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Texas Register

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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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40 TAC §75.1001, §75.1002—5630

40 TAC §§79.1608, 79.1610, 79.1611—5349

Part III. Texas Commission on Alcohol and Drug Abuse

40 TAC §§151.31, 151.33, 151.34—5466, 5487

Part IV. Texas Commission for the Blind

40 TAC §§169.3-169.6—5363

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

40 TAC §189.18—5562

Part IX. Texas Department on Aging

40 TAC §259.39—5413

Part XI. Texas Commission on Human Rights

40 TAC §321.1—5614

40 TAC §327.1—5615

40 TAC §327.8—5615

40 TAC §327.9—5615

40 TAC §327.10—5615

40 TAC §327.11—5616

40 TAC §327.13—5616

40 TAC §327.14—5616

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

43 TAC §§1.100-1.111—5350



The Governor

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

Appointments Made October 11, 1989

To be a member of the Lamar University System Board of Regents for a term to expire October 4, 1995: Thomas Milner Maes II, 1590 Continental Lane, Beaumont, Texas 77706. Mr. Maes is being reappointed.

To be Judge of the 58th Judicial District Court, Jefferson County until the next general election and until his successor shall be duly elected and qualified: John Michael Bradford, 755 West 23rd, Beaumont, Texas 77706. Magistrate Bradford will be replacing Ronald L. Walker of Beaumont, who resigned.

To be District Attorney of the 50th Judicial District, Baylor, Cottle, King, and Knox Counties until the next general election and until his successor shall be duly elected and qualified: Bobby D. Burnett, P.O. Drawer 390, Munday, Texas 76371. Mr. Burnett will be replacing Chad Williams of Seymour, who resigned.

Issued in Austin, Texas on October 12, 1989

TRD-8909728 William Clements, Jr.
Governor of Texas

Appointments Made October 12, 1989

To be a member of the Task Force on Waste Reduction and Minimization for a term at the pleasure of the Governor: Carl F. Raba, Jr., 7742 Redbird Lane, San Antonio, Texas 78240. Dr. Raba is being appointed to a new position pursuant to Senate Bill 163, 71st Legislature, First Called Session.

To be Presiding Judge of the 9th Administrative Judicial Region for a term to expire four years after date of qualification: Ray D. Anderson, 1611 Paseo Circle, Brownfield, Texas 79316. Judge Anderson is being reappointed.

To be a member of the Egg Marketing Advisory Board for a term to expire September 27, 1995: Hobert H. Joe, 209 Fleetway, Houston, Texas 77024. Mr. Joe is being reappointed.

To be a member of the Crime Stoppers Advisory Council for a term to expire Sep-

tember 1, 1991: H. Dean Wilkerson, 541 Oakcrest, Coppell, Texas 75019. Mr. Wilkerson will be replacing Rebecca Rothkamm of Beaumont, whose term expired.

Issued in Austin, Texas, on October 12, 1989.

TRD-8909728 William P. Clements, Jr.
Governor of Texas

To be a member of the State Board of Registration for Professional Engineers for a term to expire September 26, 1995: James K. Wilhelm, 334 Wycliffe, Houston, Texas 77079. Mr. Wilhelm will be replacing Clay Roming of Eddy, whose term expired.

To be a member of the College Opportunity Act Committee for a term to expire February 1, 1993: Linda Perryman, 4417 Belclaire, Dallas, Texas 75205. Ms. Perryman is being appointed to a new position pursuant to Senate Bill 94, 71st Legislature, Regular Session.

To be a member of the College Opportunity Act Committee for a term to expire February 1, 1995: W. Ted Shaw, 4653 Lorraine, Dallas, Texas 75209. Mr. Shaw is being appointed to a new position pursuant to Senate Bill 94, 71st Legislature, Regular Session.

Issued in Austin, Texas, October 12, 1989

TRD-8909748 William Clements, Jr.
Governor of Texas

Appointments Made October 13, 1989

To be Judge of the 234th Judicial District Court, Harris County until the next general election and until his successor shall be duly elected and qualified: Scott A. Brister,

103 Cherrywood, Bellaire, Texas 77401. Mr. Brister will be replacing Ruby Sondock of Houston, who resigned.

To be a member of the Texas Youth Commission for a term to expire August 31, 1995: Gary D. Compton, Route 8, Box 42-11, Amarillo, Texas 79118. Mr. Compton will be replacing Richard C. Abalos of Odessa, whose term expired.

To be a member of the Red River Authority of Texas Board of Directors for a term to expire August 11, 1995: George W. Arrington, 1540 South Williard, Canadian, Texas 79014. Mr. Arrington will be replacing Charles Moorehead of Canadian, whose term expired.

To be a member of the Nueces River Authority Board of Directors for a term to expire February 1, 1995: Robert L. Wagner, P.O. Drawer 729, Crystal City, Texas 78839. Mr. Wagner will be replacing Salvador Almanza of Poteet, whose term expired.

To be a member of the Sabine River Authority of Texas Board of Directors for a term to expire July 6, 1995: James Edward Campbell, 820 San Augustine, Center, Texas 75935. Mr. Campbell is being reappointed.

To be a member of the Rural Economic Development Commission for a term at the pleasure of the Governor: Brad Helbert, 1910 Willow, Abilene, Texas 79602. Mr. Helbert is being appointed to a new position pursuant to House Bill 438, 71st Legislature, Regular Session.

To be a member of the Rural Economic Development Commission for a term at the pleasure of the Governor: Joe Howard Cook, 1113 South Jackson, Perryton, Texas 79070. Mr. Cook is being appointed to a new position pursuant to House Bill 438, 71st Legislature, Regular Session.

To be a member of the Rural Economic Development Commission for a term at the pleasure of the Governor: Robert L. Parker, 3170 Clark Lane, Paris, Texas 75460. Mr. Parker is being appointed to a new position pursuant to House Bill 438, 71st Legislature, Regular Session.

Issued in Austin, Texas, October 13, 1989

TRD-8909830 William Clements, Jr.
Governor of Texas

Attorney General

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

Open Records Decisions

ORD-529 (RQ-1515). Request from Fred G. Rodriguez, Criminal District Attorney, Bexar County Courthouse, San Antonio, concerning whether the Communicable Disease Prevention and Control Act, Chapter 81 of the Health and Safety Code, prohibits public disclosure of AIDS test results included in an autopsy report.

Summary of Decisions. Chapter 81, Subchapter F, of the Health and Safety Code, which makes the results of AIDS test confidential, does not apply to AIDS test results included in an autopsy report prepared by a medical examiner in connection with an inquest. Accordingly, the autopsy report, including the AIDS test result, is accessible to the public under the express terms of the Code of Criminal Procedure, Article 49.25, §11.

TRD-8909720

ORD-530 (RQ-1638). Request from Roel Smith, Superintendent, Donna Independent School District, Donna, concerning whether the Open Records Act, §3(a)(17), protects public employees home addresses and telephone numbers when the employees have not designated the information confidential within the time allowed by the Act, §3A.

Summary of Decision. The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(17), does not automatically protect public officers' and employees' home addresses and telephone numbers from required public disclosure unless the employee is a peace officer. To obtain the protection of §3(a)(17), non-peace officer employees and officers and former officers and employees must exercise their privilege under either subsection (a) or (b) of the Open Records Act, §3A. The exercise of the option to close public access to home addresses and telephone numbers does not apply to an open records request made before the option was exercised.

TRD-8909719

ORD-531 (RQ-1640). Request from Lloyd Garza, City Attorney, City of San Antonio, San Antonio, concerning whether a city police department's "Use of Force" policy is excepted from disclosure by the Open Records Act, §3(a)(8).

Summary of Decision. The Open Records Act, §3(a)(8), authorizes the San Antonio Police Department to withhold the portions of its "Use of Force" procedures prepared for its officers that state detailed guidelines on the use of force. The portions of the procedures which restate generally known common-law rules, constitutional limitations, or Penal Code provisions are open to the public.

TRD-8909718

Opinions.

JM-1105 (RQ-1768). Request from Pamela K. McKay, Kendall County Attorney, Boerne, concerning authority of a commissioners court to reclassify a second class road as a neighborhood road.

Summary of Opinion. The commissioners court is without authority to reclassify a second-class road as a neighborhood road.

TRD-8909723

JM-1106 (RQ-1734). Request from Charles D. Travis, Executive Director, Texas Parks and Wildlife Department, Austin, concerning validity of a municipal ordinance prohibiting the towing or dragging of nets near a bulkhead.

Summary of Opinion. The Village of Tiki Island is authorized to enact an ordinance prohibiting the towing of nets in certain areas of public water within the corporate limits of the village.

TRD-8909722

JM-1107 (RQ-1802). Request from Lynn B. Polson, Acting Executive Director, Department of Information Resources, Austin, concerning construction of conflict of interest provisions of Texas Civil Statutes, Article 4413(32j), which creates the Department of Information Resources.

Summary of Opinion. In applying the conflict of interest provisions found in Texas Civil Statutes, Article 4413(32j) §8(a)(3) and §8(a)(4), the Department of Information Resources should consider an employee's community property interest in his spouse's interests in or income from a business entity that has a substantial interest in the information resources technologies industry and that may contract with state government. Whether specific individuals are barred from working for the department must be determined on a case-by-case basis. An applicant's or employee's stock in a business entity acquired while an employee of the business through a pension or stock ownership plan should also be counted in determining that individual's ownership interest. A parent's interest in a business entity should not be attributed to an individual, unless the facts show that he actually controls it.

TRD-8909721

JM-1104 (RQ-1795). Request from Hilary B. Doran, Jr., Chairman, Texas Racing Commission, Austin, concerning authority of Texas Racing Commission to re-define by rule the term "breeder".

Summary of Opinion. The Racing Commission has no authority to disregard the statutory definition of "breeder" in regard to thoroughbreds for purposes of the Texas Racing Act, Texas Civil Statutes, Article 179e, §6.08.

TRD-8909717

Scott Steffel PSHS Plano, TX.



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 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 307. Practice and Procedure

Subchapter C. Proceedings by Stewards and Racing Judges Objections and Protests

• 16 TAC §307.223

The Texas Racing Commission adopts on an emergency basis an amendment to §307.223, concerning protests of the start of a horse or greyhound in a race. The amendment deletes a requirement relating to the filing of protests that conflicts with other commission rules on protests. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that the commission rules are internally consistent and consistent with the Administrative Procedures and Texas Register Act.

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

§307.223. *Protests to Start.*

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

[(d) If a protest involves a foul or interference, the protest may be filed with the stewards or racing judges at any time, provided the stewards or racing judges determine that the allegations are bona fide and susceptible to verification.]

Issued in Austin, Texas on October 13, 1989.

TRD-8909771 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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



Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Operations

• 16 TAC §309.56

The Texas Racing Commission adopts on an emergency basis an amendment to §309.56, concerning temporary passes. The amendment expands the list of people who may authorize the issuance of a temporary pass. The amendment permits the owner of a horse or greyhound stabled or kenneled on association grounds to receive a temporary pass to the stable or kennel area for a member of the owner's immediate family. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to facilitate the receipt of state revenue from pari-mutuel racing by encouraging the ownership of racing animals.

The amendment is adopted on an emergency basis under the Texas Racing Act, Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules relating to the regulation of racing with pari-mutuel wagering.

§309.56. *Temporary Pass.*

(a) (No change.)

(b) An association may issue a temporary pass only to a guest of:

- (1) an association employee;
- (2) a commission employee; [or]
- (3) a trainer or kennel owner licensed by the commission; or
- (4) the owner of a horse or greyhound stabled or kenneled on association grounds, provided the guest is a member of the owner's immediate family.

(c)-(d) (No change.)

Issued in Austin, Texas on October 13, 1989.

TRD-8909802 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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



Operations

• 16 TAC §309.58

The Texas Racing Commission adopts on an emergency basis an amendment to §309.58, concerning an association's compliance with fire safety regulations. The amendment requires an association have the racetrack facilities inspected by a fire marshal not more than 30 days before the first day of the race meeting. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure racetrack facilities are safe for the patrons, the licensees, and the race animals.

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

§309.58. *Fire Prevention.*

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

(c) Not later than 10 days before the first day of a race meeting, an association shall deliver to the commission a copy of the state or local fire marshal's certification regarding the associations' compliance with fire safety regulations. The certification must be based on an inspection of the association grounds conducted by the fire marshal not more than 30 [15] days before the first day of the race meeting.

(d) (No change.)

Issued in Austin, Texas on October 13, 1989.

TRD-8909772 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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



• 16 TAC §309.63

The Texas Racing Commission adopts on an emergency basis an amendment to §309.63, concerning restrictions on racing. The amendment deletes jockeys and apprentice jockeys from the list of individuals who are restricted from owning a horse or greyhound entered in a pari-mutuel race. The amendment also requires the stewards at a horse racetrack to couple as a single wagering interest any horses entered in a race, if the

stewards determine that familial ties between any of the licensees participating in the race would cause a conflict of interest. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to facilitate the receipt of state revenue from pari-mutuel racing and to ensure that participants in pari-mutuel racing are permitted to practice their vocations.

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

§309.63. Restriction on Racing.

(a) An association may not permit a horse or greyhound to race [an owner or trainer to race an animal] at the racetrack for which the association is licensed, if the owner or trainer of the animal:

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

(3) is a [jockey, apprentice jockey,] veterinarian[,] or farrier currently employed on association grounds; or

(4) (No change.)

(b) The stewards shall couple any horses entered in a race if the stewards determine that, due to familial ties between any of the licensees scheduled to participate in the race, a conflict of interest would result that would jeopardize the integrity of the race.

Issued in Austin, Texas on October 13, 1989.

TRD-890 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

Subchapter B. Horse Racetracks

Racetracks

• 16 TAC §309.114

The Texas Racing Commission adopts on an emergency basis an amendment to §309.114, concerning the official's stands at pari-mutuel racetracks. The amendment requires the clocker's stand to be placed in a location approved by the commission. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that the facilities for pari-mutuel racing will be the finest.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules for conduct-

ing racing involving wagering and for administering the Texas Racing Act.

§309.114. Official's Stands.

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

(c) An association shall provide a clocker's stand in a location approved by the commission [, located on the left side of the back entry gap to the racetrack].

Issued in Austin, Texas on October 13, 1989.

TRD-8909765 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

Operations

• 16 TAC §309.195

The Texas Racing Commission adopts on an emergency basis an amendment to §309.195, concerning a starting crew for each horse that is to start in a race. The amendment requires an association to provide one assistant starter for each horse entered in a race. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that pari-mutuel racing is conducted with the highest integrity.

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

§309.195. Starting Crew.

(a) An association shall provide a starting crew for each race to hold the horses in the starting gates. The association shall provide one assistant starter for each horse that is to start in a race.

(b) (No change.)

(c) Notwithstanding §313.49 of this title (relating to Duties of Starter), a Class 2 or 3 association may permit a licensed trainer or assistant trainer to serve as an assistant starter, subject to the approval of the commission.

Issued in Austin, Texas, on October 13, 1989.

TRD-8909785 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: November 7, 1989

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

Chapter 311. Conduct and Duties of Individual Licensees

Subchapter A. General Provisions

• 16 TAC §311.11

The Texas Racing Commission adopts on an emergency basis an amendment to §311.11, concerning prohibiting a licensee from possessing a deadly weapon on association grounds. The amendment specifies that this section does not apply to a peace officer and a commissioned security officer. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that pari-mutuel facilities are secure and safe.

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

§311.11. Weapons Prohibited.

(a) Except as otherwise provided by this section, a [A] licensee may not possess a deadly weapon on association grounds.

(b) This section does not apply to a person who is:

(1) a peace officer; or

(2) a commissioned security officer licensed by the Texas Board of Private Investigators and Private Security Agencies and is approved by the commission.

Issued in Austin, Texas on October 13, 1989.

TRD-8909769 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

Subchapter B. Specific Licensees

General Provisions

• 16 TAC §311.101

The Texas Racing Commission adopts on an emergency basis an amendment to §311.101, concerning the care and custody of a horse or greyhound. The amendment requires a trainer to ensure that a horse or greyhound running in a race is free from all prohibited drugs, chemicals, or other substances.

The amendment is adopted on an emergency basis to ensure pari-mutuel racing is of the highest integrity.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §14.01, which provide the commission with the authority to adopt rules for conducting illegal influence of races through drugs.

§311.101. Absolute Insurer.

(a) (No change.)

(b) A trainer or kennel owner shall ensure that a horse or greyhound that runs a race while in the care and custody of the trainer or kennel owner, is free from all prohibited [medication] drugs, chemicals, or other substances.

(c) (No change.)

Issued in Austin, Texas on October 13, 1989.

TRD-8909773 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

• 16 TAC §311.106

The Texas Racing Commission adopts on an emergency basis an amendment to §311.106, concerning stable or kennel names. The amendment requires the payment of a registration fee of \$50 and prohibits a licensee, who registers a stable or kennel name, from using his or her real name for racing purposes. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that the commission's administrative costs of licensing participants in pari-mutuel racing are covered in the licensing fees.

The amendment is adopted on an emergency basis under the Texas Racing Act, Texas Civil Statutes, Article 179e, §3.02 and §7.05, which provide the commission with the authority to adopt rules regulating racing with pari-mutuel wagering and to adopt fees for occupational licensing.

§311.106. Stable or Kennel Names.

(a) (No change.)

(b) To register a stable or kennel name, an owner, trainer, or kennel owner must apply to the commission on forms prescribed by the commission and pay a registration fee of \$50. For each person having at least a 5.0% ownership interest in the stable or kennel, the application must state:

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

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

(g) A licensee who has registered a stable or kennel name under this section may not use the licensee's real name for racing purposes, except on approval of the commission

Issued in Austin, Texas on October 13, 1989.

TRD-8909803 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

**Subchapter C. Alcohol and
Drug Testing**

Drugs

• 16 TAC §311.201

The Texas Racing Commission adopts on an emergency basis an amendment to §311.201, concerning the use of a prohibited drug substance. The amendment prohibits an individual licensee, while performing duties required of the licensee, to be under the influence of a dangerous drug or a controlled substance. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that pari-mutuel racing is of the highest integrity and that the health of the race animal is protected.

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

§311.201. Use Prohibited.

(a) (No change.)

(b) This section does not apply to the use of a prohibited substance obtained with a valid prescription by an individual licensee under orders of a licensed physician acting the course of the physician's professional practice. [If a licensee must use a prohibited substance under a physician's orders, the licensee shall notify the stewards or racing judges before performing any duty required of the licensee.]

Issued in Austin, Texas on October 13, 1989.

TRD-8909787 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

• 16 TAC §311.208

The Texas Racing Commission adopts on an emergency basis an amendment to §311.208, concerning imposing penalties for a violation of §311.201, concerning use prohibited. The amendment clarifies the penalty if the stewards require a licensee to submit to drug testing for reasonable cause. The

amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure the participants in pari-mutuel racing are of the highest integrity.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §14.01, which provide the commission with the authority to adopt rules relating to the drug testing of the licensees.

§311.208. Penalties.

(a) (No change.)

(b) If the stewards or racing judges require a licensee to submit to testing under §311.202 of this title (relating to Subject to Testing) for reasonable cause, the stewards or racing judges may prohibit the licensee from participating in racing for the remainder of that race day, on the recommendation of a physician who has examined the licensee.

(c)[(b)] For a first violation, [the stewards or racing judges shall prohibit the licensee from participating in racing for the remainder of the race day on which the specimen is obtained. In addition,] the stewards or racing judges may:

(1) prohibit the licensee from participating in racing until the licensee's condition has been evaluated by a person approved by the commission who is professionally trained to evaluate substance abuse; or

(2) impose a fine in accordance with Chapter 307 of this title (relating to Practice and Procedure).

(d)[(c)] If the person evaluating a licensee determines the licensee's condition is non-addictive or not detrimental to the best interest of racing, the stewards or racing judges shall permit the licensee to participate in racing, provided the licensee:

(1) produces a negative test result; and

(2) agrees to further testing to verify continued unimpairment.

(e)[(d)] If the person evaluating a licensee determines the licensee's condition is addictive and detrimental to the best interest of racing, the stewards or racing judges shall prohibit the licensee from participating in racing until the licensee:

(1) produces a negative test result;

(2) provides proof that the licensee has satisfactorily completed a certified substance abuse rehabilitation program approved by the commission; and

(3) agrees to further testing to verify continued unimpairment.

(f)[(e)] For a second or subsequent violation, the stewards or racing judges shall suspend the licensee's license. After

the licensee has satisfactorily completed a certified substance abuse rehabilitation program approved by the commission, the licensee may apply to have the license reinstated. The commission may reinstate the license if the commission determines the licensee poses no danger to other licensees or race animals and that reinstatement is in the best interest of racing.

(g)(f) All specimens to be tested under this subchapter shall be obtained and tested by the commission under conditions properly controlled to guarantee the integrity of the process. The licensee being tested is responsible for paying the costs for all tests other than the initial test.

Issued in Austin, Texas, on October 13, 1989.

TRD-8909768 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: December 13, 1989

Expiration date: January 11, 1990

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

Chapter 313. Officials and Rules of Horse Races

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.103

The Texas Racing Commission adopts on an emergency basis an amendment to §313.103, concerning eligibility requirements. The amendment clarifies the number of published workouts that a horse must have to be eligible to start in a pari-mutuel race. The amendment is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure the horses participating in pari-mutuel racing are fit and ready to race and are of the highest quality.

