to administration of the universal service fund, approval of a contract for hiring an expert witness to review GSU's prudence case in the coming rate case, GSU's request for three rulings from the IRS regarding §168 of the Internal Revenue Code of 1954, approval of a contract with a consultant to conduct a prudence audit of CP&L's participation in the South Texas Nuclear Project, staff presentation of management audits of Coleman County Electric Cooperative and Fayette Electric Cooperative, commission participation in the Texas Enterprise Zone Program, and set time and place for next meeting. The division will also meet in executive session to consider personnel and litigation matters.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1989, 4:18 p.m.

TRD-8900867

Thursday, February 9, 1989, 10 a.m. The Hearings Division will consider Docket 8605-Application of Southwestern Bell Telephone Company for change in individual case basis rate and for access service tariff revision.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 27, 1989, 3:02 p.m.

TRD-8900811

Friday, February 10, 1989, 1:30 p.m. The Hearings Division will discuss Docket 7551-Complaint of Harmony Packing Company, Inc. against New Era Electric Cooperative, Inc.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 26, 1989, 2:37 p.m.

TRD-8900748

Monday, February 13, 1989, 10 a.m. The Hearings Division will consider Docket 8624-Application of Wes-Tex Telephone Cooperative, Inc. to offer private pay telephone service.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 1, 1989, 2:37 p.m.

TRD-8900919

Tuesday, February 14, 1989, 9 a.m. The Hearings Division will consider Docket 5610-Application of GTE Southwest Incorporated for a rate increase.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 1, 1989, 2:37 p.m.

TRD-8900920

Wednesday, February 22, 1989, 1:30 p.m. The Hearings Division will consider Dockets 6925 and 7029-Application of Contel Corporation to purchase stock of Colmesneil Telephone Company, Inc. and application of Continental Telephone Company of Texas for merger of Colmesneil Telephone Company, Inc. to Continental Telephone Company of Texas.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 31, 1989, 2:43 p.m.

TRD-8900890

Friday, February 24, 1989, 10 a.m. The Hearings Division will consider Docket 8298-Petition of Greenbelt Electric Cooperative, Inc. against West Texas Utilities Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 27, 1989, 3:02 p.m.

TRD-8900812

Friday, March 10, 1989, 10 a.m. The Hearings Division will consider Docket 8411-Application of GTE Southwest Inc. to offset the interstate common line end user monthly rate for Ceatrex Stations.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 31, 1989, 2:43 p.m.

TRD-8900889

Monday, May 15, 1989, 10 a.m. The Hearings Division will consider Docket 8523-Application of Southwestern Bell Telephone Company for approval of extension of Plexa-Custom analog for the City of Dallas.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 27, 1989, 3:03 p.m.

TRD-8900810

Monday, May 22, 1989, 10 a.m. The Hearings Division will consider Docket 6609-Request of the Colony for extended area service to the Dallas Metro calling area.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 199, 2:49 p.m.

TRD-8900855

Wednesday, May 31, 1989, 10 a.m. The Hearings Division will consider Docket 8585-Inquiry of the general counsel into the reasonableness of the rates and services of Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1989, 2:49 p.m.

TRD-8900854

June 20, 1989, 10 a.m. The Hearings Division will consider Docket 8395-Petition for declaratory judgment and relief of AT&T Communications of the Southwest, Inc. against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 1, 1989, 2:37 p.m.

TRD-8900921

Railroad Commission of Texas

Monday, February 6, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William

B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget, procedure, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7257.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900827

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7251.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900825

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions, and appointment, reassignment and/or termination of various positions, including division directors.

Contact: C. Tom Clowe, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7274.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900829

The Flight Division will consider and act on the division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6787.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900822

The Gas Utilities Division will consider various matters within the regulatory jurisdiction of the Railroad Commission of Texas. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900816

The Office of Information Services will consider and act on the Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12970, Austin, Texas 78753, (512) 463-6710.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900819

The Investigation Division will consider and act on the division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6828.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900820

The Legal Division will consider and act on the Legal Division's report on division administration, budget, procedures, and personnel matters; proposed and pending litigation.

Contact: Cue Boykin, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900814

LP-Gas Division will consider various matters falling within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to, scheduling an item in its entirety or for particular action at a future time or date.

Contact: Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900826

The Oil and Gas Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Andy Taylor, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6924.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900817

The Oil and Gas Division will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6755.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900823

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6981.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900828

The Office of Research and Statistical Analysis will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ceryl Payne, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6976.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900821

The Surface Mining and Reclamation Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Jerry Hill, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6900.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900815

The Transportation Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Karen Kornell, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7094.

Filed: January 27, 1989, 11:27 a.m.

TRD-08900831

Thursday, February 16, 1989, 10 a.m. The Oil and Gas Division will meet in the 12th Floor Conference Room 12-126, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the division will hold statewide oil and gas hearing.

Contact: Cril Payne.

Filed: January 27, 1989, 11:27 a.m.

TRD-8900830

School Land Board

Tuesday, February 7, 1989, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous meeting; consider bids received for the February 7, 1989, oil and gas lease sale; consider pooling applications, applications to lease highway right of way for oil and gas; consider nominations, terms, conditions, and procedures for the April 4, 1989, oil, gas, and other minerals lease sale; hear report on status of suspended state leases and report on field inspections on coastal public lands; consider coastal public lands-easement applications, lease applications, commercial lease applications, commercial lease renewals, and commercial lease extensions; consider request by Albert Savell to appear before the board concerning commercial lease application approved by the board, 7-12-18; and consider legislation affecting clean air and natural gas. The board will also meet in executive session to consider land acquisition.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: January 30, 1989, 4:09 p.m.

TRD-8900861

State Securities Board

Wednesday, February 15, 1989, 10 a.m. The Securities Commissioner for the State Securities Board will meet at 1800 San Jacinto, Austin. According to the agenda summary, the commissioner will determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Regal Furniture Corporation, MonteCristo Mill, Inc., Alejandro (Alex) Bruni, Sr., and Alejandro (Alex) Bruni, Jr.

Contact: John Morgan, 1800 San Jacinto, Austin, Texas, (512) 474-2233.

Filed: January 30, 1989, 12 p.m.

TRD-8900849

Board of Tax Professional Examiners

Friday, February 17, 1989, 1:30 p.m. The Board of Tax Professional Examiners will meet in the Conference Room, State Property Tax Board Building, 9501 North IH 25, Austin. According to the agenda, the board will approve minutes of the January 13, 1989, meeting; action on items including certification and recertification of qualified registrants; request for recognition course for elective and CEU; act on complaint committee recommendation; discuss proposal for committee on professional stan-

dards; repeated failure cancellation policy; future BTPE requirements; information items regarding status of complaints, status of attorney general requests, relevant legislative proposals, results of renewal program, and planning calendar; and meet in executive session to discuss alleged misconduct during a board exam.

Contact: Sam H. Smith, P.O. Box 15920, Austin, Texas 78761, (512) 834-4982.

Filed: February 1, 1989, 11:53 a.m.

