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TEXAS REGISTER

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The Texas Register is printed on recycled paper



a section of the
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Texas Register, ISSN 0962-4781, is published semi-weekly 100 times a year except July 7, November 10, November 28, and December 29, 1995. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701. Subscription costs: one year - printed, \$93 and electronic, \$90; six-month printed, \$75 and electronic, \$70. Single copies of most issues are available at \$7 per copy. Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* Director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824.

How to Use the Texas Register

Information Available: The 11 sections of the *Texas Register* represent various facets of state government. Documents contained within them include

Governor - Appointments, executive orders, and proclamations

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

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions

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

Proposed Rules - sections proposed for adoption

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date

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

Tables and Graphics - graphic material from the proposed, emergency and adopted sections

Open Meetings - notices of open meetings.

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

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

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 19 (1994) is cited as follows: 19 TexReg 2402

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "19 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 19 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRID number.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the official compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*. West Publishing Company, the official publisher of the *TAC*, publishes on an annual basis.

The *TAC* volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals)

The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The *Official TAC* also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the *TAC* or to inquire about WESTLAW access to the *TAC* call West: 1-800-328-9352.

The Titles of the *TAC*, and their respective Title numbers are:

- 1. Administration
- 4. Agriculture
- 7. Banking and Securities
- 10. Community Development
- 13. Cultural Resources
- 16. Economic Regulation
- 19. Education
- 22. Examining Boards
- 25. Health Services
- 28. Insurance
- 30. Environmental Quality
- 31. Natural Resources and Conservation
- 34. Public Finance
- 37. Public Safety and Corrections
- 40. Social Services and Assistance
- 43. Transportation

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

1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1, 15 represents the individual section within the chapter)

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 12, and October 11, 1994). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40 SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
40 TAC §3.704..... 950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

Update by FAX: An up-to-date *Table of TAC Titles Affected* is available by FAX upon request. Please specify the state agency and the *TAC* number(s) you wish to update. This service is free to *Texas Register* subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561.

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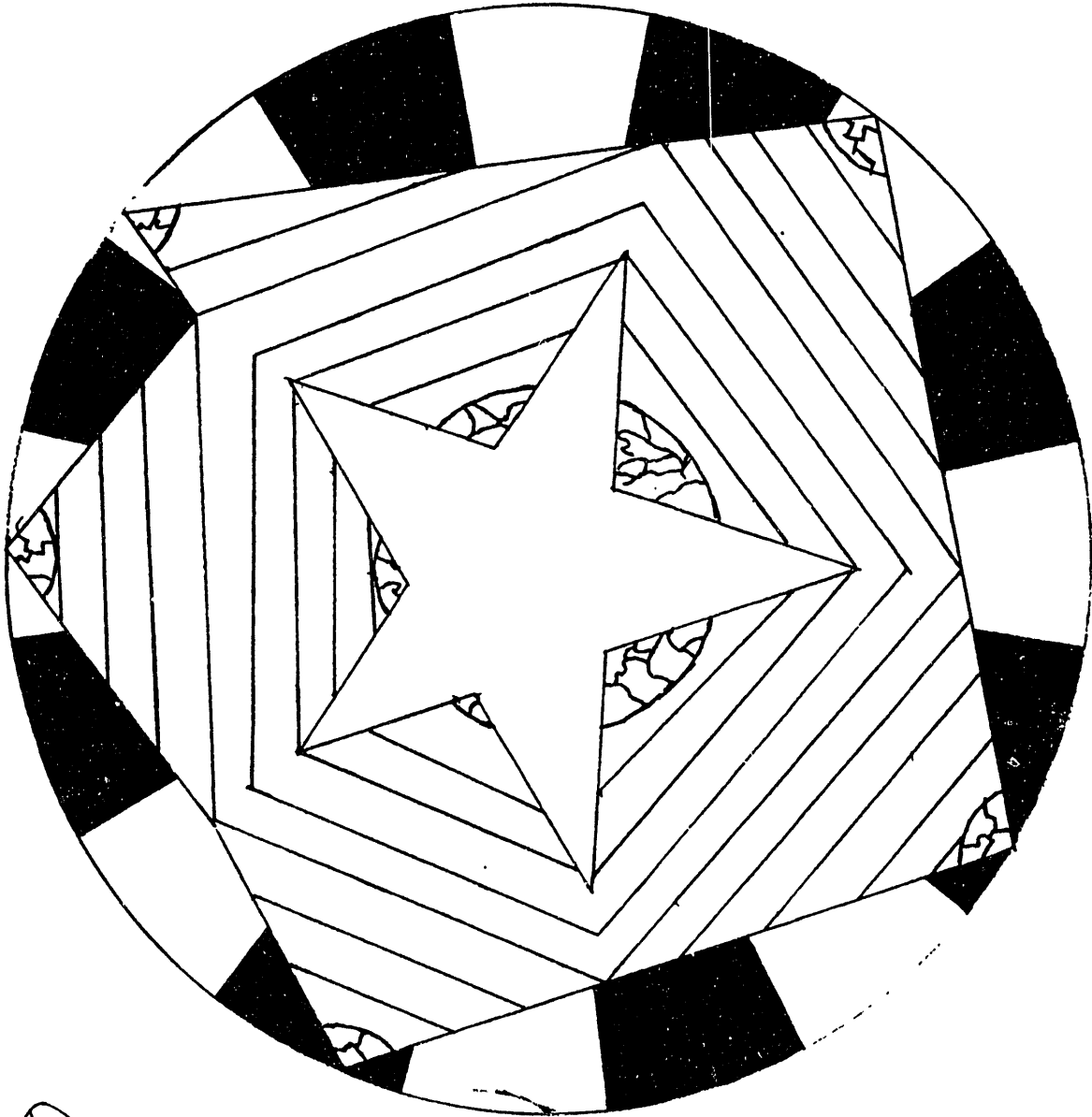
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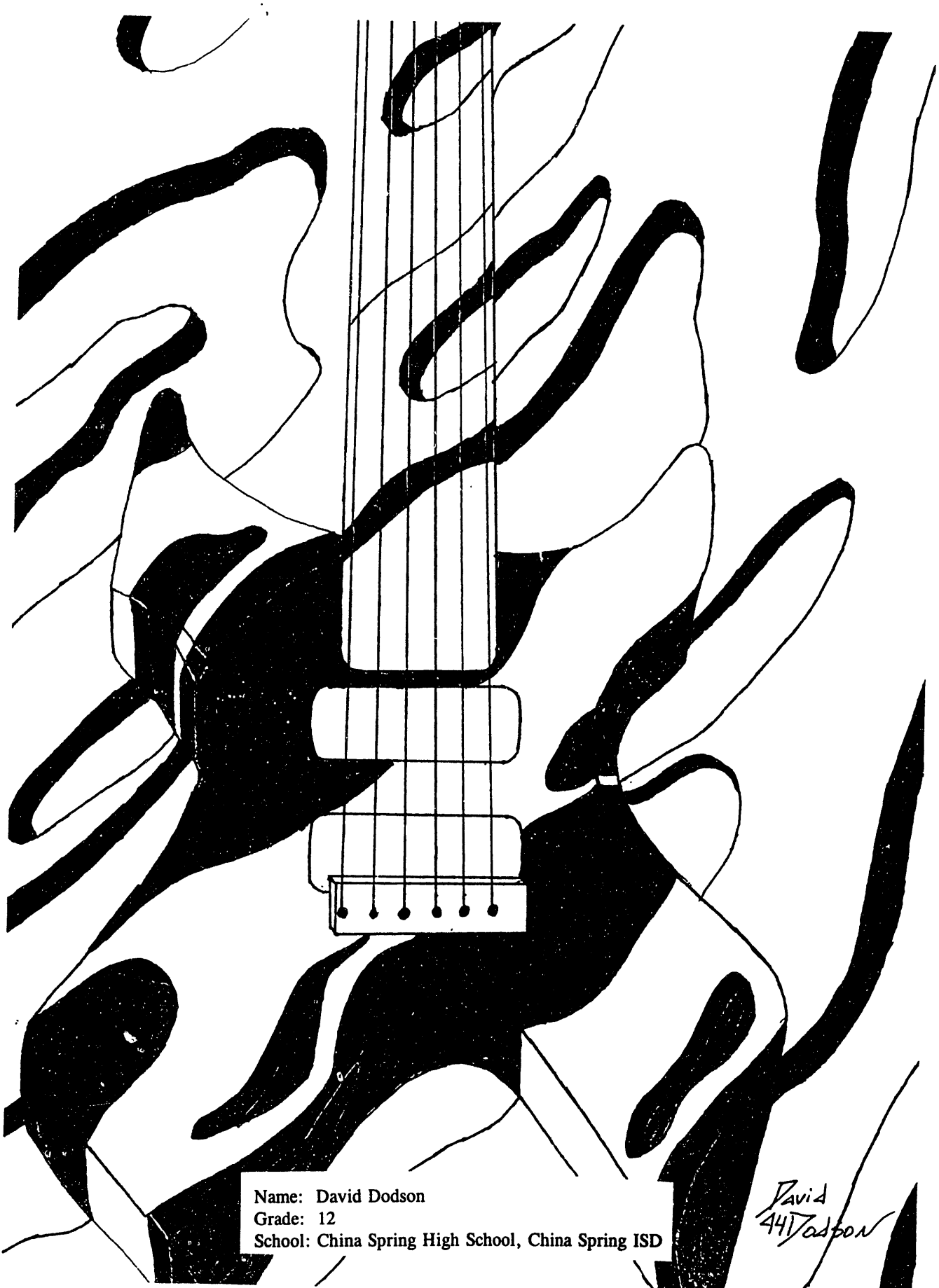
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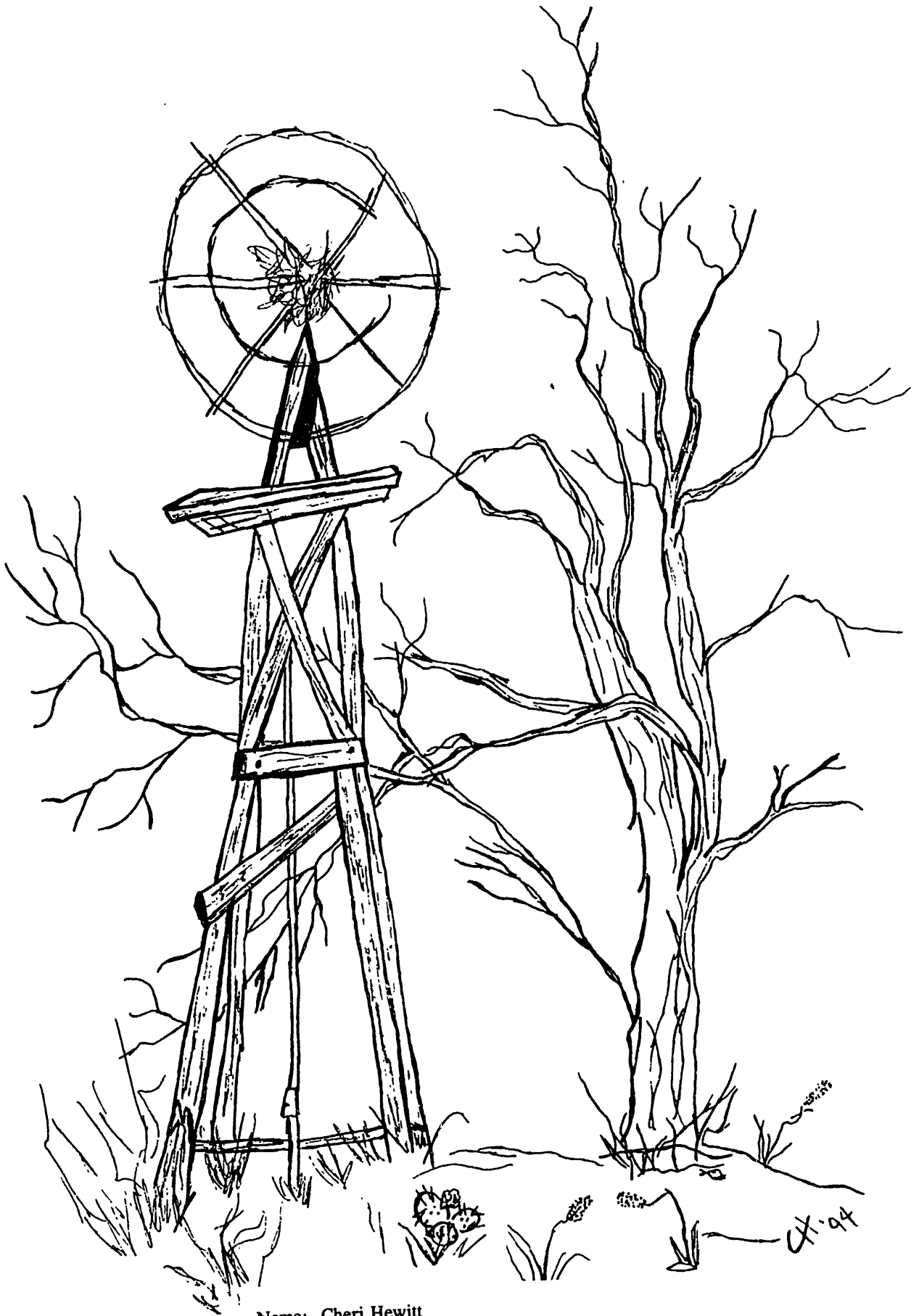
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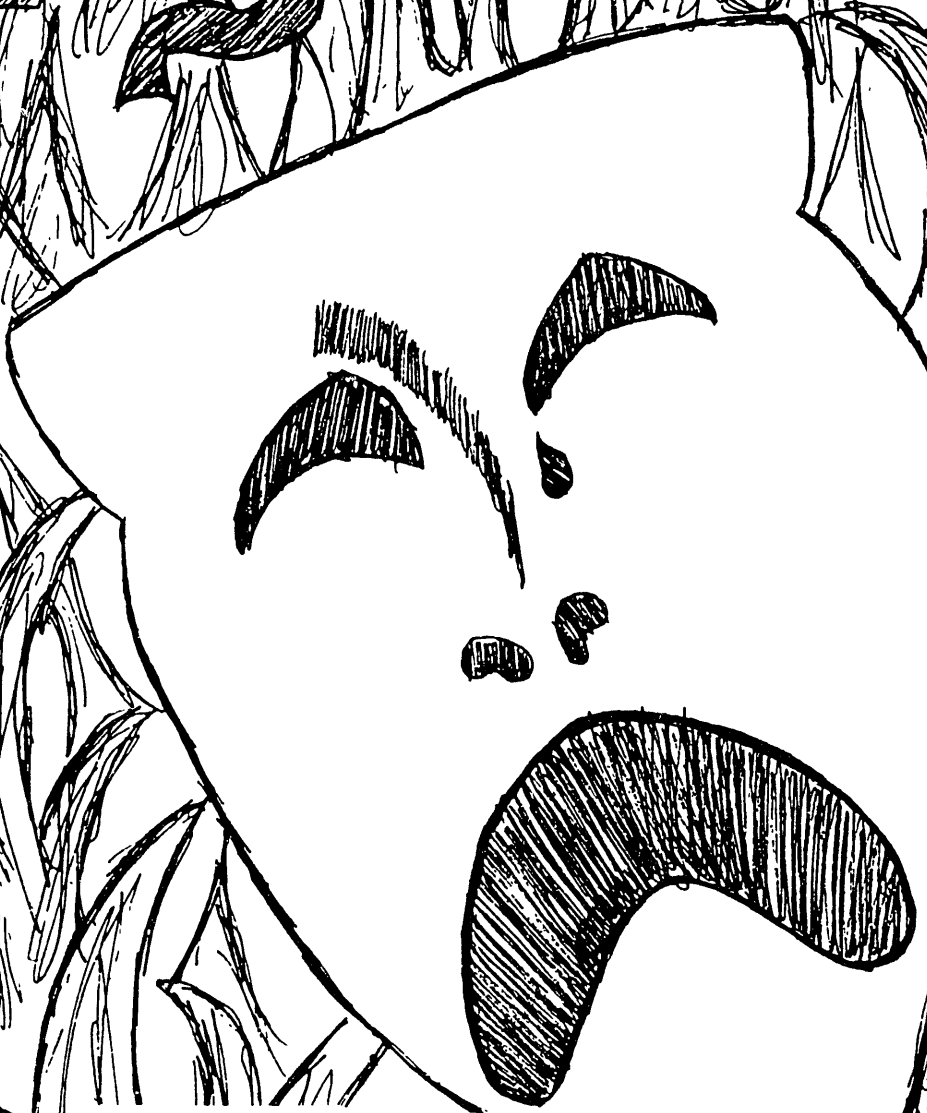
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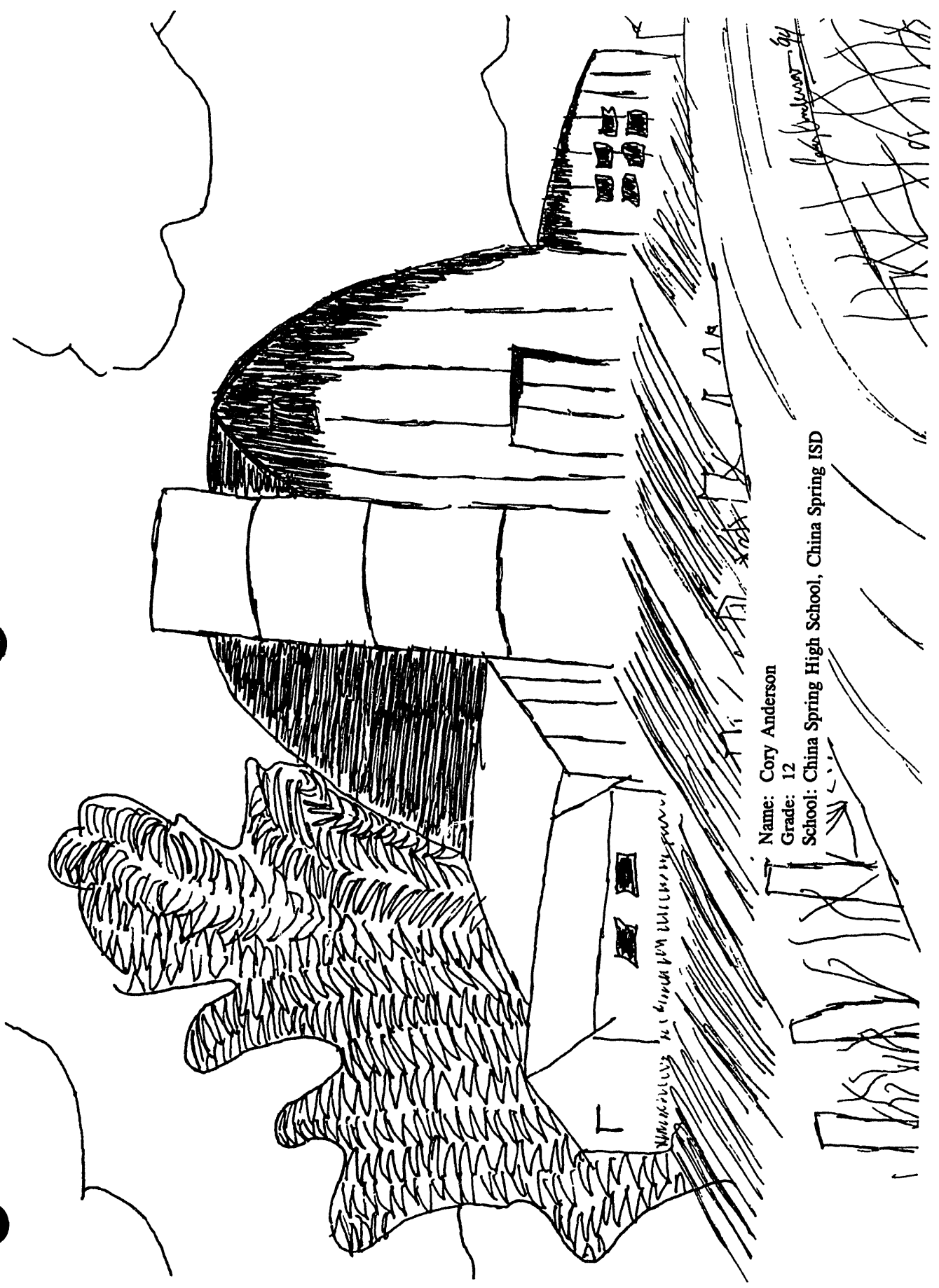
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THE WORLD IS
GROWING FOR HELP



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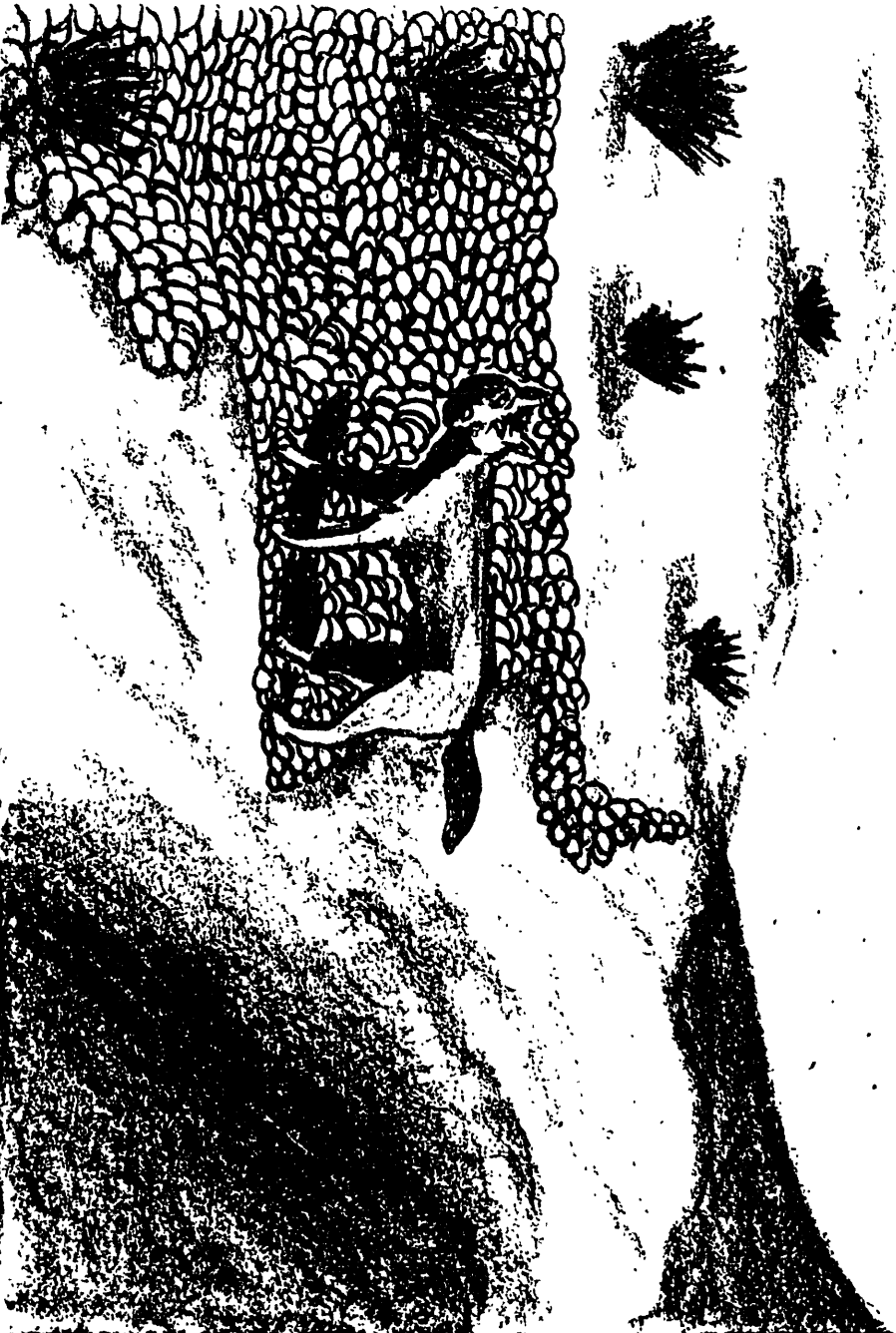
Lee Ann Roe 1971



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Grade: 12

School: China Spring High School, China Spring ISD

Cory Anderson '04



Name: Chris Nelson
Grade: 12
School: Dickinson High School, Dickinson ISD

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by Government Code, §571.031, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Texas Ethics Commission

Opinions

AOR-273. The Texas Ethics Commission has been asked to consider whether contributions from a nonprofit corporation given to an officeholder for the purpose of sending a newsletter to residents of the officeholder's district must be reported under Title 15 of the Election Code.

AOR-274. The Texas Ethics Commission has been asked to consider whether members of the Psychological Associate Advisory Committee are "state officers" for purposes of the Government Code, Chapter 572.