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

§313.103. Eligibility Requirements.

(a) A horse may not start in a race unless:

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

(5) the horse is present on association grounds not later than 8 a.m. on the day of the race; and

(6) the horse has had two published workouts and been approved by a licensed starter for proficiency in the starting gate, if the horse is to start for the first time.[:]

(7) the horse has had one published workout, if the horse has not started in the 45-day period preceding the date of the race; and

(8) the horse has had two published workouts, if the horse has not started in the 60-day period preceding the date of the race.]

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

(e) If a horse has started in a race in the 45-day period preceding a race, there is no workout requirement for eligibility to start. If a horse has not started in the 45-day period preceding a race, the horse must have one published workout to be eligible to start in that race. However, if a horse has not started in the 60-day period preceding the race, the horse must have two published workouts to be eligible to start in that race.

Issued in Austin, Texas on October 13, 1989.

TRD-8909768 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

Chapter 319. Veterinary Practices and Drug Testing

Subchapter A. General Provisions

• 16 TAC §319.4

The Texas Racing Commission adopts on an emergency basis an amendment to §319.4, concerning a commission veterinarian's appointment. The amendment prohibits a veterinarian of the commission from performing veterinary services on a race animal owned or trained by a licensee of the commission. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that pari-mutuel racing is of the highest integrity and that the health of the race animal is protected.

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

§319.4. Veterinarians.

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

(e) During the term of a commission veterinarian's appointment, the veterinarian may not perform veterinary services on a race animal owned or trained by a licensee of the commission, except on an emergency basis.

Issued in Austin, Texas on October 13, 1989.

TRD-8909790 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

Subchapter D. Drug Testing Provisions for Horses

• 16 TAC §319.365

The Texas Racing Commission adopts on an emergency basis new §319.365, concerning laboratory provisions for testing splits. The new section requires the laboratory to be licensed by the commission and qualified under the Texas Racing Act (Act) to provide drug testing services. The new section adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The new section is adopted on an emergency basis to expedite the receipt of state revenue from pari-mutuel racing by ensuring the rules necessary for horse racing are in place.

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

§319.365. *Laboratory for Testing Splits.* A laboratory to which a split specimen is sent for testing under §319.362(c) of this title (relating to Split Specimen) must be:

- (1) licensed by the commission; and
- (2) qualified under the Texas Racing Act (Act) to provide drug testing services.

Issued in Austin, Texas on October 13, 1989.

TRD-8909800 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: October 13, 1989

Expiration date: January 11, 1990

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter J. Petroleum Products Delivery Fee

• 34 TAC §3.152

The Comptroller of Public Accounts adopts on an emergency basis new §3.152, concerning imposition and collection of the fee. The new emergency section explains the standards for determining when the Texas Petroleum Product Delivery Fee applies and the amount to be collected.

The new section is adopted on an emergency basis to provide guidance to persons required to pay or collect the fee. The new section implements recent legislation which became effective September 1, 1989.

The new section is adopted on an emergency basis under the Tax Code, §111.002, which provides the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.152. Imposition and Collection of the Fee.

(a) The Texas Petroleum Product Delivery Fee is imposed, collected, and paid to the state by operators of bulk facilities. The fee is assessed when petroleum products are withdrawn from the bulk facility and delivered into a cargo tank or barge or imported into this state in a cargo tank or barge. The fee is not assessed when the fuel is destined for delivery to another bulk facility, export from the state, an electrical generating plant, or common carrier railroad for its exclusive use.

(b) The fee is collected by the operator of a bulk facility from the person ordering the withdrawal. The fee is computed as follows:

(1) \$12.50 for each delivery into a cargo tank having a capacity of less than 2,500 gallons;

(2) \$25 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons;

(3) \$37.50 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons;

(4) \$50 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons; and

(5) a \$25 fee for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more.

(c) In determining the amount of fee due for motor gasoline, other alcohol

blended fuels, and aviation gasoline, each net temperature corrected withdrawal of 7,000 gallons or more but less than 10,000 gallons shall be presumed to have been a delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons and the fee shall be collected as provided by subsection (b)(4) of this section.

(d) In determining the amount of fee due on all withdrawals not covered by subsection (c) of this section, it shall be presumed that the capacity of the cargo tank is equal to the total net temperature corrected quantity of product withdrawn.

(e) For the purposes of this section, a bulk facility is a refinery terminal or any other terminal or facility which receives petroleum products by pipeline, rail, or barge, and delivers the products into a cargo tank or barge.

(f) For the purpose of this section, the operator of a bulk facility is the person who first invoices petroleum products withdrawn from the facility. An exchange statement is not considered an invoice.

(g) For the purposes of this section, an electrical generating facility is a plant operated for the primary purpose of generating electricity for sale to consumers.

(h) Persons exempt from the petroleum product delivery fee shall request in writing a letter of exemption from the Comptroller. The letter of exemption issued by the Comptroller, or a copy, must be furnished to the seller each time purchases exempt from the petroleum product delivery fee are made.

(i) If the seller does not hold a petroleum product delivery fee permit, the purchaser must also furnish to the seller a statement listing the date of purchase, number of gallons purchased per delivery, and destination of the product. For the seller to receive credit for exempt sales, this documentation must be presented to the permitted bulk facility from which the product was purchased.

(j) The amount of the petroleum product delivery fee must be listed as a separate item on the invoice or cargo manifest issued by persons holding a permit to collect the fee upon the withdrawal of product from a bulk facility.

(k) Unless required to do so by other government agencies, sellers who do not hold a petroleum product delivery fee permit may not charge and collect the fee on the basis of the bracket system established in subsection (b) of this section, and may not list the fee as a separate item on invoices or manifests.

Issued in Austin, Texas on October 16, 1989.

TRD-8909842

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 16, 1989

Expiration date: February 13, 1990

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

Subchapter O. State Sales and Use Tax

• 34 TAC §3.297

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.297, concerning carriers. The emergency amendment is necessary to incorporate changes made during the recent legislative session. The amendments allow an exemption for machinery, tools, and equipment used by persons repairing aircraft for certificated or licensed carriers and an exemption for tangible personal property that is permanently attached to the certificated or licensed carrier of persons or property. The amendment distinguishes between the type of items that are exempted and those that are taxable. The exemptions are effective September 1, 1989.

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

§3.297. Carriers.

(a) Carriers generally.

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

(4) Except as provided under subsection (c) of this section, taxable [Taxable] items brought into this state to be assembled into licensed and certificated carriers are not exempt from the taxes imposed by the Tax Code, Chapter 151, Subchapter D.

(5) (No change.)

(6) Sales tax is due on licensed and certificated carriers purchased under valid resale or exemption certificates which are put to a use other than the one specified in the certificate. The sales tax is based on the fair market rental value of the licensed and certificated carrier for the period of time used. At any time the person using the carrier in a taxable manner may stop paying tax on the fair market rental value and instead pay sales tax on the original purchase price. When the person elects to pay sales tax on the purchase price, credit will not be allowed for taxes previously paid on the fair market rental value. See §3.285 of this title (relating to Resale Certificate; Sales for Resale; Resale Certificate) and §3.287 of this title (relating to Exemption Certificates).

(b) (No change.)

(c) Aircraft.

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

(5) The following items used in the repair, remodeling, or maintenance of aircraft or aircraft engines or compo-

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nent parts by or for a person qualified under subsection (a)(1) of this section, are exempt if purchased by the owner or operator, by the aircraft manufacturer, or by a repair facility licensed and certified by the appropriate regulatory agency: [Sales or use tax is not due on aircraft repair and replacement parts acquired within or outside this state and actually affixed in this state to an aircraft qualified under subsection (a)(1) of this section.]

(A) tangible personal property that is permanently affixed or that is attached as a component part of an aircraft used as a common or contract carrier of persons or property even though the property may be detached from the aircraft for servicing, maintenance, or other purposes;

(B) machinery, tools, and equipment used or consumed directly and exclusively in performing repair, remodeling, or maintenance services to qualifying aircraft used as a common or contract carrier of persons or property;

(C) repair, remodeling, and maintenance services to aircraft or aircraft parts used as a common or contract carrier of persons or property and items exempted in subparagraphs (A) or (B) of this paragraph;

(D) exempt component parts includes items such as air cargo containers and accessories that are se-

cured or attached to the aircraft while in flight, radar equipment or other electronic devices used for navigational or communications purposes, smoke detectors, fire extinguishers, and seats. Exempt equipment includes consumable supplies and materials such as hydraulic fluids, gases, cleaning solvents, chemicals, and lubricants. The exemption does not include consumable supplies or materials such as pillows, blankets, trays, ice for drinks, kitchenware or toilet articles, that are not attached and are not a component part and are not used as an integral part of a maintenance, repair, or remodeling service;

(E) exempt machinery, tools, and equipment includes de-icing equipment and other equipment that is used to repair, or to sustain or support safe, continuous operations or to keep in good working order by preventing the decline, failure, lapse, or deterioration of the aircraft. The exemption does not include machinery, tools, and equipment that support the overall carrier operation such as baggage loading or handling equipment, food carts, garbage, and other waste disposal equipment or reservation making or booking machinery and equipment;

(F) an occasional or casual divergent use of machinery, tools, or equipment exempted under this subsection will not disqualify the item from exemption. Casual or occasional use in this subsection means less than 5.0% of the use in a calendar year.

(6) Except as provided under this subsection sales [Sales] tax is due on the sale within this state of separately stated repair parts and [or] the sale and installation of taxable items in aircraft for nonresidents or foreign governments, unless exported or delivered by the retailer after the sale to an out-of-state destination.

(A) A person repairing an aircraft for a lump-sum amount is not a seller but is a consumer of all items installed under a lump-sum repair contract. The repairman as the consumer should pay tax on the repair parts when they are purchased. No tax is due on transportation or delivery charges of the aircraft.

(B) Sales tax is not due on separately stated installation [or delivery] charges. When the amount charged for the part sold exceeds the amount for the labor to install the part, transportation charges will be considered part of the sales price of the part and taxable.

(7) (No change.)

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

Issued in Austin, Texas on October 16, 1989.

TRD-8909843

Bob Bullock
Comptroller of Public
Accounts

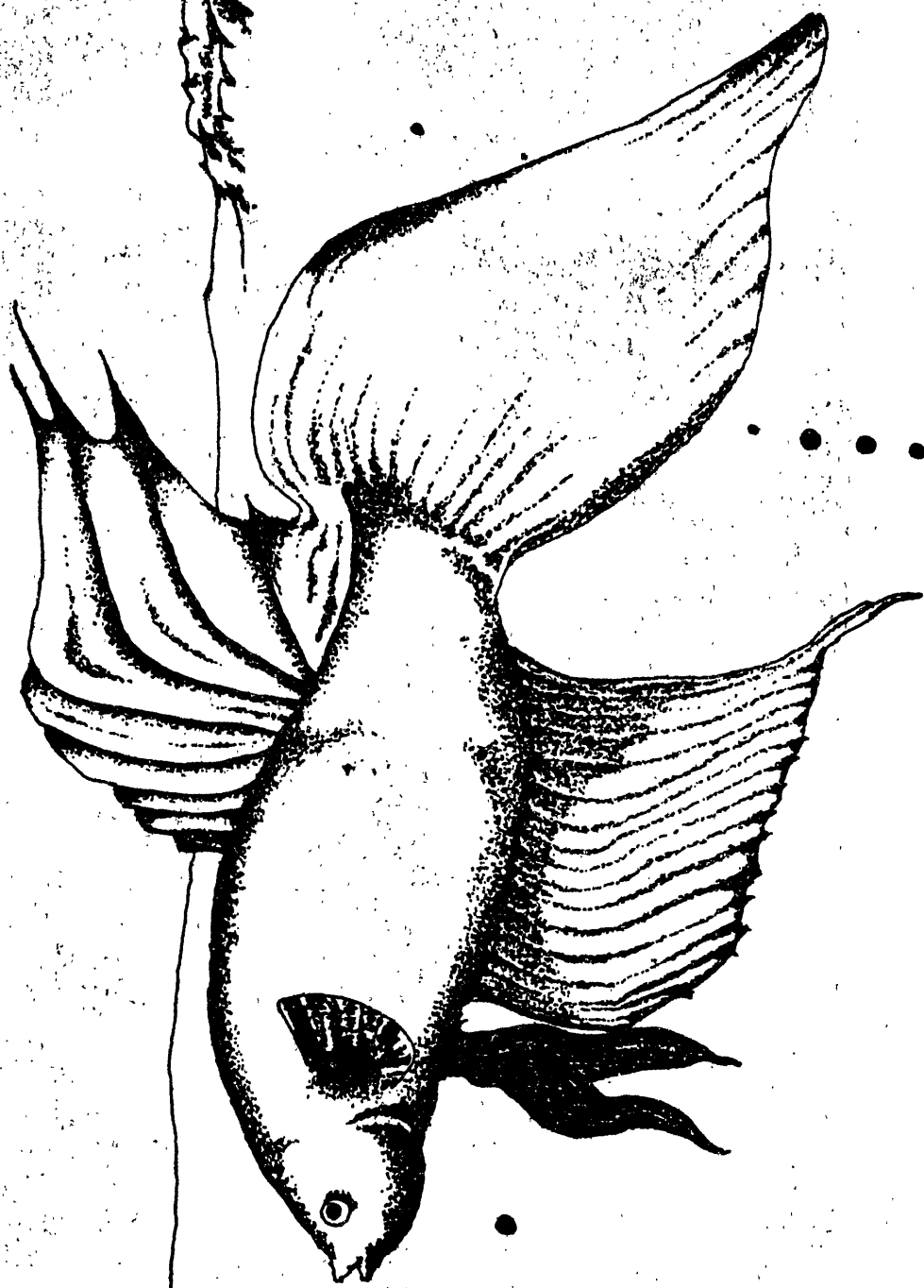
Effective date: October 16, 1989

Expiration date: February 13, 1990

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 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 307. Practice and Procedure

Subchapter C. Proceedings by Stewards and Racing Judges

Objections and Protests

• 16 TAC §307.223

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

The Texas Racing Commission proposes an amendment to §307.223, concerning protests of the start of a horse or greyhound in a race. The section deletes a requirement relating to the filing of protests that conflicts with other commission rules on protests.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that the commission rules are internally consistent and consistent with the administrative procedures and Texas Register Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909797

Paula Cochran Carter

Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Operations

• 16 TAC §309.056

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

The Texas Racing Commission proposes an amendment to §309.056, concerning temporary passes. The amendment expands the list of people who may authorize the issuance of a temporary pass. The amendment permits the owner of a horse or greyhound stabled or kenneled on association grounds to receive a temporary pass to the stable or kennel area for a member of the owner's immediate family.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the encouragement of the breeding and ownership of race animals by affording the owners of such animals certain privileges. There will be no effect on small businesses as a result of enforcing the section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Racing Act, Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules relating to the regulation of racing with pari-mutuel wagering.

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 October 13, 1989.

TRD-8909787

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

• 16 TAC §309.058

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

The Texas Racing Commission proposes an amendment to §309.058, concerning an association's compliance with fire safety regulations. The amendment requires an association to have the racetrack facilities inspected by a fire marshal not more than 30 days before the first day of the race meeting.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure racetrack facilities are safe for the patrons, the licensees, and the race animals. There will be no effect on small businesses as a result of enforcing this section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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



Issued in Austin, Texas on October 13, 1989.

TRD-8909788

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

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• 16 TAC §309.063

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

The Texas Racing Commission proposes an amendment to §309.063, concerning restrictions on racing. The amendment deletes jockeys and apprentice jockeys from the list of individuals who are restricted from owning a horse or greyhound entered in a pari-mutuel race. The amendment also requires the stewards at a horse racetrack to couple as a single wagering interest any horses entered in a race, if the stewards determine that familial ties between any of the licensees participating in the race would cause a conflict of interest.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing is conducted with the highest integrity. There will be no effect on small businesses as a result of enforcing the section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Racing Act, Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules regulating racing with pari-mutuel wagering.

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 October 13, 1989.

TRD-8909786

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

Subchapter B. Horse Racetracks

Racetracks

• 16 TAC §309.114

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

The Texas Racing Commission proposes an amendment to §309.114, concerning the official's stands at pari-mutuel racetracks. The amendment requires the clocker's stand to be placed in a location approved by the commission.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the facilities for pari-mutuel racing will be the finest. There will be no effect on small businesses as a result of enforcing the section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909789

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

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Operations

• 16 TAC §309.195

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

The Texas Racing Commission proposes an amendment to §309.195, concerning a starting crew for each horse that is to start in a race. The section requires an association to provide one assistant starter for each horse entered in a race.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be of the highest integrity. Fiscal implications for small businesses cannot be determined because it will vary from race to race depending on the numbers of horses that start in a race. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909784

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

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Chapter 311. Conduct and Duties of Individual Licensees

Subchapter A. General Provisions

• 16 TAC §311.11

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

The Texas Racing Commission proposes an amendment to §311.11, concerning prohibiting a licensee from possessing a deadly weapon on association grounds. The amendment specifies that this section does not apply to a peace officer and a commissioned security officer.

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

Ms. Carter also has determined that for each year of the first five years the section is in

effect the public benefit anticipated as a result of enforcing the section will be to ensure that pari-mutuel facilities are secure and safe. There will be no effect on small businesses as a result of enforcing this section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909795 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption. November 20, 1989

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

Subchapter B. Specific Licensees

General Provisions

• 16 TAC §311.101

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

The Texas Racing Commission proposes an amendment to §311.101, concerning the care and custody of a horse or greyhound. The section requires a trainer to ensure that a horse or greyhound running in a race is free from drugs, chemicals, or other substances.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be of the highest integrity. There will be no effect on small businesses as a result of enforcing the section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas

Civil Statutes, Article 179e, §14.01, which provide the commission with the authority to adopt rules for prohibiting the illegal influence of races through drugs.

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 October 13, 1989.

TRD-8909791 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

• 16 TAC §311.106

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

The Texas Racing Commission proposes an amendment to §311.106, concerning stable or kennel names. The amendment requires the payment of a registration fee of \$50 and prohibits a licensee, who registers a stable or kennel name, from using his or her real name for racing purposes.

Paula Cochran Carter, legal counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for local government. For each of the first five years the section will be in effect, the fiscal implications for state government are negligible, because the \$50 registration fee defrays the costs of administering the registration and licensing program.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the commission's administrative costs of licensing participants in pari-mutuel racing are covered in the licensing fees. For each of the first five years the amendment will be in effect, the fiscal implications for a small business is \$50 per year, to register a stable or kennel name. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Racing Act, Texas Civil Statutes, Article 179e, §3.02 and §7.05 which provides the commission with the authority to adopt rules regulating racing with pari-mutuel wagering and to adopt fees for occupational licensing.

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 October 13, 1989.

TRD-8909788

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

Subchapter C. Alcohol and Drug Testing

• 16 TAC §311.201

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

The Texas Racing Commission proposes an amendment to §311.201, concerning the use of a prohibited drug substance. The amendment prohibits an individual licensee, while performing duties required of the licensee, to be under the influence of a dangerous drug or a controlled substance.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that the commission rules are internally consistent and consistent with the administrative procedures and Texas Register Act. There will be no effect on small businesses as a result of enforcing the section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909793 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

• 16 TAC §311.208

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

The Texas Racing Commission proposes an amendment to §311.208, concerning imposing penalties for a violation of §311.201. The amendment clarifies the penalty if the stewards require a licensee to submit to drug testing for reasonable cause.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be of the highest integrity. There will be no effect on small businesses as a result of enforcing the section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §14.01, which provide the commission with the authority to adopt rules relating to the drug testing of the licensees.

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 October 13, 1989.

TRD-8909794 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

◆ ◆ ◆
Chapter 313. Officials and Rules of Horse Races

Subchapter B. Entries, Declarations, and Allowances Entries

• 16 TAC §313.103

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

The Texas Racing Commission proposes an amendment to §313.103, concerning eligibility requirements. The amendment clarifies the number of published workouts that a horse must have to be eligible to start in a

pari-mutuel race.

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

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

Comments on the proposal may be submitted by December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909790 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

◆ ◆ ◆
Subchapter D. Running of the Race

Jockeys

• 16 TAC §313.406

The Texas Racing Commission proposes an amendment to §313.406, concerning colors and numbers on jockeys. The amendment prohibits a jockey from wearing clothing on which letters, words, graphics, or other symbols are printed which advertise a product or service other than the owner or stable for which the jockey rides.

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

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

comply with the section as proposed.

Comments on the proposal may be submitted by December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

§313.406. Colors and Number.

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

(d) A jockey may not ride a horse in a race if the jockey is wearing clothing on which letters, words, graphics, or other symbols are printed which advertise a product or service other than the owner or stable for which the jockey rides.

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 October 13, 1989.