TRD-8900912

Texas State Technical Institute

Saturday, February 4, 1989, 10:30 a.m. The Board of Regents of Texas State Technical Institute met in Salon C, Austin Marriott at the Capitol, 701 East 11th Street, Austin. According to the agenda summary, the board heard legislative report and Search Committee report; established legislative priorities; considered systems reorganization, approved of contract for chancellor and vice-chancellor, and further business matters. The board also met in executive session.

Contact: Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913.

Filed: February 1, 1989, 8:55 a.m.

TRD-8900899

Texas State University System, Board of Regents

Friday, February 3, 1989, 10:30 a.m. The Local Planning Committee for Sam Houston State University met in the Second Floor Meeting Room, Austin College Building, Sam Houston State University, Huntsville. According to the agenda, the committee discussed any and all matters relating to the Sam Houston State University campus master plan for 1988.

Contact: Lamar Urbanovsky, (512) 463-1808.

Filed: January 30, 1989, 3:35 p.m.

TRD-8900858

Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, and agendas follow.

Monday, January 30, 1989, 10 a.m. The commission submitted an emergency revised agenda to consider various matters within the regulatory jurisdiction of the

commission. In addition, the commission considered items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission took various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time. The emergency status was necessary to insure economical feasibility on item 30 and to prevent economic loss on item 31.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: January 27, 1989, 4 p.m.

TRD-8900818

Monday, February 13, 1989, 10 a.m. The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: January 31, 1989, 2:50 p.m.

TRD-8900887

Thursday, February 16, 1989, 10 a.m. The commission will meet in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: January 31, 1989, 2:50 p.m.

TRD-8900888

Monday, March 6, 1989, 10 a.m. The commission will consider notice of application by Eugene I. Michels, Jr., application 14-1524A, to combine the applicant's 90 acre-foot portion of certificate 14-1508 under certificate 14-1524; amend certificate 14-1524, as combined, to reflect the overall authorization to divert a total of 225 acre-feet of water per annum to irrigate 225 acres of land out of a 530.77-acre tract; and authorize the applicant to divert water from the diversion point presently authorized on the North Llano River, tributary of the Llano River, tributary of the Colorado River,

Colorado River Basin, Kimble County under cert 14-1524 at a maximum rate of 0.67 cfs (300 gpm) for the additional 90 acre-feet of water per annum and at the original rate of 6.68 cfs (3000 gpm) for the original 50 acre-feet of water per annum.

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

Filed: January 30, 1989, 1:44 p.m.

TRD-8900852

Monday, April 3, 1989, 10 a.m. The commission will consider notice of hearing on an application by 2-B Farm and Ranch, Inc. 5210, for an 11.121 permit to divert for irrigation purposes not to exceed 80 acre-feet of water per annum directly from an unnamed tributary of Oso Creek tributary of Cayo del Oso, tributary of Corpus Christi Bay, Nueces-Rio Grande Coastal Basin to the land or into a proposed 1.75 acre-foot capacity off-channel reservoir to be created by excavation in Nueces County. The water will be used for irrigation of 38.88 acres of land out of a 39.949-acre tract of land approximately 16 miles west of Corpus Christi, Nueces County. Water will be diverted from the unnamed tributary of Oso Creek at a maximum diversion rate of 3.34 cfs (1500 gpm).

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

Filed: January 31, 1989, 4:21 p.m.

TRD-8900897

Monday, April 17, 1989, 10 a.m. The Hearings Examiners will meet in Room 1149A, to consider application by William N. Allan and wife Thelma B. Allan, application 5197, for a water use permit to appropriate public waters.

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

Filed: January 27, 1989, 1:47 p.m.

TRD-8900813

Regional Meetings

Meetings Filed January 26, 1989

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main Street, San Antonio, on February 9, 1989, at 9 a.m. Information may be obtained from Walter Stoneham, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511.

The Dawson County Central Appraisal District, Board of Directors, met at 920 North Dallas Avenue, Lamesa, on February 1, 1989, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The High Plains Underground Water

Conservation District No. 1, Board of Directors, met in the Conference Room, 2930 Avenue Q, Lubbock, on February 6, 1989, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Rio Grande Valley Municipal Water Authority, Board, will meet in the Chamber of Commerce Boardroom, 311 East Tyler, Harlingen, on February 15, 1989, at 7 p.m. Information may be obtained from Ersel Lantz, 3505 Boca Chica, Suite 303, Brownsville, Texas 78550, (512) 451-1660.

TRD-8900732

Meetings Filed January 27, 1989

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in Suite 500, 611 South Congress Avenue, Austin, on January 30, 1989, at noon. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 440-6955.

The Dallas Area Rapid Transit, Arts Committee, met in the Board Conference Room, 601 Pacific Avenue, Dallas, on January 31, 1989, at 3 p.m. The Legislative Committee met at the same location on February 1, 1989, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on January 31, 1989, 9 a.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Lamar County Appraisal District, Special Board Meeting, was held at the Appraisal District Office, 521 Bonham Street, Paris, on January 31, 1989, at 5 p.m. Information may be obtained from Betty Hanna, 521 Bonham Street, Paris, Texas 75460, (214) 785-7822.

TRD-8900778

Meetings Filed January 30, 1989

The Brown County Appraisal District, Board of Directors, met at 403 Fisk Avenue, Brownwood, on February 6, 1989, 7 p.m. Information may be obtained from Bob Young, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The East Texas Council of Governments, JTPA Board of Directors and Executive Committee, met at the Ramada Inn, Kilgore, on February 2, 1989, at 11:30 a.m. and 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Education Service Center, Region IV, Board of Directors, will meet in the

Boardroom, 7145 West Tidwell, Houston, on February 14, 1989, at 6 p. m. Information may be obtained from William L. McKinney, P.O. Box 863, Houston, Texas 77001, (713) 462-7798.

The Grayson Appraisal District, Board of Directors, will meet at 205 North Travis, Sherman, on February 8, 1989, at noon. Information may be obtained from Debroah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

The North Plains Groundwater Conservation District Number 2, Board of Directors, met at the District Office, 603 East First Street, Dumas, on February 6, 1989, at 10 a.m. Information may be obtained from Richard S. Bowers, Box 795, Dumas, Texas 79029, (806) 935-6401.

The Tyler County Appraisal District, Board of Directors, will meet at 806 West Bluff, Woodville, on February 7, 1989, at 4 p.m. Information may be obtained from Sarah Marsh, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Upshur County Appraisal District, Appraisal Review Board, will meet at the District Office, Warren and Trinity Streets, Gilmer, on February 8, 1989, at 9 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (214) 843-3041.

The Wheeler County Appraisal District, Board of Directors, met at the District's Office, County Courthouse Square, Wheeler, on February 6, 1989, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

The Wise County Appraisal District, Board of Directors, will meet in the Boardroom, 206 South State Street, Decatur, on February 9, 1989, at 9 a.m. Information may be obtained from Erenda Jones, (817) 627-3081.