AOR-275. The Texas Ethics Commission has been asked to consider whether a judge may use political contributions to pay a

person (not a state employee) to assist the judge in the preparation of his thesis required for a Masters of Law in the Judicial Process.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on January 4, 1995.

TRD-9500117

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: January 5, 1995



AOR-276. The Texas Ethics Commission has been asked to consider whether contributions to a fund to be used for the purpose of paying for a private lawsuit seeking to

overturn federal control over Texas prisons are subject to Title 15 of the Election Code.

AOR-277. The Texas Ethics Commission has been asked to consider whether Title 15 of the Election Code permits a candidate or officeholder to contribute political contributions to the state.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

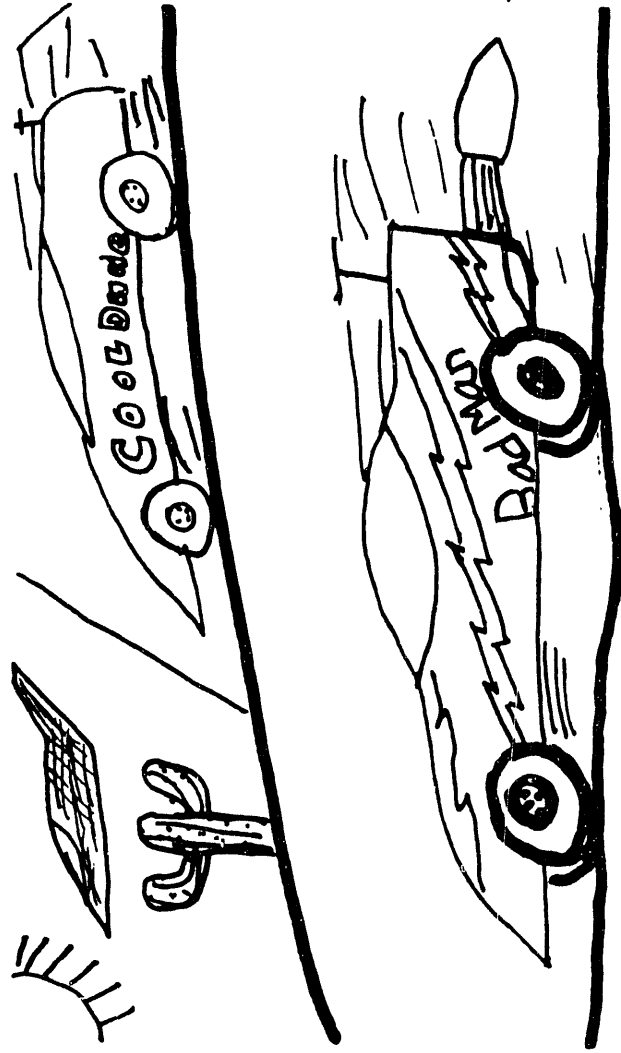
Issued in Austin, Texas, on January 5, 1995.

TRD-9500220

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: January 6, 1995





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PROPOSED RULES

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 action is 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 action, 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 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 5. Quarantines

Sweet Potato Weevil Quarantine

• 4 TAC §5.62, §5.63

The Texas Department of Agriculture (the department) proposes amendments to §5.62 and §5.63, concerning the sweet potato weevil quarantine. The amendment to §5.62 is proposed to clarify the designated weevil-free areas of Texas. The amendment to §5.63 is proposed in order to remove Merced and Stanislaus counties located in the state of California, from the list of sweet potato weevil regulated areas, and to add to the list the sweet potato weevil regulated areas within the state of Texas making this section consistent with the proposed amendment to §5.62. An official sweet potato weevil eradication program has eliminated the weevil in Merced and Stanislaus counties. The department has determined that since the introduction of the sweet potato weevil into Texas from Merced and Stanislaus counties is unlikely, the counties should be removed from the list of regulated areas under the sweet potato weevil quarantine.

Danny Johnson, coordinator, quarantine programs, 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. Johnson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be additional sweet potato growing areas from which weevil-free sweet potatoes may be purchased and a clearer description of areas in Texas regulated for the sweet potato weevil. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Danny Johnson, Coordinator, Quarantine Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Com-

ments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Agriculture Code, §71.003, which provides the Texas Department of Agriculture with the authority to establish quarantines in areas surrounding pest free zones, and under §71.001, which provides the Texas Department of Agriculture with the authority to establish quarantines against out-of-state diseases and pests.

The Texas Agriculture Code, Chapter 71 is affected by the proposed amendments.

§5.62. Texas Weevil-Free Area. The Texas weevil-free areas are all areas within the state of Texas not designated in §5.63 (relating to Regulated Areas). [area is as follows:] [The counties of Andrews, Armstrong, Archer, Brewster, Bailey, Borden, Bosque, Briscoe, Baylor, Brown, Bowie, Culbertson, Castro, Cochran, Carson, Crane, Crosby, Concho, Collingsworth, Crockett, Childress, Cottle, Coke, Callahan, Coleman, Comanche, Clay, Cook, Collin, Cass, Camp, Dallam, Deaf Smith, Dawson, Donley, Dickens, Denton, Dallas, Delta, El Paso, Ector, Eastland, Erath, Ellis, Floyd, Fisher, Foard, Fannin, Franklin, Gaines, Garza, Glasscock, Gray, Grayson, Gregg, Gillespie, Hudspeth, Hockley, Hartley, Hill, Hansford, Hutchinson, Hamilton, Howard, Hale, Hemphill, Hall, Hardeman, Haskell, Hood, Henderson, Hunt, Hopkins, Harrison, Irion, Jack, Johnson, Jeff Davis, Jones, Kaufman, Kimble, Kent, King, Knox, Loving, Leon, Lamb, Lubbock, Lynn, Lipscomb, Lamar, Limestone, Llano, Mills, Mason, Moore, Marion, Martin, McCulloch, McLennan, Menard, Midland, Motley, Mitchell, Montague, Morris, Nolan, Navarro, Oldham, Ochiltree, Potter, Parmer, Palo Pinto, Parker, Panola, Pecos, Presidio, Reeves, Roberts, Reagan, Randall, Robertson, Runnels, Rockwall, Rains, Red River, San Saba, Sherman, Schleicher, Smith, Sutton, Swisher, Sterling, Stonewall, Scurry, Shackelford, Stephens, Somervell, Terry, Taylor, Throckmorton, Tarrant, Terrell, Titus, Tom Green, Upshur, Upton, Van Zandt, Wood,

Ward, Winkler, Wheeler, Wilbarger, Wichita, Wise, Yoachum, and Young.]

§5.63. Regulated Areas. The regulated areas are as follows:

[(a) The regulated areas within the state of Texas are all areas not designated in §5.62 (relating to Texas Weevil-Free Area).]

[(b) The regulated areas outside the state of Texas are as follows:]

(1) (No change.)

(2) Arkansas. Ouachita County. [Florida. Entire state.]

(3) Florida. Entire state. [Georgia. Appling, Bacon, Brooks, Bryan, Camden, Chatham, Colquitt, Cook, Decatur, Dougherty, Echols, Grady, Glynn, Liberty, Lowndes, McIntosh, Pierce, Thomas, Ware, and Wayne.]

(4) Georgia. Appling, Bacon, Brooks, Bryan, Camden, Chatham, Colquitt, Cook, Decatur, Dougherty, Echols, Grady, Glynn, Liberty, Lowndes, McIntosh, Pierce, Thomas, Ware, and Wayne. [Louisiana. Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, East Baton Rouge, Evangeline, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, Statutes Bernard, Statutes Charles, Statutes James, Statutes John the Baptist, Statutes Helena, Statutes Landry, Statutes Martin, Statutes Mary, Statutes Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, West Feliciana.]

(5) Louisiana. Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, East Baton Rouge, Evangeline, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafourche, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, Saint [Statutes] Bernard, Saint [Statutes] Charles,

Saint [Statutes] James, Saint [Statutes] John the Baptist, Saint [Statutes] Helena, Saint [Statutes] Landry, Saint [Statutes] Martin, Saint [Statutes] Mary, Saint [Statutes] Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, West Feliciana. [Mississippi. Adams, Copiah, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Lawrence, Lincoln, Marion, Pearl River, Perry, Pike, Simpson, Smith, Stone, and Walthall.]

(6) Mississippi. Adams, Copiah, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Lawrence, Lincoln, Marion, Pearl River, Perry, Pike, Simpson, Smith, Stone, and Walthall. [South Carolina. Beaufort, Charleston, and Jasper.]

(7) South Carolina. Beaufort, Charleston, and Jasper. [Arkansas. Ouachita County.]

(8) Texas. Anderson, Angelina, Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Brazoria, Brazos, Brooks, Burleson, Burnet, Caldwell, Calhoun, Cameron, Chambers, Cherokee, Colorado, Comal, Coryell, DeWitt, Dimmitt, Duval, Edwards, Falls, Fayette, Fort Bend, Freestone, Frio, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Hidalgo, Houston, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kinney, Kleberg, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Live Oak, Madison, Matagorda, Maverick, McMullen, Medina, Milam, Montgomery, Nacogdoches, Newton, Nueces, Orange, Panola, Polk, Real, Refugio, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Starr, Travis, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala. [California. Merced County and Stanislaus County.]

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

Issued in Austin, Texas, on January 5, 1995.

TRD-9500176

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: February 13, 1995

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

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 6. State Records

Standards and Procedures for Management of Electronic Records

• 13 TAC §§6.91-6.98

The Texas State Library and Archives Commission proposes amendments to §§6.91-6.98 concerning standards and procedures for the management of electronic records of state agencies. Amendments are proposed to §6.91 to remove distinctions between records of varying retention periods, as these distinctions serve no purpose in the context of the requirements of these sections. Amendments are proposed to §6.96(b)(1)(B) and §6.98(c) to set out in full, rather than by reference, requirements concerning temperature and humidity requirements for the storage of optical disks and the expungement of information from a certain type of optical disk. Amendments are proposed in all sections to remove references to local governments in order to make these sections language specific to state agencies. Simultaneous amendments are being proposed to §§7.71-7.78 of 13 TAC to remove references to state agencies to make those sections language specific to local governments. An amendment is proposed to §6.96(g)(4) to establish a standard for the scanning of microfilm.

William L. Dyess, director, State and Local Records Management Division, has determined that for the first five year period the sections are in effect there will no fiscal implications for state and local government as a result of enforcing or administering the sections.

Mr. Dyess has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the sections will be that the requirements are more clearly stated and accessible to state agency officials. All amendments are proposed as the result of comments received from those whom the sections affect. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Michael Heskett, Policy and Program Development Manager, State and Local Records Management Division, Texas State Library, P.O. Box 12927, Austin, TX 78711-2927, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Government Code, §441.032(b)(1) and §441.037(5), which provides the Texas State Library and Archives Commission with the authority to manage all state records with the cooperation of the heads of the various de-

partments and institutions in charge of the records and to issue rules, standards, and procedures for the efficient management of state records.

The Government Code, §§441.032(b)(1) and 441.037(5), are affected by the proposed amendments.

§6.91. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. [For local governments, terms not defined in these rules shall have the meanings defined in the Local Government Code, Title 6, Subtitle C, Chapter 201. For state agencies.] Terms [terms] not defined in these sections [rules] shall have the meanings defined in the Government Code, §§441.031-441.039 and §§441.051-441.062.

AIIM—The Association for Information and Image Management.

ANSI—The American National Standards Institute.

Archival record—A record of a state agency scheduled to be reviewed by or that has been approved by an archives for permanent preservation.

Database—

(A) collection of digitally stored data records;

(B) collection of data elements within records within files that have relationships with other records within other files.

Database Management System (DBMS)—Set of programs designed to organize, store, and retrieve machine-readable information from a computer-maintained database or data bank.

Data file—Related numeric, textual, sound, or graphic information that is organized in a strictly prescribed form and format.

Electronic media—All media capable of being read by a computer including computer hard disks, magnetic tapes, optical disks, or similar machine-readable media.

Electronic record—Any information that is recorded in a form for computer processing and that satisfies the definition of a state record in the Government Code, §441.031(5), or the definition of local government record data in the Local Government Code, §205.001.

Electronic records system—Any information system that produces, manipulates, and stores state [or local government] records by using a computer.

IEC—International Electrotechnical Commission.

ISO—International Organization for Standardization.

Long-term record—A record for which the retention period on a records

retention schedule is 100 years or more but less than permanent.

[Medium-term record—A record for which the retention period on a records retention schedule is ten years or more but less than 100 years.]

Records administrator—The person appointed by the head of each state agency to act as the agency's representative in all issues of records management policy, responsibility, and statutory compliance.

[Records custodian—The appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

[Records management officer—Each elected county officer or the person designated by the governing body of each local government pursuant to the Local Government Code, §203.025.

[Short-term record—A record for which the retention period on a records retention schedule is less than ten years.

[Permanent record—A record for which the retention period on a records retention schedule is permanent.]

Text documents—Narrative or tabular documents, such as letters, memorandums, and reports, in loosely prescribed form and format.

§6.92. General.

(a) These sections [rules] establish the minimum requirements for the maintenance, use, retention, and storage of:

(1) any electronic record of a state agency whose retention period on the agency's records retention schedule, certified under §6.4 of this title (relating to Certification of Records Retention Schedules and Amendments), is ten years or more;

(2) any electronic record of a state agency whose retention period on the Texas State Records Retention Schedule, adopted under §6.10 of this title (relating to Texas State Records Retention Schedule), is ten years or more, if the agency does not have a certified records retention schedule; and

(3) any archival electronic record of a state agency [all medium-term, long-term, and permanent electronic records of state agencies and local governments. These rules do not apply to short-term electronic records, but the short-term electronic records of local governments are subject to the applicable provisions of the Local Government Code, Chapter 205].

(b) (No change.)

(c) An electronic storage authorization request certifying that the requirements of these sections [rules] will be

followed must be submitted to and approved by the director and librarian for all existing electronic storage [of medium-term, long-term, and permanent state or local government records and state archival records], and before any new electronic storage, of [medium-term, long-term, and permanent state or local government] records subject to this section [and state archival records]. The authorization request must be submitted in a form and manner to be determined by the director and librarian and must be signed by the agency head or designated records administrator [(for state agencies), or the records management officer (for local governments)].

(d) The agency head or designated records administrator [(for state agencies), and the governing body or records management officer in cooperation with records custodians (for local governments)] must:

(1)-(7) (No change.)

(e) With the exception of subsections (c) and (f) of this section, which are effective immediately, state agencies and local governments must be in compliance with the standards and procedures for electronic records on or before January 2, 1995.]

(e)(f) Any electronic recordkeeping system not meeting the provisions of these sections [rules] may be utilized for [medium-term, long-term, or permanent state or local government records and state archival] records subject to this section provided the source document, if any, or a paper copy is maintained, or the record is microfilmed in accordance with the specifications in *American National Standard for Imaging Media (Film) - Silver-Gelatin Type-Specifications for Stability* (ANSI IT9. 1-1992 [1989 or latest revision]) [for state records or in accordance with the provisions of Local Government Code, Chapter 204, and the rules adopted under it for local government records].

§6.93. Creation and Use of Data Files.

(a) (No change.)

(b) State agencies [and local governments] must maintain up-to-date technical documentation for each electronic records system that produces, uses, and stores data files. Minimum documentation required is:

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

§6.94. Creation and Use of Text Documents.

(a) Electronic records systems that maintain the official file copy of text documents or data used to generate the official file copy of text documents on electronic media must meet the following minimum requirements:

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

(3) provide a standard interchange format when determined to be necessary by the agency [or local government] to permit the exchange of documents on electronic media among the components of the agency [or local government] using different software/operating systems; and

(4) (No change.)

(b) (No change.)

§6.95. Security of Electronic Records.

(a) State agencies [and local governments] must implement and maintain an electronic records security program or office and storage areas that:

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

(b) (No change.)

(c) For all [permanent] records stored on rewritable electronic media whose retention period is permanent, the system must ensure that read/write privileges are controlled and that an audit trail of rewrites is maintained.

§6.96. Maintenance of Electronic Records Storage Media.

(a) State agencies [and local governments] must ensure that the accuracy, completeness, and accessibility of information are not lost prior to its authorized destruction date because of changing technology or media deterioration, by converting electronic storage media and taking other action as required to provide compatibility with current hardware and software. The migration strategy for upgrading equipment as technology evolves must be documented and include:

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

(b) Paragraphs (1)-(3) of this section outline the maintenance of backup electronic media stored offsite.

(1) (No change.)

(2) The storage areas for electronic media must be maintained within the following temperatures and relative humidities.

(A) (No change.)

(B) for optical disks—14 degrees Fahrenheit to 122 degrees Fahrenheit, and 10% to 90% relative humidity [storage environmental conditions as specified in *Information technology-130 mm optical disk cartridge, write once, for information interchange* (ISO/IEC 9171-1, 1990 or latest revision)].

(3) (No change.)

(c) State agencies [and local governments] must recopy data maintained on electronic media according to the following schedule.

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

(d) Floppy disks (diskettes) or any type of flexible disk system may not be used for the exclusive storage of [medium-term, long-term, or permanent records and state archival] records subject to these sections.

(e) (No change.)

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

(f) (No change.)

(1)-(10) (No change.)

(g) The following standards must be met for electronic records stored as digital images on optical media.

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

(4) Scanner quality must be evaluated based on the standard procedures in *American National Standard for Information and Image Management-Recommended Practice for Quality Control of Image Scanners* (ANSI/AIIM MS44-1988 [or latest revision]) and *American National Standard for Information and Image Management-Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners* (ANSI/AIIM MS49-1993).

(5)-(11) (No change.)

(h) (No change.)

§6.97. Retention of Electronic Records.

(a) State agencies [and local governments] must establish policies and procedures to ensure that electronic records and any software, hardware, and/or documentation, including maintenance documentation, required to retrieve and read the electronic records are retained as long as the approved retention period for the electronic records.

(b) (No change.)

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

(c) State records having archival value and scheduled to be preserved at the State Archives must be transferred to the State Archives as the source document, or printed out on alkaline paper for computer generated information, or on microforms that meet the specifications in *American National Standard for Imaging Media (Film)-Silver-Gelatin Type-Specifications for Stability* (ANSI IT9.1-1992[1989 or latest revision]).

§6.98. Destruction of Electronic Records.

(a) Electronic records may be destroyed only in accordance with a records

retention schedule approved by the director and librarian and the state auditor [or designee] or, in lieu of an approved records retention schedule, an approved records disposition authorization request.

(b) Each state agency [and local government] must ensure that:

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

(c) The following requirements must be met for the court ordered expungement of information recorded on an optical Write-Once-Read-Many (WORM) system:

(1) Two methods are allowed for expunging information from a WORM disk:

(A) the information may be overwritten to obliterate the original image, leaving no evidence of the original information, or;

(B) all of the indices, pages, or documents on a disk, other than the expunged document(s), must be rewritten to a new disk and the old disk must be physically destroyed.

(2) In cases where a complete page or record is expunged, all reference to the page or record must be removed from the index. If the index has been copied, the index must be recopied after the reference to the page or record has been removed.

(3) Copies of the original WORM disk and copies of the information removed by expungement must be destroyed or changed to reflect the court order. All copies of the record, index, or reference to the original unrevised information on WORM disk copies or copies in any other media must be destroyed [The court ordered expungement of information recorded on an optical write-once-read-many (WORM) system must be implemented according to the recommendations provided in Technical Report for Information and Image Management-The Expungement of Information Recorded on Optical Write-Once-Read-Many (WORM) Systems (AIIM TR28-1991 or latest revision)].

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

Issued in Austin, Texas, on January 4, 1995.

TRD-9500081

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: February 13, 1995

For further information, please call: (512) 463-5460

Chapter 7. Local Records

Standards and Procedures for Management of Electronic Records

• 13 TAC §§7.71-7.78

The Texas State Library and Archives Commission proposes amendments to §§7.71-7.78, concerning standards and procedures for the management of electronic records of local governments. Amendments are proposed to §7.71 to remove distinctions between records of varying retention periods, as these distinctions serve no purpose in the context of the requirements of these sections. Amendments are proposed to §7.76(b)(2)(B) and §7.78(c) to set out in full, rather than by reference, requirements concerning temperature and humidity requirements for the storage of optical disks and the expungement of information from a certain type of optical disk. Amendments are proposed in all sections to remove references to state agencies in order to make these sections language specific to local governments. Simultaneous amendments are being proposed to §§6.91-6.98 of 13 TAC to remove references to local governments to make those sections language specific to state agencies. An amendment is proposed to §7.76(g)(4) to establish a standard for the scanning of microfilm.

William L. Dyess, director, State and Local Records Management Division, has determined that for the first five year period the sections are in effect there will no fiscal implications for state and local government as a result of enforcing or administering the sections.

Mr. Dyess has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the sections will be that the requirements are more clearly stated and accessible to local government officials. All amendments are proposed as the result of comments received from those whom the sections affect. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Michael Heskett, Policy and Program Development Manager, State and Local Records Management Division, Texas State Library, P.O. Box 12927, Austin, Texas 78711-2927, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Local Government Code, §205.003(a), which provides the Texas State Library and Archives Commission with the authority to adopt rules establishing standards and procedures for the electronic storage of local government records.

The Local Government Code, §205.003, is affected by the proposed amendments.

§7.71. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. [For local governments,] Terms [terms] not defined in these sections [rules] shall have the meanings defined in the Local Government Code, Title 6, Subtitle C, Chapter 201. [For state agencies, terms not defined in these rules shall have the meanings defined in the Government Code, §§441.031-441.039 and §§441.051-441.062.]

AIIIM—The Association for Information and Image Management.

ANSI—The American National Standards Institute.

[Archival record]—A record of a state agency scheduled to be reviewed by or that has been approved by an archives for permanent preservation.]

Database—

(A) collection of digitally stored data records;

(B) collection of data elements within records within files that have relationships with other records within other files.

Database Management System (DBMS)—Set of programs designed to organize, store, and retrieve machine-readable information from a computer-maintained database or data bank.

Data file—Related numeric, textual, sound, or graphic information that is organized in a strictly prescribed form and format.

Electronic media—All media capable of being read by a computer including computer hard disks, magnetic tapes, optical disks, or similar machine-readable media.

Electronic record—Any information that is recorded in a form for computer processing and that satisfies the definition of [a state record in the Government Code, §441.031(5), or the definition of] local government record data in the Local Government Code, §205.001.

Electronic records system—Any information system that produces, manipulates, and stores [state or] local government records by using a computer.

[IEC]—International Electrotechnical Commission.

[ISO]—International Organization for Standardization.

[Long-term record]—A record for which the retention period on a records retention schedule is 100 years or more but less than permanent.

[Medium-term record]—A record for which the retention period on a records retention schedule is ten years or more but less than 100 years.]

[Records administrator]—The person appointed by the head of each state agency

to act as the agency's representative in all issues of records management policy, responsibility, and statutory compliance.]

Records custodian—The appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

Records management officer—Each elected county officer or the person designated by the governing body of each local government pursuant to the Local Government Code, §203.025.

Short-term record—A record for which the retention period on a records retention schedule is less than ten years.

[Permanent record]—A record for which the retention period on a records retention schedule is permanent.]

Text documents—Narrative or tabular documents, such as letters, memorandums, and reports, in loosely prescribed form and format.

§7.72. General.

(a) These sections [rules] establish the minimum requirements for the maintenance, use, retention, and storage of any electronic record of a local government whose retention period is ten years or more on a records retention schedule adopted under §7.125 of this title (relating to Records Retention Schedules) [all medium-term, long-term, and permanent electronic records of state agencies and local governments, and archival electronic records of state agencies]. These sections [rules] do not apply to [short-term] electronic records with retention periods of less than ten years, but they [the short-term electronic records of local governments] are subject to the applicable provisions of the Local Government Code, Chapter 205.

(b) (No change.)

(c) An electronic storage authorization request certifying that the requirements of these sections [rules] will be followed must be submitted to and approved by the director and librarian for all existing electronic storage [of medium-term, long-term, and permanent state or local government records and state archival records], and before any new electronic storage, of [medium-term, long-term, and permanent state or local government] records subject to this section [and state archival records]. The authorization request must be submitted in a form and manner to be determined by the director and librarian and must be signed by the [agency head or designated records administrator (for state agencies), or the] records management officer [(for local governments)].

(d) The [agency head or designated records administrator (for state agencies),

and the] governing body of a local government and [or] its records management officer in cooperation with records custodians [(for local governments)] must:

(1) (No change.)

(2) integrate the management of electronic records with other records and information resources management programs [of the agency];

(3) incorporate electronic records management objectives, responsibilities, and authorities in pertinent [agency] directives;

(4)-(7) (No change.)

[(e) With the exception of subsections (c) and (f) of this section, which are effective immediately, state agencies and local governments must be in compliance with the Standards and Procedures for Electronic Records on or before January 2, 1995.]