TRD-8909792 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

◆ ◆ ◆
Chapter 319. Veterinary Practices and Drug Testing

Subchapter A. General Provisions

Provisions for Horses

• 16 TAC §319.4

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

The Texas Racing Commission proposes an amendment to §319.4, concerning a commission veterinarian's appointment. The amendment prohibits a veterinarian of the commission from performing veterinary services on a race animal owned or trained by a licensee of the commission.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be of the highest integrity. There will be no effect on small businesses as a result of enforcing this sec-

tion. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909782 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

Subchapter D. Drug Testing Provisions for Horses

• 16 TAC §319.365

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

The Texas Racing Commission proposes new §319.365, concerning laboratory provisions for testing splits. The section requires the laboratory to be licensed by the commission and qualified under the Act to provide drug testing services.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be of the highest integrity. There will be no effect on small businesses as a result of enforcing this section. 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 before December 1, 1989, to Paula Cochran Carter, Legal Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

This agency hereby certifies that the proposal

has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas on October 13, 1989.

TRD-8909783 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Earliest possible date of adoption: November 20, 1989

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 511. Certification as CPA

CPA Examination

• 22 TAC §511.87

The Texas State Board of Public Accountancy proposes new §511.87, concerning the CPA examination. The section provides for forfeiture of grades if a candidate does not pass the entire examination within the prescribed time. In addition, this section requires the board to notify a candidate when they may be subject to such forfeiture.

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

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

Comments on the proposal may be submitted to Cynthia Hairgrove, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules concerning forfeiture of grades.

§511.87. Loss of Credit.

(a) Any candidate having earned conditioning credit under this Act or a prior Act and who has three examinations remaining before the forfeiture of credits earned, shall be notified prior to each examination of these facts.

(b) Any candidate failing to receive credit for all subjects within the time limitation of this Act shall be notified that credits have been forfeited, and this action shall be ratified by the board.

(c) The forfeiture of credits shall not hinder an examination candidate from reapplying for the examination.

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909827 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 450-7066

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

Chapter 145. Parole

Revocation of Administrative Release (Parole, Mandatory Supervision, and Executive Clemency)

• 37 TAC §§145.41, 145.45, 145.48-145.50

The Board of Pardons and Paroles proposes amendments to §§145.41, 145.45, 145.48-145.50, concerning allegation of violation; review and initial disposition; procedure after waiver of revocation hearing; pre-revocation hearing conference; purposes; procedure; rights of the administrative releasee in the revocation process; administrative release preliminary hearing. The amendments will clarify language used in rules.

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

Mr. Green 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 not be applicable, as the public is relatively unaffected by these particular proposed sections. There will be no effect on small businesses as a result of enforcing these sections. 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 Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provides the Board of Pardons and Paroles with the authority to clarify language used in rules.

§145.41. Allegation of Violation: Review and Initial Disposition.

(a) (No change.)

(b) The board or board panel shall review the information and make an initial determination to:

(1) (No change.)

(2) order the issuance of a notice of allegations and a summons to appear at an administrative release hearing; [or]

(3) continue the supervision of the alleged violator pending disposition of any criminal charges and make final disposition or continue supervision or order the issuance of a warrant and/or proceed to a hearing; or

(4) make final disposition of the matter by continuation of release under the same or modified conditions.

§145.45. Procedure After Waiver of Revocation Hearing.

(a) Upon receipt and acceptance of the waiver of the right to an administrative release revocation hearing and supporting documentation of evidence of the alleged rule violations; such as affidavits, judgment, and sentences of convictions, the board or board panel shall review the case and make a final disposition by:

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

(b) If final board disposition is to withdraw the warrant and continue the releasee under the same or modified conditions, or where the sentence has expired, release to discharge, the board shall order the warrant withdrawn and impose, either or a combination thereof, the following sanctions:

(1) verbal reprimand;

(2) letter of reprimand by the region supervisor or executive director;

(3) case conference with unit supervisor or region supervisor;

(4) imposition of special condition including, but not limited to, participation in intensive supervision, electronic monitoring, quarterhouse placement, or substance abuse caseload.

§145.48. [Prehearing] Pre-Revocation Hearing Conference; Purposes; Procedure.

(a) The hearing officer assigned to conduct a revocation [preliminary] hearing may, on his or her own motion or at the request of the administrative releasee or his or her attorney, call a pre-revocation hearing [prehearing] conference within a reasonable time after the notices described in §145.43 of this title (relating to Notice of Allegations; Counsel; Request for Hearings; Waivers) and §145.46 of this title (relating to Procedure After Request for Preliminary

Hearing; Time; Schedule; Notice; Location; Hearing Officer) have been served. Such pre-revocation hearing [prehearing] conference shall be scheduled so as to allow sufficient time for any necessary additional preparation by any party, as agreed on by the parties and the hearing officer, prior to the conduct of the revocation [preliminary] hearing. The scheduled date of the revocation [preliminary] hearing may be changed at the time of the pre-revocation hearing [prehearing] conference to accommodate said need.

(b) The purposes of the pre-revocation hearing [prehearing] conference include, but are not necessarily limited to, the following:

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

(c) The pre-revocation hearing [prehearing] conference shall be scheduled at a time and location convenient to all parties. The conference should be scheduled for a date and time sufficient to allow exchange of documentary evidence by the parties prior to the conference.

(d) All requests for subpoenas of adverse witnesses should be made at the time of the pre-revocation hearing [prehearing] conference, if any. Failure to request such a subpoena at said conference or within a reasonable time thereafter, with regard to witnesses, the existence and substance of testimony of whom is made known to counsel for the administrative releasee at the time of the conference, shall constitute a waiver of the administrative releasee's right to confrontation and cross examination of said adverse witness. For the purposes of this section, a reasonable time thereafter means no later than five days after the conference and not within five days of the schedule date for the hearing, whichever date falls sooner. If a pre-revocation hearing conference is not held, subpoenas for adverse witnesses should be requested 10 days prior to the schedule date for the hearing.

§145.49. Rights of the Administrative Releasee in the Revocation Process. The administrative releasee shall be entitled to the following rights in the revocation process:

(1) written notice of the date, time, and location of the hearings and of the allegations of violation of the terms and conditions of administrative release §145.47(f) of this title (relating to Procedure After Request for Revocation Hearing; Time; Schedule; Notice; Location; Hearing Officer). Notice of alleged violations shall be sufficient if it fairly advises the releasee of the alleged conduct on his or her part which constitutes a violation of one or more of the terms and/or conditions of release. Failure to object to the form of written notice on the ground that it fails to so advise the releasee of his or her conduct, which forms the basis of the allegations,

either at the pre-revocation hearing [prehearing] conference or, if there is no pre-revocation hearing [prehearing] conference, at the preliminary and/or revocation hearing, shall be deemed a waiver of any such objection;

(2)-(5) (No change.)

(6) a preliminary and/or revocation hearing before a neutral and detached staff hearing officer, as provided in §145.46(i) and §145.47(i) of this title (relating to Procedure After Request for Preliminary Hearing; Time; Schedule; Notice; Location; Hearing Officer) and §145.47(i) of this title (relating to Procedure After Request for Revocation Hearing; Time; Schedule; Notice; Location; Hearing Officer), unless the releasee has received a new felony conviction with time assessed in an institution. If the releasee has received a new felony conviction with time assessed in the institution, a revocation hearing will be conducted to obtain mitigating and extenuating evidence.

§145.50. Administrative Release [Revocation] Preliminary Hearing.

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

[(d) The hearing officer's findings may be either be:

[(1) there is probable cause to detain the releasee for a revocation hearing; or

[(2) there is no probable cause to detain the releasee for a revocation hearing.]

(d) Recommendations to the board and board disposition may be either to:

(1) withdraw warrant, if any, and continue releasee's administrative release under the same or modified terms and/or condition, or where the sentence has expired, release to discharge;

(2) maintain warrant in effect or issue warrant with time served in a secured facility; or

(3) maintain warrant in effect or issue warrant and proceed to a revocation hearing.

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 October 11, 1989.

TRD-8909743

William H. Brooks
Executive Director
Board of Pardons and
Paroles

Earliest possible date of adoption: November 20, 1989

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



• 37 TAC §145.44

The Board of Pardons and Paroles proposes an amendment to §145.44, concerning procedure after waiver of preliminary hearing. The amendment will clarify language used in the rules pertaining to preliminary hearing.

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

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by the proposed section. There will be no effect on small businesses as a result of enforcing the proposed section. 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 C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provides the Board of Pardons and Paroles with the authority to clarify language used in rules.

§145.44. Procedure After Waiver of Preliminary Hearing.

(a) Upon receipt [of an admission of violation of the terms and conditions of administrative release] and acceptance of the waiver of the right to an administrative release preliminary hearing, the releasee may be transferred by the sheriff to a secured facility for a term to be designated by the board; or the board panel shall review the case and make a final disposition by:

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

(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 October 11, 1989.

TRD-8909741 William H. Brooks
Executive Director
Board of Pardons and
Paroles

Earliest possible date of adoption: November 20, 1989

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

Chapter 147. Hearings

General Rules for Hearings

• 37 TAC §147.5

The Board of Pardons and Paroles proposes an amendment to §147.5, concerning witnesses. The amendment will clarify language used in rules.

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

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provide the Board of Pardons and Paroles with the authority to clarify language used in rules.

§147.5. Witnesses.

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

(c) Witnesses personally served with a subpoena and who fail to appear at the hearing, and upon good cause determined by the [parole] hearing officer, may present testimony by written statement.

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 October 11, 1989.

TRD-8909742 William H. Brooks
Executive Director
Board of Pardons and
Paroles

Earliest possible date of adoption: November 20, 1989

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter D. Medicaid Home Health Program

• 40 TAC §29.310

The Texas Department of Human Services (DHS) proposes an amendment to §29.310, concerning payment for home health services, in its Purchased Health Services chapter. The amendment allows the department to continue payment of home health services on a cost reimbursement basis.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that continuing payment for durable medical equipment under current department methodologies will prevent excessive drain on state resources while maintaining the quality of service. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-612, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

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

§29.310. Payment for Home Health Services.

(a) Authorized home health care benefits provided for eligible Medicaid recipients are reimbursed on the basis of reasonable cost, applying the same standards, cost reporting period, and cost reimbursement principles currently used in computing reimbursement for comparable services under Title XVIII Medicare. Reimbursement for durable medical equipment provided as a home health care benefit is based on the Title XVIII principles of reimbursement in place before the implementation of the Title XVIII fee schedule.

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

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

Issued in Austin, Texas, on October 12, 1989.

TRD-8909725 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Proposed date of adoption: December 25, 1989.

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

Part XI. Texas
Commission on Human
Rights

Chapter 321. General
Provisions

• 40 TAC §321.1

The Texas Commission on Human Rights proposes an amendment to §321.1, concerning definition of certain words and terms as used in the commission's procedural rules pursuant to the Texas Commission on Human Rights Act, Texas Civil Statutes, §5221(k).

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

Mr. 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 the clarification of amendments to the Texas Commission on Human Rights Act, which are adopted through the sunset adoption procedure. There will be no effect on small businesses as a result of enforcing the section. 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 William M. Hale, Executive Director, Texas Commission on Human Rights, P.O. Box 13493, Austin, Texas 78711.

The amendment is proposed under the Texas Commission on Human Rights Act, as amended, §5221(k); Texas Civil Statutes, Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

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

Act—The Texas Commission on Human Rights Act.

Age—"Because of" or "on the basis of age" refers only to discrimination because of age or on the basis of age against an individual 40 years of age or older [and under 70 years of age]. Nothing in this Act prohibits the compulsory retirement of any employee who has attained 65 years of age [but not 70 years of age], and who for the two-year period immediately before the retirement, is employed in a bona fide executive or high policy-making position, if the employee is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of plans, of the employer of the employee, that equals, in the aggregate, at least \$27,000. For the purposes of the Act, §5.04, "Because of age" refers only to discrimination because of age against an

individual who is at least 40 years of age but younger than 56 years of age.

Bona fide occupational qualification—A qualification:

(A) (No change.)

(B) for which there is a factual basis for believing that no [a] persons of the excluded group would be able [unable] to perform satisfactorily the duties of the job with safety or efficiency.

Disability—A mental or physical impairment that substantially limits at least one major life activity or a record of such a mental or physical impairment.

(A) The term does not include a person with a current condition of addiction to the use of alcohol or any drug or illegal or federally controlled substance.

(B) The term does not include a person with a currently communicable disease or infection, including but not limited to, acquired immune deficiency syndrome or infection with the human immunodeficiency virus, that constitutes a direct threat to the health or safety of other persons or that makes the affected person unable to perform the duties of the person's employment.

(C)[B] "Because of disability" or "on the basis of disability" refers to discrimination because of or on the basis of a physical or mental condition that does not impair an individual's ability to reasonably perform a job.

(D) Disabled is a person having a disability.

Employer—A person engaged in an industry affecting commerce who has 15 or more employees for each working day in each 20 or more calendar weeks in the current or preceding calendar year and any agent of that person. The term includes a county or municipality or [political subdivision and] any state agency or instrumentality, including public institutions of [higher] education, regardless of number of individuals employed.

Handicap—

[(A) A condition either mental or physical that includes mental retardation, hardness of hearing, deafness, speech impairment, visual handicap, being crippled, or any other health impairment that requires special ambulatory devices or services, as defined in the Human Resources Code, §121.002(4), but does not include a condition of addiction to any drugs or illegal or federally controlled substances or a condition of addiction to the use of alcohol.]

[Handicapped person—A person who

has a mental or physical handicap, including mental retardation, hardness of hearing, deafness, speech impairment, visual handicap, being crippled, or any other health impairment that requires special ambulatory devices or services, as defined in the Human Resources Code, §121.002(4), but does not include a person because he is addicted to any drug or illegal or federally controlled substances or because he is addicted to the use of alcohol.]

Political subdivision—A county or municipality [an incorporated city or town].

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 October 10, 1989.

TRD-8909714

William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

◆ ◆ ◆
Chapter 327. Administrative
Review

The Texas Commission on Human Rights proposes amendments to §327.1 and §327.8, repeal of §§327.9-327.11, and new §§327.9-327.11, 327.13, and 327.14, concerning administrative review. The amendment to §327.1 will provide a procedure for informing a complainant as to the status of a complaint on a quarterly basis until final disposition. The amendment to §327.8 will provide a procedure for informing a complainant after 180 days from the date a complaint is filed with the commission, a procedure for a complainant to request the commission's notice of right to file a civil action, a procedure for the commission to issue a notice of right to file a civil action prior to 180 days from the date a complaint is filed with commission, and the condition under which such a notice can be issued by the commission.

The repeal of §327.9 will correct the section number in Chapter 327 for confidentiality by renumbering it to §327.11. The repeal of §327.10 will correct the section number in Chapter 327, concerning temporary injunctive relief.

New §327.10 will add a procedure for obtaining access to the commission's records by a party to a complaint and the conditions under which access shall be granted.

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

Mr. Hale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be the clarification of amendments to the Texas Commission

sion on Human Rights Act, which are adopted through the Sunset adoption procedure. There will be no effect on small businesses as a result of enforcing the section. 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 William M. Hale, Executive Director, Texas Commission on Human Rights, P.O. Box 13493, Austin, Texas 78711.

• 40 TAC §327.1

The amendment is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.1. Filing a Complaint.

(a)-(i) (No change.)

(j) On behalf of the commission, the executive director or his or her designee shall notify the parties to a complaint of the status of the complaint at least quarterly and until the final disposition of the complaint, unless the notice would jeopardize an undercover investigation by another state, federal, or local government.

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 October 10, 1989.

TRD-8909715 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

• 40 TAC §327.8

The amendment is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.8. Notice to Complainant.

(a) If the complaint filed with the commission pursuant to the Texas Commission on Human Rights Act, §6.01 is dismissed by the commission or is not resolved before the expiration of the 180th day after the date of filing of the complaint [Unless the commission has earlier dismissed the complaint, or if within 180 days after the filing of the complaint

the commission has not filed a civil action or has not successfully negotiated a conciliation agreement], the commission shall so inform [notify] the complainant in writing [and respondent] by certified [registered] mail, return receipt requested [pursuant to the Act, Article 7, §7.01(a)]. Any complainant who is so informed may request the commission's notice of right to file a civil action. The complainant must request the notice in writing and identify the respondent, the commission's complaint number, and the United States Equal Employment Opportunity Commission's complaint number, if the complaint has been deferred by the federal government.

(b) On receipt of a written request by a complainant, the commission shall issue within five business days the notice of right to file a civil action before the expiration of the 180th day after the date the complaint was filed under the following conditions:

(1) the complainant has a life threatening illness, as confirmed in writing by a physician licensed to practice medicine in this state; or

(2) executive director certifies that the administrative processing of the complaint cannot be completed before the expiration of the 180th day after the complaint was filed. The executive director's certification shall take into account the exigent circumstances of the complainant. The complainant's written request shall include the name of the respondent, the commission's complaint number, and the United States Equal Employment Opportunity Commission's complaint number, if the complaint has been deferred by the federal government. The commission shall issue an expedited notice by certified mail not less than the fifth business day after receipt of the complainant's request.

(c) The omission shall delegate authority to issue notices of right to file civil actions to the executive director or his or her designee.

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 October 10, 1989.

TRD-8909713 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

• 40 TAC §327.9

(Editor's note: The text of the following section proposed for repeal will not be published. The

section may be examined in the offices of the Texas Commission on Human Rights or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.9. Confidentiality.

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 October 10, 1989.

TRD-8909712 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

The new section is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.9. Failure to Issue Notice. The commission's failure to issue a notice of right to file civil action after 180 days from the date the complaint is received by the commission, does not affect the complainant's right under Texas Commission on Human Rights Act (Act), Article VII, §7.01(a) to bring a civil action against the respondent.

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 October 10, 1989.

TRD-8909711 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

• 40 TAC §327.10

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

The repeal is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.10. Temporary Injunctive Relief.

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 October 10, 1989.

TRD-8909710 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

The new section is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.10. Access to Commission Records. Pursuant to the limitations established by the Texas Commission on Human Rights Act (Act), §8.02(a), the executive director shall, on written request of a party to a complaint filed under the Act, §6.01, allow the party access to the commission records under the following conditions, unless the complaint has been resolved through a voluntary settlement or conciliation agreement.

(1) Following the final action of the commission a party to the complaint or the party's attorney shall certify in writing that a civil action is to be filed under the Act within 60 days from the date of receipt of the commission's notice of right to file a civil action or a civil action under the Act is pending in state court.

(2) A party to the complaint or the party's attorney shall certify in writing that a civil action relating to the complaint is pending in federal court alleging a violation of federal 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 October 10, 1989

TRD-8909709 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

• 40 TAC §327.11

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

The repeal is proposed under the Texas Commission on Human Rights Act as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.11. Legal Representation.

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 October 10, 1989.

TRD-8909707 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

The new section is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.11. Confidentiality.

(a) No officer or employee of the commission may make public any information obtained by the commission under its authority under the Texas Commission on Human Rights Act (Act), Article 6, §6.01, except as necessary to the conduct of a proceeding under this Act.

(b) No commissioner or employee of the commission may make public, without the written consent of the complainant and respondent, information about the efforts in a particular case to resolve an alleged discriminatory practice by conference, conciliation, or persuasion, whether or not there is a determination of reasonable cause.

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 October 10, 1989

TRD-8909708 William M. Hale
Executive Director

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

• 40 TAC §327.13

The new section is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.13. Temporary Injunctive Relief. Based on a preliminary investigation of a complaint, the commission may seek temporary injunctive relief pursuant to the Texas Commission on Human Rights Act, Article 6, §6.01(e).

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 October 10, 1989.

TRD-8909705 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

• 40 TAC §327.14

The new section is proposed under the Texas Commission on Human Rights Act, as amended, Texas Civil Statutes, 5221(k), Article 3, §3.02(10), which provide the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.14. Legal Representation. The respondent and the complainant may be represented by an attorney or designated 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 October 10, 1989.

TRD-8909704 William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: November 20, 1989

For further information, please call: (512) 837-8534

Withdrawn Sections

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

TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Licensing and Regulations

Chapter 69. Manufactured Housing Division

Standards and Requirements

- 16 TAC §69.54

The Texas Department of Licensing and Regulations has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the June 16, 1989, issue of the *Texas Register* (14 TexReg 2985). The effective date of this withdrawal is October 12, 1989.