TRD-8900838

Meetings Filed January 31, 1989

The Bexar-Medina-Atascosa Counties Water Control 7 Improvement District 1, Board of Directors, met on Highway 81, Natalia, on February 6, 1989, at 10 a.m. Information may be obtained from C.A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Education Service Center, Region VII, Board of Directors, will meet at the Holiday Inn, Henderson, on February 16, 1989, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas (214) 984-3071.

The San Patricio County Appraisal District, Appraisal Review Board, met at 1146 East Market, Sinton, on February 1, 1989, at 2:30 p.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

TRD-8900873

Meetings Filed February 1, 1989

The Dewitt County Appraisal District, Appraisal Review Board, will meet at 103 Bailey Street, Cuero, on February 8, 1989, at 9 a.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The Education Service Center, Region X, Board of Directors, will meet in the Boardroom, 400 East Spring Valley, Richardson, on February 8, 1989, at 12:30 p.m. Information may be obtained from Joe Farmer, 400 East Spring Valley, Richardson, Texas (214) 231-6301.

The Education Service Center, Region, XVIII, Board of Directors, will meet at 2811 LaForce Boulevard, Midland, on February 9, 1989, at 7:30 p.m. Information may be obtained from Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380.

The Garza County Appraisal District, Board of Directors, will meet at the Courthouse, Post, on February 9, 1989, at 9 a.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

The Harris County Appraisal District, Board of Directors, will meet on the Eighth Floor, 2800 North Loop West, Houston, on February 7-8, 1989, at 9 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291.

The Central Appraisal District of Taylor County, Board of Directors, will meet at 340 Hickory Street, Abilene, on February 8, 1989, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

TRD-8900898

Meetings Filed February 2, 1989

The Hunt County Tax Appraisal District, Appraisal Review Board, will meet in the Boardroom, 4801 King Street, Greenville, on February 7, 1989, at 9 a.m. Information may be obtained from Joe P. Davis or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Rusk County Appraisal District, Appraisal Review Board, will meet at 107 North Van Buren, Henderson, on February 7, 1989, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

TRD-8900940

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department on Aging State Plan Public Hearings

In order for the Texas Department on Aging to gain the views of recipients of supportive and nutrition services provided under the Older Americans Act, Title III, a number of public hearings will be conducted at geographically central locations within the state for participants and other interested parties to comment on the department's state plan. Six such hearings will be conducted. Information pertinent to each hearing is as follows.

March 21, 1989

Site: South Plains Association of Governments, 1323 58th Street, Lubbock, Texas 79412

Phone: (806) 762-8721 (South Plains Area Agency on Aging)

Time: Hearing: 1:30 p.m.

For: South Plains, Panhandle, Permian Basin, and Concho Valley Planning and Service Areas

March 21, 1989

Site: City Council Chambers, Two Civic Center Plaza, Second Floor, El Paso, Texas 79999

Phone: (915) 533-0998 (Rio Grande Area Agency on Aging)

Time: Hearing: 10 a.m.

Special Notes: Bilingual and equipped for hearing impaired

For: Rio Grande Planning and Service Area

March 22, 1989

Site: Central Texas Area Agency on Aging, Central Texas Council of Governments, 302 East Central, Belton, Texas 76513

Phone: (817) 939-1886

Time: Hearing: 10 a.m.

For: Central Texas, Heart of Texas, Capital, and Brazos Valley Planning and Service Areas

March 28, 1989

Site: North Central Texas Council of Governments, Centerpoint Two-Second Floor Board Room, 616 Six Flags Drive, Arlington, Texas 76005

Phone: (817) 640-3300

Time: Hearing: 1:30 p.m.

For: North Central, West Central, Texoma, Tarrant, Dallas, North Texas, Ark-Tex, and East Texas Planning and Service Areas

March 28, 1989

Site: Bayfront Plaza, Room 224, 1901 North Shoreline, Corpus Christi, Texas 78401

Phone: (512) 880-3692 (Coastal Bend Area Agency on Aging)

Time: Hearing: 1:30 p.m.

For: Coastal Bend, Lower Rio Grande, and Middle Rio Grande, South Texas, Alamo, Bexar, and Golden Crescent Planning and Service Areas

March 30, 1989

Site: Harris County Area Agency on Aging, Department of Health and Human Services, 8000 North Stadium Drive, Houston, Texas 77251

Phone: (713) 794-9000 (Harris County Area Agency on Aging) (713) 627-3200 (Houston-Galveston Area Agency on Aging)

Time: Hearing: 1:30 p.m.

For: Harris, Houston-Galveston, Deep East, and South East Texas Planning and Service Areas

Issued in Austin, Texas on January 27, 1989.

TRD-8900842

O.P. (Bob) Bobbitt
Executive Director
Texas Department on Aging

Filed: January 30, 1989

For further information, please call (512) 444-2727

Texas Department of Agriculture Request for Proposals

The Texas Agriculture Diversification Board and Texas Department of Agriculture invite proposals to fund applied research and innovation projects, business training, and support service programs designed to address Texas' Agricultural needs and opportunities. The Agricultural Diversification Grant Program was authorized by House Bill 49, 70th Legislature, Second Called Session, 1987. The purpose of the program is to support projects sponsored by nonprofit organization which will stimulate increased economic activity within Texas' food and agriculture industries. Funding proposals will be accepted in three categories: (1) Research and innovation (technology transfer). Grants up to \$30,000 will be considered for applied research and innovation leading to organizational or marketing improvements in business based on agriculture or to the commercialization of new crops, new agricultural products, or new production processes. A grant recipient under this grant must match the amount of the state grant with an equal amount of other money, with at least one-half of the matching money coming from the private sector. (2) Business assistance (training). Grants up to \$30,000 will be considered for business assistance, including training, to increase the capabilities of community and regional organization to provide training and assistance to new and expanding businesses based on agriculture. A grant recipient under this grant program must match the amount of the state grant with an equal amount of other money. (3) Small business incubators. Grants will provide up to

\$100,000 to provide seed money for self-financing small business incubators. These incubators shall provide business services to small enterprises that process or market agricultural crops in this state or that produce alternative agricultural crops in this state.

A grant recipient under this section must match the amount of the state grant with assets valued at three dollars for every dollar of the state grant. The state grant must be primarily for professional services. The local matching share may be in the form of land, buildings, business assistance, and dedicated loan pools as well as cash contributions.

Funds are intended to be used for new activities or the expansion of qualifying activities. Proposals must have practical near-term commercial application involving new or alternative crops and technologies, production, processing, and marketing practices which will stimulate expanded agricultural development, economic activity, and employment growth. A recipient of a grant must be a nonprofit regional organization or nonprofit community, such as a university, community college, or council of government, or other institutions affiliated with a small business in an eligible project.

Proposals will be evaluated on the basis of conformity to the objectives and criteria indicated in the complete request for proposals, (RFP) and the cost effectiveness of the proposal activity.

To obtain a complete copy of the RFP contact Alice Reynolds, Administrator, Texas Agricultural Diversification Program, Texas Department of Agriculture, P.O. Box 12847, 1700 North Congress Avenue, Stephen F. Austin Building, 10th Floor, Room 1001, Austin, Texas 78711, (512) 463-7624. A copy of the request for proposals may be obtained by calling or writing the department.