[(e)[(f)] Any electronic recordkeeping system not meeting the provisions of these sections [rules] may be utilized for [medium-term, long-term, or permanent state or local government records and state archival] records subject to this section provided the source document, if any, or a paper copy is maintained, or the record is microfilmed in accordance with the [specifications in *American National Standard for Imaging Media (Film) - Silver-Gelatin Type-Specifications for Stability* (ANSI IT9.1-1989 or latest revision) for state records or in accordance with the] provisions of Local Government Code, Chapter 204, and the rules adopted under it [(for local government records)].

§7.73. Creation and Use of Data Files.

(a) (No change.)

(b) [State agencies and] Local [local] governments must maintain up-to-date technical documentation for each electronic records system that produces, uses, and stores data files. Minimum documentation required is:

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

§7.74. Creation and Use of Text Documents.

(a) Electronic records systems that maintain the official file copy of text documents or data used to generate the official file copy of text documents on electronic media must meet the following minimum requirements:

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

(3) provide a standard interchange format when determined to be necessary by the [agency or] local government to permit the exchange of documents on

electronic media among the components of the [agency or] local government using different software/operating systems; and

(4) provide for the disposition of the documents [including, when necessary, the requirements for transferring archival records to the state archives as detailed in §7.77 of this title (relating to Retention of Electronic Records)].

(b) A document created on an electronic records system must be identified sufficiently to enable authorized personnel to retrieve, protect, and carry out the disposition of documents in the system. Local governments [Agencies] must ensure that records maintained in such systems can be correlated with related records on paper, microform, or other media.

§7.75. Security of Electronic Records.

(a) [State agencies and] Local [local] governments must implement and maintain an electronic records security program for office and storage areas that:

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

(b) (No change.)

(c) For all [permanent] records stored on rewritable electronic media whose retention period is permanent, the system must ensure that read/write privileges are controlled and that an audit trail of rewrites is maintained.

§7.76. Maintenance of Electronic Records Storage Media.

(a) [State agencies and] Local [local] governments must ensure that the accuracy, completeness, and accessibility of information are not lost prior to its authorized destruction date because of changing technology or media deterioration, by converting electronic storage media and taking other action as required to provide compatibility with current hardware and software. The migration strategy for upgrading equipment as technology evolves must be documented and include:

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

(b) Paragraphs (1)-(3) of this subsection outline the maintenance of backup electronic media stored offsite.

(1) (No change.)

(2) The storage areas for electronic media must be maintained within the following temperatures and relative humidities:

(A) (No change.)

(B) for optical disks-14 degrees Fahrenheit to 122 degrees Fahrenheit,

and 10% to 90% relative humidity [storage environmental conditions as specified in *Information technology-130 mm optical disk cartridge, write once, for information interchange* (ISO/IEC 9171-1, 1990 or latest revision)].

(3) (No change.)

(c) [State agencies and] Local [local] governments must copy data maintained on electronic media according to the following schedule.

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

(d) Floppy disks (diskettes) or any type of flexible disk system may not be used for the exclusive storage of [medium-term, long-term, or permanent records and state archival] records subject to these sections.

(e) (No change.)

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

(f) (No change.)

(1)-(10) (No change.)

(g) The following standards must be met for electronic records stored as digital images on optical media.

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

(4) Scanner quality must be evaluated based on the standard procedures in *American National Standard for Information and Image Management-Recommended Practice for Quality Control of Image Scanners* (ANSI/AIIM MS44-1988 [or latest revision]) and *American National Standard for Information and Image Management-Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners* (ANSI/AIIM MS49-1993).

(5)-(11) (No change.)

(h) (No change.)

§7.77. Retention of Electronic Records.

(a) [State agencies and] Local [local] governments must establish policies and procedures to ensure that electronic records and any software, hardware, and/or documentation, including maintenance documentation, required to retrieve and read the electronic records are retained as long as the approved retention period for the electronic records.

(b) (No change.)

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

[(c) State records having archival value and scheduled to be preserved at the State Archives must be transferred to the State Archives as the source document, or printed out on alkaline paper for computer generated information, or on microforms that meet the specifications in *American*

National Standard for Imaging Media (Film)-Silver-Gelatin Type-Specifications for Stability (ANSI IT9.1-1989 or latest revision).]

§7.78. Destruction of Electronic Records.

(a) Electronic records may be destroyed only in accordance with the Local Government Code, §202.001 [with a records schedule approved by the director and librarian or designee or, in lieu of an approved records schedule, an approved records disposition authorization request].

(b) Each [state agency and] local government must ensure that:

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

(c) The following requirements must be met for the court ordered expungement of information recorded on an optical Write-Once-Read-Many (WORM) system:

(1) Two methods are allowed for expunging information from a WORM disk:

(A) the information may be overwritten to obliterate the original image, leaving no evidence of the original information; or

(B) all of the indices, pages, or documents on a disk, other than the expunged document(s), must be rewritten to a new disk and the old disk must be physically destroyed.

(2) In cases where a complete page or record is expunged, all reference to the page or record must be removed from the index. If the index has been copied, the index must be recopied after the reference to the page or record has been removed.

(3) Copies of the original WORM disk and copies of the information removed by expungement must be destroyed or changed to reflect the court order. All copies of the record, index, or reference to the original unrevised information on WORM disk copies or copies in any other media must be destroyed [The court ordered expungement of information recorded on an optical write-once-read-many (WORM) system must be implemented according to the recommendations provided in *Technical Report for Information and Image Management-The Expungement of Information Recorded on Optical Write-Once-Read-Many (WORM) Systems* (AIIM TR28-1991 or latest revision)].

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

Earliest possible date of adoption: February 13, 1995

For further information, please call: (512) 463-5460

TITLE 22. EXAMINING BOARDS

Part IV. Texas Cosmetology Commission

Chapter 89. General Rules and Regulations

- 22 TAC §§89.15, 89.17, 89.20, 89.31, 89.33, 89.35, 89.39, 89.53, 89.55, 89.76

The Texas Cosmetology Commission proposes amendments to §89.15, concerning definition of license authorizations; §89.17, concerning instructor applicants; §89.20, concerning length of courses; §89.31, concerning examination; §89.33, concerning cosmetology instructor, manicure instructor, facial instructor exam; §89.35, concerning uniforms; §89.39, concerning new salon requirements; §89.53, concerning minimum requirements for both private and public cosmetology schools; §89.55, concerning refresher course; and §89.76, concerning minimum requirements for cosmetology school separate facility.

Dick Strader, Executive Director, Texas Cosmetology Commission, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Strader also has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to ensure that all certificate holders and licensees comply with the requirements of the rules of the commission. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rules as proposed.

Comments on the proposals may be submitted to Dick Strader, Texas Cosmetology Commission, P.O. Box 26700, Austin, Texas 78755-0700.

The amendments and new section are proposed under Texas Civil Statutes, Article 8451a, §4(a), which provide the Texas Cosmetology Commission with the authority to "issue rules consistent with this Act after a public hearing", to protect the public's health and welfare.

Texas Civil Statutes, Article 8451a, is affected by these proposed amendments.

§89.15. Definition of License Authorizations.

(a) Cosmetology Instructor License. A Cosmetology Instructor license authorizes the holder to instruct in any approved private cosmetology school, or program, and practice all phases of cosmetology in a beauty salon and any of the specialties in a licensed specialty salon. A photograph approximately 1 1/2 inches by 1 1/2 inches of the licensee shall be attached to the front of the license.

(b) Manicure Specialty Instructor License. A Manicure Specialty Instructor license authorizes the holder to instruct manicuring in any approved private cosmetology school, or program, and practice all phases of manicuring in a beauty salon or a licensed specialty salon. A photograph approximately 1 1/2 inches by 1 1/2 inches of the licensee shall be attached to the front of the license.

(c) Facial Specialty Instructor License. A Facial Specialty Instructor license authorizes the holder to instruct facials in any phase of an approved private cosmetology school, or program, and practice all phases of the application of Facial cosmetics, manipulations, eye tabbing, arches, lash and brow tints, and the temporary removal of superfluous hair by the use of depilatory, mechanical tweezers, or wax in a beauty salon and in a licensed specialty salon. A photograph approximately 1 1/2 inches by 1 1/2 inches of the licensee shall be attached to the front of the license.

(d)(b) Cosmetologist. A cosmetologist (operator) license authorizes the holder to practice all phases of cosmetology in a beauty salon or any specialties in a specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(e)(c) Wig Specialist. A wig specialist certificate authorizes the holder to practice wigging, or perform eye tabbing in a beauty or specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(f)(d) Manicurist. A manicurist license authorizes the holder to practice manicuring and pedicuring in a licensed beauty or specialty salon. A manicurist shall not treat or remove calluses, soft calluses, or ingrown nails. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(g)(e) Shampoo-Conditioning Specialist. A shampoo specialist certificate authorizes the holder to practice the art of shampooing, application of conditioners and rinses, scalp manipulation, and shampooing

hair goods in a licensed beauty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the certificate.

(h)(f) Facial Specialist. A facial specialist license authorizes the holder to practice facial, application of facial cosmetics, manipulations, eye tabbing, arches, lash and brow tints, and the temporary removal of superfluous hair by the use of depilatory, mechanical tweezers, or wax in a licensed beauty or specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(i)(g) Hairweaving Specialist. A hairweaving, specialist certificate authorizes the holder to practice the art of hairweaving in a licensed beauty or specialty salon. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the certificate. No other service may be performed. To do so will lead to revocation of a specialty certificate.

(j)(h) Temporary License. A temporary license authorizes the holder of a valid license from another state or nation to practice cosmetology in the State of Texas for 60 days while waiting for reciprocity clearance or waiting to take the Commission examination. A temporary license is not renewable. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the license.

(k)(i) Student Permit. A student permit authorizes the holder to practice cosmetology only in an approved school, and only after 10% of the required hours for graduation (150 hours for public school students) are accrued. A photograph of the licensee approximately 1 1/2 inches by 1 1/2 inches shall be attached to the front of the permit.

(l)(j) Corporate License or Permit Application:

(1) General. Each corporate applicant for any license or permit defined or listed in Article 8451a, Vernon's Annotated Civil Statutes, The Cosmetology Act, must certify, before the license or permit is issued, that its state franchise taxes are current. Corporations exempt from the payment of the franchise tax and out-of-state corporation must certify that they are exempt and specify the reason.

(2) A false statement regarding corporate franchise tax status will subject the corporation to suspension or cancellation of the license or permit.

(m)(k) Corporate Contractors Doing Business with the Cosmetology Commission:

(1) General. Each corporate contractor doing business with the Cosme-

tology Commission must certify, before the contract is executed, that its franchise taxes are current. Corporations exempt from the payment of the franchise tax and out-of-state corporation must certify that they are exempt and specify the reason.

(2) False Statements. A false statement regarding corporate franchise tax status will be treated as a material breach of contract and may be grounds for its cancellation at the option of the State.

(n) [(l)] Exemption. Persons licensed in this state to practice medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or nursing who practiced any phase of cosmetology as authorized in Texas Civil Statutes, Article 8451a, §39(2), concerning exemptions, may no longer continue this practice without a current license from the Texas Cosmetology Commission unless they are operating within the scope of their license.

§89.17. Instructor Applicants.

(a) Cosmetology Instructor Applicants. The student seeking an Instructor License must have a valid Operators license before re-entering a cosmetology school to complete 750 hours in methods of teaching the student, must provide a high school diploma, or a State of Texas recognized General Equivalency Diploma [GED equivalent] and a properly completed registration form prior to entering school. A person holding a current Operator license from this state or any other state that can verify two years of Operator experience in a licensed beauty salon may also qualify for the Instructor exam provided they complete 250 hours of student Instructor training in an approved school and meet the other Instructor requirements.

(b) Manicure Instructor Applicant. The student seeking a Manicure Instructor Specialty License must have a valid Operator or Manicure license before re-entering a cosmetology school to complete 750 hours in methods of teaching the student. The student must provide a high school diploma, or a State of Texas recognized General Equivalency Diploma, and a properly completed registration form prior to entering school. A person holding a current Operator or Manicure license from this state or any other state that can verify two years of Manicure experience in a licensed beauty salon or Manicure specialty salon, may also qualify for the Manicure Instructor exam provided they complete 250 hours of student Instructor training in an approved school and meet the other Instructor requirements.

(c) Facial Instructor Applicant. The student seeking a Facial Instructor Specialty License must have a valid Op-

erator or Facial license before re-entering a cosmetology school to complete 750 hours in methods of teaching the student. The student must provide a high school diploma or a State of Texas recognized General Equivalency Diploma, and a properly completed registration form prior to entering school. A person holding a current Operator or Facial license from this state or any other state that can verify two years of facial experience in a licensed beauty salon or facial specialty salon, may also qualify for the Facial Instructor exam provided they complete 250 hours of student Instructor training in an approved school and meet the other Instructor requirements.

§89.20. Length of Courses.

(a) Cosmetology Instructor. A Cosmetology Instructor course shall be 750 hours in an approved school or two years of licensed operator experience in this state or any other state plus, 250 hours of Instructor training in an approved school.

(b) Manicure Specialty Instructor. A Manicure Specialty Instructor course shall be 750 hours in an approved school or two years of licensed Manicure specialty experience in this state or any other state, plus 250 hours of Instructor training in an approved school.

(c) Facial Specialty Instructor. A Facial Specialty Instructor course shall be 750 hours in an approved school or two years of licensed Facial Specialty experience in this state or any other state, plus 250 hours of Instructor training in an approved school.

(d)[(b)] Operator. The operator course shall be 1,500 hours (1,000 hours plus 500 academic hours in a public high school) in an approved school in not less than nine months from date of enrollment.

(e)[(c)] Wig Specialist. A wig specialist course shall be for 300 hours in an approved school in not less than eight weeks from date of enrollment.

(f)[(d)] Shampoo-Conditioning Specialist. The shampoo specialist course shall be for 150 hours in an approved school in not less than four weeks from date of enrollment.

(g)[(e)] Facial Specialist. A facial specialist course shall be for 600 hours in an approved school.

(h)[(f)] Hairweaving Specialist. A hairweaving specialist course shall be for 300 hours in an approved school in not less than eight weeks from date of enrollment.

(i)[(g)] Manicurist. The manicuring course shall be for 250 hours in an approved school.

(j)[(h)] Hours. Once hours are accrued they will be valid for 48 months after withdrawal or graduation. After the 48 months, the student must appeal to the commission to revalidate the hours. The commission will review the student's status and/or approve the hours or assign additional refresher hours to be completed before the student can take or retake the exam.

(k) The hours earned by a student cannot be taken away from them; however, the commission can require refresher hours to make certain the student knowledgeable about the industry.

(l) Recommendations for approving validation of hours:

(1) over 48 months less than 60 months; 1 test or fail both parts 150 hours; did not appear 150 hours; 1 test, fail written or practical, 150 hours in area failed;

(2) over 60 months less than 72 months; 1 test or fail both parts, 250 hours; did not appear, 250 hours; 1 test fail written or practical, 200 hours in area failed;

(3) over 72 months less than 84 months; 1 test or fail both parts, 350 hours; did not appear 350 hours; 1 test fail written or practical, 300 hours in area failed;

(4) over 84 months less than 96 months, 1 test or fail both parts, 400 hours; did not appear, 400 hours, 1 test or fail written or practical, 350 hours in area failed;

(5) over 96 months less than 108 months; 1 test or fail both parts, 500 hours; did not appear, 500 hours, 1 test or fail written or practical, 450 hours in area failed;

(6) over 108 months less than 120 months, 1 test or fail both parts, 550 hours, did not appear, 550 hours; 1 test or fail written or practical, 500 hours in area failed;

(7) anything over 120 months, 600 hours in all areas.

(m) Add 50 hours for each time the student fails all or part of the exam after taking the exam one time. The student will be required to complete a 50 hour refresher course each time the exam is failed.

(n) If students have less than 1,000 hours that are over 40 months there is no additional refresher courses required.

(o) If students have more than 1,001 hours that are over 48 months, the student must take an additional 50 hours for each year or part of a year beyond 48

months. The time gap will be determined by the last month in attendance and the month of the appeal to the commission.

§89.31. *Examination.*

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

(e) The Cosmetology Commission may issue a temporary work permit to students who wish to work in a licensed beauty salon prior to taking the operator examination. To obtain a work permit the following guidelines will apply.

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

(4) The temporary work permit must be returned to TCC when the student comes to the commission office to take the exam. The commission may approve the work permit and allow the applicant an additional fifteen days while waiting for the result letter. [The temporary work permit must be turned in when the student appears on the exam floor, or the Commission may stamp the work permit on exam day and allow the applicant to work for 15 more days while they wait for their result letter and mail in their money order for licensing.]

(5) (No change.)

(6) The operator, facial, manicure, wig, hairweaving, and shampoo examinations are scored on a 2/3 practical and 1/3 written grade. The examinee must make a composite score of 75% to pass the examination.

§89.33. *Cosmetology Instructor, Manicure Instructor, Facial Instructor Exam* The Instructor exam shall consist of three parts, written, clinical, and oral. An applicant who fails to make a passing grade on any part of the exam must retake the failed portion of the exam within one year in order to receive credit for having successfully completed that portion. The evaluation of an applicant's performance on the Instructor examination by the examining staff shall be final. No requests for re-evaluation will be accepted by the staff or the Commission.

§89.35. *Uniforms.*

(a) (No change.)

(b) School employees, salon employees and independent contractors shall wear an attire of washable material with armpits and chest covered. Tank tops, lingerie, see-through fabrics, topless uniforms, and bare feet are not allowed.

(c) Applicants for a commission examination must appear in a lab coat, and black or white dress slacks or skirt, or an all white professional uniform.

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

(5) Shoes: (black or white, no combination), no heels over one inch tall. Must be clean and plain: no sandals, no boots, no demi-boots, no open-heeled, [or] open-toed shoes, or open side shoes, no high-topped tennis shoes. Any shoe which has loops or holes for laces must be laced. Slip-on style shoes are acceptable

§89.39. *New Salon.*

(a) (No change.)

(b) Beauty salon requirements.

(1) (No change.)

(2) Required equipment as follows:

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

(E) one wet disinfectant soaking container [sanitizer];

(F) one dry storage container [sanitizer or an EPA registered disinfectant/storage system].

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

(e) Facial salon requirements.

(1) (No change.)

(2) required equipment is as follows.

(A) (No change.)

(B) One wet disinfectant soaking container [sanitizer];

(C) one dry storage container [sanitizer or an EPA registered disinfectant/storage system];

(D)-(E) (No change.)

(3) (No change.)

(f) Manicurist salon requirements.

(1) (No change.)

(2) required equipment is as follows:

(A)-(C) (No change.)

(D) one wet disinfectant soaking container and one dry storage container [sanitizer or an EPA registered disinfectant/storage system] at each table; and

(E) (No change.)

(3) (No change.)

(g) Manicure/Facial specialty salon requirements.

(1) (No change.)

(2) Required facial equipment is as follows:

(A) (No change.)

(B) one wet disinfectant soaking container [sanitizer];

(C) one dry storage container [sanitizer or an EPA registered disinfectant/storage system]; and

(D) (No change.)

(3) (No change.)

(4) Required manicure equipment is as follows:

(A)-(C) (No change.)

(D) one wet disinfectant soaking container and one dry storage container [sanitizer or an EPA registered disinfectant/storage system at each table]; and

(E) (No change.)

(5) Each manicure/facial salon must have hot and cold running water within the facility.

(h) Wig salon requirements.

(1) required floor space shall be a minimum of 180 square feet for the first operator and not less than an additional 110 square feet of working, dispensary, and reception area for each operator, exclusive of rest rooms, utility, heating and/or cooling facilities and retail area.

(2) Required equipment as follows:

(A) mannequin table(s), styling stations, or styling bar to accommodate a minimum of ten hairpieces;

(B) one large sink with hot and cold running water;

(C) one wig dryer large enough to dry six hairpieces;

(D) one dry storage container;

(E) one wet disinfectant soaking container; and

(F) two large covered trash containers.

(i)(h) Licensed cosmetologists or specialists who are practicing as independent contractors must obtain the appropriate booth rental license

(j)(i) Salon licenses will be issued as a specialty salon with the notation which specialties are being practiced.

(k)(j) No cosmetology establishment shall, in any manner, represent or permit a representation to be made in its behalf that it is a barber shop, whether made by use of a display or device similar to a barber pole or otherwise. It may, however, advertise that services for males are available, with the exception of trimming and/or shaving beards or mustaches

§89.53. Minimum Requirements for Both Private and Public Cosmetology Schools.

(a) The following are the requirements for a private cosmetology school as authorized by the Texas Cosmetology Commission as approved on June 1, 1985.

(1)-(3) (No change)

(4) The Junior Department must contain the following

(A)-(E) (No change)

(F) at least one large wet disinfectant soaking container [sanitizer].

(5) The Senior Department must contain the following:

(A)-(F) (No change)

(G) wet disinfectant soaking container [sanitizer]

(6) -(7) (No change)

(8) The school shall have at least one dry storage container [sanitizer or an EPA registered disinfectant/storage system] [large enough to accommodate junior and senior departments].

(9)-(15) (No change.)

(b) The following are the requirements for a public school cosmetology program.

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

(5) The school equipment list shall contain:

(A)-(N) (No change.)

(O) one large wet disinfectant soaking container [sanitizer];

(P) one dry storage container[or EPA registered disinfectant/storage system] for disinfected implements.

(6)-(7) (No change)

§89.55 Refresher Course Schools of cosmetology may enroll applicants for the refresher course. A person who holds a valid Texas license may service clients in the school for a 60 calendar day period of time, once, every three years. The school may receive compensation for services performed by a student holding a valid Texas license; however, the student may not receive compensation

§89.76. Minimum Requirements for Cosmetology School Separate Facility

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

(d) The practical work area shall contain the following:

(1)-(19) (No change)

(20) at least one wet disinfectant storage container [sanitizer];

(21) at least one dry storage container [sanitizer or an EPA registered disinfectant/storage system].

(22)-(24) (No change.)

(e)-(r) (No change.)