Issued in Austin, Texas, on October 12, 1989

TRD-8909689

Paula Hamje
Acting General Counsel
Texas Department of
Licensing and
Regulations

Effective date: October 12, 1989

For further information, please call: (512)
463-0859

TITLE 28 INSURANCE

Part I. State Board of Insurance

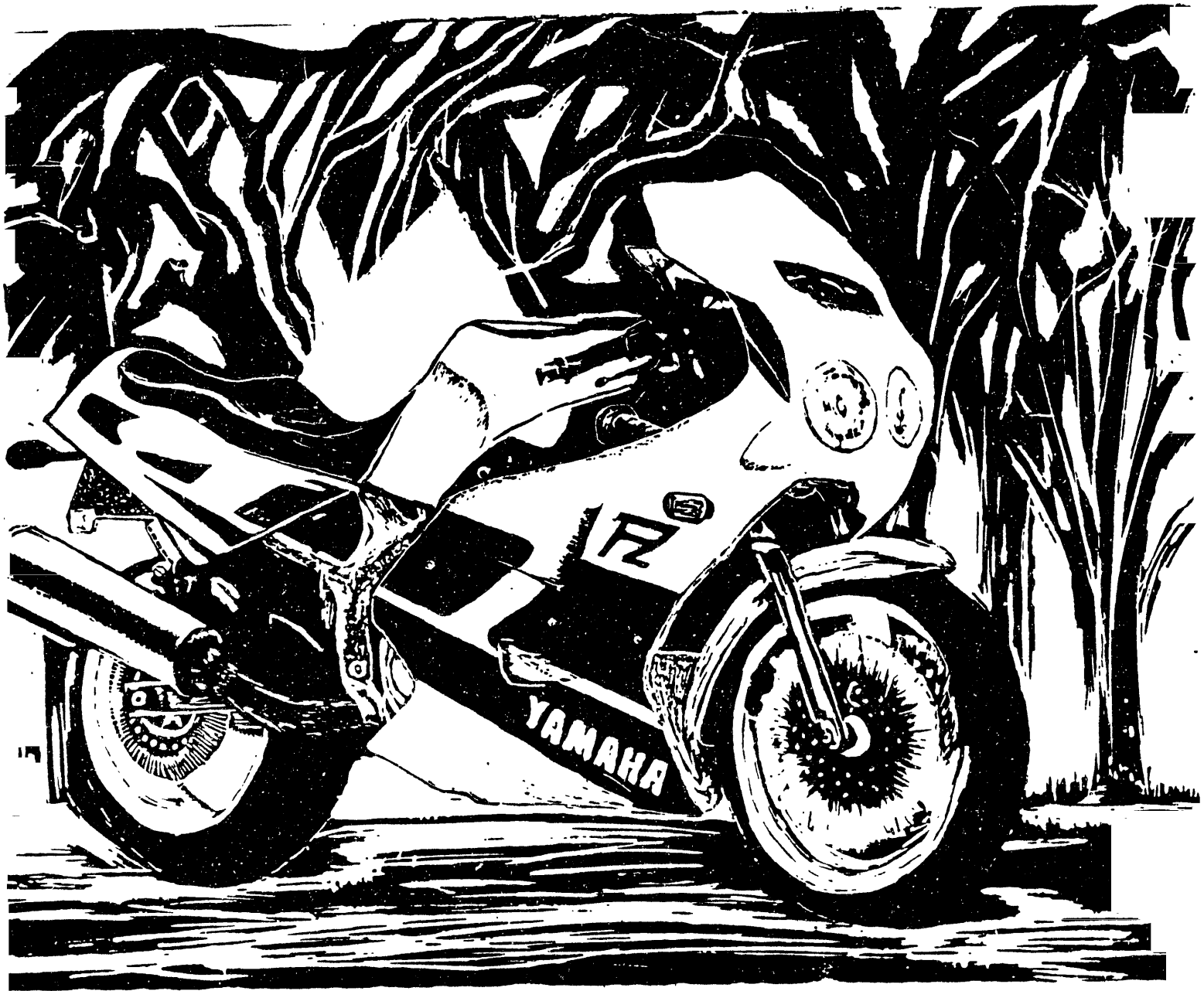
Chapter 19. Agent's Licensing

Subchapter B. Licensing [Examinations] of Legal Reserve Life Insurance Agents [Agent Applicants] and Health Insurance Agents [Agent Applicants]

- 28 TAC §19.111

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91.24(b), the proposed new §19.111, submitted by the State Board of Insurance has been automatically withdrawn, effective October 12, 1989. The new section as proposed appeared in the April 11, 1989, issue of the *Texas Register* (14 TexReg 1787).

TRD-8909729



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 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 301. Definitions

• 16 TAC §301.1

The Texas Racing Commission adopts an amendment to §301.1, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3273).

The amendment is adopted to ensure that all persons affected by the rules of the commission understand the terms of art used in the rules.

The amendment adds definitions for the age of horses, chief veterinarian, entry, greyhound race, horse, horse race, jockey, locked in the gate, no race, off time, race day, race meeting, recognized race meeting, stallion owner, and straight pool. The amendment also deletes definitions for clerk of the scales, outrider, paddock judge, patrol judge, placing official, racing secretary, and amends definitions for cool out, coupled entry, established weight, kennel, mutuel field, racetrack official, scratch, starter, tout, weigh in, and weigh out.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909781 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Chapter 303. General Provisions

Subchapter D. Texas Bred Incentive Programs

General Provisions

• 16 TAC §303.84, §303.85

The Texas Racing Commission adopts new §303.84 and §303.85. Section 303.84 is adopted with changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3274). Section 303.85, is adopted without changes and will not be republished.

The new sections are adopted to ensure that the commission is apprised of all racing and breeding activities of organizations receiving money through the Texas Bred Incentive Programs and that the persons responsible for administering the program for a particular organization are of the utmost integrity.

The new sections require the breed registries participating in the Texas Bred Incentive Programs to include the Texas Racing Commission on their mailing lists and to submit to background investigations on order of the commission. The change in §303.84 restricts the materials to be forwarded to the commission to materials that relate solely to racing or breeding of race animals.

The Texas Quarter Horse Association submitted comments on the proposed sections. Their comments outlined the wide variety of publications mailed to the membership of the breed registries.

Based on the TQHA's comments, the commission made a change in §303.84.

The new sections are adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing Act.

§303.84. Mailings to Membership. An official breed registry designated by the Act or the commission or another organization recognized by the commission for any purpose shall provide to the commission on an ongoing basis:

- (1) a current list of the officers, directors, and members of the organization;
- (2) a copy of the organization's charter, by-laws, or other organizational documents, including all amendments to those documents; and
- (3) a copy of the minutes from each regular or executive meeting or con-

vention, each resolution adopted by the directors or the membership, and each newsletter, memorandum, announcement, or other information provided to the members of the organization that relates to racing or breeding of race animals, other than correspondence relating solely to the business of an individual member.

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 October 13, 1989.

TRD-8909762 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Subchapter F. Regulation of Nonpari-mutuel Racing

• 16 TAC §303.154

The Texas Racing Commission adopts an amendment to §303.154, without changes to the proposed text as published in the May 30, 1989, issue of the *Texas Register* (14 TexReg 2570).

The amendment is adopted to ensure that the conduct of racing at nonpari-mutuel racetracks is of the highest integrity.

The amendment requires racetracks registered to conduct nonpari-mutuel horse races to conduct those races in accordance with the commission's rules for horse racing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e-4, which authorize the commission to regulate all racing in Texas regardless of whether the racing involves pari-mutuel wagering.

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 October 13, 1989.

TRD-8909780 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: May 30, 1989

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

Chapter 305. Licenses for Pari-mutuel Racing

Subchapter B. Individual Licenses

General Provisions

• 16 TAC §305.36

The Texas Racing Commission adopts new §305.36, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3274).

The new section is adopted to ensure that all persons licensed by the commission to participate in pari-mutuel racing are highly qualified.

The new section authorizes the commission to require an applicant for an occupational license to pass an examination designed by the commission to demonstrate the applicant's knowledge, qualifications, and proficiency for the license.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179a, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909749 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Specific Licenses

• 16 TAC §305.47, §305.48

The Texas Racing Commission adopts new §305.47 and §305.48, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3274).

The new sections are adopted to ensure that all jockeys and apprentice jockeys involved in pari-mutuel racing are highly qualified and of the utmost integrity.

The new sections describe the qualifications for being licensed by the commission as a jockey or an apprentice jockey.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for

administering the Texas Racing 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 October 13, 1989.

TRD-8909753 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Subchapter C. Racetrack Licenses

General Provisions

• 16 TAC §305.68, §305.69

The Texas Racing Commission adopts amendments to §305.68 and §305.69, without changes to the proposed text as published in the August 18, 1989, issue of the *Texas Register* (14 TexReg 4103).

The amendments are adopted to ensure the prompt receipt of revenue to offset the costs of hearing applications for racetrack licenses.

The amendments authorize the commission to require an applicant for a racetrack license to pay the costs of a hearing examiner used to hear the application.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 179e, §6.03(e), which authorize the commission to prescribe fees for pari-mutuel racetrack licenses and applications.

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 October 13, 1989.

TRD-8909750 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: August 18, 1989

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

Subchapter D. Suspension and Revocation of Licenses

• 16 TAC §305.247

The Texas Racing Commission adopts an amendment to §305.247, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3275).

The amendment is adopted to ensure that racetracks licensed to conduct pari-mutuel racing are financially solvent and secure.

The amendment authorizes the commission to suspend or revoke a racetrack license if the licensee fails to pay a tax assessment that is secured by a lien or if a notice of public sale of the racetrack site is posted.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with pari-mutuel wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909750 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Facilities and Equipment

• 16 TAC §309.26

The Texas Racing Commission adopts an amendment to §309.26, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3275).

The amendment is adopted to ensure that pari-mutuel racing is conducted with the highest integrity and that the facilities at a pari-mutuel racetrack are the finest.

The amendment requires the internal communication system at a racetrack to provide an outlet in the clocker's stand.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909751 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Operations

• 16 TAC §309.53

The Texas Racing Commission adopts an amendment to §309.53, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3275).

The amendment is adopted to ensure that the commission is fully apprised of changes in the financial condition of pari-mutuel racetracks.

The amendment requires an association to provide, on commission request, financial statements regarding the management and operations of the racetrack. The change from the proposed text permits the reports to be filed within five working days, rather than within 48 hours.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909763 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

• 16 TAC §309.67

The Texas Racing Commission adopts new §309.67, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3275).

The new section is adopted to ensure that the licensing process for individuals is administratively sound and of the highest integrity.

The new section requires a licensed racetrack to make money orders available for sale during all hours the commission licensing office is open for licensing.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909752 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Subchapter B. Horse Racetracks

Racetracks

• 16 TAC §309.102

The Texas Racing Commission adopts an amendment to §309.102, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3276).

The amendment is adopted to ensure that the rules of the commission are easily understood by the persons who are affected by them.

The amendment clarifies that the length of the back chute on a racetrack is measured from the starting gate to the finish line.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909754 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Facilities for Horses

• 16 TAC §309.155

The Texas Racing Commission adopts an amendment to §309.155, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3276).

The amendment is adopted to ensure that facilities for pari-mutuel racing are safe for the race animals.

The amendment requires the equine ambulance at licensed racetracks to be equipped with a front leg Kumzey brace, to be covered as well as enclosed, and to be available for each day the track is open for racing or training.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909755 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Facilities for Employees

• 16 TAC §309.181

The Texas Racing Commission adopts an amendment to §309.181, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3276).

The amendment is adopted to ensure that the facilities for the commission veterinarians will be of the highest quality.

The amendment requires the office to be secured and be equipped with two file cabinets, a freezer equipped with a lock, and a storage area equipped with a lock. The amendment also requires the locks to be of a type approved by the commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909756 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Operations

• 16 TAC §309.193

The Texas Racing Commission adopts an amendment to §309.193, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3276).

The amendment is adopted to ensure that pari-mutuel racing is conducted with the utmost integrity.

The amendment eliminates the requirement that a racetrack provide a head number and racing colors, making the provision of those items permissive with the racetrack.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909757 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Subchapter C. Greyhound Racetracks

Operations

• 16 TAC §309.363

The Texas Racing Commission adopts new §309.363, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3276).

The new section is adopted to ensure that pari-mutuel greyhound races are conducted safely and fairly.

The new section limits the number of greyhounds in a race to not more than eight greyhounds.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909758 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Chapter 313. Officials and Rules of Horse Races

Subchapter A. Officials

General Provisions

• 16 TAC §313.6

The Texas Racing Commission adopts new §313.6, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3278).

The new section is adopted to ensure that officials for pari-mutuel racing are of the highest integrity.

The new section requires the commission to approve the per diem compensation of certain officials.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909779 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

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

Duties of Stewards

• 16 TAC §313.26

The Texas Racing Commission adopts new §313.26, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3278).

The new section is adopted to ensure that the wagerers at a pari-mutuel racetrack are adequately informed of the current track condition.

The new section requires the stewards to post the condition of the track surface during each race day.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909778 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

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

Duties of Other Officials

• 16 TAC §§313.53-313.61

The Texas Racing Commission adopts new §§313.53-313.61, without changes to the pro-

posed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3278).

The new sections are adopted to ensure that pari-mutuel horse racing is adequately supervised and is conducted with the highest integrity.

The new sections describe the duties of the racetrack officials other than the stewards, including the mutuel manager, the track superintendent, the assistant racing secretary, the stable superintendent, the announcer, the outrider, the assistant starters, the test barn technicians, and the horsemen's bookkeeper.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909777 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

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Proposal publication date: July 4, 1989

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

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.111

The Texas Racing Commission adopts new §313.111, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3278).

The new section is adopted to ensure that pari-mutuel racing is of the highest integrity and that the health of the race animal is protected.

The new section restricts the ability of two-year-olds, three-year-olds, and four-year-olds to start in races of certain distances, the ability of a maiden to start, and the maximum age for starting horses.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909776 Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Subchapter C. Claiming Races

• 16 TAC §§313.310-313.314

The Texas Racing Commission adopts new §§313.310-313.314, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3279).

The new sections are adopted to ensure that claiming races are conducted with the highest integrity.

The new sections describe the restrictions on claims, the right to claim by depleted stables, protests on claims, removal to avoid claims, and disclosure of a mare in foal in a claiming race.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 179e, §3. 02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909775

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Subchapter D. Running of the Race

Jockeys

• 16 TAC §313.410

The Texas Racing Commission adopts new §313.410, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3279).

The new section is adopted to ensure that the persons participating in pari-mutuel racing are of the highest integrity.

The new section describes the requirements and restrictions relating to jockey contracts and apprentice certificates.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing 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 October 13, 1989.

TRD-8909774

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Chapter 319. Veterinary Practices and Drug Testing

Subchapter A. General Provisions

• 16 TAC §319.13, §319.14

The Texas Racing Commission adopts new §319.13 and §319.14. Section 319.13 is adopted with changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3279). Section 319.14 is adopted without changes and will not be republished.

The new sections are adopted to ensure that pari-mutuel racing is conducted with the highest integrity and that the well-being of the race animal is of paramount importance.

The new sections describe the procedures and restrictions relating to the use and possession of disposable syringes and controlled substances on association grounds.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 179e, §3. 02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing Act.

§319.13. Disposable Syringes. All veterinarians shall use single-use disposable syringes while on association grounds and shall dispose of the syringes off the association grounds.

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 October 13, 1989.

TRD-8909761

Paula Cochran Carter
Legal Counsel
Texas Racing Commission

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

Subchapter B. Treatment of Horses

Veterinary Practices

• 16 TAC §§319.109-319.112

The Texas Racing Commission adopts new §§319.109-319.112. Section 319.110 is adopted with changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3280). Sections 319.109, 319.111, and 319.112, are adopted without changes and will not be republished.

The new sections are adopted to ensure that pari-mutuel racing is conducted with the highest integrity and with the health of the race animal of paramount importance.

The new sections describe the procedures and restrictions relating to the destruction of horses, the coggins test and health certificate bleeders, and unlicensed veterinary practices.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 179e, §3. 02, which authorize the commission to adopt rules for conducting racing involving wagering and for administering the Texas Racing Act.

§319.110. Coggins Test and Health Certificate.

(a) Except as otherwise provided by this section, a horse that arrives on an association's grounds shall have:

(1) a valid negative agar gel immunodiffusion test for equine infectious anemia (Coggins Test) issued in the six-month period preceding the horse's arrival; and

(2)

a health certificate issued in the 45-day period preceding the horse's arrival.

(b) The stable superintendent may permit a horse without a health certificate to be admitted to association grounds, provided:

(1) the horse is admitted only to an isolated stall; and

(2) the trainer of the horse files a health certificate with the commission veterinarian not later than 24 hours after arrival.

(c) The stable superintendent may permit a horse without a Coggins test to be admitted to association grounds, provided a Coggins test is drawn not later than 24 hours after arrival.

(d) A horse that does not have the certificates required by this section on file with the commission veterinarian is ineligible to start in a race. 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 October 13, 1989.

Effective date: November 3, 1989

Proposal publication date: July 4, 1989

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

TITLE 22. EXAMINING BOARDS

Part XIV. Texas Optometry Board

Chapter 271. Examinations

• 22 TAC §271.6

The Texas Optometry Board adopts an amendment to §271.6, without changes to the proposed text as published in the August 4, 1989, issue of the *Texas Register* (14 TexReg 3784).

The amendment will inform licensees that a national board examination will be accepted in lieu of a state written examination as a portion of the examination process. The state written examination will be phased out over a three examination process. Such adopted rule will satisfy the requirements of the Texas Optometry Act, Texas Civil Statutes, Article 4552, §3.05 and §3.06.

The amendment will require each candidate for licensure to take the National Board Examination in lieu of the state written examination, and can make proper arrangements therefor during the course of formal instruction.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4552, §2.14 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 October 13, 1989.

TRD-8909819 Lois Ewald
Executive Director
Texas Optometry Board

Effective date: November 3, 1989

Proposal publication date: August 4, 1989

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

Chapter 501. Professional Conduct

Professional Standards

• 22 TAC §501.25

The Texas State Board of Public Accountancy adopts the repeal of §501.25, without changes to the proposed text as published in the August 15, 1989, issue of the *Texas Register* (14 TexReg 4043).

The repeal of this section will allow for the adoption of a new section that will insure that all licensees remain knowledgeable with current changes in the profession, thereby benefiting themselves, their employer, and the public.

The repeal of this section will allow for the adoption of a new section that will require mandatory continuing education of licensees in industry and public practice.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6 (a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to mandatory continuing education requirements.

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 October 13, 1989.

TRD-8909828 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: November 3, 1989

Proposal publication date: August 15, 1989

For further information, please call: (512)
450-7066

The Texas State Board of Public Accountancy adopts new §501.25, without changes to the proposed text as published in the August 15, 1989, issue of the *Texas Register* (14 TexReg 4043).

The new section will insure that all licensees remain knowledgeable with current changes in the profession, thereby benefiting themselves, their employer, and the public.

The new section will require mandatory continuing education of licensees in industry and public practice.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to mandatory continuing education requirements.

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 October 13, 1989.

TRD-8909826 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: November 3, 1989

Proposal publication date: August 15, 1989

For further information, please call: (512)
450-7066

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter F. Inland Marine Insurance

• 28 TAC §5.5002

The State Board of Insurance adopts an amendment to §5.5002, without changes to the proposed text as published in the April 14, 1989, issue of the *Texas Register* (14 TexReg 1816).

Section 5.5002 concerns the Texas definition of inland marine insurance. The amendment is necessary to redefine the commercial fine arts class of inland marine insurance to provide for approval by the board of standard and uniform rules, rates, and forms for the coverage of commercial fine arts under inland marine insurance. This coverage can be included as part of a Texas Commercial Package Policy, eliminating the need for a separate policy to insure commercial fine arts.

The amendment redefines the commercial fine arts class of inland marine insurance as a filed class rather than as a non-regulated class.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 5.53, which provides for the approval by the State Board of Insurance of a definition of inland marine insurance which sets forth the regulatory status of the defined classes of inland marine insurance.

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 October 13, 1989.

TRD-8909811 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 3, 1989

Proposal publication date: April 14, 1989

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

Chapter 7. Corporate and Financial

Subchapter J. Examination Expenses and Assessments

• 28 TAC §7.1007

The State Board of Insurance adopts new §7.1007, without changes to the proposed text as published in the April 18, 1989, issue of the *Texas Register* (14 TexReg 1861).

Section 7.1007 concerns rates of assessments and charges to meet the expenses of examining insurance companies in 1989. This new section is necessary to provide rates of

assessment and charges sufficient to meet the expenses of performing the board's statutory responsibilities for examining insurance companies.

Under the adopted section, the board levies rates of assessment and collects from each domestic insurance company on the basis of admitted assets and gross premium receipts for the 1988 calendar year, and from each foreign insurance company under examination during the 1989 calendar year on the basis of a percentage of the gross salary the board paid to an examiner for each month or part of a month during the examination. The expenses and charges assessed under authority of this section are additional to and not in lieu of any other charge which may be made under law, including the Insurance Code, Article 1.16. The commissioner of insurance has certified the rates of assessment and charges set out in this section to be just and reasonable.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Article 1.16, which authorizes and requires the State Board of Insurance to make assessments and charges to meet all expenses and disbursements required by law and necessary to comply with the provisions of the Insurance Code, Articles 1.16-1.18, relating to the examination of insurance companies.

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 October 13, 1989.

TRD-8909810 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 3, 1989

Proposal publication date: April 18, 1989

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

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Subchapter L. Procedures and Requirements for Life Insurance Companies Writing Reinsurance for Property and Casualty Risks

• 28 TAC §§7.1201-7.1206

The State Board of Insurance adopts new §§7.1201-7.1206, without changes to the proposed text as published in the April 18, 1989, issue of the *Texas Register* (14 TexReg 1862).

Sections 7.1201-7.1206 concern administrative regulation of life insurance companies engaged in the business of reinsuring property and casualty risks. The new sections are necessary to implement the Insurance Code, Article 5.75-1(h), which provides increased underwriting capacity in Texas by allowing life insurance companies to reinsure certain risks according to the Insurance Code, Article 5.75-1(a).