Proposals may be delivered by mail or in person to the address stated previously. To be considered for funding, proposals must be received no later than 4 p.m. on February 15, 1989. Proposals received after that time will not be considered.

Issued in Austin, Texas on January 25, 1989.

TRD-8900747 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of Agriculture

Filed: January 26, 1989

For further information, please call (512) 463-7583

Office of the Attorney General Notice of Contract Award

Under the provisions of Texas Civil Statutes, Article 6252-11c, and pursuant to a consultant proposal request published in the November 25, 1988, issue of the *Texas Register* (13 TexReg 5933), the Office of the Attorney General of Texas has awarded a private consultant contract to Arthur Andersen and Company, whose business address is 816 Congress Avenue, Suite 1500, Austin, Texas 78701. Under the contract, the consultant is to conduct a comprehensive management/operational audit of the operations of the Child Support Enforcement Division of the Office of Attorney General for the two-year period beginning November 2, 1986. The services to be provided will be performed in two phases. The first phase will consist of a management/operational review, and the second phase will consist of the development of an implementation plan and a status report based on the results of Phase I.

The beginning date of the contract is January 20, 1989, and the projected ending date of the contract is May 31, 1989. The contract provides for delivery of a final audit report to the attorney general no later than February 24, 1989, and for delivery of an implementation report to the attorney general by May 1, 1989. The total value of the contract may not exceed \$165,000.

Issued in Austin, Texas on January 27, 1989.

TRD-8900800 Lou McCroary
Executive Assistant Attorney General
Attorney General

Filed: January 27, 1989

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

Texas Department of Banking Notices of Application

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 26, 1989, the banking commissioner received an application to acquire control of Alvin State Bank, Alvin, by James F. Eubank, II, Houston.

Additional information may be obtained from: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas on January 26, 1989.

TRD-8900837 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: January 30, 1989

For further information, please call (512) 475-4451

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 30, 1989, the banking commissioner received an application to acquire control of First State Bank, Lumberton, by Jack B. Brooks, Beaumont, and Gerald D. Flowers, Silsbee.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas on January 30, 1989.

TRD-8900895 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: January 31, 1989

For further information, please call (512) 479-1200

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular

bank. A hearing may be held if the application is denied by the commissioner.

On January 27, 1989, the banking commissioner received an application to acquire control of Parker County Bancshares, Inc., Weatherford, by Herbert S. Kendrick, Jr., and Richard M. Kendrick, III, as Co-trustees for the Sam K. Kendrick Testamentary Trust.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas on January 27, 1989.

TRD-8900895 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: January 31, 1989

For further information, please call (512) 479-1200

Bond Review Board

Notice of Bonds Exempt from Review

Bonds issued by the following are not subject to review by the Bond Review Board: a junior college district or regional college district created under the Education Code, Chapter 130; a hospital authority created under Texas Civil Statutes, Article 4437e or Article 4494r; a hospital district created under the Texas Constitution, Article 9, §4; a hospital laundry cooperative association created under Texas Civil Statutes, Article 4437f-1; a health facilities development corporation created under the Health Facilities Development Act, Texas Civil Statutes, Article 1528j; a municipal power agency created under Texas Civil Statutes, Article 1435a; a navigation district created under the Texas Water Code, Chapters 60-63; a gas corporation created under Texas Civil Statutes, Article 1435; a river authority created pursuant to the Texas Constitution, Article III, §52, or Article XIV, §59; a higher education authority created under the Texas Education Code, Chapter 53; and the board of regents of the Texas A&M University System or the University of Texas System pursuant to the Texas Constitution Article VII, Sections 1(a) and 18(b) ("PUF Bonds").

Issued in Austin, Texas on January 27, 1989.

TRD-8900851 Tom K. Pollard
Executive Director
Bond Review Board

Filed: January 30, 1989

For further information, please call (512) 463-1741

Texas Department of Commerce Consultant Contract Award

Contractor. The Texas Department of Commerce announces that Brandeis University, Center for Human Resources has been awarded a contract, under the provisions of Texas Civil Statutes, Article 6252-11c, for the period of January 16, 1989-December 31, 1989. The contract is for the purpose of providing training and technical assistance as part of a comprehensive plan for the development and implementation of a strategic youth policy development and training initiative for the State of Texas under the Job Training Partnership Act (JTPA). The consultant proposal request was published in the November 22, 1988, issue of the *Texas Register* (13 TexReg 5841).

Description of Services. Brandeis University, Center for Human Resources shall perform the following tasks: an appraisal of service delivery area (SDA)-level youth serving systems; Private Industry Council (PIC) and SDA training, including a PIC orientation session, a statewide youth conference, and three statewide or regional training workshops; train-the-trainer workshops for state-level staff from the Department of Commerce and other appropriate agencies; and policy assistance, including work with an interagency JTPA/education task force, on reducing barriers to collaborative programming.

Business Address. The business address of Brandeis University, Center for Human Resources is P.O. Box 9110, Waltham, Massachusetts 02254-9110.

Contract Amount. The total cost of services to be performed under the contract with Brandeis University Center for Human Resources is presently estimated to be \$323,057.

Project Reports. Reports to be generated under this contract shall be submitted to Commerce upon completion.

Issued in Austin, Texas on January 25, 1989.

TRD-8900734 J. W. Lauderback
Executive Director
Texas Department of Commerce

Filed: January 26, 1989

For further information, please call (512) 834-6060

Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1989 is \$839,250,000.

State legislation, Texas Civil Statutes, Article 5190.9(a) (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$279,750,000 with \$186,500,000 available to the local housing authorities and \$93,250,000 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$209,812,500 and the amount for all other bonds requiring an allocation is \$349,687,500.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, January 16, 1989-January 20, 1989.

Weekly report on the 1989 allocation of the state ceiling on certain private activity bonds as pursuant to Texas Civil Statutes, Article 5190.9(a).

Total amount of state ceiling remaining unreserved for the

\$279,750,000 subceiling for qualified mortgage bonds under the Act as of January 20, 1989: \$279,750,000.

Total amount of state ceiling remaining unreserved for the \$209,812,500 subceiling for state-voted issues under the Act as of January 20, 1989: \$209,812,500.

Total amount of state ceiling remaining unreserved for the \$349,687,500 subceiling for all other bonds under the Act as of January 20, 1989: \$500.

Total amount of the \$839,250,000 state ceiling remaining unreserved as of January 20, 1989: \$489,563,000.

comprehensive listing of bond issues which have received a reservation date pursuant to the Act from January 16, 1989-January 20, 1989: none.

Comprehensive listing of bonds issued and delivered as pursuant to the Act from January 16, 1989-January 20, 1989: none.

Issued in Austin, Texas on January 24, 1989.