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

Issued in Austin, Texas, on January 6, 1995

TRD-9500257

Dick G Strader
Executive Director
Texas Cosmetology
Commission

Earliest possible date of adoption: February 13, 1995

For further information, please call: (512) 454-4674

TITLE 28. INSURANCE
Part I. Texas Department of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association

• 28 TAC §5.4001

The Texas Department of Insurance proposes an amendment to §5.4001, the plan of operation of the Texas Catastrophe Property Insurance Association (TCPIA). Pursuant to

the Catastrophe Property Insurance Pool Act (Article 21.49 of the Insurance Code), the TCPIA was created by the Texas legislature in 1971 and is composed of all property insurers authorized to transact property insurance in Texas. The purpose of the TCPIA is to provide windstorm and hail insurance coverage to coastal residents who are unable to obtain such coverage in the voluntary market. Currently the TCPIA provides this coverage to residents of 14 coastal counties, including Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio and Willacy counties. The TCPIA petitioned for the publication and adoption of the proposed amendment pursuant to the Insurance Code, Article 21.49, §5, and the Administrative Procedure Act, §2001.021 (Government Code title 10, subtitle A, chapter 2001). The proposed amendment is necessary to update §5.4001 (hereafter referred to as the "plan of operation" or "the plan") to incorporate amendment to Article 21.49 of the Insurance Code enacted by the 72nd Texas Legislature in House Bill 2 and the 73rd Legislature in House Bill 1461 and to incorporate changes resulting from the adoption of certain Departmental administrative rules. Amendments are proposed throughout the plan of operation for technical editing purposes to correct words, phrases, definitions, internal references, gender references, and punctuation, to update statutory cites as a result of codification, to revise subsection headings; and to re-designate paragraphs, subparagraphs, clauses, subclauses, items and subitems where necessary. In addition, all references to "Board" or "State Board of Insurance" have been amended throughout the plan where necessary to reflect either the "Department" or "Commissioner," whichever term is appropriate in the context of the amended provision. The terms "Board" and "State Board of Insurance" are retained in those provisions that reference actions occurring prior to the elimination of the Board enacted in House Bill 1461 by the 73rd Legislature. These technical editing amendments have no substantive impact on the plan of operation. Proposed substantive amendments to subsection (a) of the plan include incorporating a definition of "indirect losses" based on the Insurance Code, Article 21.49, §8B. Subsection (b) is amended in paragraph (1)(C) to provide that the annual meeting of the TCPIA members shall be held at such time and place in March of each year as may be designated by the TCPIA board of directors. This amendment will allow flexibility to the TCPIA in scheduling and holding its annual meeting. Subsection (b)(2)(D), relating to the term of office of directors, is amended to conform to the Insurance Code, Article 21.49, §5(h), to provide that a person may hold a seat on the board of directors for not more than three consecutive full terms, not to exceed nine years. Subsection (b)(2)(M) is amended to provide that the executive committee shall consist of at least three, and not more than four, of the directors of the association (currently there are only three members, the chairman, vice chairman, and secretary-treasurer), and that the board of directors may elect an additional director to be a member of the executive committee to ensure

inclusion of at least one company, one agent and one public member on the executive committee Subsection (b)(3)(A), relating to number of officers of the TCPIA, is amended to conform this provision to the changes proposed to subsection (b)(2)(M) A new paragraph (4), relating to legal counsel for the TCPIA, is proposed to be added to subsection (b). This proposal is needed to comply with the requirements of §12A of Article 21 49 Section 12A provides that the TCPIA shall establish a plan in its plan of operation under which the TCPIA's legal representation before the Commissioner, the Department, and the Texas legislature is without conflict of interest or the appearance of a conflict of interest as defined in the Texas Disciplinary Rules of Professional Conduct Section 12A also requires the TCPIA to adopt procedures for legal counsel in the handling of disputes involving policyholder claims against the TCPIA. Amendments to subsection (b)(7), relating to indemnification of directors, members, officers, and employees, are proposed to provide that the indemnification shall include all costs as well as expenses as specified in that paragraph Other amendments to that paragraph provide that indemnification is not authorized for reasons of willful malfeasance or dishonesty in addition to those reasons already specified A new subparagraph is proposed to be added to subsection (c)(3), relating to distributions to members, to address the disbursement of funds from the catastrophe reserve trust fund, established under §8(i) of Article 21 49 pursuant to House Bill 1461 passed by the legislature in 1993 This proposal provides that the disbursement of these funds to the TCPIA may only be spent by the TCPIA to pay losses and loss adjustment expenses of policyholders in the event of an occurrence that results in insured losses and operating expenses of the TCPIA greater than \$100 million Subsection (c)(4)(E), relating to use of funds, is amended to provide that moneys collected or received by the TCPIA may be used to either pay premiums for reinsurance under a reinsurance program approved by the Commissioner or to make payment of net equity of a member to a catastrophe reserve trust fund held by the Department Subsection (d)(2)(E)(i), relating to receipt of the application for catastrophe insurance, is amended to delete language requiring a policy to be issued or the agent or applicant to be advised that the risk is not acceptable within 15 days after receipt of the application The 15 days provision is no longer needed since binders are automatically issued upon receipt of the application and the full amount of the premium Subsection (d)(E)(ii), relating to new or increased coverage, is amended to enable the TCPIA board of directors to approve mailing procedures other than those specified for applications and renewals Subsection (e)(2), relating to the code for windstorm resisting construction applicable to the area inland of the Intracoastal Canal, is amended to delete the reference to the application of the inland building code to properties protected by a seawall constructed by the Corps of Engineers or by other adequate structures or natural physical features of the terrain This is necessary because the inland building code no longer applies to these properties

Lyndon Anderson, associate commissioner, property and casualty program, has determined that for each year of the first five years the proposed amendment will be in effect, there will be no fiscal implications to state government Mr Anderson has also determined that for each year of the first five years the proposed amendment will be in effect, there will be no fiscal implications to local government nor to small business as a result of enforcing or administering the section, and there will be no effect on local employment or local economy

Mr Anderson has determined that for each year for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the section will be better and more efficient operation of the TCPIA and better service for TCPIA policyholders There will be no economic costs to any persons required to comply with the section as proposed

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to the Office of the Chief Clerk, Texas Department of Insurance, P O Box 149104, MC #113-2A, Austin, Texas, 78714-9104 An additional copy of the comment is to be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Group, Texas Department of Insurance, P O Box 149104, MC #103-1A, Austin, Texas, 78714-9104 Any request for a public hearing on this proposal should be submitted separately to the Office of the Chief Clerk

The amendment is proposed pursuant to the Insurance Code, Articles 21 49 and 1.03A, and the Government Code, §§2001 004 et seq, Article 21 49, §5(c) of the Insurance Code provides that the Commissioner of Insurance by rule shall adopt the TCPIA plan of operation with the advice of the TCPIA board of directors Section 5(f) of Article 21 49 provides that any interested person may petition the Commissioner to modify the plan of operation in accordance with the Administrative Procedure Act (Government Code title 10, subtitle A, chapter 2001) Article 21 49, §5, subsections (c) and (f), by their terms delegate the foregoing authority to the State Board of Insurance However, under Article 1 02 of the Insurance Code, as amended by the 73rd Texas Legislature in House Bill 1461 (Acts 1993, 73rd Legislature, Regular Session, chapter 685, §1 01), a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02 Article 1 03A, as enacted by the 73rd Texas Legislature in House Bill 1461 (Acts 1993, 73rd Legislature, Regular Session, chapter 685, §1 03), provides that the Commissioner of Insurance may adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute The Government Code, §§2001 004 et seq (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice setting forth the nature and require-

ment of available procedures and to prescribe the procedures for adoption of rules by a state agency

The following statute is affected by this rule Insurance Code, Article 21 49

§5 4001 Plan of Operation

(a) Definitions

(1) (No change)

(2) Definitions in the section.

The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise

(A)-(B) (No change)

(C) Association—The Texas Catastrophe Property Insurance Association.

(D) Board—The State Board of Insurance.

(E)[(C)] Board of directors—The board of directors of the Texas Catastrophe Property Insurance Association.

(F)[(D)] Catastrophe insurance—For the purpose of this plan of operation, means Texas windstorm and hail insurance.

(G)[(E)] Catastrophe loss—A loss to property insurance by a policy of Texas windstorm and hail insurance Catastrophe losses means more than one catastrophe loss.

(H)[(F)] Chair [Chairman] of the board—The chair [chairman] of the board of directors of the Texas Catastrophe Property Insurance Association.

(I) Commissioner—Commissioner of Insurance of the State of Texas.

(J)[(G)] Corporeal property—Tangible personal property

(K) Department—Texas Department of Insurance.

(L) Indirect losses—Personal Lines.

(i) Except as provided in clause (iii) of this subparagraph, a policy of windstorm and hail insurance issued by the association for a dwelling as defined by the Department in the associa-

tion's rates and rules manual, must include coverage for:

(I) wind-driven rain damage, regardless of whether an opening is made by the wind;

(II) loss of use, meaning additional living expenses; and

(III) consequential losses.

(ii) Except as provided in clause (iii) of this subparagraph, a policy of windstorm and hail insurance issued by the association for tenant contents of a dwelling or other residential building must include coverage for:

(I) loss of use, meaning additional living expenses; and

(II) consequential losses.

(iii) The association is not required to:

(I) offer coverage for indirect losses as provided in clauses (i) and (ii) of this subparagraph unless the coverage was excluded from a companion policy issued in the voluntary market; or

(II) provide loss of rents or loss of rental value coverage as part of a loss of use coverage or additional living expense coverage to a secondary or non-primary residence.

(M)[(H)] Member—An insurer required to be a member of the association by the Act, §4, or where the context indicates, any duly authorized agent or representative of such insurer. Members shall mean more than one member

(N)[(I)] Net direct premiums—

(i)[(iv)] For association policies with inception dates on and after January 1, 1993, "net direct premiums" shall mean all statewide direct written premiums (excluding direct written premiums in catastrophe area as designated by the Commissioner [State Board of Insurance]) and shall be the sum of the following:

(I) 90% of the direct written premiums of the extended coverage line of business and 90% of the direct written premiums on the other allied lines of business as reported in accordance with the

property statistical plan promulgated by the Commissioner [board] for property insurance, which the association shall obtain from the Department [board], and as may be furnished to the association by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary;

(II) 90% of the extended coverage and other allied lines portion of the direct written premiums on the multiple peril line of business as reported in accordance with the property statistical plan promulgated by the Commissioner [board] for property insurance, which the association shall obtain from the Department [board], and as may be furnished to the association by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary; and

(III) 50% of the direct written premium or such other percentage as may be determined by the board of directors of the association, without further action by the Commissioner [State Board of Insurance], upon analysis of appropriate statistics for wind, hail, water damage, and all other perils, on the homeowner's multiple peril line of business as reported in accordance with the property statistical plan promulgated by the Commissioner [board] for property insurance, which the association shall obtain from the Department [board], and as may be furnished to the association by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary and farm and ranch owners' multiple peril line of business as reported in accordance with the property statistical plan promulgated by the Commissioner [board] for property insurance, which the association shall obtain from the Department [board], and as may be furnished to the association by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary, provided, no adjustment of five percentage points or less shall be made, and further provided, that no adjustment shall be made in less than three years from the last prior adjustment;

(IV) the extended coverage and other allied lines portion of the following policies, which shall be calculated as follows:

(-a-) 40% of the total premium for any commercial policy issued under a composite rate; or

(-b-) 40% of the total policy premium or the combined actual extended coverage and other allied lines premium charged whichever is greater, for any property insurance policy written by an insurance company that is not authorized to transact property insurance in Texas, and which is affiliated under common management or control of an insurance company licensed to transact property insurance in Texas.

(ii)[(i)] For association policies with inception dates on and after January 1, 1988, through December 31, 1992, "net direct premiums" shall mean all statewide direct written premiums (excluding direct written premiums in the catastrophe area as designated by the State Board of Insurance) restored to manual level and further adjusted to the manual rate level applicable to the catastrophe area as designated by the State Board of Insurance and shall be the sum of the following:

(I) 90% of the direct written premiums of the extended coverage line of business and 90% of the direct written premiums on the other allied lines of business as reported in accordance with the property statistical plan promulgated by the Commissioner [board] for property insurance which the association shall obtain from the Department [board] and as may be furnished to the association by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary;

(II) 90% of the extended coverage and other allied lines portion of the direct written premiums on the multiple peril line of business as reported in accordance with the property statistical plan promulgated by the Commissioner [board] for property insurance, which the association shall obtain from the Department [board], and as may be furnished to the association by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary;

(III) 50% of the direct written premium or such other percentages as may be determined by the board of directors of the association, without further action by the Commissioner [State Board of Insurance], upon analysis of appropriate statistics for wind, hail, water damage, and all other perils, on the homeowner's multiple peril line of business as reported in accordance with the property statistical plan promulgated by the Commissioner [board] for property insurance, which the association shall obtain from the Department [board], and as may be furnished to the association

by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary and farm and ranch owners' multiple peril line of business as reported in accordance with the property statistical plan promulgated by the Commissioner [board] for property insurance, which the association shall obtain from the Department [board], and as may be furnished to the association by the Department [board] after review of the insurer's annual statement, other reports, and other statistics the Department [board] shall deem necessary, provided, no adjustment of five percentage points or less shall be made, and further provided, that no adjustment shall be made in less than three years from the last prior adjustment.

(IV) the extended coverage and other allied lines portion of the following policies, which shall not be restored to manual rate levels, and which shall be calculated as follows:

(-a-) [40% of the total policy premium for any commercial policy issued under the highly protected risk rating plan; or]

[(-b-)] 40% of the total policy premium or the combined actual extended coverage and other allied lines premium charged, whichever is the greater, for any commercial policy issued pursuant to the Insurance Code, Article 5.13-2 or Article 5.26(c), or for policies issued pursuant to the Insurance Code, Article 5.31; or

(-b-)[-c-] 40% of the total policy premium or the combined actual extended coverage and other allied lines premium charged, whichever is greater, for any property insurance policy written by an insurance company that is not authorized to transact property insurance in Texas, and which is affiliated under common management or control of an insurance company licensed to transact property insurance in Texas.

(iii)[(ii)] For association policies with inception dates on and after December 31, 1987, through January 1, 1993, [through December 31, 1987,] inclusive, net direct premiums means the sum of the following premiums:

(I) 90% of the direct written premiums on the extended coverage line of business as reflected on line two, column (1), of the insurer's last Texas annual statement;

(II) 90% of the extended coverage portion of the direct written premiums on the multiple peril line of

business as reported on line eight, column (1), of the insurer's last Texas annual statement; and (III) 40% of the direct written premiums on the homeowners' multiple peril line of business as reported on line four, column (1), of the insurer's last Texas annual statement.

(iv)[(iii)] For association policies with inception dates on and after January 1, 1978, through December 31, 1982, inclusive, net direct premiums means the sum of the following premiums:

(I) 90% of the direct written premiums on the extended coverage line of business as reflected on line two, column (1), of the insurer's last Texas annual statement;

(II) 90% of the extended coverage portion of the direct written premiums on the multiple peril line of business as reported on line eight, column (1), of the insurer's last Texas annual statement; and (III) 40% of the direct written premiums on the homeowners' multiple peril line of business as reported on line four, column (1), of the insurer's last Texas annual statement.

(O)[(J)] Secretary-treasurer-The secretary-treasurer of the Texas Catastrophe Property Insurance Association.

(P)[(K)] Texas windstorm and hail insurance-Deductible insurance against direct loss and indirect losses resulting from a direct loss to insurable property as a result of windstorm or hail as such terms shall be defined and limited in policies and forms approved by the Commissioner [State Board of Insurance]. The deductible amount which shall be applied to all risks written by the association shall be determined by the board of directors and approved by the Commissioner [State Board of Insurance].

(Q)[(L)] Vice chair [chairman] or vice chair [chairman] of the board-The vice chair [chairman] of the board of directors of the Texas Catastrophe Property Insurance Association.

[(M)] Association-The Texas Catastrophe Property Insurance Association.

[(N)] Board-The State Board of Insurance of the State of Texas.]

(b) Operational [Operation] Procedures of the Texas Catastrophe Property Insurance Association.

(1) Members.

(A) (No change.)

(B) Notice of meetings. Written or printed notice stating the place, day, and hours of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than 50 days before the date of the meeting, either personally or by mail, by or at the direction of the chair [chairman] of the board of directors, the secretary-treasurer, or other person calling the meeting, to each member entitled to vote as such meeting.

(C) Meetings. The annual meeting of the members shall be held at such time and place [on the third Tuesday] in March of each year [at the hour of 9:00 a.m., or at such other hour] as may be designated by the board of directors, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. [If the day fixed for the annual meeting shall be on a legal holiday in the State of Texas, the meeting shall be held on the next succeeding business day.] If the election of directors shall not be held on the day designated [herein] for any annual meeting of the members, the board of directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be. The board of directors shall designate the place for the annual meeting of the members, but if no place is so designated, then the meeting shall be held at the office of the association. The board of directors, the chair [chairman] of the board of directors, or 25% of the members of the association may call a special meeting of the members and designate any place as the place of such meeting. If no such designation is made, the place of such meeting shall be the aforesaid office of the association.

(D) Quorum. Twenty-five percent of the members represented by person or by proxy shall constitute a quorum at a meeting of the members. If less than 25% of the members are represented at a meeting, a majority of the outstanding members so represented may adjourn the meeting from time to time without further notice. At the next meeting after adjournment at which a quorum shall be present or represented, any business may be transacted at the meeting as originally notified. The members represented at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough persons to leave less than a quorum.

(E) Voting.

(i) The secretary-treasurer of the association shall make, at least ten days before each meeting of the members of

the association, a complete list of the members entitled to vote at such meeting, arranged in alphabetical order, with the address of each member and the number of votes allocated to each member which list, for a period of ten days prior to such meeting, shall be kept on file at the principal office of the association and shall be subject to inspection by any member or its agent at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection by any member during the whole time of such meeting. Failure to comply with the requirements of this clause shall not affect the validity of any action taken at such meeting.

(ii) There shall be 1,000 outstanding votes allocated to the members of the association by the secretary-treasurer. The secretary-treasurer shall determine the percentage of each member's participation in the writings, expenses, profits, and losses of the association computed on the date of the end of the last calendar year preceding such annual meeting at which information necessary to make such computation is available from the Department [State Board of Insurance], and shall allocate to each member a like percentage of the total outstanding votes allocated to the members of the association. Each member shall be entitled to vote its allocated number of outstanding shares at the annual meeting and each special meeting until the next annual meeting of the association at which time the outstanding votes shall be again allocated to the members in the manner set forth previously.

(iii) A member may vote by proxy executed in writing by the member. No proxy shall be valid after the next annual meeting after the date of its execution unless otherwise provided in the proxy. Each proxy shall be revocable unless expressly provided therein to be irrevocable.

(iv) The votes allocated to a member may be voted by such officer, agent, or proxy as the bylaws of such member may authorize or, in the absence of such authorization, as such member may determine.

(v) Voting on any question or in any election may be by voice vote or by show of hands unless the presiding officer shall order, or any member shall demand, that voting be by written ballot.

(F) Rules. To the extent applicable, Robert's Rules of Order shall govern the conduct of and procedure at all meetings of the members.

(2) Directors.

(A) (No change.)

(B) Directors elected from the membership.

(i)-(ii) (No change.)

(iii) No later than 60 days prior to the annual meetings [occurring after March 1992], the chair [chairman] shall appoint a nominating committee of not less than three, nor more than seven, member companies, each to act through its designated representative, said committee to represent as far as possible the view of the member companies. Said committee shall prepare and present to member companies a list of nominations for the board of directors.

(iv) Members also have the right to nominate any member by submitting such nominee's name to the nomination committee. In order to be eligible for election to the board of directors, a member must be nominated at least 30 days prior to the annual meeting at which directors are elected.

(C) Directors appointed by the Commissioner [State Board of Insurance]. The number of directors composed of licensed local recording agents and members of the public shall be four. Each of these directors must be from different counties in the designated catastrophe area.

(i) The Commissioner [State Board of Insurance] shall appoint two public representatives nominated by the Office of the Public Insurance Counsel to serve on the board of directors. The public representatives shall be persons who are policyholders of the association as of the date of appointment.

(ii) The Commissioner [State Board of Insurance] shall appoint two licensed local recording agent representatives to serve on the board of directors.

(D) Term of office. Each director shall hold office for the term of three years from the date of the election or appointment or until a successor shall have been elected or appointed. The terms of the directors shall be staggered so that three directors shall be elected by the membership of the association and/or appointed by the Commissioner [State Board of Insurance] annually. A person may hold a seat on the board of directors for not more than three consecutive full terms, not to exceed nine years. [At the first annual meeting of the members subsequent to the adoption of this rule, five directors shall be elected by the membership and on or before the March 1992 annual meeting, the State Board of Insurance shall appoint the remaining four directors. Such directors shall draw lots to determine whether their initial

terms shall be one, two, or three years. If a director has served two full three-year terms, such member shall provide for a reasonable rotation of persons designated to serve on the board of directors.]

(E) Regular meetings. A regular meeting of the board of directors shall be held with notice to the directors at least ten days before each regular meeting as provided for in this subsection [herein]. Notice of any regular meeting of the directors shall also be given to the Department [Texas Department of Insurance] in care of the associate [deputy] commissioner of property-casualty, or such other person as may be designated by the Commissioner, as required by the Texas Insurance Code, Article 21.49, §5(k). Public notice of meetings shall be given as required by the Government Code, Chapter 551 [Texas Civil Statutes, Article 6252-17].

(F) Notice of regular or emergency meeting.

(i) Notice of any regular meeting shall be given to the directors at least ten days prior thereto by notice delivered personally or mailed to each director at his/her business address or by telegram, or such other reasonable means of notice to provide actual notice to each director. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed with postage thereon prepaid. If the notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. If the notice is by other reasonable means, the association shall maintain a written record of the method of notification. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice to the director of such meeting, except where a director attends a meeting for the express purpose of objection to the transaction of any business because the meeting is not lawfully called or convened.

(ii) In case of emergency or urgent public necessity, notice to directors and to the Department [Texas Department of Insurance] shall be given at least two hours before a meeting is convened. Notice to the public shall be given as required for an emergency meeting pursuant to the Government Code, §551.045 [Texas Civil Statutes, Article 6252-17, §3A].

(iii) (No change.)

(G) Regular or emergency meetings. Regular or emergency meetings of the board of directors may be called by the chair [chairman] of the board or at the

request of any two directors. The person or persons authorized to call a meeting of the board of directors may fix any place as the place for holding any meeting of the board of directors called by them. If no place is designated, then the office of the association shall serve as the place of such meeting.

(H) Statement of purpose of meeting required. The business to be transacted at, and the purpose of, any regular or emergency meeting of the board of directors shall be specified in the notice to directors and in notice required by statute as required by the Government Code, Chapter 551 [Texas Civil Statutes, Article 6252-17].

(I) (No change.)

(J) Presumption of assent. A director of the association who is present at the meeting of the board of directors at which action on any matter is taken shall be presumed to have assented to the action taken unless the director's [his] dissent shall be entered in the minutes of the meeting, or unless the director [he] shall file a [his] written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof, or shall forward such dissent by registered mail to the secretary of the association immediately after the adjournment of the meeting. Such right to dissent shall not be available to a director who voted in favor of such action.

(K) (No change.)

(L) General powers. The board of directors shall have the management of the business and affairs of the association and may exercise all of the powers herein enumerated and all other powers incidental or appropriate thereto, subject only to the restrictions imposed by law. Included among the powers of the board of directors, but not in limitation thereof, are the following:

(i)-(x) (No change.)

(M) Executive committee. An executive committee shall consist of three of the directors of the association comprised of the chair [chairman], vice-chair [chairman], and secretary-treasurer. At least one director appointed by the Commissioner [State Board of Insurance] must be elected as a member of the executive committee. To the extent provided by resolution or resolutions of the board of directors, the executive committee shall have and may exercise the powers delegated by the board of directors in the day-to-day administrative management of the association.

Such committee shall keep regular minutes of its proceedings and report the same to the board of directors. The delegation to a committee of authority consistent with this section shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed upon the board of directors [it] or member [him] by law.

(N) Vacancies:

(i) A particular directorship [director] shall be considered to be vacant upon the resignation of the member holding such directorship.

(ii) Any vacancy occurring in the directors elected from the membership may be filled at the next meeting of the board of directors following the occurrence of such vacancy. Subject to the provisions of subparagraph (B) of this paragraph [hereof], such vacancy shall be filled by the affirmative vote of a majority of the remaining directors elected from the membership though less than a quorum. A director elected to fill a vacancy shall be elected for the unexpired term of the [its] predecessor in such directorship.

(iii) Any vacancy occurring in the directors appointed by the Commissioner [State Board of Insurance] shall be filled by appointment of a new director in accordance with the provisions of subparagraph (C) of this paragraph [hereof].

(3) Officers.

(A) Number. The officers of the association shall be the chair [chairman] of the board of directors, the vice chair [chairman] of the board of directors, and the secretary-treasurer, all of whom shall be elected by the board of directors. No two offices may be held by the same person. The chair [chairman], vice-chair [chairman], and secretary-treasurer shall comprise the executive committee. At least one director appointed by the Commissioner [State Board of Insurance] must be elected as a member of the executive committee.

(B) Election and term of office. The officers of the association may be elected annually by the board of directors at the first meeting of the board of directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the officer's [his] successor shall have been duly elected and shall have qualified or until the officer's [his] death or until the officer [he] shall resign or shall have been otherwise removed. The board of directors

shall provide for a rotation of directors elected as officers at least every two years.

(C) Removal of officers [vacancies]. Any officer or agent elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interests of the association would be served thereby or otherwise in accordance with this section, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise may be filled by the board of directors for the unexpired portion of the term.

(D) Chair [chairman] of the board of directors. The chair [chairman] of the board of directors shall preside at all meetings of the members and at all meetings of the directors, appoint and discharge employees and persons representing the association subject to the approval of the directors, fix the compensation of employees and such representatives, make and sign contracts and agreements in the name of the association, and appoint committees. The chair [He] shall see that the books, reports, statements, and certificates are properly kept, made, and filed if necessary, and [he] shall generally do and perform all acts incident to the office of chair [chairman] of the board of directors or which may be authorized or required by law, by this section, or by the board of directors, not inconsistent herewith.

(E) Vice chair [chairman] of the board of directors. The vice chair [chairman] of the board of directors elected by the board of directors shall have such powers and shall perform such duties as shall be assigned [to him] by the board of directors not inconsistent herewith.

(F) Secretary-treasurer. The secretary-treasurer shall:

(i) (No change.)

(ii) see that all notices are duly given as required by the provisions of this plan of operation. In case of the secretary-treasurer's absence or refusal or neglect to give the required notice, such notice may be given at the direction of the chair [chairman] of the board of directors, of the directors, or of the members upon whose request the meeting is called;

(iii)-(v) (No change.)

(vi) have the custody of all funds, securities, evidences of indebtedness, and other valuable documents of the association, the secretary-treasurer [he] shall receive and give or cause to be given

receipts and acquittances for monies paid in on account of the association and shall pay out of the funds on hand all just debts of the association of whatever nature upon maturity of the same, he shall enter or cause to be entered in the books of the association to be kept for that purpose full and accurate accounts of all monies received and paid out on account of the association, and whenever required by the board of directors, he shall keep or cause to be kept such other books as would show a true record of the reserves, expenses, losses, gains, assets, and liabilities of the association; and

(vii) in general, perform all duties incident to the officer of secretary-treasurer and such other duties as from time to time may be delegated [to him] by the chair [chairman] of the board of directors or by the board of directors.

(4) Legal Counsel.

(A) Types of Representation. The association may engage one or more attorneys to provide the following:

(i) legal representation, in matters other than disputes involving policyholder claims, before the Commissioner, the Department and the Texas Legislature;

(ii) legal representation in any dispute involving a policyholder claim against the association; and

(iii) legal advice and assistance relating to any other matter within the authority and responsibility of the association.