The new sections set forth requirements and limitations for life insurance companies reinsuring property and casualty risks and establish record-keeping requirements, risk limitations, and additional statutory deposits for such business. New §7.1201 defines reinsurance, for purposes of this subchapter, as indemnity reinsurance contracts only. New §7.1202 requires life insurance companies to file a notice of intent and to obtain approval from the commissioner of insurance before reinsuring property and casualty risks. New §7.1203 imposes upon a life insurance company the same statutory and administrative rules applicable to property and casualty insurance companies engaged in the same business. New §7.1203 also requires that, for approval by the commissioner of insurance, the life insurance company must make additional filings and a statutory deposit and establish a special contingency reserve. New §7.1204 imposes risk limitations. New §7.1205 requires a life insurance company to maintain accurate accounting records. New §7.1206 also adopts by reference forms for reporting financial information. The board has filed a copy of the forms with the Office of the Secretary of State, Texas Register Division. Persons desiring copies of the forms may obtain copies from the Corporate Activities Division of the State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Insurance Code, Article 5.75-1(i), which authorizes the State Board of Insurance to adopt necessary and reasonable rules to protect the public interest concerning the regulation of reinsurance.

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 October 13, 1989.

TRD-8909809 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 3, 1989

Proposal publication date: April 18, 1989

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

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Chapter 9. Title Insurance

Subchapter B. Texas Title Insurance Advisory Association Organizational Rules

• 28 TAC §§9.301-9.308

The State Board of Insurance adopts the repeal of §§9.301-9.308, without changes to the proposed text as published in the April 18, 1989, issue of the *Texas Register* (14 TexReg 1864).

Sections 9.301-9.308 concern the organization of the Texas Title Insurance Advisory Association. The repeal of these sections is necessary to eliminate superfluous regulations

in view of the Texas title Insurance Advisory Association's having been superseded by the Texas Title Insurance Guaranty Association.

Sections 29.601-29.607 of this title, concerning the Texas Insurance Guaranty Association plan of operation, which set forth an organizational plan for the successor association, were adopted simultaneously with this repeal of §§9.301-9.308. Notification of the adoption of §§29.601-29.607 appears elsewhere in this issue of the *Texas Register*.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Insurance Code, Article 1.04 and Article 9.48. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. The Insurance Code, Article 9.48, §18, authorizes the board to issue reasonable rules to carry out the purposes and provisions of the Texas Title Insurance Guaranty Act, and in augmentation thereof.

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 October 13, 1989.

TRD-8909808 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 3, 1989

Proposal publication date: April 18, 1989

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

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Chapter 29. Guaranty Acts

Subchapter C. Texas Life, Health, and Accident Guaranty Association Plan of Operation

• 28 TAC §§29.501-29.507

The State Board of Insurance adopts the repeal of §§29.501-29.507, without changes to the proposed text as published in the April 18, 1989, issue of the *Texas Register* (14 TexReg 1854).

Sections 29.501-29.507 concern the plan of operation of the Texas Life, Health, and Accident Guaranty Association.

The repeal of these sections is necessary to eliminate regulations that are superfluous in view of the repeal by the legislature of the Life, Health, and Accident Guaranty Act.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Insurance Code, Article 1.04, which authorizes the State Board of Insurance to determine rules in accordance with the laws of this state.

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

Issued in Austin, Texas on October 13, 1989.

TRD-8909807

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 3, 1989

Proposal publication date: April 18, 1989

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

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Subchapter D. Texas Title Insurance Guaranty Association Plan of Operation

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• 28 TAC §§29.601-29.607

The State Board of Insurance adopts new §§29.601-29.607, without changes to the proposed text as published in the April 18, 1989, issue of the *Texas Register* (14 TexReg 1865).

Sections 29.601-29.607 concern a plan of operation for the Texas Title Insurance Guaranty Association (the association). The new sections are necessary to provide a working procedure for the Texas Title Insurance Guaranty Association to carry out its duties properly pursuant to the Texas Title Insurance Guaranty Act (the Act).

New §29.601 defines the plan of operation, states when it will go into effect, and defines terms. New §29.602 describes selection of the board of directors of the association, the duration of their term, the method of appointment, the election of officers, voting requirements, what constitutes a quorum and majority, when regular and special meetings shall be held, what shall be considered at meetings, who shall call special meetings, the notice requirements for special meetings and emergency meetings, and who may attend meetings. New §29.603 describes the operations of the Texas Title Insurance Guaranty Association and specifically describes the official address, record keeping, the custodian of accounts, the nature of the accounts, and disbursement of funds. New §29.604 describes the maintenance of records of each meeting and the annual report by the board of directors to the commissioner of insurance. New §29.605 defines the appeal procedure for an aggrieved title insurer or agent. New §29.606 provides for indemnification of certain persons as a supplement to the immunity granted by the Act, §17. New §29.607 states that the plan of operation is in conformity with the Act (the Insurance Code, Article 9.48).

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Insurance Code, Article 9.48, §14, which creates the Texas Title Insurance Guaranty Association and requires the association to perform its functions under a plan of operation approved by the State Board of Insurance.

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 October 13, 1989.

TRD-8909812

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 3, 1989

Proposal publication date: April 18, 1989

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Health

Chapter 4. Medicaid Programs-Children and Pregnant Women

Eligibility Requirements

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• 40 TAC §4.1004, §4.1010

The Texas Department of Human Services (DHS) adopts amendments to §4.1004 and §4.1010, without changes to the proposed text as published in the September 5, 1989, issue of the *Texas Register* (14 TexReg 4540). The department adopted these amendments on an emergency basis effective September 1, 1989, in the September 5, 1989, issue of the *Texas Register* (14 TexReg 4508).

The purpose for the amendments is to increase the Medicaid income limit for children and pregnant women.

The sections will function by making medical care available to more needy people.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which 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 October 13, 1989.

TRD-8909822

Cathy Rossberg
Administrator, Policy Development Services Division
Texas Department of Health

Effective date: November 3, 1989.

Proposal publication date: September 5, 1989.

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

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Chapter 31. Case Management for Persons with Mental Retardation or Related Condition

Program Requirements

◆ ◆ ◆
• 40 TAC §§31.1, 31.3, 31.5, 31.7, 31.9, 31.11, 31.13

The Texas Department of Human Services (DHS) adopts new sections §§31.1, 31.3, 31.5, 31.7, 31.9, 31.11, and 31.13. Sections 31.7, 31.9, and 31.11 are adopted with changes to the proposed text as published in the August 4, 1989, issue of the *Texas Register* (14 TexReg 3795). Sections 31.1, 31.3, 31.5, and 31.13 are adopted without changes and will not be republished.

The new sections will maximize the use of Title XIX federal Medicaid funds to expand services to the client populations served by both DHS and the Texas Department of Mental Health and Mental Retardation (TDMHMR).

The new sections will function to provide case management services to persons with mental retardation or related conditions to ensure that the client population receives the full range of services that they need. The services will assist these clients in achieving their maximum level of functioning in the community.

During the public comment period, the department received comments from the Texas Planning Council for Developmental Disabilities; Advocacy, Inc.; and the TDMHMR. The following are the comments and DHS responses.

Comment: Section 31.1, concerning definitions. The definition of related conditions should be delineated in the same manner that the definition of mental retardation is, rather than by reference to 42 Code of Federal Regulations 435.1009. This definition should stipulate that age of onset is before 22 years old; that disabilities include, but are not limited to cerebral palsy, epilepsy and autism; and should list the areas of major life activity in which functional limitations can occur.

Response: The department has determined that reference to the definition outlined in 42 Code of Federal Regulations 435.1009, concerning related conditions, is the best method of ensuring that the population served is consistent with federal requirements. DHS commonly references the applicable federal rules when it is feasible and appropriate to do so.

Comment: Section 31.5(7)(B), concerning monitoring. The word "periodic" should be clarified to indicate the minimum frequency with which monitoring activities should be conducted, (annually or quarterly). Section 31.5(8), concerning reassessment. The rule should specify a minimum standard regarding how often reassessment should be done.

Response: The periodicity of monitoring and reassessment are covered in the TDMHMR Community Standards for Mental Retardation.

Comment: Section 31.7(b)(2), concerning service limitations. The exclusion of outreach activities from reimbursement could be particularly problematic in addressing the needs of

people with related conditions. Because DHS has determined TDMHMR is the appropriate agency to provide case management services for all individuals in the target population, it may require special efforts to inform and identify individuals with related conditions who would not ordinarily be eligible for TDMHMR services and consequently might not consider applying there for case management services. Therefore, outreach should be allowable for persons with related conditions at a minimum.

Response: Federal requirements contained in the State Medicaid Manual, Part 4, New Implementing Instructions, specifically excludes outreach as a case management service. The manual states, in part, "Outreach activities in which a State agency or a provider attempts to contact potential recipients of a service do not constitute case management services."

Comment: Section 31.9, concerning provider qualifications. One commenter indicated that while TDMHMR is qualified to provide case management services to persons with mental retardation, they have no systematic experience in providing case management services to people with related conditions. This commenter suggested that special attention should be given in this section to outlining the procedures by which persons with related conditions will access the services of a case manager who has expertise in addressing their particular needs. Another commenter also questioned whether TDMHMR had the legal authority or experience to be the sole provider of case management services to persons with related conditions.

These commenters suggested that the provider base be expanded. This could be accomplished by specifying that TDMHMR subcontract for services for people with related conditions with providers who have expertise in working with this segment of the target population. A second alternative would be to specify that TDMHMR case managers have training and expertise in the service options available to people with related conditions.

Response: After speaking with several of the commenters, the department has agreed to address the issue through the development of a federal waiver request for Home and Community-based Services for Persons with Related Conditions. Services to be provided under this waiver will include case management by other providers. Simultaneously with this request, the state plan provision on targeted case management will be amended to indicate that case management for individuals receiving home and community-based services under the waiver are to be provided in accordance with the waiver rather than these provisions. The rules have been revised by adding paragraph (5) to §31.7(b) which will incorporate this change into the rules when all the necessary federal approvals have been received. TDMHMR is also including additional training for their case managers for the provision of services to persons with a related condition.

Comment: Section 31.9(a), concerning provider qualifications. Include "and related conditions" following "persons with mental retardation" in the second sentence of this section.

Response: As suggested by the commenter, the department has added "and related condi-

tions" after "...persons with mental retardation" in §31.9(a), concerning provider qualifications.

Comment: The section concerning reimbursement methodology should specify more clearly the method of cost allocation for staff in the rate setting methodology.

Response: The department agrees and has revised the language in §31.11(e)(1)(A) and §31.11(e)(1)(B).

The department has also changed §31.9(a), concerning provider qualifications, in order to clarify the language.

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§31.7. Service Limitations.

(a) Case management services will not be reimbursable as a Medicaid service if it is duplicative or if it is associated with the proper and efficient administration of the state plan. Case management activities associated with the following are not reimbursable as an optional targeted case management service:

- (1) Medicaid eligibility determinations and redeterminations;
- (2) Medicaid eligibility intake processing;
- (3) Medicaid preadmission screening;
- (4) prior authorization for Medicaid services;
- (5) required Medicaid utilization review;
- (6) EPSDT administration; and
- (7) Medicaid "lock-in" provided for under the Omnibus Reconciliation Act of 1987, §1915(a).

(b) Specifically, reimbursement will not be made for the following:

(1) services that are an integral and inseparable part of another Medicaid service such as discharge planning from a Medicaid-certified acute care facility, skilled nursing facility (SNF), intermediate care facility (ICF), or intermediate care facility for mentally retarded (ICF-MR). This exclusion does not include case management services provided in a mental retardation facility that is certified by TDMHMR and that is not already being reimbursed by Medicaid for case management services;

(2) Outreach activities that are designed to locate individuals who are potential Medicaid eligibles. This exclusion does not include Medicaid eligibles requiring services outlined in §31.5(a)(1) of this title (relating to Case Management Intake);

(3) any medical evaluation, examination or treatment billable as a distinct Medicaid covered benefit. However, refer-

ral arrangements and staff consultation for such services are reimbursable as a case management service;

(4) services provided under the home and community-based services waiver for mentally retarded individuals;

(5) services provided under the home and community-based services waiver for persons with related conditions, when all necessary federal approvals have been received.

§31.9 Provider Qualifications.

(a) Public Law 100-203, § 4118(i), Omnibus Reconciliation Act of 1987, is invoked to limit the provider of case management services to the state mental retardation authority, the Texas Department of Mental Health/Mental Retardation (TDMHMR) or its designated providers authorized under Texas Civil Statutes, Article 5547-204. The department has determined that TDMHMR is qualified to ensure that persons with mental retardation and related conditions receive, through case management, the full range of services that they need to assist them in achieving their maximum level of functioning in the community.

(b) Standards and procedures must be implemented to ensure that case management services are:

(1) offered on a statewide basis with procedures to ensure continuity of services and avoidance of duplication;

(2) provided by case managers who meet the educational and work experience requirements commensurate with their job responsibilities and who have also completed the TDMHMR case management curriculum;

(3) provided through an identifiable unit of an organization that is vested with sole responsibility for the provision of case management services;

(4) delivered through a system with written standards and procedures that ensures that an individual case manager is responsible for the overall coordination of services for the Medicaid eligible participant;

(5) made available to all persons with mental retardation or a related condition, regardless of their ability to pay;

(6) administered through a community-based agency provided for under Texas Civil Statutes, Article 5547-202 or 203;

(7) provided through a service delivery system that provides CORE and Essential Services outlined in Texas Civil Statutes, Article 5547-204, to persons with mental retardation as defined by TDMHMR in the TDMHMR Community Standards for Mental Retardation;

(8) provided in compliance with federal, state and local laws, including directives, settlements and resolutions applicable to the target population;

(9) provided in accordance with the *TDMHMR Community Standards for Mental Retardation*; and

(10) provided in compliance with the *TDMHMR guidelines for annual financial and compliance audit*.

§31.11. Reimbursement Methodology for Case Management for Individuals with Mental Retardation or Related Condition.

(a) General information. DHS will reimburse qualified providers for case management services provided to Medicaid eligible individuals with mental retardation or a related condition. The Texas Board of Human Services determines reimbursement rates at least annually for case management services. These rates are:

(1) uniform statewide;

(2) prospective (see §31.1 of this title (relating to Definitions)); and

(3) cost related.

(b) Basis for rate analysis.

(1) For the initial reimbursement period, providers will be reimbursed based on rates set as a result of an analysis of a survey of actual costs reported by a sample of qualified providers and an analysis of anticipated costs required to provide the relevant targeted case management services.

(2) The anticipated costs will reflect the estimated costs of hiring qualified staff, as specified by DHS, in sufficient number and appropriate mix to meet the projected client load service mix.

(3) At some future date, as yet unspecified, reimbursement rates will be based on actual costs reported by qualified providers.

(c) Reporting of cost.

(1) Cost reporting. Each individual case management provider unit must submit financial and statistical information in a cost report or survey format designated by DHS. The cost report will capture the expenses of the case management unit including salaries and benefits, administration, building and equipment, utilities, supplies, travel, and indirect overhead expenses related to the case management unit.

(2) The following requirements apply:

(A) accounting requirements. All information submitted on the cost reports must be based upon the accrual method of accounting unless the governmental entity operates on a cash basis. The provider must complete the cost report according to the prescribed statement of allowable and unallowable costs. Cost

reporting should be consistent with generally accepted accounting principles (GAAP). In cases in which cost reporting rules conflict with GAAP, IRS, or other authorities, the cost reporting rules take precedence for Medicaid provider cost reporting;

(B) reporting period. The provider must prepare the cost report to reflect activities during the provider's fiscal year. The cost report is due three months after the end of this fiscal year, although an extension may be granted for good cause. DHS may require cost reports or other information for other time periods. Failure to file an acceptable cost report or complete required additional information will result in a hold on the vendor payments until the cost report information or additional information is provided. The provider must certify the accuracy of the cost report or additional information;

(C) review of cost reports. DHS reviews each cost report or survey to ensure that all financial and statistical information submitted conforms to all applicable rules and instructions. Cost reports not completed according to instructions or rules are returned to the provider for proper completion.

(D) on-site audit of cost reports. DHS staff perform a sufficient number of audits each year to ensure the fiscal integrity of the case management reimbursement rate. The number of on-site audits actually performed each year may vary. Adjustments consistent with the results of on-site audits are made to the rate base until the rate base is closed for final rate analysis;

(E) record-keeping requirements. Each provider must maintain records for at least three years after the date he submits his cost report. The provider must ensure that the records are accurate and sufficiently detailed to support the financial and statistical information reported in the cost report. If a provider does not maintain records which support the financial and statistical information submitted on the cost report, the provider will be given 90 days to correct this record-keeping. A hold of the vendor payments to the provider will be made if the deficiency is not corrected within 90 days from the date the provider is notified;

(F) access to records. The provider must allow DHS or its designated agents access to any and all records necessary to verify information on the cost report;

(G) reviews of cost report disallowances. A provider who disagrees

with disallowances of the items on a cost report may request a review by DHS staff of the disallowance; however, the request must be in writing.

(d) Rate setting methodology.

(1) Rates by unit of service. Reimbursement rates for case management services will be determined for a unit of service defined as a case management contact. The action can be face-to-face or by telephone. See §31.1 (relating to Definitions).

(2) Exclusion or adjustment of expenses. Providers must eliminate unallowable expenses from the cost report. DHS or TDMHMR excludes from the rate base any unallowable expenses included in the cost report and makes adjustments to expenses reported by providers to ensure that the rate base reflects costs which are consistent with efficiency, economy and quality of care, are necessary for the provision of case management services, and are consistent with federal and state Medicaid regulations. If there is doubt as to the accuracy or allowability of a significant part of the information reported, individual cost reports may be eliminated from the rate base.

(3) Rate determination process. The Texas Board of Human Services determines reimbursement rates for a contact which will reasonably reimburse the cost of an economic and efficient provider. DHS submits recommendations for reimbursement rates. Recommended rates are determined in the following manner.

(A) Total allowable costs for each provider will be determined from analyzing the allowable historical costs reported on the cost report and the allowable anticipated costs. This cost is based on the estimated cost of hiring qualified staff in sufficient number and appropriate mix to meet the projected client load service mix.

(B) Each provider's total allowable costs are projected from the historical cost reporting period to the prospective rate period using inflation factors that reasonably reflect expected changes in the cost of providing case management services.

(C) An allowable cost per contact will be calculated for each case management site. The allowable costs per contact for each site are arrayed and the median point is calculated. A provider's cost may be excluded from the cost array based on a determination that there were errors in cost reporting or the program was not operating within the appropriate standard of quality.

(D) The median cost component is multiplied by an appropriate percentage determined by the Texas Board of Human Services to calculate the recom-

mended contact reimbursement rate for an economic and efficient provider.

(e) General information. Only allowable cost information is used to compile the rate base. See §31.1 of this title (relating to Definitions) for definitions of allowable and unallowable costs.

(1) List of allowable costs. The following list of allowable costs is not comprehensive; instead, it is meant to serve as a general guide and to clarify certain key expense areas. The absence of a particular cost does not necessarily mean that expense is not an allowable cost.

(A) Compensation of case management staff. Compensation may be provided only to those staff who provide case management services directly to the clients or who support the work of staff of the case management unit in the normal conduct of operations relating to case management services. Examples of staff include case managers, case manager supervisors, case management unit administrator, clerical workers, janitors, and buildings and equipment maintenance staff. This category includes:

(i) wages and salaries;

(ii) payroll taxes and insurance, including Federal Insurance Contributions Act (FICA or social security), unemployment compensation insurance, workman's compensation insurance; and

(iii) employee benefits. This category includes employer paid health, life accident, liability and disability insurance for employees; contributions to employee retirement funds; and deferred compensation limited to the dollar amount the employer contributes.

(B) Indirect costs. Costs incurred at administrative and support levels of management above the individual case management unit are allowable only if the costs were incurred in the purchase of materials, supplies, or services used by the case management unit in the conduct of normal operations. Administrative and support levels of management include personnel costs, staff development, legal services, quality assurance, accounting, bookkeeping, and building and equipment maintenance. Allowable costs are limited to the allocated portion of these costs which can be documented as being related to the delivery of case management services by the case management unit.

(C) Utilization review committee.

(D) Materials and supplies. This category includes office supplies, housekeeping supplies, and materials and supplies for the operation, maintenance, and

repair of buildings, grounds, and equipment.

(E) Utilities. This category includes electricity, natural gas, fuel oil, water, waste water, garbage collection, telephone, and telegraph.

(F) Buildings, equipment, and capital expenses.

(i) Buildings, equipment, and capital used by the case management site or in support of the case management staff, and not for personal business. If these costs are shared with other program operations the portion of these costs relating directly to case management may be allowed on a pro rata basis if the proportion of use for case management is documented.

(ii) Depreciation and amortization expense. Property owned by the provider entity and improvements to owned, leased or rented case management property that are valued at more than \$500 at the time of purchase must be depreciated or amortized, using the straight line method. The minimum usable lives to be assigned to common classes of depreciable property are:

(I) buildings up to 30 years, with a minimum salvage value of 10%;

(II) transportation equipment used for the transport of clients, materials and supplies, or staff providing case management services: a minimum of three years for passenger automobiles; five years for light trucks and vans, with a minimum salvage value of 10%.

(G) Provider-owned property. Property may be treated by the provider as ordinary expenses when the property and improvements to the property owned, leased, or rented by the provider are valued at less than \$500 at the time of purchase.

(H) Rental and lease expense. This category includes buildings, building equipment, transportation equipment, equipment, materials and supplies. Allowable rental or lease expense paid to a related party is limited to the actual allowable cost incurred by the related party.