TRD-8900733 J. William Lauderback
Executive Director
Texas Department of Commerce

Filed: January 26, 1989

For further information, please call (512) 472-5059

Office of Consumer Credit Commissioner

Notice of Rate Bracket Adjustment

Pursuant to the provisions of House Bill 1228, 67th Legislature of Texas, Regular Session, 1981, the Consumer Credit Commissioner of Texas has ascertained the following dollar amounts of the brackets and ceilings in Texas Civil Statutes, Article 5069, by use of the formula and method described in Article 2.08, Title 79, Revised Civil Statutes of Texas, as amended Texas Civil Statutes, Article 5069-2.08(1).

The ceiling amount in Texas Civil Statutes, Article 3.01(1) is changed to \$8,500.

The amounts of the brackets in Texas Civil Statutes, Article 3.15(1) are changed to \$1,020 and \$8,500, respectively.

The ceiling amount in Texas Civil Statutes, Article 3.16(6) is changed to \$340.

The amounts of the brackets in Texas Civil Statutes, Article 6.02(9)(a) are changed to \$1,700 and \$3,400, respectively.

The amount of the bracket in Texas Civil Statutes, Article 6.03(3) is changed to \$1,700.

The ceiling amount in Texas Civil Statutes, Article 51.12 are changed to \$8,500.

The amounts of the brackets in Texas Civil Statutes, Article 51.12 are changed to \$102, \$340, and \$1,020, respectively.

The above dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 1989, and extending through June 30, 1990.

(1) Computation method: The Reference Base Index (the Index for December, 1967) = 101.6. The December, 1988 Index = 355.0. The percentage of change is 349%. This equates to an increase of 340% after disregarding the percentage of change in excess of multiples of 10%.

Issued in Austin, Texas on January 24, 1989.

TRD-8900730 Al Endeley
Consumer Credit Commissioner

Filed: January 26, 1989

For further information, please call (512) 479-1280

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ /Agri- cultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	01/30/89-02/05/89	18.00%	18.00%
Monthly Rate Art. 1.04(c) ⁽¹⁾	01/01/89-01/31/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	01/01/89-03/31/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	01/01/89-03/31/89	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) ⁽³⁾	01/01/89-03/31/89	15.21%	N.A.

Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	01/01/89-03/31/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	01/01/89-03/31/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	01/01/89-03/31/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	02/01/89-02/28/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on January 23, 1989.

TRD-8900701 Al Endsley
Consumer Credit Commissioner

Filed: January 25, 1989

For further information, please call: (512) 479-1280

Texas Department of Health Agreed Orders

In the matter of the appeal from administrative penalties assessed by the Bureau of Radiation Control against Baker-Shiflett, Inc., holder of Radioactive Material License L02906, the following settlement was agreed upon by the Division of Compliance and Inspection and the licensee. The parties agreed that the amount of the penalty assessed should be \$3,000 to be paid by 5 p.m. on or before December 1, 1988.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, from 8 a.m.-5

p.m. (except holidays).

Issued in Austin, Texas on January 26, 1989.

TRD-8900806 Robert A. MacLean, M.D.
Deputy Commissioner, Professional
Services
Texas Department of Health

Filed: January 27, 1989

For further information, please call (512) 835-7000

In the matter of Basin Industrial X-Ray, Inc., holder of Radioactive Material License L02280, the Bureau of Radiation Control and the licensee agreed on the following order. The licensee will be in a state of probation for a period of one year beginning July 7, 1988. During the probation period, if the agency determines that the licensee has committed violations of Severity Levels I or II pursuant to Texas Regulations for Control of Radiation, Appendix 13-A, or a violation of the order, the agency may then set a hearing for consideration of revocation of the license. It was also agreed that the licensee will pay the sum of \$5,000 to the agency in consecutive monthly

installments of \$500 beginning September 5, 1988.

The terms of the probation period and any other relevant material are available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, from 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas on January 26, 1989.

TRD-8900804 Robert A. MacLean, M.D.
Deputy Commissioner, Professional
Services
Texas Department of Health

Filed: January 27, 1989

For further information, please call (512) 835-7000

In the matter of the appeal from administrative penalties assessed by the Bureau of Radiation Control against Houston Inspection Laboratories, Inc., holder of Radioactive Material License L02011, the following settlement was agreed upon by the Division of Compliance and Inspection and the licensee. The parties agreed that the amount of the penalty assessed could be made in installments: \$2,500 prior to October 10, 1988; \$2,500 prior to September 1, 1989; and \$2,500 prior to September 1, 1990.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, from 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas on January 26, 1989.

TRD-8900803 Robert A. MacLean, M.D.
Deputy Commissioner, Professional
Services
Texas Department of Health

Filed: January 27, 1989

For further information, please call (512) 835-7000

Emergency Cease and Desist and Impoundment Order

Notice is hereby given that the Bureau of Radiation Control ordered NDI Services, Inc. to cease and desist from operating and/or using any source of radiation at any location in the State of Texas until the violations identified in an agency inspection have been corrected and evidence of such correction has been submitted to the agency, in writing, and the agency authorizes, in writing, the resumption of such activities. It was also ordered that the company, any of its agents, assignees, or servants immediately surrender to the agency for impoundment the radiation machine in its possession.

The order was issued because the company was in violation of an agency order issued March 31, 1986, revoking the company's Certificate of Registration 6-11331. Further, the company did not have radiation survey instruments nor appropriate personnel dosimetry, and had individuals who were not qualified radiographers operating radiation-producing machines.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, from 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas on January 26, 1989.

TRD-8900801 Robert A. MacLean, M.D.
Deputy Commissioner, Professional
Services
Texas Department of Health

Filed: January 27, 1989

For further information, please call (512) 835-7000

Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order.

Order of revocation issued December 15, 1988, to James E. Burton, D.D.S., 7810 West Montgomery, Houston, Texas 77088, holder of Certificate of Registration Number R11-09196.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, from 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas on January 26, 1989.

TRD-8900805 Robert A. MacLean, M.D.
Deputy Commissioner, Professional
Services
Texas Department of Health

Filed: January 27, 1989

For further information, please call (512) 835-7000

Revocation of a Radioactive Material License

The Texas Department of Health, having duly filed a complaint pursuant to *Texas Regulations for Control of Radiation* Part 13.8, has revoked the following radioactive material license.

Tri-City Testing, Inc., 6-3718, Killeen, January 10, 1989.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, from 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas on January 26, 1989.

TRD-8900802 Robert A. MacLean, M.D.
Deputy Commissioner, Professional
Services
Texas Department of Health

Filed: January 27, 1989

For further information, please call (512) 835-7000

Texas Higher Education Coordinating Board

Consultant Contract Award

The Texas Higher Education Coordinating Board announces the award of a contract for consulting services under the provisions of Texas Civil Statutes, Article 6252-11c. The proposal was published under Texas Higher Education Coordinating Board in the December 13, 1988, issue of the *Texas Register* (13 TexReg 6172).

The consultant will perform all tasks necessary to identify data sources, gather information, design and implement a review methodology to analyze the Texas Higher Education Group Insurance Program, and formulate recommendations for restructuring the program to obtain the optimum actuarial benefits to higher education.