(B) Legal Representation, in Matters Other than Disputes Involving Policyholder Claims, Before the Commissioner, the Department and the Texas Legislature.

(i) Selection. The association board of directors shall select, in accordance with this plan of operation, legal counsel to provide legal representation on behalf of the association, in matters other than disputes involving policyholder claims, before the Commissioner, the Department and the Texas Legislature.

(ii) Qualifications.

(I) To be engaged to provide such legal representation, an attorney must:

(-a-) be licensed to practice law in Texas for at least five years;

(-b-) maintain professional liability insurance with an insurer authorized to do business in

Texas in an amount of not less than \$1 million;

(-c-) be experienced in and practice primarily in the areas of insurance and administrative law;

(-d-) have no impermissible conflict of interest before representation is undertaken, in accordance with the Texas Disciplinary Rules of Professional Conduct adopted by the Texas Supreme Court and the Comments prepared by the Model Rules Committee of the State Bar of Texas and amended by Supreme Court Order (Government Code, Title 2, Subtitle G, Appendix A, Article 10, §9); and

(-e-) have never been suspended or disbarred from the practice of law or convicted of a felony.

(II) The board of directors of the association may adopt additional qualifying criteria for legal counsel representing the association in matters specified in this subparagraph by amending this plan of operation.

(iii) Conflict of Interest.

(I) In representing the association pursuant to this subparagraph, legal counsel shall be governed by the conflict-of-interest and the appearance-of-conflict-of-interest rules under the Texas Disciplinary Rules of Professional Conduct and the official Comments to these rules.

(II) A decision relating to a conflict of interest or appearance of a conflict of interest on the part of legal counsel under this subparagraph shall be based on the Texas Disciplinary Rules of Professional Conduct and the official Comments to these rules. No other laws or rules shall apply in determining the existence of conflict of interest or the appearance of conflict of interest under this plan of operation.

(III) Procedures for Handling Conflict of Interest Issues Raised by Legal Counsel.

(-a-) If legal counsel has reason to believe that legal counsel's representation of the association pursuant to this paragraph may result in a conflict of interest or the appearance of a conflict of interest, legal counsel shall immediately report, either verbally or in writing, such fact and the surrounding circumstances, including full disclosure of the existence, nature, implications, and possible adverse consequences of the

common representation and any advantages involved, to the chair of the board and the general manager and either:

(-1-) withdraw from such representation, or

(-2-) if the legal counsel believes that there will be no materially adverse effect upon the association by such representation, request the approval of the association board of directors for legal counsel to engage in such representation. Such request should not be made nor should representation be provided even with the association's consent, if a disinterested lawyer would conclude that the association should not agree to the representation.

(-b-) After review of all disclosed facts relating to the potential conflict of interest or appearance of conflict of interest, if the board of directors approve legal counsel's request to continue representation in the matter reported and the legal counsel also believes that there will be no materially adverse effect upon the association by such representation, the legal counsel may continue such representation.

(-c-) The chair of the board and the general manager shall prepare the written decision of the board of directors as to continued representation or denial of continued representation in such matter together with the reasons for that decision and file the written decision with the association's official records and forward a copy of the decision to legal counsel.

(IV) Procedures for Handling Conflict of Interest Issues Raised by Persons Other than Legal Counsel.

(-a-) If a member of the association's board, the chair of the board, or the general manager believe that representation by legal counsel in any matter pursuant to this subparagraph may result in a conflict of interest or the appearance of a conflict of interest, such person shall report the perceived conflict of interest or appearance of a conflict of interest to the chair of the board.

(-b-) The chair of the board shall contact legal counsel and request a meeting or a telephone conference with the board of directors and legal counsel to discuss such perceived conflict.

(-c-) During such meeting or teleconference the board of directors shall determine, in accordance with the Texas Disciplinary Rules of Pro-

Professional Conduct and the official Comments to these rules, whether a conflict of interest or the appearance of a conflict of interest exists and following such meeting or teleconference, the board of directors shall adopt and issue a written decision.

(-1-) If the board of directors determine that no conflict of interest or appearance of conflict of interest exists, the written decision shall state the reasons for such decision and that the legal counsel may continue to represent the association in the particular matter.

(-2-) If the board of directors determine that a conflict of interest exists, the written decision shall state the reasons for such decision and state either: that the legal counsel may not represent the association in the matter or that the board of directors consent to the representation by legal counsel and that legal counsel may represent the association in the matter so long as the legal counsel also believes that there will be no materially adverse effect upon the association by such representation.

(-d-) A written decision prepared under this subdivision shall be included in the official records of the association and a copy of the decision shall be forwarded to the legal counsel.

(iv) Review and Termination.

(I) The association's executive committee, together with the general manager of the association, shall review annually with the legal counsel the performance of such legal counsel and report their findings to the board of directors in executive session. Representation of the association by legal counsel may be terminated at any time by the board of directors.

(II) Legal counsel's service with the association may be terminated if legal counsel engaged in continual conflicts of interest and appearances of conflicts of interest as determined by the board of directors.

(III) Legal counsel's service may be terminated for any other reason as determined by the association's board of directors.

(C) Legal Representation in Any Dispute Involving a Policyholder Claim Against the Association.

(i) Selection. The general manager of the association shall select, in accordance with this plan of operation, legal counsel to represent the association in handling disputes involving policyholder claims against the association. Selection of legal counsel to represent the association in such disputes shall be made on a case-by-case basis.

(ii) Qualifications.

(I) To be engaged to provide such legal representation, an attorney must:

(-a-) be licensed to practice law in Texas for at least five years;

(-b-) maintain professional liability insurance with an insurer authorized to do business in Texas in an amount of not less than \$1 million;

(-c-) be experienced in the defense of claims against insurers;

(-d-) have no impermissible conflict of interest before representation is undertaken, in accordance with the Texas Disciplinary Rules of Professional Conduct adopted by the Texas Supreme Court and the Comments prepared by the Model Rules Committee of the State Bar of Texas and amended by Supreme Court Order (Government Code, Title 2, Subtitle G, Appendix A, Article 10, §9); and

(-e-) have never been suspended or disbarred from the practice of law or convicted of a felony.

(II) The board of directors of the association may adopt additional qualifying criteria for legal counsel representing the association in matters involving policyholder claims against the association by amending this plan of operation.

(iii) Conflict of Interest.

(I) In representing the association pursuant to this subparagraph, legal counsel shall be governed by the conflict-of-interest and the appearance-of-conflict-of-interest rules under the Texas Disciplinary Rules of Professional Conduct and the official Comments to these rules.

(II) A decision relating to a conflict of interest or appearance of a conflict of interest on the part of legal counsel under this subparagraph shall be based on the Texas Disciplinary

Rules of Professional Conduct and the official Comments to these rules. No other laws or rules shall apply in determining the existence of conflict of interest or the appearance of conflict of interest under this plan of operation.

(III) In determining whether legal counsel has a conflict of interest, as defined in the Texas Disciplinary Rules of Professional Conduct and the official Comments to these rules, the general manager shall require the legal counsel to submit to the general manager in writing evidence that a thorough conflicts check has been conducted to assure that no conflict of interest exists. Such evidence of a conflicts check shall be maintained by the general manager in the association's records as confidential and not available for public inspection.

(IV) The general manager may approve, in accordance with Rule 1.06(c) of the Texas Disciplinary Rules of Professional Conduct and the official Comments to this rule, an attorney to represent the association in a matter involving a policyholder claim against the association in which a potential conflict of interest may exist if:

(-a-) the attorney reasonably believes the representation of the association will not be materially adversely affected; and

(-b-) the general manager consents to such representation after full disclosure of the existence, nature, implications, and possible adverse consequences of the common representation and the advantages involved, if any.

(V) If legal counsel accepts an engagement from the association to represent it in a dispute involving a policyholder claim against the association and fails to disclose a conflict of interest, as required in this clause, such legal counsel shall be barred for a period of five years, from the date on which the conflict of interest is disclosed to the association, from representing the association as legal counsel in any dispute involving a policyholder claim against the association.

(iv) Review and Termination.

(I) The general manager shall report to the executive committee at each of its regular meetings all information relating to the selection of and the service of legal counsel in handling policyholder claims against the association.

(II) At the general manager's discretion or at the direction of the executive committee, the general manager shall discharge legal counsel from any matter involving a policyholder claim against the association on five days' written notice to the legal counsel.

(III) Such termination may be for failure to competently and timely handle a legal matter or for conflict of interest or failure to disclose a conflict of interest or for any other reason as determined by the general manager or the executive committee.

(5)[(4)] Fiscal year The fiscal year of the association shall be the calendar year

(6)[(5)] Waiver of notice. Whenever any notice is required to be given to any member [members] or director of the association under the provision of this section a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice

(7)[(6)] Protection of directors, members, officers, and employees The association shall indemnify each former, present, and future director, member, officer, and employee of the association against, and each such director, member, officer, and employee shall be entitled without further act on his/her part of indemnity from the association for, all costs and expenses (including the amount of judgments and the amount of reasonable settlements made with a view to the curtailment of costs of litigation, other than amounts paid to the association itself) reasonably incurred by him/her in connection with or arising out of any action, suit, or proceeding in which he/she may be involved by reason of his/her being or having been a director, member, officer, or employee of the association or of any other association or company which he/she serves as a director, member, officer, or employee at the request of the association, whether or not he/she continues to be such director, member, officer, or employee at the time of incurring such costs or expenses; provided, however, that such indemnity shall not include any costs or expenses incurred by any such director, member, officer, or employee in respect of matters as to which he/she shall be finally adjudged in any such action, suit, or proceeding to be liable for willful misconduct in the performance of his/her duty as such director, member, officer, or employee, or in respect of any matter in which any settlement is effected in any amount in excess of the amount of expenses which might reasonably have been incurred by such direc-

tor, member, officer, or employee had such litigation been conducted to a final conclusion; provided, further, that in no event shall anything herein contained be so construed as to protect, or to authorize the association to indemnify such director, member, officer, or employee against any liability to the association or to its members to which he/she would otherwise be subject by reason of his/her willful misfeasance or malfeasance, bad faith, dishonesty, gross negligence, or reckless disregard of the duties or responsibilities involved in the conduct of his/her office or employment as such director, member, officer, or employee. The foregoing right of indemnification shall inure to the benefit of the heirs, executors, or administrators of each such director, member, officer, or employee and shall be in addition to all other rights to which such director, member, officer, or employee may be entitled as a matter of law. This indemnification shall in no way indemnify a member of the association from participating in the writings, expenses, profits, and losses of the association in the manner set out in this plan of operation or the Act.

(8)[(7)] Annual report. The secretary-treasurer shall file with the Department [State Board of Insurance] annually a statement which shall summarize the transactions, conditions, operation, and affairs of the association during the preceding calendar year at such times and covering such periods as may be designated by the Department [State Board of Insurance]. Such statement shall contain such matters and information as are prescribed by the Department [State Board of Insurance] and shall be in such form as required by the Department [it]

(c) Financial Operation of the Association [association].

(1) Collection, investment, and allocation of funds.

(A) (No change.)

(B) Investment. All funds collected by the association which are not otherwise required to be expended as provided in paragraph (4) of this subsection may be retained in a checking account or accounts in any bank or banks doing business in the State of Texas and/or may be invested only in the following:

(i)-(iii) (No change.)

(iv) in such other investments as may be proposed by the board of directors and approved by the Commissioner [State Board of Insurance]. The board of directors shall determine what portion of such funds shall be retained in a checking account or accounts and what por-

tion of such reserve shall be invested in the investments listed in this subparagraph [previously], as well as which specific investments, if any, shall be made.

(C) (No change)

(2) Assessment of members

(A) Assessment. If the chair [chairman] of the board of directors or any members of the board of directors determine that an assessment of the members is necessary, a special meeting of the board of directors shall be called to determine if the funds then available to the association are.

(i)-(ii) (No change.)

(B) Amount of assessment. The board of directors shall determine which members of the association shall participate in any assessment for operating expenses and/or catastrophe losses. This determination shall be computed on a syndicate year basis rather than on a calendar year basis. The designated members of the association shall participate in any assessment levied in the proportion that the net direct premiums of such member written in this state during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association as furnished to the association by the Department [board] after review of annual statements, other reports, and required statistics; provided, however, that if at the time of such assessment the Department [board] has not furnished to the association information necessary to compute a member's participation during the preceding calendar year, then each member's participation shall be based upon information furnished to the association from the last calendar year in which such information is available and, upon obtaining the necessary information from the Department [board], the association shall reassess or refund to each member such amounts as are necessary to properly reflect such member's participation; provided, further, that a member shall be entitled to receive the following credit for insurance, similar to catastrophe insurance, written in such catastrophe area, except that in no event shall the final percentage of participation after application for credit for voluntary writings in the catastrophe area be less than 20% nor more than 190% of the company's percentage of statewide windstorm and hail premiums modified by applicable offset factors, nor more than 170% of the company's percentage of statewide windstorm and hail premium modified by applicable offset factors for policies with inception dates on and after January 1, 1984.

(i) (No change.)

(ii) Participation in Texas Catastrophe Property Insurance Association for policies after January 1, 1983. Procedure for determining the percent of participation respecting association policies with inception dates on and after January 1, 1983, through December 31, 1987, inclusive, for members of the Texas Catastrophe Property Insurance Association reflecting credit for voluntary premiums written in the designated area. (All premiums are for the most recent preceding calendar year ending December 31.) Column 1(a) Statewide direct written premiums for extended coverage from Texas annual statement, page 14, line 2, column 1, and other allied lines from line 3, column 1. Column 1(b) Statewide direct written premiums for the extended coverage and other allied lines portion of the multiple peril line from Texas annual statement, page 14, line 8, column 1. Column 1(c) Statewide direct written premiums for homeowners and farm and ranch owners from Texas annual statement, page 14, line 4, column 1, and line 5, column 1. Column 2 The sum of the statewide direct written premiums at 90% of the extended coverage and other allied lines, and 50% of the homeowners and farm and ranch owners, or such percentage as may be determined in accordance with [Part One, Article 1, Section 2, paragraph 1, subparagraph 3, of the plan of operation (being) subsection (a)(2)(M)(I) (i)(III) of this section]. 90% of column 1(a) % + 90% of column 1(b) % + 50% of column 1(c.) Column 3 Each company's percentage of the net direct premiums as described in column 2, which is the basis for indicating normal required participation in the Texas Catastrophe Property Insurance Association prior to credits for voluntary writings in the designated area. Column 4 Total windstorm and hail premiums in the designated area (association [TCPIA] premiums plus voluntary premiums). Column 5 Normal company quota of total windstorm and hail premiums: column 3 x column 4. Column 6 Each company's voluntary writings in the designated area multiplied by the same percentage as shown in column 2 previously. Note: Maximum credit shall be limited to company's normal quota. Column 7 Each company's maximum possible allocation after applying credits for voluntary writings (column 5 minus column 6). Negative allocation to be shown as zero. Column 8 Percentage participation of each member company in Texas Catastrophe Property Insurance Association, prior to application of offset. Note: The offset figure measures the excess premiums developed by maximum credits in column 6. Column 9 Percentage participation of each member company in Texas Catastrophe Property Insurance Association prior to application of minimum-maximum factors. Column 10 Assignment after application of 20% minimum or 190% maximum of column 3 for policies with an inception date

during 1983 or 170% maximum of column 3 for policies with inception dates on or after January 1, 1984. Column 11 Net assignment in association. (After application of offset following minimum-maximum limitations.)

(iii) Participation in Texas Catastrophe Property Insurance Association for policies after January 1, 1978. Procedure for determining the percent of participation respecting association policies with inception dates on and after January 1, 1978, through December 31, 1982, inclusive, for members of the Texas Catastrophe Property Insurance Association reflecting credit for voluntary premiums written in the designated area. (All premiums are for the most recent preceding calendar year ending December 31.) Column 1(a) Statewide direct written premiums for extended coverage from Texas annual statement, page 14, line 2, column 1. Column 1(b) Statewide direct written premiums for the extended coverage portion of the multiple peril line from Texas annual statement, page 14, line 8, column 1. Column 1(c) Statewide direct written premiums for homeowners and farm and ranch owners from Texas annual statement, page 14, line 4, column 1. Column 2 The sum of the statewide direct written premiums at 90% of the extended coverage and 40% of the homeowners. (90% column 1(a) % + 90% of column 1(b) % + 40% of column 1(c).) Column 3 Each company's percentage of the net direct premiums as described in Column 2, which is the basis for indicating normal required participation in the Texas Catastrophe Property Insurance Association prior to credits for voluntary writings in the designated area. Column 4 Total windstorm and hail premiums in the designated area (association [TCPIA] premiums plus voluntary premiums). Column 5 Normal company quota of total windstorm and hail premiums: column 3 x 4. Column 6 Each company's voluntary writings in the designated area multiplied by the same percentages as shown in column 2 previously. Note: Maximum credit shall be limited to company's normal quota. Column 7 Each company's maximum possible allocation after applying credits for voluntary writings (column 5 minus column 6). Negative allocation to be shown as zero. Column 8 Percentage participation of each member company in the Texas Catastrophe Property Insurance Association, prior to application of offset. Note: The offset figure measures the excess premiums developed by maximum credits in column 6. Column 9 Percentage participation of each member company in Texas Catastrophe Property Insurance Association prior to application of minimum-maximum factors. Column 10 Assignment after application of 20% minimum or 190% maximum of column 3. Column 11 Net assignment in association. (After application of offset following

minimum-maximum limitations.)

FIGURE 1. 28 TAC §5.4001(c)(2)(B)(ii)

(iv) The Department [board] shall furnish to the association the amount of net direct premiums of each member company written on property in this state and the aggregate net direct premiums written on property in this state by all member companies during the preceding calendar year as reported by member companies to the Department [board]. Within a reasonable time after the receipt of same from the Department [board], the association shall notify each member company, in writing, sent by certified mail, the amount of the net direct premiums written on property in this state during the preceding calendar year by the member company to whom notice is given, including the net direct premiums on similar insurance voluntarily written in the catastrophe area, upon which such company's percentage of participation will be determined. Such notice shall state that such notification, and the content thereof, is an act, ruling, or decision of the association and that the member company to whom such notice is given shall be entitled to appeal therefrom within 30 days from the date of such act, ruling, or decision as shown on said notice in accordance with the Insurance Code, Article 21.49, §9. Thereafter, the association shall determine the percentage of participation for each member company in the manner provided in the plan of operation and shall notify each member company thereof, in writing, sent by certified mail. Such notice shall state that such notification, and the content thereof, is an act, ruling, or decision of the association insofar as the mathematical determination of the percentage of participation is concerned and that the member company to whom such notice is given shall be entitled to appeal therefrom within 30 days from the date of such act, ruling, or decision as shown on said notice in accordance with the Insurance Code, Article 21.49, §9.

(C) Notice of assessment. Notice of assessment shall be sent to each member, within 30 days of the meeting of the board of directors at which such assessment was levied, by certified mail, return receipt requested, addressed to the office of such member as it appears on the books of the association. Such notice shall state the member's allocated amount of assessment and shall inform each member of the sanctions imposed by subparagraph (D) of this paragraph for the failure to pay such assessment within the time prescribed by this section. Such notice shall also state that such notification, and the content thereof, is an act, ruling, or decision of the association insofar as the amount of the assessment for such company is concerned and that a member company to whom such notice is given

shall be entitled to appeal therefrom within 30 days from the date of such act, ruling, or decision as shown on said notice, in accordance with the Insurance Code, Article 21.49, §9; provided, however, that the right of appeal provided for herein shall not include the subject matter of any act, ruling, or decision of the association determining the amount of net direct premium of such member company or the percentage of participation for such member company when notice of the amount of such net direct premium or such percentage of participation has previously been given by the association in accordance with subparagraph (B)(iv)[(iii)] of this paragraph. The time period for an appeal of an act, ruling, or decision of the association respecting net direct premiums or percentage of participation is computed from the date of the act, ruling, or decision of the association respecting same.

(D) Failure to pay assessment.

(i) Each member shall remit to the association payment in full of its assessed amount of any assessment levied by the board of directors within 30 days of receipt of notice of assessment. If the association has not received payment in full of a member's allocated amount of assessment within 40 days of notice of the receipt by the member of the notice of assessment, then the association shall report to the Commissioner [State Board of Insurance] the fact that such assessment has not been paid, and the Commissioner [State Board of Insurance] shall immediately issue an order suspending such member's certificate of authority to transact the business of insurance in the State of Texas until such time as the association certifies to the Commissioner [State Board of Insurance] that such assessment has been paid in full. Removal of a member's certificate of authority to transact business in the State of Texas by the Commissioner [State Board of Insurance] shall in no way affect the right of the association to proceed against such member in any court of law or equity in the United States for any remedy provided by law or contract to the association, including, but not limited to, the right to collect such member's assessment. In addition to any other remedy provided herein, the board of directors may offset assessments due from a member against any amounts in any account of such delinquent member.

(ii) A member by mailing payment of its allocated amount of assessment, as provided herein, shall not thereby waive any right it may have to contest the computation of its allocated amount of assessment. Such contest shall not, however, toll the time within which assessments shall be paid or the report to be made to the

Commissioner [State Board of Insurance] or the action to be taken by the Commissioner [State Board of Insurance] upon receipt of such report, all as set out in clause (i) of this subparagraph.

(E) Inability to pay assessment by reason of insolvency. In the event a member of the association is placed in temporary or permanent receivership under order of a court of competent jurisdiction based upon a finding of insolvency, and such member has been designated an impaired insurer by the Commissioner [of Insurance of Texas], and in the event it is necessary to obtain additional funds to provide for operating expenses and losses in the year the insurer is declared impaired, the aggregate net amount not recovered from such insolvent insurer shall be reallocated among the remaining members of the association in accordance with the method of determining participation as determined in the plan of operation.

(3) Distributions to the members

(A) The only distributions to members which may be made on or after May 1, 1985, without the prior approval of the Commissioner [State Board of Insurance] are for the recovery of assessments made on or after May 1, 1985, which are not recoverable as a tax credit by the members under the Insurance Code, Article 21.49, §19. Any other distribution shall be for the sole purpose of paragraph (4)(C) or (4)(G)[(F)] of this subsection and requires the prior approval of the Commissioner [State Board of Insurance]. The Commissioner [State Board of Insurance] may not unreasonably refuse to approve a request to distribute funds. In making any distribution, the board of directors may offset amounts otherwise due to a member with amounts then due from that member.

(B) If the association obtains a disbursement of funds from the catastrophe reserve trust fund maintained by the Department pursuant to Section 8(i) of the Act, the funds disbursed to the association may be spent by the association only to pay losses and loss adjustment expenses of policyholders in the event of an occurrence or a series of occurrences within the defined catastrophe area that results in insureds losses and operating expenses of the association greater than \$100 million. Funds disbursed from the catastrophe reserve trust fund maintained by the Department may not be distributed to any member of the association for any purpose, and any of these amounts disbursed to the association from the catastrophe reserve trust fund that remain unspent after payment of all losses and loss adjustment expenses arising out of such oc-

currence or series of occurrences shall be remitted to the Department or to the Treasurer of the State of Texas for deposit in the catastrophe reserve trust fund.

(4) Use of funds. All monies collected or received by the association on or after May 1, 1985, are required to be expended in the following ways and in the following sequence:

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

(E) fifth, to either pay premiums for reinsurance under a reinsurance program approved by the Commissioner to cover some or all of the claims liabilities of the association[,] or to make payment of the net equity of a member, including all premium and other revenue of the association in excess of incurred losses and operating expenses, to a catastrophe reserve trust fund to be held by the Texas Department of Insurance [This provision applies only if reinsurance is available at a reasonable price and term];

(F) (No change.)

(G) seventh, as distribution to members of the association after approval by the Commissioner [State Board of Insurance]

(d) Catastrophe Insurance [insurance].

(1) The policy.

(A) Approval. The association shall cause to be issued policies providing for catastrophe insurance and application forms therefor. The board of directors shall submit such policies and application forms to the Commissioner [State Board of Insurance] for approval. The Commissioner [State Board of Insurance] shall approve or reject such policies and application forms within 30 days of their submission. If the Commissioner [State Board of Insurance] takes no action regarding such forms and applications within such 30-day period, the forms and applications shall be deemed to have been approved by the Commissioner [State Board of Insurance]. The Commissioner [State Board of Insurance] shall not be required to approve or reject such forms and applications as a group--the Commissioner [it] may approve some policies and/or forms and reject other policies and/or forms provided, however, that if the Commissioner [it] rejects a form, the Commissioner [it] shall send to the association the [its] reasons for such rejection. No application for or policy of catastrophe insurance shall be used by the association prior to its approval by the Commissioner [State Board of Insurance].

(B) (No change.)

(C) Limits of liability.

(i) (No change.)

(ii) In the event that the value of any risk exceeds the maximum amounts set forth in the rules manual, the association may waive the coinsurance requirements and charge a rate on a negotiated basis in accordance with procedures subject to review by the Department [State Board of Insurance].