(I) Transportation expense. This category includes depreciation, lease, or mileage claimed at the allowable reimbursement per mile set by the state legislature for state employees.

(J) Business and professional association dues limited to associations devoted primarily to the issues of case management.

(K) Outside training costs. These expenses are limited to direct costs (transportation, meals, lodging, and registration fees) for training provided to personnel rendering services directly to the clients or staff of the case management unit. The training must be directly related to issues concerning case management, and it must be located within the continental United States.

(2) List of unallowable costs. Unallowable costs are not included in the rate base used to determine recommended rates. The following list clarifies certain expense categories of unallowable costs. See also §31.3 of this title (relating to Definitions) for definition of unallowable costs:

(A) compensation in the form of salaries, benefits, or any form of compensation given to individuals who do not provide case management services either directly to clients or in support of staff;

(B) personal expenses not directly related to the provision of case management services;

(C) management fees or indirect costs that are not derived from the actual cost of materials, supplies or services provided directly to the case management unit;

(D) advertising expenses other than those for advertising in the yellow pages, ads for employee recruitment, and advertising to meet any statutory or regulatory requirement;

(E) business expenses not directly related to the provision of case management services;

(F) political contributions;

(G) depreciation and amortization of unallowable costs. This category includes amounts in excess of those resulting from straight line depreciation method, capitalized lease expenses in excess of the actual lease payment, and goodwill or any excess above the actual value of the physical assets at the time of purchase;

(H) trade discounts of all types. This category includes returns, allowances, and refunds;

(I) donated facilities, materials, supplies and services including the values assigned to the services of unpaid workers and volunteers;

(J) dues to all types of political and social organizations, and to profes-

sional associations not directly and primarily concerned with case management services;

(K) entertainment expenses except those incurred for entertainment provided to the staff of the case management unit as an employee benefit;

(L) boards-of-directors fees;

(M) fines and penalties for violations of regulations, statutes, and ordinances of all types;

(N) fundraising and promotional expenses;

(O) interest expenses on loans pertaining to unallowable items and on that portion of interest paid which is reduced or offset by interest income;

(P) insurance premiums pertaining to items of unallowable cost;

(Q) accrued expenses that are not a legal obligation of the provider or are not clearly enumerated as to dollar amount. This category includes any form of profit sharing and the accrued liabilities of deferred compensation plans;

(R) mileage expense exceeding the current reimbursement rate set by the Texas Legislature for state employee travel;

(S) costs of purchases from a related party which exceed the original cost to the related party;

(T) out-of-state travel expenses, except for provision of case management-related services including training and quality assurance functions;

(U) contributions to self-insurance funds which do not represent payments based on current liabilities;

(V) expenses incurred because of imprudent business practices;

(W) expenses which cannot adequately be documented;

(X) expenses not reported according to the instructions of the cost report;

(Y) expenses not allowable under other pertinent federal, state, or local laws or regulations.

Issued in Austin, Texas, on October 13, 1989.

TRD-8909821 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: November 3, 1989

Proposal publication date: August 4, 1989

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

Chapter 75. Investigations

Criminal Conviction Checks of Employees in Certain Facilities Serving the Elderly or Disabled

• 40 TAC §75.1001, §75.1002

The Texas Department of Human Services (DHS) adopts new §75.1001 and §75.1002, without changes to the proposed text as published in the September 5, 1989, issue of the *Texas Register* (14 TexReg 4541).

The justification for the new sections is to comply with legislation passed by the 71st Texas Legislature.

The new sections will function by establishing a program of criminal conviction checks of prospective employees of certain facilities that provide care for the elderly and disabled.

No comments were received regarding the adoption of the new sections.

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer its programs, and under the Human Resources Code, Title 6, Chapter 106, which provides the department with the authority to perform criminal background checks of employees in facilities for the elderly or disabled.

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 October 13, 1989.

TRD-8909823 Cathy Rossberg
Administrator, Policy
Development Services
Division
Texas Department of
Human Services

Effective date: November 3, 1989.

Proposal publication date: September 5, 1989.

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



Open Meetings

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

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

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

Texas Board of Architectural Examiners

Friday-Saturday, October 27-28, 1989, 9 a.m. The Texas Board of Architectural Examiners will meet in Room 295, Tarrant County Convention Center, Fort Worth. According to the agenda, the board will approve minutes; consider hearings; reinstatements; examinations; renewals; Texas Schools of Architecture; rules and regulations; board policy; reciprocal licenses; alleged violations; southern conference/NCARB; legislation; intern development program; convocation.

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

Filed: October 16, 1989, 2:17 p.m.

TRD-8909885

Bond Review Board

Friday, October 13, 1989, 10 a.m. The Staff Meeting of the Bond Review Board met for an emergency meeting in the Sergeant's Committee Room Capitol, Austin. According to the revised agenda, the staff considered the lease-purchase for TDMHMR. The emergency status was necessary to allow the timely awarding of bids for a previously approved lease-purchase of a computer system.

Contact: Tom K. Pollard, Room 506, Sam Houston Building, Austin, Texas, (512) 463-1741.

Filed: October 12, 1989, 4:17 p.m.

TRD-8909735

Texas School for the Deaf

Friday, October 20, 1989, 11:30 a.m. The Governing Board of the Texas School for the Deaf will meet in the Administration Building Board Room, 1102 South Congress Avenue, Austin. According to the revised agenda summary, the board will approve minutes of the August 18, 1989,

meeting; discuss business requiring board action; discuss business for information purposes; and comments by board members.

Contact: Marilyn Stepan, P.O. Box 3538, Austin, Texas 78764, (512) 440-5335.

Filed: October 13, 1989, 11:44 a.m.

TRD-8909760

Texas Education Agency

Tuesday, October 24, 1989, 10:30 a.m. The Commissioner's Advisory Council for Regional Services-Committee for Research and Development of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider public education information management system, (PEIMS) update; review actions taken by the State Board of Education; discuss computer services to school districts.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: October 13, 1989, 1:23 p.m.

TRD-8909848

Tuesday, October 24, 1989, 1:30 p.m. The Commissioners' Advisory Council for Regional Services-Committee for Accreditation of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review actions taken by the State Board of Education; discuss issues related to the provision of training services to school districts.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: October 13, 1989, 1:23 p.m.

TRD-8909849

Tuesday, October 24, 1989, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Curriculum

and Personnel Development of the Texas Education Agency will meet in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review actions taken by the State Board of Education; discuss TEA education service center efforts for curriculum and personnel development.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: October 13, 1989, 1:24 p.m.

TRD-8909847

Tuesday, October 24, 1989, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Operations and Services/Special Programs of the Texas Education Agency will meet in Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review actions taken by the State Board of Education; discuss issues related to the education service center comprehensive plan and application.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: October 13, 1989, 1:24 p.m.

TRD-8909846

Wednesday, October 25, 1989, 8:30 a.m. The Commissioner's Advisory Council for Regional Services of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review committee reports; and comments from the commissioner of education.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: October 13, 1989, 1:23 p.m.

TRD-8909845

Advisory Commission on State Emergency Communications

Thursday, October 19, 1989, 8:30 a.m.
The Commission Workshop on Central Office Modification of the Advisory Commission on State Emergency Communications met for an emergency meeting on the First Floor, Southwestern Bell Office, 1616 Guadalupe, Austin. According to the agenda, the workshop considered the overview of central office configurations; travel to Elgin and tour the step-by-step central office; tour homestead central office in Austin; (lunch and recovene at 1616 Guadalupe) hear presentations by telephone equipment vendors (teltone, TCI); question and answer period. The emergency status was necessary in order to receive information on central office equipment and modification cost for 9-1-1 regional planning and action.

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

Filed: October 12, 1989, 1:16 p.m.

TRD-8909727

Employees Retirement System of Texas

Tuesday, October 24, 1989, 3:30 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet in the Auditorium, ERS Building, 18th and Brazos, Austin. According to the agenda summary, the board will review and approve minutes of previous meeting; consider and act on contract execution with master custodian bank for systems investments; amendment to approved operating budget for FY 1990; consider and act on emergency proposed amendments to trust rule 67.97; consider and act on operating budget adjustment for information system division operation improvements; consider and act on operating budget adjustment for information systems division operational improvements; consider and act on operating budget for information system division integrated redesign project; consider and act on final adoption of proposed amendment to trustee rule 81.7(g); consider and act on definition of catastrophic injury and illness; consider and act on proposed group insurance advisory committee by-laws and rules of procedures; consider and act on final adoption of new trustee rule 71.17, amendment to trustee rule 73.21.

Contact: William S. Nail, 18th and Brazos, Austin, Texas, (512) 476-6431.

Filed: October 13, 1989, 1:40 p.m.

TRD-8909805

wednesday, October 25, 1989, 9 a.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas

will meet in Room 1420-30, TRC, Brown-Healey Building, Austin. According to the agenda, the committee will recognize visitors and guests; approve minutes from previous meeting; elect parliamentarian for FY 1990; consider report from subcommittee on HMO standardization of benefits; ERS staff reports; work session on cost containment and related issues.

Contact: James W. Sarver, 18th and Brazos, Austin, Texas 78701, (512) 476-6431, ext. 217.

Filed: October 13, 1989, 1:41 p.m.

TRD-8909804

Texas Employment Commission

Tuesday, October 24, 1989, 2 p.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 consider prior meeting notes; discuss and approve interior renovation of agency-owned building in Corpus Christi; internal procedures of commission appeals; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket 43; set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: October 16, 1989, 4:10 p.m.

TRD-8909900

Texas State Board of Registration for Professional Engineers

Wednesday and Thursday, October 25 and 26, 1989, 8:30 a.m. The Texas State Board of Registration for Professional Engineers will meet in the Sheraton Grand Hotel, Highway 114 and Esters Boulevard, Irving. According to the agenda summary, the board will receive reports from board members and staff; interview applications; take action on applications for registration; read communications; and any other business which comes before the board.

Contact: Charles E. Nemir, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: October 13, 1989, 1:58 p.m.

TRD-8909813

Texas Department of Health

Wednesday, October 25, 1989, 10:30 a.m. The Advisory Committee on Mental Retardation Facilities of the Texas Department of Health will meet in Room T-607, 1100

West 49th Street, Austin. According to the agenda summary, the committee will consider update on intermediate care facilities related to conditions (ICF-RC); update on September 11, 1989, work session on ICF-RC; special waste regulations in health care related facilities; architectural regulations for facilities serving the mentally retarded; omnibus budget reconciliation act/preadmission screening and annual resident review (OBRA/PASARR).

Contact: Richard Butler, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7706.

Filed: October 13, 1989, 1:57 p.m.

TRD-8909814

Saturday, October 28, 1989, 8:30 a.m. The Medical Radiologic Technologist Advisory Board Program Approval Committee of the Texas Department of Health will meet at the Ramada Inn-Airport, 5660 North IH 35, Austin. According to the agenda summary, the committee will consider limited curriculum application from San Antonio College of Medical and Dental Careers.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7275.

Filed: October 13, 1989, 1:57 p.m.

TRD-8909817

Saturday, October 28, 1989, 9:30 a.m. The Medical Radiologic Technologist Advisory Board Credentialing Committee of the Texas Department of Health will meet at the Ramada Inn-Airport, 5660 North IH 35, Austin. According to the agenda summary, the committee will consider applications proposed for disapproval by program administrator; discuss minimum standards for alternate eligibility applicants for certification for medical radiologic technologists.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7275.

Filed: October 13, 1989, 1:57 p.m.

TRD-8909816

Saturday, October 28, 1989, 11 a.m. The Medical Radiologic Technologist Advisory Board Special Continuing Education Committee of the Texas Department of Health will meet in the Ramada Inn-Airport, 5660 North IH 35, Austin. According to the agenda summary, the committee will consider alternative continued education topics for the recertification of medical radiologic technologists.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7275.

Filed: October 13, 1989, 1:56 p.m.

TRD-8909818

Saturday, October 28, 1989, 1:30 p.m.

The Medical Radiologic Technologist Advisory Board of the Texas Department of Health will meet in the Ramada Inn-Airport, 5660 North IH 35, Austin. According to the agenda summary, the board will approve minutes of previous meeting; consider: administrator's report; chairman's report; attorney general opinion JM-1065; continuing education activities and the Texas Proprietary School Act; ratification of applications disapproved by program administrator; alternate eligibility requirements; limited curriculum applications; proposed amendments to rules (25 TAC Chapter 143); other matters not requiring board action.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7275.

Filed: October 13, 199, 1:57 p.m.

TRD-8909815

Texas Health and Human Services Coordinating Council

Monday, October 23, 1989, 2 p.m. The Texas Health and Human Services Coordinating Council will meet in the MHMR Board Room, 909 West 45th Street, Austin. According to the agenda summary, the council will welcome and make introductions; recognize legislative support; approve minutes of June 15, 1989, meeting; review legislation; consider council work plan and committee structure; appointments; management review report; executive director's report; FY 1990 operating budget; audits; staff assignments; Sunset Review; reports: client services work group; immigration committee; youth commission; statewide needs appraisal project (SNAP) work group update; project request-information and referral; report on advisory committee status; old business; new business.

Contact: Patrice Thomas, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

Filed: October 13, 1989, 4:20 p.m.

TRD-8909825

Tuesday, October 31, 1989, 9 a.m. The Statewide Needs Appraisal Project Work Group of the Texas Health and Human Service Coordinating Council will meet at 4900 North Lamar Boulevard, Austin. According to the agenda, the council will approve minutes; discuss draft of SNAP questionnaire; revisions to draft SNAP document; old business; and new business.

Contact: Carol Price, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

Filed: October 13, 1989, 4:20 p.m.

TRD-8909824

State Department of Highways and Public Transportation

Friday, October 13, 1989 2 p.m. The Commission of the State Department of Highways and Public Transportation met for an emergency meeting at the Club Corp, Suite 700, 3030 LBJ Freeway, Dallas. According to the agenda, the executive session discussed appointment of a state engineer-director; the commission elected state engineer-director for Highways and Public Transportation in open session. The emergency status was necessary because of the untimely death of the state engineer-director and immediate appointment of the successor was required to enable the department to discharge its duties concerning safety and welfare of the traveling public

Contact: Commission Office, Dewitt C. Greer Building, Room 203, 11th and Brazos, Austin, Texas, (512) 463-8576.

Filed: October 13, 1989, 10:12 a.m.

TRD-8909739

Texas Historical Commission

Friday, October 27, 1989, 8 a.m. The National Register Programs Committee of the Texas Historical Commission will meet in Roseville Manor, 217 West LaFayette, Jefferson. According to the agenda, the committee will consider announcements: staff updates, state board of review activities, survey and planning grants for FY 1990, certified local government grants for FY 1990, historic American buildings survey poster; and quarterly reports on activities.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: October 12, 1989, 1:30 p.m.

TRD-8909728

Texas Department of Human Services

Tuesday, October 24, 1989, 9:30 a.m. The Church Relations Advisory Group of the Texas Department of Human Services will meet in Conference Room 6W, West Tower, 6th Floor, 710 West 51st Street, Austin. According to the agenda, the group will have a discussion with the new commissioner; community forms for services to aged and disabled; concerns of members; tracking report and other committee business; report on CPS community forums; welfare reform.

Contact: Lucy Todd, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3129.

Filed: October 16, 1989, 1:06 p.m.

TRD-8909880

Industrial Accident Board

Monday, October 16, 1989, 9 a.m. The Industrial Accident Board met in Room 107, First Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board discussed: approval of board minutes; take additional public testimony on 28 TAC §42.110, health facility fee guidelines; discuss and consider: amending Title 28, §42.155(c)(2), carrier review of bills; 1990 operating budget; executive session, personnel and executive directors; personnel, executive director; review of board files in closed session, Texas Civil Statutes, Article 8307, §4b; review and discuss board activities.

Contact: Inez Foster, 200 East Riverside Drive, First Floor, Austin, Texas 78704, (512) 448-7960.

Filed: October 12, 1989, 3:52 p.m.

TRD-8909732

State Board of Insurance

Monday, October 16, 1989, 4 p.m. The State Board of Insurance met for an emergency meeting in Room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda, the commission considered an amendment on an emergency basis of 28 TAC 5.4602, concerning suspension of requirement for inspection fee on repairs due to hurricane or windstorm damage. The emergency status was necessary to counteract imminent peril to the public health, safety and welfare by providing for expeditious repairs and other measures necessitated by hurricane or windstorm damage.

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

Filed: October 16, 1989, 11:38 a.m.

TRD-8909895

Tuesday, October 24, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10551—to consider whether disciplinary action should be taken against Robert Reyes Subia, Jr., Lubbock, who holds a Group II, insurance agent's license issued by the State Board of Insurance.

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

Filed: October 16, 1989, 3:58 p.m.

TRD-8909903

Tuesday, October 24, 1989, 10 a.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda summary, the decision on application of

American Risk Funding Insurance Company from exemption from membership in the workers' compensation assigned risk pool; interim report of the homeowners advisory committee; final action on Item 9-89 of the property hearing; final action on 28 TAC §§7.28-7.30 and 7.68; proposed action on 28 TAC, §19.901-19.902; extension of effective date of personnel manual; board orders on several different matters; decision in appeal of Coastal Transport Company, Inc.; personnel matters; pending and contemplated litigation; solvency matters; appointments to the HMO solvency surveillance committee.

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

Filed: October 16, 1989, 2:54 p.m.

TRD-8909892

Tuesday, October 24, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10559—to consider the application of Wallace Ed Cameron, Amarillo, for a Group I, legal reserve life insurance agent's license.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 16, 1989, 3:58 p.m.

TRD-8909902

Tuesday, October 24, 1989, 3 p.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda, the board will hold a public hearing to consider an appeal by Bryce's Cafeteria, Inc. of elimination of experience modifier applicable to workers' compensation premium.

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

Filed: October 16, 1989, 2:53 p.m.

TRD-8909893

Wednesday, October 25, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10577—to consider the application of Alliance Capital Management L.P., a Delaware limited partnership, to acquire control of Sentinel American Life Insurance Company, Houston, Texas.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 16, 1989, 3:58 p.m.

TRD-8909904

Wednesday October 25, 1989, 1:30 p.m.

The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10561—to consider whether disciplinary action should be taken against John Reid Houy, Fredericksburg, who holds a Group I, legal reserve life insurance agent's license and a local recording agent's license.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 16, 1989, 3:58 p.m.

TRD-8909905

Thursday, October 26, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10565—to consider the application for temporary certificate of authority of United Funeral Directors Benefit Life Insurance Company, Wichita Falls, Texas.

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

Filed: October 16, 1989, 3:58 p.m.

TRD-8909908

Thursday, October 26, 1989, 3 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10566—to consider the reinsurance agreement whereby United Funeral Directors Benefit Association, Wichita Falls, will be reinsured by United Funeral Directors Benefit Life Insurance Company, Wichita Falls, Texas.

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

Filed: October 16, 1989, 3:58 p.m.

TRD-8909909

Friday, October 27, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10578—to consider reinsurance agreement whereby Great National Life Insurance Company, San Antonio, will be reinsured by First Fidelity Insurance Company, Houston, Texas.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 16, 1989, 3:59 p.m.

TRD-8909910

Friday, October 27, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket

No. 10564—to consider the application of the Reliable Life Corporation, St. Louis, Missouri, to acquire control of M.A.E.S. Life Insurance Company, Houston, Texas, pursuant to Texas Insurance Code, Article 21.49-1, §5.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 16, 1989, 3:59 p.m.

TRD-8909911

Friday, October 27, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10558—to consider the application of Danny Eugene Craig, Sikeston, Missouri, for a non-resident, Group I, legal reserve life insurance agent's license.

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

Filed: October 16, 1989, 3:59 p.m.

TRD-8909912

Monday, October 30, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10568—application of Christian S. Tacey, Allen, Texas, for a Group I, legal reserve life insurance agent's license.

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

Filed: October 16, 1989, 3:59 p.m.

TRD-8909906

Monday, October 30, 1989, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10513—consider whether disciplinary action should be taken against Hubert Molanders, Nacogdoches, who holds a Group I, legal reserve life insurance agent's license and a Group II, insurance agent's license issued by the State Board of Insurance.

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

Filed: October 16, 1989, 3:59 p.m.

TRD-8909907

Monday, October 30, 1989, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto, Austin. According to the agenda, the public hearing on Docket No. 10567—application of Debbie Moses Lopez, Alice, Texas, for a Group I, legal reserve life insurance agent's license.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: October 16, 1989, 3:59 p.m.

TRD-8909913

General Land Office

Wednesday, October 25, 1989, 2:30 p.m. The Veterans Land Board of the General Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the board will approve minutes of the August 23, 1989, meeting; consider resolution authorizing issuance and sale of State of Texas Veterans Land Refunding Bonds, Series 1989; consider: resolution designating initial paying agent and initial registrar with respect to the bonds; resolution awarding sale of bonds; resolution authorizing, ratifying, and approving preliminary official statement and final official statement; take such action regarding the sale of the bonds as shall be considered to be appropriate and/or necessary; consider a housing program which may include a proposed issuance of housing bonds; adopt a resolution authorizing certain matters regarding housing bonds; consider bids received for the October 3, 1989, lease sale; set date of February 21, 1990, for the next type 1 forfeited land sale; order for sale VLB forfeited accounts.