Coopers and Lybrand, 1999 Bryan Street, Suite 3000, Dallas, Texas 75201 was awarded the contract. The contract amount shall not exceed \$75,000 and shall commence January 23, 1989, to be completed by July 23, 1989. Twenty-five copies of the final report will be due to the Coordinating Board by August 15, 1989, and a formal oral presentation of findings and recommendations is to be presented.

Issued in Austin, Texas on January 23, 1989.

TRD-8900857

James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: January 30, 1989

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

Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Higher Education Coordinating Board invites proposals from qualified consultants to develop a method of program cost analysis for approximately 20 individual nursing programs, to provide comparable national program cost analysis data, and to assist the Coordinating Board in developing a strategy for funding nursing programs at health science centers in the state.

This is a continuation of a service previously performed, and the Coordinating Board intends to award the contract for consulting services to the private consultant that previously performed the services unless a better offer is submitted.

Accuracy of the initial data collection is a major factor in obtaining satisfactory results. Collection of the Texas program cost data will require a two-day site visit at approximately eight to 10 sites. The program cost analysis methodology must be designed specifically for health professions education to allow for analysis of total program costs regardless of who pays. This is particularly important as health professions education takes place at multiple sites—universities, hospitals, clinics, etc.

Therefore, the contractor will be required to have a working knowledge of both higher education and the health professions and to perform all tasks necessary to identify data sources, gather information, design, and implement a review methodology to analyze the nursing program costs at selected public higher education institutions in Texas, to provide comparable national data on nursing programs, recommend any appropriate changes for more cost efficient/quality program construction and formulate a funding strategy for nursing programs.

Project deliverable shall include periodic reports and 25 copies of a final report which includes: statement of methodology and assumptions used in cost analysis; program cost analysis/construction profiles for each program studied; corresponding national program cost analysis/construction profiles for each type of program studied; recommendation of cost efficient/quality program construction for each type of program; and recommendation of funding strategy for nursing programs.

A formal oral presentation of findings and recommendations will also be scheduled.

Selection will be based on factors included, but not limited to, the following: the contractor shall have demonstrated experience in conducting similar studies; should have a working knowledge of health professions and higher education; provide previous project experience that would benefit this project; and demonstrate organizational and

staff capability for successful project completion.

Funding for this project shall not exceed \$15,000 and the contract period shall be no more than six months. The Texas Higher Education Coordinating Board reserves the right to accept or reject any or all proposals submitted under this consultant proposal request and to negotiate modifications to improve the quality or cost effectiveness of any proposal.

Proposals must be postmarked no later than the close of business, 5 p.m. on February 24, 1989. Three copies of the final proposal are required and may be mailed to: Texas Higher Education Coordinating Board, Marlene Clark, P.O. Box 12788, Austin, Texas 78711; or hand delivered to Room 203, Bevington Reed Building, 200 East Riverside Drive, Austin, Texas by 5 p.m. on February 24, 1989.

For additional information regarding this consultant proposal request, please contact Marlene Clark at (512) 462-6476.

Issued in Austin, Texas on January 23, 1989.

TRD-8900707

Kenneth H. Ashworth
Commissioner of Higher Education
Texas Higher Education Coordinating Board

Filed: January 25, 1989

For further information, please call (512) 462-6476

State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration:

1. Application for incorporation of Parliament Dental Plans, Inc., a domestic health maintenance organization. The home office is in Mesquite.
2. Application for admission to do business in Texas of CM Assurance Company, a foreign life insurance company. The home office is in Hartford, Connecticut.
3. Application for admission to do business in Texas of American Life Pension Health Associates Company, a foreign third party administrator. The home office is in St. Louis, Missouri.
4. Application for a name change of First Republic Bank Life Insurance Company, a domestic life insurance company. The home office is in Dallas. The proposed new name is NCNB Life Insurance Company.
5. Application for a name change of First Republic Life Insurance Company, a domestic life insurance company. The home office is in Dallas. The proposed new name is NCNB Texas Life Insurance Company.

Issued in Austin, Texas, on January 27, 1989.

TRD-8900796

Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: January 27, 1989

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

The following applications have been filed with the State Board of Insurance and are under consideration:

1. Application for admission to do business in Texas of Continental National Indemnity Company, a foreign casualty insurance company. The home office is in Cincinnati,

Ohio.

2. Application for a name change by Chase Lloyds Insurance Company, a domestic Lloyds insurance company. The home office is in Waco. The proposed new name is Insurers Lloyds Insurance Company.

3. Application for a name change by United Services General Life Company, a foreign life insurance company. The home office is in Des Moines, Iowa. The proposed new name is USG Annuity and Life Company.

4. Application for incorporation of the United States Fidelity Life Insurance Company of San Antonio, a domestic life insurance company. The home office is in San Antonio.

Issued in Austin, Texas, on January 30, 1989.

TRD-8900876 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: January 31, 1989

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

Texas Department of Mental Health and Mental Retardation Consultant-Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Department of Mental Health and Mental Retardation serves notice of invitation for bids on services related to the implementation of software developed by Human Services Research Institute for the planning of mental health and mental retardation services.

Description. The consultant will conduct a two to three-day meeting with MH and MR program staff from state facilities and community MHMR centers regarding the HSRI MH and MR models and will facilitate group meetings to obtain input related to the development of mental health and mental retardation service planning models for urban, rural, and very rural areas. Specific tasks will include presentation of the models and their development to MH and MR program staff from state facilities and community MHMR centers, the development of the process and forms for obtaining input regarding specific configuration of services for specific client groups, and the facilitation of group meetings to develop consensus among participants regarding such services. This effort will supplement the software and its calibration for Texas which has already been obtained from Human Services Research Institute.

Contact person. Prospective bidders may contact Vijay Ganju, Strategic Planning, TDMHMR, P.O. Box 12668, Austin, Texas 78711-2668, (512) 465-4569.

Consultant information. To eliminate the costs incurred in developing the consultant's knowledge of the software products used and the models in which they are based, TDMHMR intends to award this contract to Human Services Research Institute unless a better offer is received.

Procedures for selection of consultant. TDMHMR will consider demonstrated competence, knowledge, and qualifications to complete the work satisfactorily and on time. These factors will be used for each individual who will be assigned to the project, and for the firm as a whole, as well as for the reasonableness of the proposed fee. TDMHMR has the sole discretion and reserves the right to cancel the request if it is considered in the best interest of the agency to do so.

Closing date. The closing date for receipt of offer is February 17, 1989.

Issued in Austin, Texas on January 28, 1989.

TRD-8900730 Dennis R. Jones
Commissioner
Texas Department of Mental Health and
Mental Retardation

Filed: January 26, 1989

For further information, please call (512) 465-4591

Texas Racing Commission Notice of Application Period

The Texas Racing Commission announces that beginning March 1, 1989, the commission will accept applications for a Class 1 pari-mutuel racetrack license for a racetrack located in Bexar or Harris County. Under Texas Racing Commission rules, the commission may designate an application period of not more than 60 days in which application documents for a racetrack license may be filed. On September 12, 1988, the Texas Racing Commission adopted a timeline for beginning the application process and designated the period from March 1, 1989-March 30, 1989, as the application period for Class 1 pari-mutuel racetrack licenses for racetracks located in Bexar or Harris County.