(iii) Limits of liability for risks required to be insured by the association shall be adjusted for inflation as part of the annual hearing on property rates by the Commissioner [State Board of Insurance after January 1, 1992.] to reflect any changes in the cost of construction or residential values in the catastrophe areas as determined by credible indexes. Indexing of liability limits shall apply after January 1, 1992 [1991].

(D) (No change.)

(2) Application, acceptance, and rejection.

(A) Forms. Any person having an insurable interest in insurable property located in a catastrophe area shall be entitled to apply to the association for catastrophe insurance in the manner provided herein. All applications for catastrophe insurance shall be made on forms prescribed by the board of directors of the association and approved by the Commissioner [State Board of Insurance] as provided in paragraph (1)(A) of this subsection. Such application forms shall contain a statement as to whether or not there are any unpaid premiums due from the applicant for insurance on the property. All applications shall be made on behalf of the applicant by a local recording agent.

(B)-(C) (No change.)

(D) Inspection of the risk. The board of directors shall determine the manner and scope which risks are to be inspected prior to the issuance of a policy of catastrophe insurance. The board of directors may issue a policy of catastrophe insurance on certain types of risks without an inspection provided that the application is accompanied by such information as the board of directors may require. The board of directors shall prepare a set of regulations dealing with the inspection of risks. Such regulations shall be submitted to the Commissioner [State Board of Insurance] for approval. The Commissioner [State

Board of Insurance] may reject all or any portion of such regulations within ten days of the date of their submission [to it]. If the Commissioner [State Board of Insurance] shall fail to reject all or any part of such regulations within 30 days of the date of their submission, then such regulations shall be deemed to have been approved [by it].

(E) Receipt of the application.

(i) After receipt of the application, the full amount of the premium (and inspection fee, if any) and any required inspection report, the association shall, within 15 days:

(I)-(II) (No change.)

(III) advise the agent or applicant that the risk is not acceptable, and state the reasons therefor [therefore]. The reasons for which a risk shall [be] not be acceptable for catastrophe insurance are:

(-a-) (No change.)

(-b-) the amount of insurance requested is in excess of the limits of liability as set forth in this plan of operation or by law [subsection (b)(1)(C) of this section];

(-c-) (No change.)

(-d-) such other reason as may be determined by the board of directors and approved by the Commissioner [State Board of Insurance].

(ii) New or increased coverage will be effective on the date received by the association [Texas Catastrophe Property Insurance Association] or effective on the date the application is mailed if sent by registered or certified mail, or by United States Postal Service Express Mail, or if sent by regular mail that is hand cancelled by the United States Postal Service, or if sent by such other similar mailing procedure as approved by the board of directors, prior to the time specified in this clause as an exception, unless the application for new or increased coverage stipulates a later date. Renewal policies will be effective to provide continuous coverage if the request for a renewal is received on or before the expiration of the existing policy. Exception: no new or increased coverage shall be accepted when a windstorm designated as a hurricane by the United States Weather Bureau is in the Gulf of Mexico or within the boundaries of 80 degrees [degree] west longitude and 20 degrees north latitude. This exception does not apply to any renewal policy affording windstorm coverage if the expiring policy was written by the Texas Catastrophe Property Insurance Association and if the application

for renewal was received by the Texas Catastrophe Property Insurance Association on or before the expiration of the existing Texas Catastrophe Property Insurance Association policy or if mailed by registered or certified mail or United States Postal Service Express Mail or by regular mail that is hand-cancelled by the United States Postal Service, or if sent by such other similar mailing procedure as approved by the board of directors, prior to the expiration of the existing Texas Catastrophe Property Insurance Association policy.

(3) Cancellation.

(A) By the association.

(i) (No change.)

(ii) Upon cancellation of a policy of catastrophe insurance issued under this paragraph, the association shall send to the insured notice of cancellation together with a statement of the reason therefor [therefore] and a statement of the reason the insured has the right to appeal as hereinafter provided. Upon cancellation of a policy of catastrophe insurance by the association, the association shall refund to the insured the excess of paid premium according to the standard pro rata table.

(B) By the insured.

(i) (No change.)

(ii) A policy of catastrophe insurance may be reduced at any time in which case the association shall, upon demand [and surrender of the policy], refund the excess of paid premium according to the standard short rate table [and shall issue to the insured a new policy in the amount requested by the insured].

(4) Payment of claims.

(A) (No change.)

(B) Adjustment of loss. All losses shall be adjusted in the manner designated by the board of directors. The assignment of losses shall be on an equitable basis to [General Adjustment Bureau, Underwriters Adjustment Company, and other] qualified insurance adjusters at such fee as shall be determined by the board of directors.

(C) (No change.)

(D) Notice of appeal.

(i) The association shall, immediately upon total or partial denial of a claim of any person insured pursuant to the Insurance Code, Article 21.49, give written notice by certified mail, return receipt requested, to such person of the right to ap-

peal such total or partial denial under the Insurance Code, Article 21.49, §9 and/or §9A. An offer of less than the amount claimed on the claimant's proof of loss is considered a partial or total denial of a claim. The notice must, at a minimum, contain the following information placed in a prominent position:

(I) (No change.)

(II) a statement that the person has the right to appeal the association's determination either to the Commissioner [commissioner of insurance] under the Insurance Code, Article 21.49, §9; or bring an action against the association in the county in which the covered property is located or in a district court of Travis County under the Insurance Code, Article 21.49, §9A. A person may not proceed under both the Insurance Code, §9 and §9A, for the same determination by the association;

(III) a statement that, under applicable law, an aggrieved person who chooses to appeal to the Commissioner [commissioner of insurance] must make a written request to the Commissioner [commissioner] within 30 days after such determination of the association;

(IV) (No change.)

(V) a statement that a person who files a written notice of appeal to the Commissioner [commissioner of insurance] is entitled to a hearing in either the county in which the covered property is located or in Travis County; and

(VI) (No change.)

(ii) An act, ruling, or decision of the association is deemed to be timely filed with the Commissioner [commissioner of insurance] if an appeal is sent to the chief clerk of the Department [State Board of Insurance] by first-class or by certified or registered United States mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing the appeal, if the appeal is received by the chief clerk's office not more than ten days subsequent to the due date for filing.

(e) Building Codes [codes].

(1) Code for windstorm-resisting construction applicable to the area seaward of the Intracoastal Canal. This code contains requirements for the construction of buildings to minimize damage to such buildings by severe windstorms which occur along the Gulf Coast. Where specific

requirements for particular devices or methods of construction are specified, alternate methods or practices which are considered equal may be used. Such consideration is to be based on sound engineering practice and experience. The degree of protection against damage from windstorm provided by these requirements cannot be assured for tornadoes, but such compliance should be helpful to some degree in reducing tornado damage. The requirements herein are applicable only to properties located seaward of the Intracoastal Canal on the Texas coastline (or seaward of the boundary authorized to be established by the Commissioner [State Board of Insurance] by the Insurance Code, Article 21.49, as amended). The requirements herein shall apply, on or after October 10, 1988, to new construction of, and additions or repairs to, structures located seaward of the Intracoastal Canal in areas previously exempt from the requirements of this paragraph. The property previously exempt was that property protected by a sea wall constructed by the Corps of Engineers.

(A) Wind pressure.

(i) When considered. All buildings and structures shall be designed to resist a horizontal wind pressure on all surfaces exposed to the wind, allowing for wind in any direction, in accordance with the following table. No allowance shall be made for the shielding effect of other buildings or structures. The height is to be measured above the average level of the ground adjacent to the building or structure.
FIGURE 2: 28 TAC §5.4001(e)(1)(A)(i)

(ii) Exterior walls. Exterior walls shall be designed to withstand the pressures specified in clause (i) of this subparagraph, acting either inward or outward.

(iii)-(vi) (No change.)

(vii) Roofing materials. Roofing materials must pass the U.L. Standard 997 or a comparable test certified by the Commissioner [State Board of Insurance] and be installed as required by the Department [State Board of Insurance], to promote wind resistance of the materials.

(B) Anchorage.

(i) Heavy timber construction (as defined in the Texas Commercial Property Rating Manual in effect prior to September 1, 1994 [general basis schedules]). Every roof girder and every roof beam shall be anchored to an exterior or interior wall or to a properly designed interior column. Wall beams and plates shall be anchored to the wall with approved type anchors not more than four feet apart. Roof planking where supported by a wall shall be anchored to such wall at intervals

not exceeding four feet. Roof trusses shall be securely anchored to masonry walls at point of bearing. Monitor and saw tooth construction shall be anchored to the main roof construction. Anchors shall consist of steel or iron bolts or straps of sufficient strength and ample anchorage to resist vertical uplift of the roof as required in subparagraph (A) (iii) of this paragraph.

(ii)-(iii) (No change.)

(C)-(D) (No change.)

(2) Code for windstorm resisting construction applicable to the area inland of the Intracoastal Canal. To be eligible for catastrophe insurance properties located inland of the Intracoastal Canal on the Texas coastline (or inland of the boundary authorized to be established by the Commissioner [State Board of Insurance] by the Insurance Code, Article 21.49 as amended) [and properties located seaward of the Intracoastal Canal if such properties are protected by a sea wall constructed by the Corps of Engineers and properties determined by the board to be protected by other adequate structure or by any natural physical feature of the terrain that provides protection] shall be designated in the manner indicated in the Standard Building Code, as amended as of May 8, 1973.

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

(f) Mobile Homes [homes].

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

(3) Underwriting requirements. In order for a mobile home to be insured by the association, it must meet the following underwriting requirements:

(A)-(F) (No change.)

(G) This association shall not be liable for loss or damage caused by:

(i)-(v) (No change.)

(vi) for any loss or damage caused by rain, whether driven by wind or not, [;] unless the wind or hail shall first make an opening in the walls or roof of the described building, and shall then be liable only for loss to the interior of the building, or the insured property therein, caused immediately by rain entering the building through such openings. This association shall not be liable under this coverage for damage caused by ensuing fire.

(H) The liability of the association for loss or damage to a mobile home shall:

(i) (No change.)

(ii) in any loss involving part of a pair, set, or series of objects,

pieces, or panels (whether interior or exterior), be determined by reference to:

(I)-(II) (No change)

(III) the reasonable cost of providing a reasonably acceptable alternative decorative effect or utilization[,] as the circumstances may warrant. The association does not guarantee the availability of parts or replacements and shall not, in the event of such damage to or loss of a part, be obligated for the value of, or to repair or replace, the entire pair, set, or series

(I) (No change.)

(J) No forms may be used to provide catastrophe insurance for a mobile home risk unless such form has been specifically approved by the Commissioner [State Board of Insurance] for use in insuring mobile homes risks by the association.

(K)-(L) (No change.)

(4) Application.

(A) (No change.)

(B) An applicant for catastrophe insurance shall apply to the association for a policy of insurance, and such application shall contain a declaration to the effect that the mobile home is physically attached to the land, immovable, and such application shall be accompanied by the following:

(i)-(iii) (No change.)

(iv) in the event an inspector is designated by the association for any of the purposes set forth herein, the person applying for catastrophe insurance shall pay a reasonable fee to the association for each such inspection. The reasonableness of the fee shall be subject to review by the Commissioner [State Board of Insurance].

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

Issued in Austin, Texas, on December 23, 1994.

TRD-9500274

D. J. Powers
Chief Clerk and General
Counsel
Texas Department of
Insurance

Earliest possible date of adoption: February 13, 1995

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

Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.16

The Commissioner of Insurance of the Texas Department of Insurance proposes an amendment to §7.16, concerning the National Association of Insurance Commissioners Purposes and Procedures of the Securities Valuation Office manual. The amendment to §7.16 clarifies which version of the NAIC Purposes and Procedures of the Securities Valuation Office manual has been officially adopted by reference by the Texas Department of Insurance. The amendment to §7.16 is proposed to comply with a newly enacted provision of the Insurance Code, Article 1.27, which recites that the Department may not require an insurer to comply with any rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners unless it is expressly authorized by and approved by the Commissioner. The amendment will allow interested persons notice and opportunity for a hearing if the Department proposes to adopt a particular version of the NAIC Purposes and Procedures of the Securities Valuation Office manual.

This amendment to §7.16 is proposed as part of Title 28, Part 1, Chapter 7, Subchapter A, relating to the general provisions for examinations and reporting requirements for insurance entities.

A. W. Pogue, associate commissioner for the financial division, has determined that for each year of the first five years the amendment is in effect there will be no fiscal implications for state and local governments as the result of administering this section. There is no anticipated additional effect on local employment or the local economy, reduction in costs to local governments, or loss or increase in revenue to the state or local governments as a result of administering and enforcing the proposed amendment.

Mr. Pogue also has determined that for each year of the first five years the amendment is in effect there will be no anticipated economic cost to persons who must comply with the amendment. Mr. Pogue has determined the public benefit resulting from administration of the proposed section will be the ability to receive notice and opportunity for a hearing if the Department proposes to adopt a particular version of the NAIC Purposes and Procedures of the Securities Valuation Office manual.

Comments on this proposal must be submitted in writing within 30 days after publication of this section in the *Texas Register* to the Chief Clerk of the Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas, 78714-9104, with a copy to A. W. Pogue, Associate Commissioner of Financial, Mail Code 305-2A, P.O. Box 149104, Austin, Texas, 78714-9104.

The amendment is proposed pursuant to the Insurance Code, Article 1.03A. Article 1.03A

authorizes the Commissioner of Insurance to promulgate and adopt rules and regulations for the conduct and execution of duties and functions by the Department

The proposed rule affects Insurance Code, Article 1.27

§7.16. [The National Association of Insurance Commissioners' Valuations of Securities Manual.] National Association of Insurance Commissioners Purposes and Procedures of the Securities Valuation Office Manual. [Except where otherwise provided by law, or where the board has adopted rules which provide otherwise, the National Association of Insurance Commissioners' Valuations of Securities Manual will continue to be used by the State Board of Insurance in the valuation of securities.]

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

(1) Commissioner-The Commissioner of Insurance.

(2) Department-The Texas Department of Insurance.

(3) NAIC-The National Association of Insurance Commissioners.

(b) The Commissioner adopts by reference the NAIC Purposes and Procedures of the Securities Valuation Office manual (effective for 1994 Annual Statements) as the standard for the Department in the evaluation of securities, except where otherwise provided by law or where the Commissioner has adopted rules which provide otherwise. Whenever the Purposes and Procedures of the Securities Valuation Office manual (or sometimes referred to as the Valuation of Securities Manual) is referred to by statute or rule it shall mean the above-referenced version of the NAIC Purposes and Procedures of the Securities Valuation Office manual unless specifically stated otherwise.

(c) The following exception is made to the NAIC Purposes and Procedures of the Securities Valuation Office manual: Because Texas domestic companies historically have not been required to establish an Asset Valuation Reserve (AVR) or Interest Maintenance Reserve (IMR), they are not required to do so unless the company is licensed in a state that requires an AVR or IMR, in which case the reserve must be calculated in accordance with the instructions established by the NAIC.

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

Issued in Austin, Texas, on December 16, 1994.

TRD-9452567

D J Powers
Chief Clerk and General
Counsel
Texas Department of
Insurance

Earliest possible date of adoption: February 13, 1995

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

◆ ◆ ◆
• 28 TAC §7.18

The Commissioner of Insurance of the Texas Department of Insurance proposes new §7.18, concerning the National Association of Insurance Commissioners Accounting Practices and Procedures manuals. The new section clarifies which versions of the NAIC Accounting Practices and Procedures manuals have been officially adopted by reference by the Texas Department of Insurance. The new section is proposed to comply with a newly enacted provision of the Insurance Code, Article 1.27, which recites that the Department may not require an insurer to comply with any rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners unless it is expressly authorized by and approved by the Commissioner. The new section will allow interested persons notice and opportunity for a hearing if the Department proposes to adopt a particular version of any NAIC Accounting Practices and Procedures manual.

New §7.18 is proposed as part of Title 28, Part 1, Chapter 7, Subchapter A, relating to the general provisions for examinations and reporting requirements for insurance entities.

A. W. Pogue, associate commissioner for the financial division, has determined that for each year of the first five years the new section is in effect there will be no fiscal implications for state and local governments as the result of administering this section. There is no anticipated additional effect on local employment or the local economy, reduction in costs to local governments, or loss or increase in revenue to state or local governments as a result of administering and enforcing the proposed section.

Mr. Pogue also has determined that for each year of the first five years the new section is in effect there will be no anticipated economic cost to persons who must comply with the section. Mr. Pogue has determined the public benefit resulting from administration of the proposed section will be the ability to receive notice and opportunity for a hearing if the Department proposes to adopt a particular version of any NAIC Accounting Practices and Procedures manual.

Comments on this proposal must be submitted in writing within 30 days after publication of this section in the *Texas Register* to the Chief Clerk of the Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas, 78714-9104, with a copy to A. W. Pogue, Associate Commissioner of Financial, Mail Code 305-2A, P.O. Box 149104, Austin, Texas, 78714-9104. A request for

public hearing on the new section should be submitted separately to the Office of the Chief Clerk.

The new section is proposed pursuant to the Insurance Code, Article 1.03A. Article 1.03A authorizes the Commissioner of Insurance to promulgate and adopt rules and regulations for the conduct and execution of duties and functions by the Department.

The proposed rule affects Insurance Code, Article 1.27.

§7.18. *National Association of Insurance Commissioners Accounting Practices and Procedures Manuals.*

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

(1) Commissioner—The Commissioner of Insurance.

(2) Department—The Texas Department of Insurance.

(3) NAIC—The National Association of Insurance Commissioners.

(b) The commissioner adopts by reference the NAIC Accounting Practices and Procedures manuals as the accounting standard for the department when examining financial reports and for conducting statutory examinations and rehabilitations of insurers licensed in Texas, except where otherwise provided by law or where the Commissioner has adopted rules which provide otherwise. Specifically, these manuals are the NAIC Accounting Practices and Procedures Manual for Life, Accident and Health Insurance Companies (October, 1994), the NAIC Accounting Practices and Procedures Manual for Property and Casualty Companies (October, 1994), and the NAIC Accounting Practices and Procedures Manual for Health Maintenance Organizations (June, 1991). Whenever any NAIC Accounting Practices and Procedures manual is referred to by statute or rule, it shall mean the particular NAIC Accounting Practices and Procedures manual (as specified in this subsection by name and publication date) for the line of insurance regulated by the statute or rule in question.

(c) The following exceptions are made to the NAIC Accounting Practices and Procedures Manual for Life, Accident and Health Insurance Companies.

(1) Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiaries on any filing with the Department or the NAIC by Texas domestic insurers or on any filing with the Department by insurers domiciled outside the State of Texas.

(2) For trusts whose holdings include collateralized mortgage obligations

(CMOs), the procedures in Chapter 1, (relating to NAIC Accounting Practices and Procedures Manual for Life, Accident and Health Insurance Companies) are to be applied separately to each holding in the trust. The value of the trust is the sum of the values of the individual holdings of the trust. The effective yield of the trust is based on the effective yields of the individual holdings of the trust.

(d) The following exceptions are made to the NAIC Accounting Practices and Procedures Manual for Property and Casualty Companies.

(1) Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiaries on any filing with the Department or the NAIC by Texas domestic insurers or on any filing with the Department by insurers domiciled outside the State of Texas.

(2) For trusts whose holdings include collateralized mortgage obligations (CMOs), the procedures in Chapter 1 of this title (relating to NAIC Accounting Practices and Procedures Manual for Property and Casualty Companies) are to be applied separately to each holding in the trust. The value of the trust is the sum of the values of the individual holdings of the trust. The effective yield of the trust is based on the effective yields of the individual holdings of the trust.

(3) No loss reserve discounts, other than fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims for which specific segregated investments have been established, shall be allowed. However, any company that claimed loss reserve discounts, other than fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, as of December 31, 1991, shall be allowed to claim such reserved discounts at the applicable percentage. The applicable percentage for claiming such loss reserve discounts shall be 100% for 1992, 75% for 1993, 50% for 1994, 25% for 1995, and 0% for 1996 and subsequent years. In no event shall the dollar amount of discounts, other than fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, claimed as of December 31, 1991, and subject to the applicable percentage, be increased as of December 31, 1992, and thereafter. The Commissioner shall have authority to determine the appropriateness of, and may disapprove, discounts taken from fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims.

(4) The Commissioner shall have the authority to determine the appropriateness of and may disapprove anticipated salvage and subrogation.

(e) The following exception is made to the NAIC Accounting Practices and Procedures Manual for Health Maintenance Organizations. Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiaries on any filing with the Department or the NAIC by Texas domestic insurers or on any filing with the Department by insurers domiciled outside the State of Texas.

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

Issued in Austin, Texas, on December 16, 1994.

TRD-9452565
D. J. Powers
Chief Clerk and General
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Texas Department of
Insurance

Earliest possible date of adoption: February 13, 1995

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

Subchapter M. Regulatory Fees • 28 TAC §7.1301

The Commissioner of Insurance of the Texas Department of Insurance proposes an amendment to §7.1301, concerning regulatory fees. The amendment is necessary to implement House Bill 1461, 73rd Legislature, which amended Insurance Code, Article 4.07, to require that all authorized insurers writing classes of insurance in Texas be charged fees for the use of the state in an amount to be determined by the Texas Department of Insurance. The amendment to §7.1301 is proposed as part of Title 28, Part 1, Chapter 7, Subchapter M, relating to regulated entities subject to regulatory fees. The amendment also reflects the updated title of the Texas Department of Insurance and corrects a typographical error in §7.1301(d)(13).

A. W. Pogue, associate commissioner of the financial division, Texas Department of Insurance, has determined that there will be fiscal implications as a result of enforcing or administering this section. The effect on state government for the first five-year period the rule will be in effect will be fees paid by all authorized insurers, other than the fees already collected from companies regulated by Chapter 3 of the Insurance Code, to the state government for the filings specified in §7.1301 of this title. There will be no effect on local government for the first five-year period the rule will be in effect. There is no anticipated additional effect on local employment or the local economy, or reduction in costs or revenue to local governments. There is an anticipated increase in revenue of approximately \$24,000 to the state as a result of

administering or enforcing the proposed amendment.

Mr. Pogue also has determined that for each year of the first five years the amendment is in effect that the anticipated economic cost to persons who must comply with the section shall depend upon the number and type of filings completed by an admitted insurer pursuant to the filing fees set for the insurer's particular class of insurance. The maximum filing fees are established in the Insurance Code, Article 4.07, and the current fees charged by the department for the various types of filings are set out in §7.1301 of this title and in this proposed amendment.

Comments on this proposal must be submitted in writing within 30 days after publication of this section in the *Texas Register* to the Chief Clerk of the Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104, with a copy to A. W. Pogue, Associate Commissioner of Financial, Mail Code 305-2A, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment is proposed pursuant to the Insurance Code, Articles 1.03A and 4.07. Article 1.03A authorizes the Commissioner of Insurance to promulgate and adopt rules and regulations for the conduct and execution of duties and functions by the Department. Article 4.07 authorizes the Texas Department of Insurance to charge and receive fees for the use of the State by all authorized insurers writing classes of insurance in Texas.

The proposed rule affects Insurance Code, Article 4.07.

§7.1301. Regulatory Fees.

(a) Regulated entities subject to fees. The regulated entities subject to the fees imposed by this section shall include all authorized insurers writing any class [classes] of insurance in this state which are regulated by the Insurance Code, Chapters 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 20A, 22, and 23 [Chapter 3, all stipulated premium insurance companies, all prepaid legal services corporations regulated by the Insurance Code, Chapter 23, all health maintenance organizations, and all group hospital service plans corporations. Affected entities would include any and all stock and mutual insurance companies, local mutual aid associations, statewide mutual assessment companies, stipulated premium insurance companies, prepaid legal services corporations regulated by the Insurance Code, Chapter 23, health maintenance organizations, and all group hospital service plan corporations]. For filings and other actions on and after September 1, 1987, the Texas Department [State Board] of Insurance shall charge these entities fees in amounts in accordance with the provisions of this section.

(b) Fees for insurers with annual gross premium receipts less than \$450,000. As provided in the Insurance Code, Article 4.07, any insurer to which the Article

applies and whose gross premium receipts are less than \$450,000 according to its annual statement for the preceding year ending December 31, shall be required to pay only one-half the amount of the fees required to be paid under subsection (d) or subsection (e) of this section. The fees will be collected at the higher rate unless the applicant can provide the Texas Department [State Board] of Insurance with satisfactory documentation that gross premium receipts were less than \$450,000.

(c) (No change.)

(d) Fees for authorized insurers writing classes of insurance in this state which are regulated by the Insurance Code, Chapters 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 20A, 22, and 23 [Chapter 3]. For the following filings and actions, the fees shall be as follows.

(1) For classes of insurance for which statutory authority exists for collecting annual statement fees [filing annual statements], the fee for filing annual statements shall be \$250 unless otherwise specified.

(2)-(12) (No change.)

(13) For filing a direct reinsurance agreement pursuant to the Insurance Code, Article 22.19, the fee shall be \$150 [\$750].

(14)-(25) (No change.)