Contact: Mae Vrazel, 1700 North Congress, Austin, Texas 78701, (512) 463-5340.

Filed: October 16, 1989, 4:24 p.m.

TRD-8909901

Texas State Board of Medical Examiners

Wednesday, October 18, 1989, 2 p.m., Thursday, October 19, 1989, 7 a.m., and Friday, October 20, 1989, 8:30 a.m. The Medical School Committee of the Texas State Board of Medical Examiners met October 18 and 19 at M.D. Anderson Cancer Center in Houston, October 19 and 20, 1989, University of Texas Medical Branch, Galveston for an emergency meeting. According to the agenda, the committee toured the facilities; met students, faculty, staff; discussed training programs, recruitment, postgraduate programs, long range planning, education, research, board licensure and discipline process, continuing and remedial education programs for physicians; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e) (1) and Opinions of the Attorney General 1974, No. H-484. The emergency status was necessary because information had just become available for the meeting and required address-

ing by the committee

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: October 13, 1989, 10:17 a.m.

TRD-8909746

Texas Council on Mental Offenders with Mental Impairments

Friday, October 20, 1989, 10 a.m. The Executive Committee of the Texas Council on Mental Offenders with Mental Impairments will meet at the Mental Health Association in Texas Office, 8401 Shoal Creek Boulevard, Austin. According to the agenda summary, the committee will hear the year end fiscal report; summary annual report of project CHANCE; receive an overview of the September 27, 1989, meeting; receive a status report on FY 1990-1991 appropriations and committee reports.

Contact: Pat Hamilton, 2818 San Gabriel, Austin, Texas 78705, (512) 477-9914.

Filed: October 12, 1989, 10:56 a.m.

TRD-8909724

Board of Pardons and Paroles

Tuesday, October 24, 1989, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will meet to consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; other reprieves, remissions and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78711, (512) 459-2749.

Filed: October 13, 1989, 11:21 a.m.

TRD-8909745

Monday-Friday, October 23-27, 1989, 1:30 p.m. daily except on Friday, 11 a.m. The Board Panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board panel will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction, and initiate and carry through with appropriate action.

Contact: K. Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: October 13, 1989, 11:21 a.m.

TRD-8909744

Texas Department of Public Safety

Thursday, October 26, 1989, 8 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet in the Commission Room, DPS Headquarters, 5805 North Lamar, Austin. According to the agenda, the commission will approve minutes; consider budget matters; personnel matters; real estate matters; pending and contemplated litigation; appeal hearing of discharged employee; miscellaneous and other unfinished business.

Contact: Joe E. Milner, 5805 North Lamar, Austin, Texas, (512) 465-2000, ext. 3700.

Filed: October 16, 1989, 10:25 a.m.

TRD-8909844

Public Utility Commission of Texas

Monday, October 23, 1989, 11 a.m. The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, there will be an open meeting to consider Docket Nos. 8709, 8838, 8740, 8833, 8736, 8925, 8930, 8428, 8643, 8797, and 8801; the commission will also consider publication of a proposed new substantive rule §23.55 (P8111) operator service providers.

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

Filed: October 13, 1989, 3:48 p.m.

TRD-8909865

Monday, October 23, 1989, 1 p.m. The Administrative Meeting of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, there will be an administrative meeting to discuss: reports, discussion and action on budget and fiscal matters including a report on the status of the lease on the PUC offices and a workshop to review the agency's FY 1990 operating budget; staff presentation of the results of a survey regarding cogenerator participation on the ERCOT brokerage system; discuss proposed federal legislation to change Western coal royalties; commissioner consideration of a contract among Shumaker & Co., West Texas Utilities (WTU), and the PUC for a management audit of WTU; adjourn for executive session to consider litigation and personnel matters; reconvene for discussions considered in executive session; set time and place for next meeting.

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

Filed: October 13, 1989, 3:50 p.m.

TRD-8909831

Wednesday, October 25, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 9091—general counsel's show cause petition against Royal Frontier Studios, Inc. and its representatives for violation of ADAD requirements.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 16, 1989, 2:54 p.m.

TRD-8909891

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8996—Guadalupe Valley Cooperative, Inc., Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:43 p.m.

TRD-8909852

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 9081—application of Sugar Land Telephone Company to file tariffs for private pay telephone service (Substantive Rule 23.54) and shared tenant service.

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

Filed: October 13, 1989, 3:43 p.m.

TRD-8909851

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8980—Wes-Tex Telephone Cooperative, Inc., Substantive Rules 23.54.

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

Filed: October 13, 1989, 3:44 p.m.

TRD-8909853

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference will be held on Docket No. 8981—Muenster Telephone Corporation,

Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:43 p.m.

TRD-8909854

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8982—Central Texas Telephone Cooperative, Inc., Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:43 p.m.

TRD-8909853

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8975—Eastex Telephone Cooperative, Inc., Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:44 p.m.

TRD-8909856

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8976—Five Area Telephone Cooperative, Inc., Substantive Rule, 23.54.

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

Filed: October 13, 1989, 3:52 p.m.

TRD-8909878

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8977—Laka Dallas Telephone Company, Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:51 p.m.

TRD-8909877

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin.

According to the agenda, the prehearing conference on Docket No. 8978—Fort Bend Telephone Company, Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:51 p.m.

TRD-8909876

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8979—Comanche County Telephone Company, Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:51 p.m.

TRD-8909875

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8965—United Telephone Company, Rule 23.54, §21, Sheets 1-6A.

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

Filed: October 13, 1989, 3:51 p.m.

TRD-8909874

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8966—Hill County Telephone Cooperative, Rule 23.54, §10, Sheets 1, 7-9, and 10.

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

Filed: October 13, 1989, 3:41 p.m.

TRD-8909783

Thursday, October 26, 1989, 1:30 p.m.
The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8967—GTE Southwest Incorporated, Rule 23.54, §23, Sheets 5, 6, 6A, 7, and 8.

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

Filed: October 13, 1989, 3:50 p.m.

TRD-8909872

Thursday, October 26, 1989, 1:30 p.m.

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8968—Colorado Valley Telephone Cooperative, Inc., Rule 23.54, §20, Sheets 1-8.

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

Filed: October 13, 1989, 3:50 p.m.

TRD-8909871

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8962—Alto Telephone Company, Rule 23.54, Sheets 70, 71, 72, 72.1, and 75.

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

Filed: October 13, 1989, 3:49 p.m.

TRD-8909870

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8963—San Marcos Telephone Company, Rule 23.54, §7, Sheets 5, 6, 7, and 8.

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

Filed: October 13, 1989, 3:49 p.m.

TRD-8909869

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8960—Lufkin Telephone Exchange, Rule 23.54, Sheets 113, 114, 115, 115.1, and 118.

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

Filed: October 13, 1989, 3:49 p.m.

TRD-8909868

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8961—Conroe Telephone Company, Rule 23.54, Sheets 102, 103, 104, 104.1, and 107.

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

Filed: October 13, 1989, 3:49 p.m.

TRD-8909867

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8964—Contel of Texas, Rule 23.54, Schedule A-1, Sheets 1, 41, and 44.

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

Filed: October 13, 1989, 3:49 p.m.

TRD-8909866

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8998—Cameron Telephone Company, Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:48 p.m.

TRD-8909864

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 9004—Central Telephone Company of Texas, Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:47 p.m.

TRD-8909863

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 9039—Kerrville Telephone Company, Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:47 p.m.

TRD-8909862

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8969—Coleman County Telephone Cooperative, Inc., Rule 23.54, §8, Sheets 6-9.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas

78757, (512) 458-0100.

Filed: October 13, 1989, 3:46 p.m.

TRD-8909859

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8973—Taylor Telephone Cooperative, Inc., Rule 23.54.

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

Filed: October 13, 1989, 3:44 p.m.

TRD-8909858

Thursday, October 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference on Docket No. 8974—South Plains Telephone Cooperative, Inc., Substantive Rule 23.54.

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

Filed: October 13, 1989, 3:44 p.m.

TRD-8909857

Monday, November 6, 1989, 10 a.m. The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference rescheduled from October 16, 1989, on Docket No. 8650—petition of Central Power and Light Company for declaratory order.

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

Filed: October 12, 1989, 3:32 p.m.

TRD-8909737

Wednesday, November 22, 1989, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing rescheduled from November 13, 1989, 10 a.m. on Docket No. 9011—application of GTE Southwest Incorporated to set CentralNet service rates for the University of North Texas.

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

Filed: October 12, 1989, 3:32 p.m.

TRD-8909738

Wednesday, January 17, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing rescheduled from December 13, 1989, 9 a.m.

on Docket No. 9030—petition of general counsel for a fuel reconciliation for Southwestern Public Service Company.

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

Filed: October 13, 1989, 3:46 p.m.

TRD-8909861

Monday, March 26, 1989, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing on Docket No. 8387—petition of R. A. Hirsch against Southwestern Bell Telephone Company.

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

Filed: October 13, 1989, 3:46 p.m.

TRD-8909860

State Purchasing and General Services Commission

Wednesday October 25, 1989, 9 a.m. The State Purchasing and General Services Commission will meet in Conference Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the agenda summary, the commission will consider proposed amendments to §§121.1, 121.2, 121.3, 121.4, 121.5, and 121.8; final adoption of amendments to 113.3, 113.72, 113.73, 113.91, and new 113.75; final adoption of repeal 117.1-117.5; final adoption of amendments to §§117.31, 121.6, renewal of primary and secondary rental car contracts; request for issuance of TPFA bonds; retention and delegation of authority instrument; 3.09 report; long range planning report; budget report; construction project report; division activity report; policy aspects of computer procurements; executive sessions to consider potential purchase of real property; executive session to receive a report regarding pending litigation.

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

Filed: October 17, 1989, 9:40 a.m.

TRD-8909917

Railroad Commission of Texas

Monday, October 23, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division direc-

tor's report on division administration, budget, procedure, and personnel matters. Discussion of the development of a natural gas clearing house that would match companies that need gas to fuel new plants with producers that have gas to sell-possible action.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: October 13, 1989, 1:44 p.m.

TRD-08909838

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: October 13, 1989, 1:43 p.m.

TRD-08909834

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. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Office of the Executive Director, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7274.

Filed: October 13, 1989, 1:44 p.m.

TRD-08909836

The commission will consider and act on the Office of Information Services/Office of Research and Statistical Analysis Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78753, (512) 463-6710.

Filed: October 13, 1989, 1:43 p.m.

TRD-08909839

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6828.

Filed: October 13, 1989, 1:44 p.m.

TRD-08909837

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 its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: October 13, 1989, 1:45 p.m.

TRD-08909879

The commission 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 12967, Austin, Texas 78711, (512) 463-6755.

Filed: October 13, 1989, 1:43 p.m.

TRD-08909833

The commission will consider and act on the Personnel Division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline, and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: October 13, 1989, 1:44 p.m.

TRD-08909835

The commission will consider staff recommendation to sign the grant agreement with the United States Environmental Protection Agency for the Underground Injection Control Program for FY 1990.

Contact: Jerry Mullican, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6790.

Filed: October 13, 1989, 1:43 p.m.

TRD-08909832

Texas National Research Laboratory Commission

Thursday, October 26, 1989, 9 a.m. The Commission of the Texas National Research Laboratory Commission will meet at InfoMart, Stemmons Freeway at Oaklawn, Dallas. According to the agenda, the commission will consider minutes of September 8, 1989, meeting, and approve with corrections, additions, if any; consider chairman's comments; executive director's report; com-

minutes reports; old business; new business, consider approval of land acquisition plan, and approval of issuance of bonds.

Contact: Karen L. Chrestay, 1801 North Hampton Road, Suite 252, DeSoto, Texas 75115, (214) 709-6481.

Filed: October 13, 1989, 1:51 p.m.

TRD-8909806

Texas Surplus Property Agency

Monday, October 23, 1989, 1 p.m. The Governing Board of the Texas Surplus Property Agency will meet for an emergency meeting in the District Office, 8611 Wallisville Road, Houston. According to the agenda, the board will approve minutes of the August 22, 1989, meeting; 71st legislature update-TSPA changes; discuss agency automation; discuss agency expansion; general public presentations; and program promotion and marketing. The emergency status was necessary because it was filed too late.

Contact: Marvin J. Titzman, P.O. Box 8120, San Antonio, Texas 78208, (512) 661-2381.

Filed: October 16, 1989, 9 a.m.

TRD-8909899

Texas Southern University

Friday, November 4, 1989, 10 a.m. The Board of Regents of the Texas Southern University will meet in the University Library, 5th Floor, Texas Southern University, Houston. According to the agenda, the board will consider minutes; budget changes; investments; budgets for restricted and/or grants and project funds; construction change orders; payment to architects contracts and engineers; authorization and ratification of contracts and awards; review on-going construction and current contractual relations; personnel actions; report on progress of academic activities and programs; report of the president and executive session.

Contact: Everett O. Ball, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: October 16, 1989, 2:06 p.m.

TRD-8909894

Texas Turnpike Authority

Tuesday, October 31, 1989, 10 a.m. The Board of Directors of the Texas Turnpike Authority will meet at the Hobby Airport Hilton, 8181 Airport Boulevard, Houston. According to the agenda summary, the board will consider: approval of minutes of

last board meeting; interagency cooperation contract with DPS; approval of preliminary operating budgets for calendar year 1990; award of three contracts for Treachwig Road project- with respect to Dallas North Tollway, purchase of right-of-way parcels, request for sound study approval of two contracts and new investment policy; with respect to Sam Houston Tollway-East project, progress briefings and ratification of supplemental agreement No. 2 to contract FSF-19; resolution approving workers compensation change; approval of master repurchase agreements; relocation of headquarters to Austin and Sunset Review process; executive session.

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

Filed: October 17, 1989, 8:57 a.m.

TRD-8909915

University of Texas System, M.D. Anderson Cancer Center

Tuesday October 17, 1989, 10 a.m. The Institutional Animal Care and Use Committee of the University of Texas System, M.D. Anderson Cancer Center met in Conference Room AW7.707, 7th Floor, M.D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee will review protocols for animal care, use and modifications thereof.

Contact: Anthony Mastromarino, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3391.

Filed: October 12, 1989, 3:58 p.m.

TRD-8909733

Texas Water Commission

Thursday, October 19, 1989, 10 a.m. The Texas Water Commission met for an emergency meeting in Room 1-111, William B. Travis Building, 1701 North Congress, Austin. According to the revised agenda summary, the commission considered 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 may take various actions, including, but not limited to scheduling an item in the entirety or for particular action at a future date or time. The emergency status was necessary because a reasonably unforeseen situation which required immediate action by the commission arose.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: October 16, 1989, 1:34 p.m.

TRD-8909897

Thursday, October 26, 1989, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, 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: October 16, 1989, 1:34 p.m.

TRD-8909796

Tuesday, November 21, 1989, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 512, Stephen F. Austin Office Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the renewal application of Permit No. 10013-10-by the City of Hallettsville authorizing discharge of treated domestic wastewater effluent into the Lavaca River in segment No. 1602 of the Lavaca River Basin.

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

Filed: October 13, 1989, 1:32 p.m.

TRD-8909850

Tuesday, November 28, 1989, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, 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: October 16, 1989, 1:34 p.m.

TRD-8909898

Regional Meetings

Meetings Filed October 12, 1989

The Brazos River Authority, Board of Directors met at 4400 Cobbs Drive, Waco,

October 16, 1989, at 9 a.m. Information may be obtained from Mike Bukula, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Harris County Appraisal District, Board of Directors met on the 8th Floor, 2800 North Loop West, Houston, October 18, 1989, at 1:30 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Jack County Appraisal District, Board of Directors met at the Los Creek Office Building, 216-D South Main Street, Jacksboro, October 17, 1989, at 7 p.m. Information may be obtained from Gary I. Zeidler or Donna Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lower Colorado River Authority, Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, October 18, 1989, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority, Planning and Public Policy Committee met 3700 Lake Austin Boulevard, Austin, October 18, 1989, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority, Natural Resources Committee met at 3700 Lake Austin Boulevard, Austin, October 18, 1989, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority, Finance and Administration Committee met at 3700 Lake Austin Boulevard, Austin, October 18, 1989, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority, Audit and Budget Committee met at 3700 Lake Austin Boulevard, Austin, October 18, 1989, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority, Board of Directors met at 3700 Lake Austin Boulevard, Austin, October 19, 1989, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The Middle Rio Grande Development Council, Private Industry Council will meet at the Balia Restaurant, Highway 83 South, Carrizo Springs, October 23, 1989, at 1 p.m. Information may be obtained from Michael M. Patterson, P.O. Box 1199, Carrizo

Springs, Texas, (512) 876-3533

The Region XX Education Service Center, Board of Directors will meet at 1314 Hines Avenue, San Antonio, October 25, 1989, at 2 p.m. Information may be obtained from Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 299-2400.

TRD-8909702

Meetings Filed October 13, 1989

The Atascosa County Appraisal District, Board of Directors met at 1010 Zanderson Avenue, Jourdanon, October 19, 1989, at 1:30 p.m. Information may be obtained from Vernon S. Warren, 2020 Zanderson Avenue, Jourdanon, Texas 78026, (512) 769-2730.

The Barton Springs/Edwards Aquifer Conservation District, Board of Directors-Work Session met at 1124-A Regal Row, Austin, October 19, 1989, at 6:30 p.m. Information may be obtained from Bill E. Couch, 98 San Jacinto, Austin, Texas 78701-4039, (512) 472-8021.

The Central Texas Council of Governments, Executive Committee will meet at the Bell County Expo Center, Belton, October 26, 1989, at 1:30 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801.

The Comal Appraisal District, Board of Directors will meet at 430 West Mill Street, New Braunfels, October 23, 1989, at 7:30 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 311222, New Braunfels, Texas 78131-1222.

The Dallas Area Rapid Transit, Budget and Finance Committee met in the Board Room, 601 Pacific Avenue, Dallas, October 17, 1989, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 74202, (214) 658-6237.

The Dallas Area Rapid Transit, Planning and Development Committee met in the Board Room, 601 Pacific Avenue, Dallas, October 17, 1989, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Heart of Texas Region Mental Health and Mental Retardation, Board of Trustees met at 110 South 12th Street, Waco, October 19, 1989, 11:45 a.m. Information may be obtained from Helen Jasso, 110 South 12th Street, Waco, Texas 76701, (817) 752-34651.

The Henderson County Appraisal District, Board of Directors met at 1751 Enterprise, Athens, October 16, 1989, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas, (214) 675-9296.

The Henderson County Appraisal District, Appraisal Review Board met at 1751 Enterprise, Athens, October 19, 1989, at 9:30 a.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas, (214) 675-9296.

The Lamar County Appraisal District, Regular Board Meeting will meet for a meeting rescheduled from October 17, 1989, in the District Office, 521 Bonham Street, Paris, October 24, 1989, at 5 p.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (214) 785-7822.

The Lamb County Appraisal District, Appraisal Review Board met in the Board Room, 330 Phelps Avenue, Littlefield, October 19, 1989, at 5 p.m. Information may be obtained from Murlene J. Godfrey, P.O. Drawer 552, 330 Phelps Avenue, Littlefield, Texas 79339-0552, (806) 385-6474.

The Lamb County Appraisal District, Board of Directors met in the Board Room, 331 LFD Drive, Littlefield, October 19, 1989, at 7 p.m. Information may be obtained from Murlene J. Godfrey, P.O. Box 552, 330 Phelps Avenue, Littlefield, Texas 79339-0552, (806) 385-6474.

The Lamb County Appraisal District, Board of Directors will meet in the Board Room, 331 LFD Drive, Littlefield, October 25, 1989, at 3 p.m. Information may be obtained from Murlene J. Godfrey, P.O. Box 552, 330 Phelps Avenue, Littlefield, Texas 79339-0552, (806) 385-6474.

The Leon County Central Appraisal District, Appraisal Review Board met in the District Office, Gresham Building, Centerville, October 19, 1989, at 8:30 a.m. Information may be obtained from Robert M. Winn, P.O. Drawer 536, Centerville, Texas 75833, (214) 536-2252.

The Leon County Central Appraisal District, Board of Directors will meet in the District Office, Gresham Building, Centerville, October 23, 1989 at 7:30 p.m. Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The North Central Texas Council of Governments, Executive Board met on the 2nd Floor, Centerpoint Two, 616 Six Flags Drive, Arlington, October 19, 1989, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The North Texas Municipal Water District, Board of Directors will meet in the Administrative Offices, 505 East Brown Street, Wylie, October 26, 1989, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas, (214) 442-5405.

The Region I Education Service Center, Board of Directors met at 1900 West Schunior, Edinburg, October 17, 1989, at 6



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 Commission on Alcohol and Drug Abuse

Notice of Request for Proposals

The Texas Commission on Alcohol and Drug Abuse, under the authority of the Health and Safety Code, Title 6, Subtitle B, Chapter 464, gives notice of a Comprehensive Alcohol and Drug Abuse Services Request for Proposals (RFP). The RFP provides an avenue for applicants to request funds to address the alcohol and drug abuse service needs their communities have identified. The commission is soliciting applications for prevention, intervention, treatment, and rehabilitation alcohol and drug abuse services.

To request a copy of the RFP, call the Grants Management office at (512) 463-5510, or write to: Texas Commission on Alcohol and Drug Abuse, Grants Management, 1705 Guadalupe, Austin, Texas 78701-1214.