A person who wishes to file an application during this period must obtain an application form from the commission. The Texas Racing Commission offices are located at 400 West 15th Street, Suite 625, Austin, Texas 78701. For more information, contact Carol Treadway, Director of Licensing, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, (512) 476-7223.

Issued in Austin, Texas on January 26, 1989.

TRD-8900737 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Filed: January 26, 1989

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

Railroad Commission of Texas Invitation for Bids - Alcoa

Note. The bidder qualification requirement of previous regrading of 200 acres under the Surface Mining Control and Reclamation Act of 1977 has been deleted from this invitation. The new bid opening date for this project is March 3, 1989.

The Railroad Commission of Texas (commission), Division of Surface Mining and Reclamation (SMRD) is soliciting bids for the regrading work related to reclamation of approximately 298.8 acres at the ALCOA Abandoned Mined Land (AML) site. The site is located in Milam County, approximately 9.5 miles southwest of Rockdale. As the designated state agency for implementation of the Surface Mining Control and Reclamation Act of 1977 (30 United States Code §1201 et seq.), the commission will award a single lump sum, fixed price contract to the lowest qualified bidder for regrading work for this project. Bids shall be submitted in the envelope provided marked "Bid-Do Not Open" addressed to the Abandoned Mine Land Coordinator, SMRD, ALCOA AML Project, the Railroad Commission of Texas, 1701 North Congress, Austin, Texas 78711. Bids will be received until 1 p.m.

March 3, 1989, at which time the bids will be publicly opened and read. Copies of the specifications, drawings, and other contract documents are on file at the above address and at the SMRD Field Office, 1419 Third Street, Floresville, Texas 78114. The complete bid proposal package may be obtained at the cost of reproduction, \$75.00, by contacting Mr. J. Randal (Jerry) Hill, Railroad Commission of Texas, 1701 North Congress, Austin, Texas 78711. Maps to the conference site will be provided with the bid package. Interested parties are required to attend the prebid conference on the ALCOA Abandoned Mine Land (AML) site in Milam County, at 1 p.m. on February 10, 1989. Bid proposal packages will be available at the prebid conference.

Each bidder shall furnish, in addition to his summary of bid, his complete information pertaining to the following minimum requirements: current financial statement (as of January 1, 1989); current construction equipment inventory list (as of January 1, 1989); submit a bid security in the amount of 10% of the bid price in the form of either a bid bond by a surety licensed to do business in the State of Texas or cashiers check payable to the Railroad Commission of Texas (no personal checks will be accepted); and documenting to the commission's satisfaction the bidder's ability to perform satisfactorily the work on which he has bid. The commission reserves the right to reject any or all bids, to waive formalities, and in case of ambiguity or lack of clearness in stating prices, to adopt such interpretations as may be most advantageous to the commission. Bids may not be withdrawn until expiration of 90 days from the date bids are opened.

Issued in Austin, Texas on January 27, 1989.

TRD-8900832 Crl Payne
Assistant Director Legal Division, General
Law
Railroad Commission of Texas

Filed: January 27, 1989

For further information, please call (512) 463-7187

Request for Proposals

The Railroad Commission of Texas (RCT) invites offers for consulting engineering services pursuant to the Professional Services Procurement Act, Texas Civil Statutes, Article 664-4. This request is exempted from the advertising and reporting requirements of Texas Civil Statutes, Article 6252-11c, which does not apply to the employment of registered professional engineers.

The RCT is the designated state rail planning agency and as such it is the recipient of Federal Railroad Administration (FRA) grant funds to be applied on a matching basis towards railroad branchline reconstruction. The next such rehabilitation project is to be on track owned by the City of Austin and operated by the Austin Railroad Company, Inc., doing business as Austin and Northwestern Railroad Company (AUNW). The project encompasses 44.5 miles of track in two separate segments which are located between McNeil and Fairland in Travis, Williamson, and Burnet Counties. This project will upgrade the line for safe and efficient operation at 25 mph (FRA Track Safety Class 2). All reconstruction work will be based on engineering specifications of AUNW.

For information on the services required and response procedures, contact Robert Farnsworth, State Rail Planner, Railroad Commission of Texas, Transportation/Gas Utilities Division, Rail Planning Section, P.O. Drawer 12967, Austin, Texas 78711-2967.

Starting Date. The contract for these services will begin with Task 1 upon selection but not later than April 1, 1989.

Deadline for submission of proposals. This proposal request will close at 5 p.m. on Friday, March 3, 1989.

To schedule a visit to the site, call Dennis Kling, General Manager of the AUNW, at (512) 476-1791.

Proposals should be sent to the Railroad Commission of Texas, Transportation/Gas Utilities Division, P.O. Drawer 12967, Austin, Texas 78711-2967, Attention Robert Farnsworth, State Rail Planner.

General Information. RCT reserves the right to accept or reject any or all proposals submitted. In the event the RCT selects a contractor to provide the delivery of services described, its choice will be based on demonstrated competence, qualifications, and the reasonableness of the fee for services.

Issued in Austin, Texas on January 27, 1989.

TRD-8900833 Crl Payne
Assistant Director Legal Division, General
Law
Railroad Commission of Texas

Filed: January 27, 1989

For further information, please call (512) 463-7116

The University of Texas M.D. Anderson Cancer Center Consultant Proposal Request

The University of Texas M.D. Anderson Cancer Center (UTMDACC) requests, pursuant to the provisions of Texas Civil Statutes, Article 6251-11c, the submission of proposals leading to the award of a contract to develop a cohesive strategic plan for the Division of Nursing.

The purpose of this project is to develop a strategic plan for the Division of Nursing in conjunction with the existing UTMDACC long range plan. Action plans are to be developed to provide specific and detailed directions on who, what, where, when, and how each area should be utilized and should include criteria to measure progress. Where required, the action or operating plans will include suggestion forms, job descriptions, sources of information, or trade leads incomparable or competitive areas. The reports shall also include suggestions for development or improvement in areas which are vital to the continued growth of this division or outside the scope of work of this project. Lastly, the proposed scope of work must also provide a schedule during implementation when the consultant(s) will assist with on-site visits, consultation, seminars, and debriefing sessions.

Respondents must be regularly engaged in the business of developing, presenting, and implementing strategic plans similar in nature, and have demonstrated the ability to perform the services and requirements of this solicitation.

UTMDACC reserves the right to make an award based solely on the proposals or to negotiate further with one or more respondents. The respondent(s) selected for the award will be chosen on the basis of the greatest benefit to UTMDACC, as determined by UTMDACC, and not necessarily on the basis of the lowest price.

Three copies of the full proposal must be filed with UTMDACC prior to 3 p.m., March 20, 1989. The application must be directed to the address listed following.

Additional information may be obtained from Scott Jones,

Senior Procurement Officer, 1515 Holcombe Boulevard,
Box 231, Houston, Texas 77030, (713) 792-3088.