(e) (No change.)

(f) Administrative procedures

[(1) Property and casualty insurance companies, Lloyds, and reciprocals which have the authority to write accident and health insurance are considered regulated entities subject to fees imposed by this section.]

(1)[(2)] When a reinsurance agreement or merger agreement is filed with the Texas Department [State Board] of Insurance, as enumerated in subsection (d)(11)-(15) of this section, the ceding or merged company will be the company upon which the determination of the appropriate fee to be assessed will be based.

(2)[(3)] The fee relating to reinsurance transactions entered into pursuant to the Insurance Code, Article 21.49-1, §4, and subsection (d)(24) of this section shall be determined using the ceding company as a basis for such fee.

(3)[(4)] When an amendment to a reinsurance agreement between affiliated insurers is filed with this board, as mentioned in paragraph (2) of this subsection, the ceding company will be the insurer upon which the determination of the appropriate fee to be charged will be based.

(4) [(5)] An amendment to the charter would constitute any change in the original charter, including, but not limited to, name change, home office change, increase in capital, conversion, and increase in lines.

(5) [(6)] The fee relating to affixing the official seal and certifying to the seal, shall be applied to all requests for certification, irrespective of requesting party.

(6) [(7)] The fees for filing an acquisition statement pursuant to the Insurance Code, Article 21.49-1, §5, and subsection (d)(21) and (22) of this section shall apply to and be collected from the applicant whenever:

(A) the applicant is a regulated entity subject to this section; or

(B) the company being acquired is a regulated entity subject to this section.

(g) Fees pursuant to the Texas Health Maintenance Organization Act, §32. For the following filings and actions, the fees shall be as follows.

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

(3) For all examinations made on behalf of the State of Texas by the Texas Department of Insurance [board] or under its authority, the fee shall be in such amounts as the commissioner shall certify to be just and reasonable.

(4)-(5) (No change.)

(h)-(i) (No change.)

(j) Fees under the Insurance Code, Chapter 3. For the following filings and actions, the fees shall be as follows.

(1) For valuing policies of life insurance, and for each one million dollars of insurance or fraction thereof, \$10.

(2) For filing the annual statement, \$250.

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

Issued in Austin, Texas, on January 6, 1995.

TRD-9500199

D. J. Powers
Chief Clerk and General
Counsel
Texas Department of
Insurance

Earliest possible date of adoption: February 13, 1995

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



TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter O. Land Disposal Restrictions

• 30 TAC §335.431

The Texas Natural Resources Conservation Commission (TNRCC) proposes an amendment to §335.431, concerning land disposal restrictions. The amendment is proposed in order to adopt by reference certain federal regulations promulgated by the United States Environmental Protection Agency (EPA) relating to hazardous waste land disposal restrictions, under Title 40 Code of Federal Regulations (CFR) Part 268.

Section 335.431 is proposed to be amended at subsection (c)(1) to adopt by reference, subject to the conditions denoted in this subsection, the aforementioned EPA regulations as amended through January 3, 1995, in 60 FedReg 242. Subsection (c)(3) is proposed to be amended to adopt by reference an additional appendix of 40 CFR Part 268 (i.e., Appendix X), as amended by the EPA through January 3, 1995, in 60 FedReg 242. The existing rule language citing an earlier Federal Register promulgation dated February 16, 1993 is proposed to be deleted from §335.431(c)(1) and (3).

The aforementioned January 3, 1995 federal regulations, along with the EPA regulation promulgated September 19, 1994 at 59 FedReg 48043 include a major improvement in the land disposal restrictions program that simplifies and provides consistency in these requirements, through the promulgation of "universal" treatment standards. In addition, these federal regulations also establish treatment standards for certain newly listed and identified hazardous wastes, and prohibit injection into deep wells of high Total Organic Carbon ignitable wastes and Toxicity Characteristic organic pesticides unless they are treated to meet applicable treatment standards, or the deep well has received a non-migration variance. The regulations also change requirements for land disposal of lab packs containing prohibited hazardous wastes, and simplify paperwork requirements. Once effective, the state rules would match the aforementioned federal regulations.

It should be noted that the aforementioned requirements promulgated by the EPA contain requirements, such as the universal treatment standards, that are less stringent, in certain regards, than the requirements which they replaced. Since the existing TNRCC rules adopt the earlier, more stringent EPA regulations, this means that the existing TNRCC rules are now more stringent than current EPA regulations in this area. If the

TNRCC subsequently adopts these proposed rules, then the state rules would no longer be generally more stringent than these existing federal regulations, once the rules become effective.

Finally, §335.431 is proposed to be amended at subsection (d)(5) to correct a typographical error. The existing reference to "§268.501(a)(1)" is proposed to be changed to "§268.50(a)(1)."

Stephen Minick, Division of Budget and Planning, has determined that, for the first five-year period this section as proposed is in effect, there are no significant fiscal implications anticipated for state or local government as a result of enforcement or administration of the section.

Mr. Minick also has determined that for the first five years this section as proposed is in effect, the public benefit anticipated as a result of administration of and compliance with the section will be more effective management of the state's efforts to regulate disposal of hazardous wastes and improved protection of the public health due to the improvements in the land disposal restrictions program. There will be no effect on small businesses. The statewide annual costs required to comply with this section as proposed, estimated at \$30 million, will be significantly offset by operation cost savings brought on by the new universal treatment standards. Although these savings are not quantifiable on a broad basis, EPA received comment from representatives of The Dow Chemical Company's Freeport, Texas facility that their annual savings in this regard would amount to approximately \$740,000.

Comments on this proposal may be submitted to Ray Henry Austin, P.E., Waste Policy and Regulations Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. The deadline for the submission of written comments will be 30 days after the date of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Water Code, §§5.103, 5.105, and 26.011, which provides the TNRCC the authority to adopt rules necessary to carry out its powers, duties, and policies and to protect water quality in the state. The amendment is also proposed under the Health and Safety Code, §361.024, which provides the TNRCC the authority to adopt rules necessary to manage solid waste.

The proposed amendment affects Health and Safety Code, Chapter 361.

§335.431. Purpose, Scope, and Applicability.

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

(c) Adoption by Reference.

(1) Except as provided in paragraph (2) of this subsection, and subject to the changes indicated in subsection (d) of this section, the regulations contained in 40 CFR, Part 268, as amended through January 3, 1995, in 60 FedReg 242 [February 16, 1993, in 58 FedReg 8685] are adopted by reference.

(2) (No change.)

(3) Appendices I-X [IX] of 40 CFR, Part 268 are adopted by reference as amended through January 3, 1995, in 60 FedReg 242 [February 16, 1993, in 58 FedReg 8685].

(d) Changes to Adopted Parts. The parts of the CFR that are adopted by reference in subsection (c) of this section are changed as follows:

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

(5) In §268.50[1](a)(1), the citation to "\$262.34" is changed to "\$335.69."

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

Issued in Austin, Texas, on January 9, 1994.

TRD-9500175 Kevin McCalla
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: February 13, 1995

For further information, please call (512) 239-6087

◆ ◆ ◆
**TITLE 31. NATURAL RE-
SOURCE CONSERVA-
TION COMMISSION**

**Part X. Texas Water
Development Board**

**Chapter 363. Financial
Assistance Programs**

**Subchapter A. General Provi-
sions**

The Texas Water Development Board (board) proposes amendments to §363.15, concerning Required Water Conservation Plan, and §363.71, concerning General Responsibilities. Amended §363.15(c) will describe the requirements of a water conservation plan to include evaluation of the utility system, and establishment of goals for water conservation measures. The plan shall consist of a long term water conservation plan and an emergency water demand management plan. The section will specify the three essential elements of long-term water conservation plans to be education, methods to determine and minimize unaccounted for water, and rate structures which do not promote excessive use of water. Amended §363.71(a)(2) will change the length of time required to submit reports on the water conservation programs from the life of the financial assistance to three years from the date of loan closing. If the executive administrator determines that the water conservation program is not in compliance with the water conservation plan, ad-

ditional annual reports may be required. The amendments will eliminate those requirements which do not provide a benefit to water conservation and will ensure that all essential requirements for efficient water conservation are met.

The board also proposes the repeal of §363.224, relating to Hardship Applications. This section is no longer used as a method of financial assistance.

Pamela Ansboury, the Director of Finance, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state government as a result of enforcing or administering the rules. Ms. Ansboury has determined that for the first five-year period the rules are in effect the fiscal implications on local government will be cost reductions of \$3,400 for 1995, \$2,700 for 1996, \$700 for 1997, \$200 for 1998, and \$1,000 for 1999.

Ms. Ansboury also has determined that for each year of the first five years that the proposed rules are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be to streamline the application process, reduce the cost to the political subdivision for implementing the water conservation program, and clarify existing rule language by deleting a method of financial assistance which is no longer used. There will be no effect on small businesses. Ms. Ansboury has determined that there will not be anticipated economic cost to persons who are required to comply with these amendments as proposed.

Comments on the proposal may be submitted within 30 days from the date of the publication hereof to Lisa Adelman, Attorney, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, (512) 475-2051.

General Application Procedures

• 31 TAC §363.15

The amendment is proposed under Texas Water Code, §6.101, which requires the board to adopt rules to carry out the powers and duties of the board, under the Texas Water Code, and other laws of this state.

The proposed section affects Texas Water Code, Chapter 15, Subchapters C and D; Texas Water Code, Chapter 16, Subchapter E; Texas Water Code, Chapter 17, Subchapters D, F, and I.

§363.15. Required Water Conservation Plan.

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

(c) The water conservation plan required under this section [shall be consistent with the guidelines for water conservation planning available from the executive administrator, and] shall include an evaluation of the applicant's water and wastewater system and shall set goals to be accomplished by water conservation measures. The plan shall include a long-term water conservation plan and an emergency water demand management plan. In addition to any elements deemed appro-

priate by the political subdivision, the long-term water conservation plan shall include the following:

(1) a water conservation education and information program;

(2) methods to determine and minimize unaccounted for water; and

(3) a non-promotional rate structure which is cost-based and does not promote the excessive use of water.

(d) (No change.)

(e) The board will accept a water conservation plan considered administratively complete by the commission.

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500259 Craig D. Pedersen
Executive Administrator
Texas Water Development
Board

Proposed date of adoption: February 16, 1995

For further information, please call: (512) 463-7981

◆ ◆ ◆
**Post-Construction Responsibili-
ties**

• 31 TAC §363.71

The amendment is proposed under Texas Water Code, §6.101, which requires the board to adopt rules to carry out the powers and duties of the board, under the Texas Water Code, and other laws of this state.

§363.71. General Responsibilities.

(a) After the satisfactory completion of the project, the political subdivision shall be held responsible by the board for the continued compliance with all representations and assurances made to the board. To protect the state's monetary investment and the public interest, the following provisions shall be observed.

(1) (No change.)

(2) Political subdivisions [with required water conservation programs] shall report annually to the executive administrator on the implementation [,] and status [,] and effectiveness] of required [the] water conservation programs for three years after the date of loan closing. If the executive administrator determines that the water conservation program is not in compliance with the approved water conservation plan, political subdivisions shall continue to supply annual reports beyond the three years until the executive administrator determines that deficiencies in

the plan have been resolved. Annual reports prepared for the commission providing the information required by this subparagraph may be provided to the board to fulfill the board's reporting requirements. [until all of their financial obligations to the state have been discharged.]

(b) (No change.)

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500260 Craig D. Pedersen
Executive Administrator
Texas Water Development
Board

Proposed date of adoption: February 16, 1995

For further information, please call: (512) 463-7981

Subchapter B. State Water Pollution Control Revolving Fund

Applications for Assistance

• 31 TAC §363.224

(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 Water Development Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Texas Water Code, §6.101, which requires the board to adopt rules to carry out the powers and duties of the board, under the Texas Water Code, and other laws of this state.

§363.224. Hardship Applications.

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500261 Craig D. Pedersen
Executive Administrator
Texas Water Development
Board

Proposed date of adoption: February 16, 1995

For further information, please call: (512) 463-7981

Chapter 370. Colonia Plumbing Loan Program

Policy Declarations

• 31 TAC §370.29

The Texas Water Development Board (board) proposes an amendment to §370.29, concerning Eligible Households. Amended

§370.29 expands eligible borrowers under the Colonia Plumbing Loan Program to include homes all located in colonias in existence prior to November 9, 1989. The rule as it currently exists requires a home to have been owned by the current owner prior to November 9, 1989. The proposed amendment also limits eligibility to colonias outside incorporated municipalities or other colonias approved by the U.S. Environmental Protection Agency. This change is consistent with the Environmental Protection Agency's Operating Agreement with the board for the Colonia Plumbing Loan Program.

Pamela Ansboury, the Director of Finance, has determined that for the first five-year period the rule is in effect there will not be fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Ansboury also has determined that for each year of the first five years that the proposed rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be to enable more homes to be eligible for a loan under the Colonia Plumbing Loan Program in order to hookup to water and wastewater services and alleviate the public health threat. There will be no effect on small businesses. Ms. Ansboury has determined that there will be no anticipated economic cost to persons who are required to comply with this amendment as proposed. Board staff has determined that for the first five years that the rule is in effect there will be no economic impact on local economies.

Comments on the proposal may be submitted within 30 days from the date of the publication hereof to Lisa Adelman, Attorney, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, (512) 463-8249.

The amendment is proposed under Texas Water Code, §6.101 and §15.737, which requires the board to adopt rules to carry out the powers and duties of the board under the Texas Water Code including Chapter 15, Subchapter L, relating to Plumbing and Improvement Loans, and other laws of this state.

The statutory provisions affected by this amendment are Texas Water Code, Chapter 15, Subchapter L.

§370.29. *Eligible Households.* Borrowers may provide loans to the following individuals for plumbing improvements:

(1) residents of a colonia outside an unincorporated municipality or such other colonia approved by the United States Environmental Protection Agency that existed on [in project areas who are the owners of the household for which improvements are to be made, occupied their property prior to] November 9, 1989, and whose income is below the HUD Section 8 low-to-moderate income limits for the particular county in which the household is located; and

(2) owners of real property who receive loans for plumbing improvements

for real property leased to others in the project areas, provided the owner owned the property in a colonia outside an unincorporated municipality or such other colonia approved by the United States Environmental Protection Agency that existed on [prior to] November 9, 1989, agrees to rent the household unit(s) only to persons of low-to-moderate income until the loan is repaid in full, provides evidence of adequate collateral and credit history, and agrees not to displace the family currently living in any household unit which will receive the plumbing improvements, except for breach of a valid contract or lease.

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500262 Craig D. Pedersen
Executive Administrator
Texas Water Development
Board

Proposed date of adoption: February 16, 1995

For further information, please call: (512) 463-7981

Chapter 375. State Water Pollution Control Revolving Fund

The Texas Water Development Board (board) proposes amendments to §375.37, concerning Required Water Conservation Plan and §375.101, concerning Responsibilities of Applicant. Amended §375.37(c) will describe the requirements of a water conservation plan to include evaluation of the utility system, and establishment of goals for water conservation measures. The plan shall consist of a long-term water conservation plan and an emergency water demand management plan. The section will specify the three essential elements of long-term water conservation plans to be education, methods to determine and minimize unaccounted for water, and rate structures which do not promote excessive use of water. Amended §375.101(c) will change the length of time required to submit reports on the water conservation programs from the life of the financial assistance to three years from the date of loan closing. If the executive administrator determines that the water conservation program is not in compliance with the water conservation plan, additional annual reports may be required. The amendments will eliminate those requirements which do not provide a benefit to water conservation and will ensure that all essential requirements for efficient water conservation are met.

Pamela Ansboury, Director of Finance, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications for state government as a result of enforcing or administering the sections. Ms. Ansboury has determined that for

the first five-year period the rules are in effect the fiscal implications on local government will be cost reductions of \$5,000 for 1995, \$3,900 for 1996, \$1,000 for 1997, \$400 for 1998, and \$1,400 for 1999.

Ms. Ansboury also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be to streamline the application process and reduce the cost to the political subdivision for implementing the water conservation program. There will be no effect on small businesses. There is no anticipated economic cost to individuals.

Comments on the proposed sections may be submitted to Lisa Adelman, Texas Water Development Board, General Counsel's Office, P.O. Box 13231, Austin, Texas 78711-3231, (512) 463-8249.

Applications for Assistance

• 31 TAC §375.37

The amendment is proposed under the authority of Texas Water Code, §6. 101 and §15.605, which requires the board to adopt rules necessary to carry out the powers and duties of the board provided by Texas Water Code, and adopt rules for the State Water Pollution Control Revolving Fund.

Texas Water Code, Chapter 15, Subchapter J is the statutory provision affected by the proposed rule.

§375.37. Required Water Conservation Plan.

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

(c) The [long-term] water conservation plan required under subsections (a) or (b) of this section [shall be consistent with the guidelines for water conservation planning available from the executive administrator. The plan shall serve as the basis for developing and implementing a conservation program. At a minimum, the plan shall consider, and as appropriate] shall include[,] an evaluation of the applicant's water and wastewater system and shall set goals to be accomplished by water conservation measures. The plan shall include a long-term water conservation plan and an emergency water demand management plan. In addition to any elements deemed appropriate by the political subdivision, the long-term water conservation plan shall include the following:

- (1) a water conservation education and information program;
- (2) methods to determine and minimize unaccounted for water; and
- (3) a non-promotional rate structure which is cost-based and does not promote the excessive use of water. [each of the elements in §375.32(10) of this title (relating to Required General Information). Reasons for not including any of the

elements stated in §375.32(10) of this title (relating to Required General Information) shall be clearly stated. The plan shall effectively address the following:

- [(1) need for the goals of a water conservation program;
- [(2) methods to reduce water consumption;
- [(3) methods to reduce the loss or waste of water;
- [(4) methods to improve efficiency in use of water; and
- [(5) methods to increase the recycling and reuse of water.]

(d) (No change.)

(e) The board will accept a water conservation plan considered administratively complete by the commission.

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500263 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Proposed date of adoption: February 16, 1995

For further information, please call: (512) 463-7981

Post Building Phase

• 31 TAC §375.101

The amendment is proposed under the authority of Texas Water Code, §6. 101 and §15.605, which requires the board to adopt rules necessary to carry out the powers and duties of the board provided by Texas Water Code, and adopt rules for the State Water Pollution Control Revolving Fund.

§375.101. Responsibilities of Applicant. After the satisfactory completion of the project, the applicant shall be held accountable by the board for the continued validity of all representations and assurances made to the board. Continuing cooperation with the board is required. To facilitate such cooperation and to enable the board to protect the state's investment and the public interest, the following provisions shall be observed.

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

(4) Applicants [with required water conservation programs] shall report annually to the executive administrator on the implementation[,] and status[, public acceptance, and effectiveness] of required [the] water conservation programs for three years after the date of loan closing. If the

executive administrator determines that the water conservation program is not in compliance with the approved water conservation plan, political subdivisions shall continue to supply annual reports beyond the three years until the executive administrator determines that deficiencies in the plan have been resolved. Annual reports prepared for the commission providing the information required by this subparagraph may be provided to the board to fulfill the board's reporting requirements. [until all of their financial obligations to the state have been discharged. The executive administrator may require an applicant which is not effectively implementing its conservation program to take corrective action. The executive administrator may refer further noncompliance by a applicant to the attorney general, or may take other corrective actions deemed appropriate to assure compliance.]

(5) (No change.)

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500264 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Proposed date of adoption: February 16, 1995

For further information, please call: (512) 463-7981

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 5. Funds Management (Fiscal Affairs)

Claims Processing Witness Allowances

• 34 TAC §§5.71-5.74

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

The Comptroller of Public Accounts proposes the repeal of §§5.71-5.74, concerning claims processing-witness allowances. The sections are being repealed because they are no longer consistent with the various statutes that govern witness allowances. Those statutes were amended by House Bill 1952, 73rd Legislature, 1993.

The comptroller does not believe that new sections are needed to reflect this legislation.

The witness allowance statutes now provide much more detail than previously, and the comptroller's general rules about the processing of payment documents in the uniform statewide accounting system will sufficiently cover witness allowance payments.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals

Mr Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals is providing the public and state agencies with new information regarding their responsibilities regarding claims processing and witness allowances. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals

Comments on the repeals may be submitted to Kenny McLeskey, Manager of Claims Division, P.O. Box 13528, Austin, Texas 78711

The repeals are proposed under the Government Code, §2101.035, which authorizes the comptroller to adopt rules for the effective operation of the uniform statewide accounting system.

The repeals implement the Government Code, §2101.035

§5.71. Definitions

§5.72. Procedure for Submission of Claims.

§5.73. Voucher Requirements.

§5.74. Special Requirements.

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

Issued in Austin, Texas, on January 5, 1995.

TRD-9500146 Martin E Cherry
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Earliest possible date of adoption: February 13, 1995

For further information, please call (512) 463-4028



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XII. Texas Board of Occupational Therapy Examiners

Chapter 373. Examinations

• 40 TAC §373.1

(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 Board of Occupational Therapy Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Board of Occupational Therapy Examiners proposes the repeal of §373.1, concerning Examinations, for the purpose of expanding and clarifying the rules.

Nina Hurter, Interim Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms Hurter also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of repealing the rule will be the increase of consumer protection and the clarification of licensing requirements. There will be no effect on small businesses. There are no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposed repeal may be submitted to Josephine Sanchez, OT Coordinator, Texas Board of Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The repeal is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provide the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act

No other statute, code, or article is affected by this repeal.

§373.1. Examinations.

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

Issued in Austin, Texas, on January 6, 1995

TRD-9500255 Nina Hurter
 Interim Executive Director
 Executive Council of
 Physical Therapy and
 Occupational Therapy
 Examiners

Earliest possible date of adoption: February 13, 1995

For further information, please call (512) 443-8202

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Chapter 373. Supervision

• 40 TAC §373.1

The Texas Board of Occupational Therapy Examiners proposes new §373.1, concerning Supervision, requiring supervision of certified occupational therapy assistants by occupational therapists registered; supervision of OT aides and orderlies; and supervision of OTs and OTAs with temporary licenses.

Nina Hurter, Interim Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms Hurter also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the increase of consumer protection and the clarification of licensing requirements. There will be no effect on small businesses. There are no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposed rule may be submitted to Josephine Sanchez, OT Coordinator, Texas Board of Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The new section is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provide the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

No other statute, code, or article is affected by this new section.

§373.1. Supervision.

(a) Supervision of COTAs.

(1) The OTR shall delegate responsibilities to the COTA that are within the scope of his or her training.

(2) A COTA shall provide occupational therapy services only under the general supervision of a licensed OTR.

(A) A minimum of eight hours of supervision per month for full time COTAs must be documented on a "COTA Supervision Form" prescribed by the board. (COTAs employed part time shall prorate the required supervision. If the COTA is employed less than 20 hours per month, a minimum of four hours of supervision is required.) The "COTA Supervision Form" must be submitted by the COTA with his or her annual license renewal.

(B) The manner of supervision shall depend on the treatment setting,

patient/client caseload, and the competency of the COTA as determined by the supervising OTR

(C) The supervising OTR need not be physically present or on the premises at all times.

(3) The OTR is responsible for completing the patient's evaluation/assessment. The supervising OTR may delegate any evaluative task to a COTA that the OTR and COTA agree is within the competency level of that COTA.

(4) The supervising OTR is responsible for developing and modifying the patient's treatment plan. The treatment plan must include the following components: goals, interventions/modalities, frequency, and duration.

(5) The supervising OTR has overall responsibility for providing the supervision necessary to protect the health and welfare of the consumer receiving treatment by a COTA. However, this does not absolve the COTA from his or her professional responsibilities.

(6) The supervising OTR is responsible for writing the patient's discharge summary.

(7) It is the responsibility of the OTR and the COTA to ensure that all documentation prepared by the COTA which becomes part of the patient's/client's permanent record is co-signed by the supervising OTR.

(8) These rules shall not preclude the COTA from responding to emergency situations in the patient's condition which require immediate action.

(9) It is the responsibility of the COTA to notify the board within thirty days of a change in the primary OTR supervisor on a form provided by the board.

(b) Supervision of an "OT Aide" or "OT Orderly."

(1) The OTR or COTA is responsible for the actions of the "OT Aide" or "OT Orderly" during patient contact.

(2) An OTR or COTA using "OT Aide" or "OT Orderly" personnel to assist with the provision of occupational therapy services must provide close personal supervision in order to protect the health and welfare of the consumer.

(3) Delegation of tasks to "OT Aides" or "OT Orderlies"

(A) The primary function of an "OT Aide" or "OT Orderly" functioning

in an occupational therapy setting is to perform designated routine tasks related to the operation of an occupational therapy service. An OTR or COTA may delegate to an "OT Aide" or "OT Orderly" only specific tasks which are not evaluative or recommending in nature, and only after insuring that the "OT Aide" or "OT Orderly" has been properly trained for the performance of the tasks. Such tasks include, but are not limited to:

(i) routine department maintenance,

(ii) transportation of patients/clients,

(iii) preparation or setting up of treatment equipment and work area;

(iv) assisting patients'/clients' with their personal needs during treatment;

(v) assisting in the construction of adaptive equipment and splints;

(vi) clerical, secretarial, administrative activities;

(vii) carrying out a predetermined segment or task in the patient's care.