Applications must be submitted for review through the Texas Review and Comment System (TRACS). The submission closing date for TRACS is January 15, 1990. The closing date for receipt of applications by the commission is 5 p.m. on March 1, 1990. Approved programs will be funded for the award period of September 1, 1990-August 31, 1991.

The amount of funds that will be available for the award period will not be known until after the submission closing date, and only eligible applications received by the closing date will be considered for those funds. When funds become available, an authorization announcement will be issued by the commission. The announcement will specify the amount of funds available and any special restrictions on the use of the funds. Eligible applications that match the funding restrictions will be evaluated and scored. Applications that do not meet the funding restrictions will be kept on file for the remainder of the application cycle to be considered if additional funds become available for that cycle.

The final funding decision will be made by the Grant and Contract Review Committee which is appointed to act on behalf of the commission's governing board. The review committee may assign additional points to an application based on award criteria such as special population needs, overall program and geographic balance, availability of funds, potential contribution of the proposed services/activities, program's relationship with funding priorities and restrictions, and other policy considerations.

Eligible applicants are public entities and private nonprofit corporations.

Technical assistance will be offered through five workshops to be conducted by the commission. The workshops will begin at 8:30 a.m. The morning session will focus on Attachment 2 of the RFP, Services Categories, and will specifically address program philosophy and comprehen-

sive models. This session will be designed specifically for those organizations that do not have a funding relationship with the commission. Currently-funded organizations are invited to attend, however. The afternoon session will begin at 1 p.m. and will be devoted to a discussion of RFP requirements and technical assistance with application preparation. Information about each of the workshops follows. The contact persons will provide information about the meeting place. They will not be able to answer questions about the RFP, however.

November 6, 1989, Monday, Arlington, North Central Texas Council of Governments, 616 Six Flags Drive, Michael Williams, (817) 640-3300.

November 9, 1989, Thursday, Lubbock, South Plains Association of Governments, 1323 58th Street, Karen King or Donna C de Baca, (806) 762-8721.

November 13, 1989, Monday, McAllen, TSTI-McAllen, 3201 Pecan, Terrie Salinas, (512) 682-3481.

November 17, 1989, Friday, Austin, 201 East 14th Street, Sam Houston Building, Roslyn Seiler, (512) 463-5510.

November 20, 1989, Monday, Houston, Astrodome Marriott Hotel, 2100 South Braeswood, Steve Howard, (713) 627-3200.

Issued in Austin, Texas on October 12, 1989.

TRD-8909730

Bob Dickson
Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: October 12, 1989

For further information, please call: (512) 463-5510

Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a 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 September 22, 1989, the banking commissioner received an application to acquire control of D'Hanis State Bank, D'Hanis, by Jack Winkler, Hondo.

On October 12, 1989, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on October 12, 1989.

TRD-8908747

William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: October 13, 1989

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

Notice of Postponement

The October 12, 1989, hearing on the application to acquire control of National Guaranty Trust Company, Houston, by Charles A. Barron, Vay Nuys, California; Richard Bender, Rialto, California; K. Barron Bradshaw, P.C., Evergreen Colorado; C. J. Chrzan, Burbank, California; John Farber, Shoreview, Minnesota; Calvin Fong, Beverly Hills, California; Warren Brownfield, Burbank, California; Rowena Bennett, Canoga Park, California; Dianne Calver, Burbank, California; Dendron Trust, Saratoga, California; Brian W. Fisher, Los Angeles, California; Jack Koga, Sylmar, California; Carol McGowan, La Crescenta, California; Darryl Sato, Tujunga, California; Raven Limited, Burbank, California; Albert Snell, Monterey Park, California; Kenneth Tiele, Glendale, California; William C. Wiles, Burbank, California; M. W. LeCrone, Pasadena, California; Dragi Milor, Glendale, California; Thomas Sato, Tujunga, California; Frank Simmeth, Glendale, California; George F. Stroope, M.D., North Little Rock, Arkansas; Janis Wiles, Burbank, California; and Rodney L. Wilson, Glendale, California; has been postponed and will be rescheduled. The hearing will be held on November 21, 1989, at 9 a.m. at the Texas Department of Banking, 2601 North Lamar Boulevard, Austin.

Additional information may be obtained from Carlos J. Contreras, III, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on October 11, 1989.

TRD-8900673

Ann Graham
General Counsel
Texas Department of Banking

Filed: October 11, 1989

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

Texas Commission for the Blind Request for Proposals

The Texas Commission for the Blind announces a request for proposals for services leading to supported employment. Supported employment provides the option of integrated, community based employment for visually impaired clients of the commission, and who require ongoing support in order to maintain employment.

Funding Priorities. It is anticipated that organizations which are currently operating supported employment projects cooperatively with this commission will receive priority consideration for continuation. It is also the commission's intent to establish supported employment services in all major geographical areas of the state so that blind Texans may have greatest access to these specialized vocational rehabilitation services. There are projects currently existing in the following cities: El Paso, Lubbock, Wichita Falls, Tyler, Dallas, Fort Worth, Houston, San Antonio, and Austin. Therefore, special consideration will be given to organizations geographically located in the South Texas/Rio Grande Valley area.

Definitions. Supported employment is defined as competitive employment in an integrated work setting with ongoing support for individuals with severe disabilities for whom competitive employment has not traditionally oc-

curred (or has been interrupted or intermittent) as a result of the severe disability (*Federal Register*, August 14, 1987). Job coach services under supported employment are provided in order to reinforce and stabilize the client on the job. Authorized activities: assessment to determine an individual's potential for supported employment services; job development and job placement; on-the-job skills training at work site; communication with the employer regarding the individual who is working; assistance with transportation and housing; personal care services; and contact with the family/advocates on behalf of the client. An integrated work setting is defined as one in which most co-workers are not disabled, or in which individuals are part of a group of not more than eight workers with disabling conditions. Ongoing support occurs after the state's vocational rehabilitation agency services and funding terminate and is defined as job skills training provided at least twice monthly at the work site to enable the individual to perform the work. Ongoing support services, other than job skills training, may be provided as long as the individual has a need for ongoing job skills training and is receiving that training at the job site.

Grant Requirements. Funds awarded under this grant are intended for the provision of new or expanded services to commission clients. Individuals served in supported employment programs may receive these services with commission funding during assessment, job development and placement, and then for a maximum of 18 months from the time of job placement. Public and private non-profit organizations which receive funds must agree to provide or arrange for the ongoing support to maintain each individual in their job after state vocational rehabilitation services are completed. Federal regulations regarding supported employment must be met (*Federal Register*, 34 Code of Federal Regulations Part 363; Title VI, Part C of the Rehabilitation Act Amendments of 1986).

Availability of Funds. A total of \$282,600 is available statewide. The funds will be expended between January 1, 1990, and September 30, 1990.

Application Process. Organizations which can provide services leading to supported employment for visually impaired clients of the commission are encouraged to apply. Write or call Nansi Morris, Supported Employment Coordinator, Texas Commission for the Blind, P.O. Box 12866, Austin, Texas 78711, (512) 459-2669, to obtain an application packet or ask questions. A committee will review applications for funding and will select applicants based on evaluation criteria within the application packet.

Deadline. Applicants responding to this request for proposals must submit proposals postmarked no later than December 1, 1989. It is anticipated that awards will be announced within one month after the proposal deadline.

Issued in Austin, Texas on October 13, 1989.

TRD-8909840

Pat D. Westbrook
Executive Director
Texas Commission for the Blind

Filed: October 16, 1989

For further information, please call: (512) 456-2601

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title

79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ /Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	10/16/89-10/22/89	18.00%	18.00%
Monthly Rate ⁽¹⁾ Art. 1.04(c)	10/01/89-10/31/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/89-12/31/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	10/01/89-12/31/89	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) ⁽³⁾	10/01/89-12/31/89	15.52%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	10/01/89-12/31/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	10/01/89-12/31/89	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:	10/01/89-12/31/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	10/01/89-10/31/89	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 October 10, 1989.

TRD-8909716 Al Endsley
Consumer Credit Commissioner

Filed: October 12, 1989

For further information, please call: (512) 479-1280

Texas Education Agency Consultant Contract Award

Description. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. After publication of a consultant proposal request in the June 27, 1989, issue of the *Texas Register* (13 TexReg 3190), the Texas Education Agency on October 2, 1989, executed a contract with the Center for Assessment and Demographic Studies, Gallaudet University, Washington, D.C., to assist the agency's Division of Services for the Deaf in the refine-

ment and continued implementation of an objective data-based accountability system for measuring educational outcomes within the regional day school programs for the deaf.

Cost and dates. The total amount of the contract is \$38,500. The beginning date of the contract is September 1, 1989, and the ending date is August 31, 1990.

Due Dates of Documents. The delivery date of the final report is October 31, 1990.

Issued in Austin, Texas, on October 10, 1989.

TRD-8909889 W. N. Kirby
Commissioner of Education

Filed: October 11, 1989

For further information, please call: (512) 463-9701

Texas Department of Health Correction of Error

The Texas Department of Health submitted a document withdrawing the effectiveness of an emergency adoption which was omitted from the August 22, 1989, *Texas Register* (14 TexReg 4227). The published withdrawal shows only §289.143 as being withdrawn. The emergency effectiveness of §289.144 was also withdrawn, effective September 5, 1989. The notice should read:

25 TAC §289.143 and §289.144

The Department of Health has withdrawn the emergency effectiveness of §289.143 and §289.144, concerning the Occupational Health and Radiation Control. The text of the emergency appeared in the May 30, 1989, issue of the *Texas Register* (14 TexReg 2566). The effective date of this withdrawal is September 5, 1989. "

Issued in Austin, Texas on August 15, 1989.

TRD-8907460

State Department of Highways and Public Transportation Notice of Meeting

The State Motor Transportation Advisory Committee (SMTAC) published a notice of meeting in the September 26, 1989, issue of the *Texas Register* (14 TexReg 5084) to be held on October 27, 1989. This meeting has been cancelled and will be rescheduled at a later date.

Issued in Austin, Texas, on October 11, 1989.

TRD-8909872

Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public
Transportation

Filed: October 11, 1989

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

Public Hearing Notice

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the State Department of Highways and Public Transportation will conduct a public hearing to receive data, comments, views, and/or testimony concerning emergency and proposed new §25.81 to Title 43, T.A. C., relating to permit for over axle and over gross weight tolerances as published in the *Texas Register* on September 8, 1989, (14 TexReg 4593).

The public hearing will be held on Tuesday, November 7, 1989, at 10 a.m., in the first floor hearing room of the Dewitt C. Greer State Highway Building, 11th and Brazos, Austin.

Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content.

For further information, contact Bob G. Hodge, P.E.,

Chief Engineer, Maintenance and Operations Division,
11th and Brazos Streets, Austin, Texas 78701, (512) 463-
6711.

Issued in Austin, Texas, on October 12, 1989.

TRD-8909740

Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public
Transportation

Filed: October 13, 1989

For further information, please call: (512) 465-6711

Texas Housing Agency Low Income Tax Credit Program 1989 Quarterly Report

The Texas Housing Agency (the agency) was created and organized pursuant to and in accordance with provisions of the Texas Housing Agency Act (the Act), Texas Civil Statutes, Article 12691-6, for the purpose of providing a means of financing the costs of residential ownership, development, and rehabilitation that will provide decent, safe, and sanitary housing for eligible individuals and families at prices they can afford.

The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low-income rental housing projects. Pursuant to Executive Order WPC-87-15 (August 4, 1987), the agency has been authorized to make housing credit allocations for the State of Texas (state). The agency's Low-Income Rental Housing Tax Credit Rules, 10 TAC §§149.1-149.12, as amended (rules), establish procedures for applying for and obtaining an allocation of the low-income rental housing tax credit, and other procedural matters related thereto. Section 149.7(b) of the rules provides for the quarterly publishing in the *Texas Register* of the record of certain cumulative amounts of the state housing credit ceiling and the remaining unused portion thereof as provided in §149.7(a) of the rules. Such cumulative amounts and unused portion thereof are as follows: the cumulative amount of the 1989 state housing credit ceiling that has been reserved pursuant to reservations letters through September 30, 1989, is \$7,976,032; the cumulative amount of the 1989 state housing credit ceiling that has been committed pursuant to commitment letters through September 30, 1989, is \$10,162,195; the cumulative amount of the 1989 state housing credit ceiling that has been committed pursuant to carryover allocation documents through September 30, 1989, is \$1,385,701; the cumulative amount of the 1989 state housing credit allocations made through September 30, 1989, is \$192,318; and the remaining unused portion of the 1989 state housing credit ceiling as of September 30, 1989, is \$1,258,754.

Issued in Austin, Texas on October 12, 1989.

TRD-8909820

Thomas C. Adams
Executive Administrator
Texas Housing Agency

Filed: October 13, 1989

For further information, please call: (512) 474-2974

Texas Department of Mental Health and Mental Retardation Correction of Error

The Texas Department of Mental Health and Mental Re-

tion submitted adopted amendments to Chapter 401, Subchapter J (relating to Licensure of Private Psychiatric Hospitals), which contained an error as submitted by the agency. Due to an error, §401.585, concerning Construction and Inspections, was adopted without changes to the proposed text as published in the July 14, 1989, issue of the *Texas Register* (14 TexReg 3387). The section should be adopted with changes to require annual, not semiannual, Fire Inspections. Also, language is added to require inspections of fire detection systems as required by the state fire marshal. The text of the section should read as follows.

"(f) Each private psychiatric hospital is required to have an approved fire safety inspection from a local fire marshal. Inspections will be performed at least on an annual basis. Documentation must be provided if the local fire marshal will not perform the required inspections. Fire detection systems, including sprinklers and alarms, shall be installed by a company certified by the state fire marshal and shall be inspected and tested accordingly.

◆ ◆ ◆

Public Utility Commission of Texas Notices of Applications to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 27, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Houston Lighting and Power Company for a certificate of convenience and necessity for proposed 138KV transmission line within Harris County, Docket Number 9063 before the Public Utility Commission of Texas.

The Application: In Docket Number 9063, Houston Lighting and Power requests approval of its application to construct a 138kV transmission line in Harris County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas, on October 10, 1989.

TRD-800898 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 11, 1989

For further information, please call: (512) 458-0100

◆ ◆ ◆

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 22, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Southwestern Electric Power Company for a certificate of convenience and necessity for proposed transmission line within Cass

County, Docket Number 9073 before the Public Utility Commission of Texas.

The Application: In Docket Number 9073, Southwestern Electric Power Company requests approval of its application to construct approximately 15.69 miles of 69kV transmission line in Cass County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas, on October 10, 1989.

TRD-800898 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 11, 1989

For further information, please call: (512) 458-0100

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Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 2, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of GTE Southwest, Inc. to amend certificate of convenience and necessity within Parker County, Docket Number 9072 before the Public Utility Commission of Texas.

The Application: In Docket Number 9072, General Telephone Company of the Southwest requests approval of its application for a minor exchange boundary revision in Parker County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas, on October 10, 1989.

TRD-8009701 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 11, 1989

For further information, please call: (512) 458-0100

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Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 22, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Southwestern Electric Power Company for a certificate of convenience and necessity for rebuilding and upgrading from 69kV to 138kV transmission facilities within Panola and Shelby Counties, Docket No. 9065 before the Public Utility Commission of Texas.

The Application: In Docket Number 9065, Southwestern Electric Power Company requests approval of its application to upgrade existing transmission facilities in Shelby and Panola Counties.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas, on October 10, 1989.

TRD-8908700 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 11, 1989

For further information, please call: (512) 458-0100

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 22, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Tex-La Electric Cooperative, Inc. for a certificate of convenience and necessity for a proposed transmission line within Shelby County, Docket Number 9066 before the Public Utility Commission of Texas.

The Application: In Docket Number 9066, Tex-La Electric Cooperative, Inc. requests approval of its application to construct approximately 14.73 miles of 138kV transmission line in Shelby County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas, on October 10, 1989.

TRD-8908999 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 11, 1989

For further information, please call: (512) 458-0100

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 28, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Houston Lighting and Power Company for a certificate of convenience and necessity for proposed 138kV transmission line within Brazoria County, Docket Number 9068 before the Public Utility Commission of Texas.

The Application: In Docket Number 9068, Houston Lighting and Power Company requests approval of its application to construct a 138kV transmission line within Brazoria County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas on October 10, 1989.

TRD-8909088 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 11, 1989

For further information, please call: (512) 458-0100

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 2, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of United Telephone Company of Texas, Inc. to amend certificate of convenience and necessity within Hamilton County, Docket Number 9073 before the Public Utility Commission of Texas.

The Application: In Docket Number 9077, United Telephone Company of Texas, Inc. requests approval of its application for a minor boundary amendment.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas on October 10, 1989.

TRD-8909097 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 11, 1989

For further information, please call: (512) 458-0100

Texas Water Commission Correction of Error

The Texas Water Commission submitted proposed new sections under Chapter 317 (relating to Design for Sewerage Systems) which contained errors as submitted by the agency in the September 26, 1989, issue of the *Texas Register* (14 TexReg 5027).

In §317.2(c)(5)(B), the table for manhole spacing should read as follows.

Pipe Diameter (Inches)	Maximum Manhole Spacing (Feet)
6 - 15	500
16 - 30	800
36 - 48	1000
54 or larger	2000

In §317.3, subsection (c)(6) and (c)(7) should read as follows. "(6) Pump positioning. All raw sewage pumps, other than submersible pumps without suction piping and self-priming units capable of satisfactory operation under any negative suction heads anticipated for the lift station under consideration, shall be positioned such that the

pumps always experience, during their normal on-off cycling, a positive static suction head. (7) Grinder pumps. See §317. 2(d) of this title (relating to pressure sewer systems)."

In §317.4(g)(4)(A), the table should read as follows.

Process	Minimum O ₂ Required lb O ₂ /lb BOD ₅	Minimum ⁱ Air Required SCF/lb BOD ₅
Conventional	1.2	800
Complete Mix	1.2	800
Contact Stabilization	1.2	800
Extended Aeration	2.2	2850
Oxidation Ditch	1.6(2.2) ⁱⁱ	-
Nitrification	2.2	3200

In §317.5(c), paragraph (2) should be omitted from the table.

In §317.6(c)(2), subparagraph (C) should read as follows. "(C) Sizing, configuration and required dosage. Ultraviolet disinfection units will be designed in accordance with methodologies presented in the United States Environmental Protection Agency Design Manual, Municipal Disinfection, EPA/625/1-86/021. Turbulent flow is necessary due to non-uniform intensity fields in an ultraviolet reactor. Proposed design shall have a Reynolds' number of greater than 6,000 at average design flows. Disinfection systems shall consist of a minimum of two ultraviolet banks in series and shall be capable of providing disinfection to permitted fecal coliform levels at peak flow and at the design daily average flow with the largest bank out of service."

In §317.13(b), the reference to "subsection (b)(4)" should read "subsection(a)(4)".

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 Koch Refining Company, Permit HW50097, SWR Number 30529, on October 6, 1989 assessing \$6,640 in administrative penalties, and \$2,213 in penalties deferred and waived pending compliance.

Information concerning any aspect of this order may be obtained by contacting Stephen Dickman, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 10, 1989.

TRD-880084

Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: October 11, 1989

◆ ◆ ◆
Enforcement Order

For further information, please call: (512) 463-8089.

Meeting Notices

A meeting of the Local Government Advisory Committee of the Galveston Bay National Estuary Program is scheduled for Wednesday, October 18, 1989, 9 a.m., American Host Hotel, Eagle Room, 2020 NASA Road One, Houston, Texas 77058.

This will be the organizational meeting of the committee and will lay the groundwork for future efforts for the program. An overview of the Galveston Bay program will be presented and the LGAC's role in the effort. The LGAC will also discuss the Galveston Bay area navigational study.

Issued in Austin, Texas on October 6, 1989.

TRD-8909703 Frank S. Shipley, Ph.D.
Program Manager
Galveston Bay National Estuary Program

Filed: October 11, 1989

For further information, please call: (713) 488-9495

A meeting of the Management Committee of the Galveston Bay National Estuary Program is scheduled for Tuesday, October 24, 1989, 9 a.m., Ramada Inn, Hobby Airport, Board Room 1, Houston.

The committee will consider four proposed project contracts for recommendation to the Policy Committee. These are: Galveston Bay Literature Survey; Galveston Bay Information Center; Galveston Bay Data Inventory; and Armand Bayou and Christmas Bay coastal preserve nominations. The committee will then consider draft priority problems lists from the Scientific/Technical Advisory Committee and Citizen's Advisory Steering Committee, in order to create a final priority problems list for use in targeting expenditure of management conference resources. The committee will consider approaches of other national estuary programs to base programs analysis, another upcoming project.

In the afternoon, the committee will hear presentations from institution representatives interested in receiving inter-agency contracts for the four proposed contracts discussed earlier in the meeting. Based on these presentations, staff recommendations, and discussion, the committee will then determine recommended contract recipients for Policy Committee approval. Finally, the committee will consider for action recent management conference committee resolutions concerning the Galveston Bay area navigation study.

Issued in Austin, Texas on October, 1989.

TRD-8909731 Frank S. Shipley, Ph.D.
Program Manager
Galveston Bay National Estuary Program

Filed: October 11, 1989

For further information, please call: (713) 488-9495

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