Issued in Austin, Texas on January 28, 1989.

TRD-8900872

G.J.(Gib) Robertson
Manager, Purchasing
The University of Texas M.D. Anderson
Cancer Center

Filed: January 31, 1989

For further information, please call (713) 792-3088

Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Booker custom Packing Company, Permit 02757, on January 16, 1989, assessing \$3,057.90 in administrative penalties, and imposing stipulated penalties.

Information concerning any aspect of this order may be obtained by contacting Wendall Corrigan, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8059.

Issued in Austin, Texas on January 26, 1989.

TRD-8900770

Gloria A. Vazquez
Notice Coordinator
Texas Water Commission

Filed: January 26, 1989

For further information, please call (512) 463-8060

Notice of Application for Waste Disposal Permit

Attached are Notices of Applications for waste disposal permits issued during the period of January 23-January 27, 1989.

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 con-

cerning 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.

Star Enterprise, Port Arthur; a petroleum refinery and a chemical plant operation; located at the northwest end of Houston Avenue, in the City of Port Arthur, and just east of the intersection of State Highway 366 and FM Road 136 and adjacent to the Neches River in the City of Port Arthur, Jefferson County; 00414; renewal.

City of Baugus; wastewater treatment facilities; located approximately one mile south of the intersection of United States Highway 84 and FM Road 586, Brown County; 10122-01; renewal.

Northwest Harris County Municipal Utility District Number 15, Houston; wastewater treatment facilities; located 1 miles northwest of downtown Houston 4.5 miles south of the City of Tomball, and one mile west of the intersection of Gregson and Agg Roads, Harris County; 11939-01; renewal.

Hunterwood Municipal Utility District, Houston; wastewater treatment facilities; located approximately 1.200 feet southeast of the intersection of Normandy Road and South Lake Houston Parkway, on the south bank of Little Gulch Creek, Harris County; 11355-01; renewal.

Chamco, Inc., DBA Brazos Construction Materials, Brookshire; sand and gravel dredging operation; located on the east bank of the Brazos River at River Mile 140.5, approximately six miles southwest of the City of Brookshire, Waller County; 02665; amendment.

Edward B. Sneller DBA Country View Mobile Home Park, Iowa Park; wastewater treatment facilities; located approximately 1,100 feet north of Spur 3770 (Old Iowa Park Road) and approximately 1,800 feet east of North Atlantic Street, east of the City of Iowa Park, Wichita County; 12815-01; renewal.

City of Houston; Eastex Oaks Wastewater Treatment Facilities; located approximately 400 feet south of the intersection of Smith Road and Old Humble Road, and 1,200 feet east of Smith Road in the City of Houston, Harris County; 10495-88; amendment.

Total Minerals Corporation, Bruni; in situ uranium mine; located along FM 2050 approximately 1.5 miles north of Bruni, Webb County; UR02463; amendment to the aquifer exemption authorization.

Issued in Austin, Texas on January 27, 1989.

TRD-8900799

Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: January 27, 1989

For further information, please call (512) 463-7905

Administrative Law in Texas

In 1850, city of Galveston officials passed quarantine laws to combat an outbreak of yellow fever epidemics. It was one of the first attempts at public regulation in the new state of Texas, and eventually resulted in the establishment of the Department of Health in 1879.

Today, the list of regulatory agencies has mushroomed to almost 300 in number. Their powerful influence extends to every facet of public and private life, from banking to education to mohair. Only recently have Texans glimpsed the increasingly complex machinery of administrative law and been given the opportunity to effectively participate in the decision making process.

During the next few months the *Texas Register* will publish a series of state agency profiles. Each feature will focus on the history, functions and regulatory authority of a single agency. We hope these articles will help citizens better understand the roll and scope of contemporary Texas government and encourage participation in the shaping of public policy. The series begins with a brief history of administrative reform in Texas and the events leading to the creation of the Texas Register section of the Office of the Secretary of State.

By the early 1950's, the alarming proliferation of state regulatory activity during the first half of the twentieth century had aroused considerable interest in the future status of administrative law in Texas. Legal and political debate centered on "the dilemma of balancing the need to expedite agency action in the public interest with the need to preserve private rights through due process of law." Editors in the May 1969 *Texas Law Review* framed the problem this way. The two major goals of administrative government, they observed, are functionality and fairness. However, achievement of one goal too often involves sacrificing the other. The article concluded that much of the blame for this inconsistency must ultimately rest on Texas' failure to produce an administrative procedure act applicable to all agencies with statewide jurisdiction.

The Administrative Law Committee of the Texas Bar Association had laid the groundwork for such a comprehensive act as early as 1953, but

official action on the issue proved slow in coming. A report published by the Texas Civil Judicial Council in 1957 opposed the sweeping proposal, recommending instead that its scope be confined only to rulemaking.

Four more years elapsed before the 57th Legislature in 1961 passed Article 6252-13. Following the Council's recommendation, it established minimum guidelines for filing procedural rules with the Office of the Secretary of State. Significantly, the statute did not address the difficult topic of substantive rules, nor specify a particular method of publishing rules for public access. These questions would have to wait for nearly 15 years.

Over the course of the next decade, the Administrative Law Committee continued its efforts to formulate an administrative procedure act specially suited to the needs of the state's burgeoning bureaucracy. Senate Bill 16 and House Bill 761 were finally introduced in 1971, but failed to come to a vote in either house. Similar bills were introduced again in 1973 with similar results. The Bill was introduced for the last time in 1975 as S.B. 41 and H.B. 531. After amending it to incorporate the provisions of the Texas Register Act, the final version passed in both the House and Senate.

On April 22, 1975, Governor Dolph Briscoe signed into law the landmark Administrative Procedure and Texas Register Act. The move capped over 20 years of controversy surrounding the push for regulatory reform in Texas, and for the first time prescribed a program to codify and disseminate agency rules for public scrutiny.

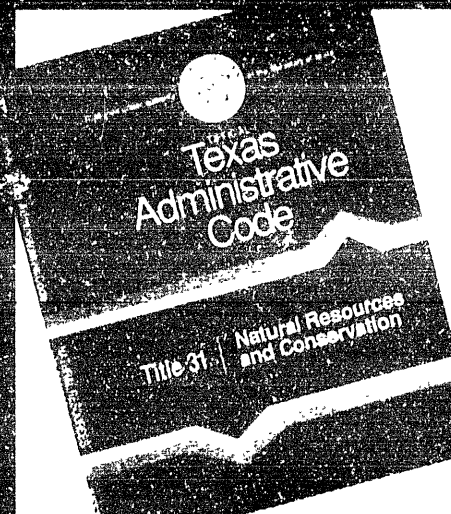
The Texas Register published its first issue on January 6, 1976.

* This article was supplemented with information from the following sources.

1. Public Regulation in Texas Policy Research Project, LBJ School of Public Affairs, *Regulation In Texas, Volume I*.
2. Dudley D. McCalla, "The Administrative Procedure and Texas Register Act," 28 *Baylor Law Review* 3 (Summer, 1976): 445-496.

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