(B) The OTR or COTA shall not delegate to an "OT Aide" or "OT Orderly":

(i) performance of occupational therapy evaluative procedures;

(ii) initiation, planning, adjustment, modification, or performance of occupational therapy procedures requiring the skills or judgment of an OTR or COTA;

(iii) making occupational therapy entries directly in patients' or clients' official records;

(iv) Acting on behalf of the occupational therapist in any matter related to occupational therapy which requires decision making or professional judgment.

(c) Supervision of an occupational therapist or an occupational therapy assistant with a temporary license.

(1) Temporary License Pending Passage of Certification Examination.

(A) A person issued a temporary occupational therapy license pending passage of the certification examination must practice occupational therapy under the continuing supervision of an OTR.

(B) A minimum of sixteen hours of documented supervision per month is required for an OTA. An OTA employed part time shall prorate the required supervision. (If the OTA is employed less than 20 hours per month, a minimum of four hours of supervision is required)

(C) The temporary licensee will certify to the board as to the name, license number, and address of his or her supervisor on a form provided by the board during the application process.

(D) The temporary licensee must notify the board within 15 days of a change in the OTR supervisor.

(E) The temporary licensee shall not supervise an occupational therapy student, an occupational therapy assistant, or an "OT Aide" or "OT Orderly."

(F) All documentation completed by an individual holding a temporary license pending passage of the certification examination which becomes part of the patient's/client's permanent file must be co-signed by the supervising OTR.

(2) Provisional Licenses.

(A) OTRs with provisional licenses are excluded from supervision requirements.

(B) COTAs with provisional licenses will require general supervision by a licensed OTR.

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

Issued in Austin, Texas, on January 6, 1995.

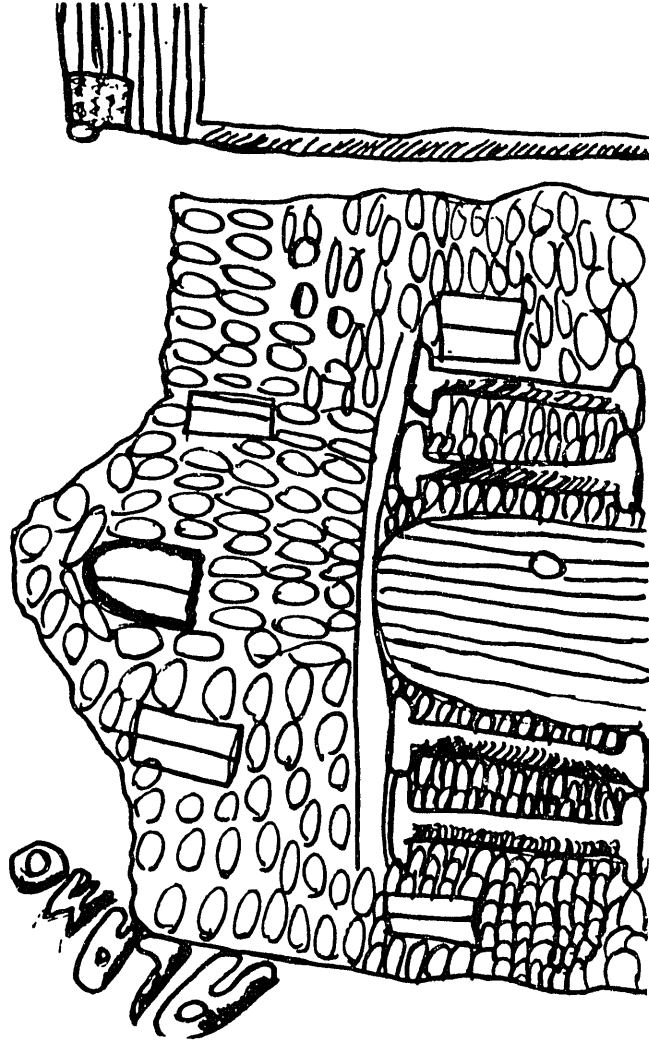
TRD-9500256

Nina Hurter
Interim Executive Director
Executive Council of
Physical Therapy and
Occupational Therapy
Examiners

Earliest possible date of adoption: February 13, 1995

For further information, please call: (512) 443-8202





Name: Cece Hyslop

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WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the **Texas Register**. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of 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 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 101. General Rules

- 30 TAC §101.32

The Texas Natural Resource Conservation Commission has withdrawn from consideration for permanent adoption a proposed new §101.32, which appeared in the October 7, 1994, issue of the *Texas Register* (19 TexReg 7996). The effective date of this withdrawal is January 6, 1995.

Issued in Austin, Texas, on January 6, 1995.

TRD-9500225 Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: January 6, 1995

For further information, please call: (512)
239-1970





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ADOPTED RULES

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 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 101. General Rules

• 30 TAC §101.10

The Texas Natural Resource Conservation Commission (TNRCC) adopts an amendment to §101.10, concerning Emissions Inventory Requirements. The amendment is adopted without changes to the proposed text as published in the October 7, 1994, issue of the *Texas Register* (19 Tex Reg 7995). The TNRCC also withdraws proposed §101.32, concerning Inspection Requirements.

The revisions to §101.10, concerning Emissions Inventory Requirements, correct a reference to a definition which has been relocated from Chapter 101 to Chapter 116. The purpose of the proposed revisions to §101.32, concerning Inspection Requirements, was to improve recordkeeping requirements for secondary seal gap exceedances and the associated storage tank emissions in order to improve rule effectiveness, resulting in additional emission reduction credits.

Public hearings were held October 31, 1994 in Houston; November 1, 1994 in Beaumont; and November 2, 1994 in Irving. Written comments were initially to be accepted through November 4, 1994; however, the comment period was extended to November 18, 1994.

The Texas Chemical Council (TCC) and the Texas Mid-Continent Oil & Gas Association (TMOGA) submitted joint comments. DuPont, Exxon Company, U.S.A. -Baytown (Exxon Baytown), and Exxon Chemical Americas (Exxon Chemical) fully supported the TCC/TMOGA comments.

No commenters submitted testimony on §101.10, concerning Emissions Inventory Requirements.

Eight commenters submitted testimony on §101.32, concerning Inspection Requirements. Houston Lighting & Power (HL&P) and Star Enterprise (Star) fully supported the proposed changes. Dow Chemical Company (Dow), EPA, Exxon Baytown, Galveston-Houston Association for Smog Prevention

(GHASP), TCC, and TMOGA generally opposed the proposed changes.

The TCC, TMOGA, Dow, Exxon Baytown, Monsanto, and DuPont objected to the adoption of the Inspection Preparation Guidelines (IPG) by reference in §101.32 since such adoption would make the IPG an enforceable document for all source categories that it addresses, and stated that TNRCC should limit the adoption of the IPG by reference to source categories for which Texas receives additional rule effectiveness (RE) credits. The TCC, TMOGA, Dow, DuPont, and Monsanto suggested incorporation of the excess emissions calculation methodology directly into §115.116(a)(2)(B), thereby eliminating the need to reference the IPG in §101.32. The TCC and TMOGA further recommended specific changes to the IPG should the TNRCC elect to adopt the IPG by reference. GHASP commented that the requirement in §101.32 to submit additional information relating to inspection preparations is vague and wondered how that could assist the TNRCC in determining compliance. The EPA expressed concerns about adopting the September version of the IPG by reference in §101.32. The EPA indicated that every time TNRCC wishes to update the IPG in the future, it would have to go through rule-making to make the new document enforceable. Dow recommended changing the rule language by making reference to the latest version of the IPG. Furthermore, EPA indicated that the IPG will have to be submitted and reviewed as part of the State Implementation Plan (SIP) revision to be approved.

The TNRCC has deleted §101.32 and included the excess emission calculation methodology in §115.116(a)(2)(B) to obtain the desired RE emission credits for external floating roof storage tanks. No reference is made to the IPG in any of the adopted provisions. The amendment is adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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

Issued in Austin, Texas, on January 4, 1995

TRD-9500224

Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date, January 27, 1995

Proposal publication date October 7, 1994

For further information, please call (512) 239-1970

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

Subchapter B. General Volatile Organic Compound Sources

The Texas Natural Resource Conservation Commission (TNRCC) adopts amendments to §§115.112, 115.113, 115.115, 115.116, 115.117, and 115.119, concerning Storage of Volatile Organic Compounds, §§115.121, 115.122, 115.123, and 115.127, concerning Vent Gas Control; §§115.143, 115.147, and 115.149, concerning Industrial Wastewater, §115.159, concerning Municipal Solid Waste Landfills; and §115.219, concerning Loading and Unloading of Volatile Organic Compounds

Adopted with changes as published in the October 7, 1994, issue of the *Texas Register* (19 TexReg 7995) are §§115.115, 115.116, and 115.119, concerning Storage of Volatile Organic Compounds; §115.149, concerning Industrial Wastewater; and §115.219, concerning Loading and Unloading of Volatile Organic Compounds.

Adopted without changes as published in the October 7, 1994, issue of the *Texas Register* (19 TexReg 7995) are §§115.112, 115.113, and 115.117, concerning Storage of Volatile Organic Compounds; §§115.121, 115.122, 115.123, and 115.127, concerning Vent Gas Control; §§115.143 and §115.147, concerning Industrial Wastewater; and §115.159, concerning Municipal Solid Waste Landfills. These sections will not be republished.

Revisions to Chapter 115, concerning Control of Air Pollution from Volatile Organic Compounds (VOC) and the State Implementation Plan (SIP) are adopted in response to the

1990 Amendments to the Federal Clean Air Act (FCAA) and United States Environmental Protection Agency (EPA) requirements. The FCAA requires states to adopt a SIP which achieves a 15% net-of-growth reduction in the VOC emissions level by November 15, 1996 in the Beaumont/Port Arthur (BPA), Dallas/Fort Worth (DFW), El Paso, and Houston/Galveston (HGA) ozone nonattainment areas. The TNRCC submitted this required Rate-of-Progress (ROP) SIP to EPA by May 13, 1994.

The FCAA further requires states to develop, adopt, and submit a Post-1996 ROP SIP and accompanying rules to EPA by November 15, 1994. This submittal must demonstrate how the BPA and HGA ozone nonattainment areas will achieve continuing reductions in VOC and/or nitrogen oxide (NO_x) emissions of 3.0% per year until 1999 for BPA and 2007 for HGA, or until attainment status is reached. The plan must also include an additional 3.0% of contingency measures to be implemented if the nonattainment area fails to meet a deadline.

The new and revised rules comprise the first three years' reductions (or 9.0% net-of-growth). This "down payment" approach is designed to meet the requirements for the years 1997-1999. The final SIP will be based on Urban Airshed Modeling (UAM) using the Coastal Oxidant Assessment for Southeast Texas (COAST) data. The TNRCC plans to complete this modeling and develop any further rules necessary to reach attainment as evidenced by the model in 1996.

The revisions to §§115.112, 115.113, 115.115, 115.116, 115.117, and 115.119, concerning Storage of Volatile Organic Compounds delete obsolete language, update a rule reference, update the test methods for determining true vapor pressure, and add recordkeeping requirements for seal failures and the associated emissions. The purpose of the recordkeeping changes is to improve recordkeeping requirements for secondary seal gap exceedances and the associated emissions in order to improve rule effectiveness, resulting in additional emission reduction credits.

The revisions to §§115.121, 115.122, 115.123, and 115.127, concerning Vent Gas Control, correct rule references, correct typographical errors, and clarify the Once-In-Always-In (OIAI) language. OIAI is an EPA concept which means that once emissions from a source exceed the applicability cutoff for a particular VOC regulation in the SIP, that source is always subject to the control requirements of the regulation.

The revisions to §§115.143, 115.147, and 115.149, concerning Industrial Wastewater, update rule references and extend the industrial wastewater requirements to BPA as a contingency rule.

The revisions to §115.159, concerning Municipal Solid Waste Landfills, extend the compliance date from May 31, 1995 to May 31, 1996 for municipal solid waste landfills required to install gas collection and control systems in the DFW ozone nonattainment area.

The revisions to §115.219, concerning Loading and Unloading of Volatile Organic Compounds, establish marine vessel loading control requirements as a contingency measure for the BPA area.

Public hearings were held October 31, 1994 in Houston; November 1, 1994 in Beaumont; and November 2, 1994 in Irving. Written comments were initially to be accepted through November 4, 1994; however, the comment period was extended to November 18, 1994.

Texas Chemical Council (TCC) and Texas Mid-Continent Oil & Gas Association (TMOGA) submitted joint comments. DuPont, Exxon Company, U.S.A.-Baytown (Exxon Baytown), and Exxon Chemical Americas (Exxon Chemical) fully supported the TCC/TMOGA comments. Houston Lighting & Power (HL&P) fully supported all rule proposals. Star Enterprise (Star) fully supported all rules pertaining to BPA.

Ten commenters submitted testimony on §§115.112, 115.113, 115.115, 115.116, 115.117, and 115.119, concerning Storage of Volatile Organic Compounds. Dow Chemical Company (Dow), DuPont, EPA, Exxon Baytown, Exxon Company, U.S.A.-Houston (Exxon Houston), Monsanto, Phillips 66 Company (Phillips), TCC, and TMOGA generally supported the proposed revisions, but suggested changes. Galveston-Houston Association for Smog Prevention (GHASP) generally opposed the proposed changes.

Four commenters submitted testimony on §§115.121, 115.122, 115.123, and 115.127, concerning Vent Gas Control. Exxon Baytown, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications, while GHASP generally opposed the proposed changes.

Six commenters submitted testimony on §§115.143, 115.147, and 115.149, concerning Industrial Wastewater. DuPont, Exxon Baytown, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications, while EPA and GHASP generally opposed the proposed changes.

Two commenters submitted testimony on §115.159, concerning Municipal Solid Waste Landfills. No commenters opposed the proposed changes, while the North Central Texas Council of Governments (NCTCOG) and the City of Grand Prairie (Grand Prairie) supported the proposed changes.

Five commenters submitted testimony on §115.219, concerning Loading and Unloading of Volatile Organic Compounds. DuPont, Exxon Baytown, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications, while GHASP generally opposed the proposed changes.

Three commenters submitted testimony on the preliminary UAM documentation contained in the ozone SIP revision entitled "Post-1996 Rate-of-Progress for Beaumont/Port Arthur and Houston/Galveston." This SIP revision was the subject of hearings in Beaumont on September 1, 1994 and Houston on September 2, 1994. Because of additional, much more detailed UAM modeling

documentation was made the subject of subsequent hearings in Houston and Beaumont (October 31, 1994 and November 1, 1994, respectively), TNRCC staff decided to delay responses to the testimony on the preliminary modeling until after the hearings on the more detailed modeling. In such a manner, responses to issues raised in the testimony from the initial hearings could be combined with responses to any issues raised in the later hearings. EPA and an individual generally supported the preliminary UAM modeling documentation with changes, while GHASP generally opposed the preliminary UAM documentation. During the comment period for the hearings held in Houston and Beaumont on October 31, 1994 and November 1, 1994, respectively, five commenters submitted testimony on the UAM modeling documentation. TCC, TMOGA, Exxon Baytown, HL&P, and Star supported the UAM modeling documentation, while no commenters were opposed.

GHASP requested that these rule proposals be withdrawn and that TNRCC start all over again.

The regulation development process is intensive and time-consuming. It involves extensive research, coordination with different internal departments, and coordination with external actors such as EPA, the regulated community, the public, and local government. A significant portion of the time built into the rulewriting timetable is devoted to activities such as *Texas Register* publication, public hearings, workshops, and public comment periods; all of which are designed to foster public participation in the regulatory process. Withdrawing all of the proposed rules at this point will not allow the TNRCC to meet EPA's January 15, 1995 deadline for the ROP completeness determination. Severe sanctions may attach to any state which does not meet its completeness determination by January 15, 1995. These sanctions include the loss of millions of dollars in federal highway funds and EPA grants for pollution control programs.

Additionally, it is necessary to give affected industry, small business and the public sufficient time to implement the requirements of any proposed rule. When rulemaking is unduly delayed, it has the potential to delay rule implementation, which is unacceptable to staff, EPA, and many environmental groups.

Texas has made an exceptional commitment to meeting FCAA deadlines and milestones, and TNRCC intends to continue with effective and timely rulemaking.

TCC, TMOGA, Exxon Baytown, HL&P, and Star supported the TNRCC's approach in delaying the HGA and BPA attainment SIPs until the COAST data can be evaluated.

The TNRCC appreciates the support.

EPA stated that the modeling discussion in the SIP is very general. It does not contain detailed information on how the modeling was carried out, and results are not provided. In addition, no attainment demonstration is included. A complete modeling attainment demonstration SIP will need to include technical reports documenting the State's application of the UAM and modeling that documents

attainment, consistent with the EPA's "Guidance on UAM Reporting Requirements for Attainment Demonstration," (March, 1994).

Detailed technical reports documenting the State's application of the UAM for the HGA and BPA ozone nonattainment areas were the subject of public hearings held on October 31, 1994 in Houston and November 1, 1994 in Beaumont. The reports documented modeling procedures as well as results demonstrating progress toward attainment. The reports were consistent with the EPA's "Guidance on UAM Reporting Requirements for Attainment Demonstrations" (March 1994). Report titles are "Houston/Galveston Beaumont/Port Arthur Base Case Report Modeling Domain/Episode Selection Meteorology/Air Quality," "Houston/Galveston Beaumont/Port Arthur Base Case Report Emissions," "Houston/Galveston Beaumont/Port Arthur Ozone Nonattainment Areas Base Case Report Performance Evaluation," and "Houston/Galveston Beaumont/Port Arthur Nonattainment Areas Progress Toward Attainment."

There was no testimony given on the detailed reports. However, by phone, EPA staff requested clarification on several technical issues. TNRCC staff believes these issues were clarified to EPA's satisfaction.

EPA stated that the last sentence on page 25 specified episode dates that are different from the dates contained in Table 4. They believe that the correct dates are May 16-19, 1988, July 27-August 1, 1990, and October 10-13, 1991.

The dates specified on page 25 of the SIP document are correct (May 15-19, 1988; July 26-31, 1990; and October 9-13, 1991). The modeling episodes began on the day preceding the first ozone exceedance day so that the effect of initial conditions would be minimized. Episode selection is discussed in detail in the detailed meteorology report.

An individual suggested the use of artificial neural network modeling to alleviate the perceived weaknesses in the UAM. She also requested that TNRCC support the effort of Lamar University to perform this analysis by sharing data from the COAST study.

EPA requires that the UAM be used for photochemical modeling of ozone nonattainment areas in support of SIP development. However, TNRCC staff encourages studies which could result in improvements to photochemical models, including the UAM. Staff will be available to discuss UAM procedures and results with all interested parties. Model input and output data, including that from the COAST study, is available upon request. Requests for these data should be made to Mr. Cyril Durrenberger, P.E. at (512) 239-1482. GHASP stated that one of the problems with the COAST project is that TNRCC waited too long to start it. The COAST project should have been done a year earlier.

The COAST study was conducted during the summer of 1993 to coincide with an intensive field study conducted by the Minerals Management Service (MMS) of the Department of Interior. The MMS collected emissions data from offshore oil and gas production, and air quality and meteorological data in the coastal

area (including data from aircraft sampling). TNRCC staff believes that supplementing the COAST data with the MMS data is critical for the development of effective control strategies for HGA and BPA.

GHASP stated that they are concerned about the combining of the HGA area with the BPA area for modeling purposes. Star encouraged TNRCC to include at least one episode that demonstrates transport from HGA to BPA during the BPA attainment SIP development.

During the ozone episode selection process, TNRCC staff noted that elevated ozone levels, and in some cases ozone exceedances, tended to occur in HGA and BPA on the same days. It was therefore prudent to combine the modeling domains so that any transport of ozone or ozone precursors between the two areas would be addressed by the model. It should be noted that, even in the case where there is no interaction between adjacent domains, there are no negative effects from combining domains for modeling purposes.

GHASP commented that they are concerned that the model is thought to be accurate enough for only one ozone episode for SIP modeling. GHASP is concerned about underprediction and over-prediction of ozone by the UAM.

Three ozone episodes were modeled for the HGA and BPA non-attainment areas (May 15-19, 1988; July 26-August 1, 1990; and October 9-13, 1991). As discussed in the detailed modeling reports which were subjected to hearing, model performance for the 1988 and 1990 episodes was deemed sufficient for determining directional guidance on the effectiveness of VOC, NO_x, or VOC/NO_x controls (e.g., whether NO_x RACT would be beneficial). Model performance for the 1991 episode was deemed inadequate for further analysis.

It is normal for models, including the UAM, to underpredict or overpredict. Models are not expected to predict monitored levels exactly. However, there are ranges of accuracy, based on statistical measures, within which model performance is judged. There are also other criteria (e.g., behavior of ozone predictions over time and space, as indicated by graphical procedures) used for judging model performance. Report #3, which was subjected to hearing, provides more detailed information on methods of assessing UAM performance, and presents the performance results.

GHASP commented that it is not known whether the ROP SIP reductions will be enough to keep up with the reductions needed to reach attainment.

The modeling documented in the detailed reports which were subjected to hearing shows that the 15% net of growth ROP SIP reductions, coupled with the additional 9.0% net of growth reductions by 1999, will not be sufficient to demonstrate attainment by the attainment dates for HGA and BPA. This conclusion is based on the modeling of specific VOC reductions in the 15% ROP SIP as well as additional information provided by UAM "VOC/NO_x response surfaces," which

are developed from projected across-the-board emissions reductions. A projected 1999 inventory was used for this modeling.

GHASP commented that they are concerned with the dates proposed to complete the UAM modeling and turn in the Attainment Demonstration. GHASP is concerned about the TNRCC's contention that the timeline for submittal of the attainment demonstration to EPA is predicated on the availability of data by certain dates.

Table 5 in the originally proposed SIP presented a schedule for completing a UAM attainment demonstration, using COAST data, by April 30, 1996. The currently proposed schedule (see Table 4 in the revised SIP) likewise projects completion of the attainment demonstration by April 30, 1996, although some of the projected milestone dates have been revised. The TNRCC believes that such an attainment demonstration cannot be completed sooner, considering the time required for completing the processing of the COAST data, as well as the time required for conducting the modeling and development of control strategies.

The TNRCC maintains that the attainment demonstration schedule is predicated on the timely availability of quality assured data from the COAST study. It will be the TNRCC's responsibility to ensure that the data is available and in model-ready format in time to meet the schedule.

Exxon Houston objected to limiting the accumulated area of secondary seal gaps that exceed 1/8 inch to 1.0 inch per foot of tank diameter, as specified in §115.112(a)(2)(F). Exxon Houston recommended that the allowable be changed to ten inches per foot of tank diameter in §§115.112(a)(2)(F), 115.116(a)(2)(A), 115.116(a)(2)(B), and 115.116(a)(6) for consistency with the federal recommendation.

Rule 115.112(a)(2)(F) was not proposed for amendment, and consequently Exxon Houston's comments on this rule are not within the scope of the proposed revisions. However, the secondary seal gap allowable specified in §115.112(a)(2)(F) is based upon EPA's recommended RACT requirements as published in Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-047). Consequently, the TNRCC has no plans to change the existing secondary seal gap allowable. Rule 115.116(a)(2) has been revised to include the secondary seal gap allowable of §115.112(a)(2)(F), and §115.116(a)(6) has been deleted.

GHASP requested the TNRCC define "substantially equivalent" and "continuous compliance" in §115.113, regarding Alternative Control Requirements.

The TNRCC position remains that these terms have the meaning commonly ascribed to them in the field of air pollution control, and the TNRCC does not believe that further definition is necessary.

Phillips commented on §115.115(a)(7) and (b)(7) and expressed concern that American Society for Testing and Materials (ASTM) Test Method D2879 was expensive and time-

consuming, with few contract laboratories available to perform ASTM D2879 analyses in the HGA area. Phillips suggested that language allowing the use of the vapor pressures given in EPA's AP-42 Table 4.3-2 be added.

The purpose of the test methods enumerated in §115.115 is simply to list the various acceptable methods available for determining compliance with the specific requirements in §§115.112-115.119 when testing is conducted. Nothing in §115.115 precludes the use of standard engineering calculations or methods, including the use of accepted published chemical and physical properties, such as the ones referenced in Table 4.3-2 in AP-42, as a method of establishing the vapor pressure of a known substance. The purpose of the test method is to establish that a supposed "known" compound indeed has the characteristic vapor pressure listed in a table, or to establish the vapor pressure of other compounds. The title has been changed from Testing Requirements to Approved Test Methods for clarity.

TCC, TMOGA, Dow, DuPont, Exxon Baytown, and Monsanto suggested incorporation of the emissions calculation methodology directly into §115.116(a)(2)(B), thereby eliminating the need to reference the Inspection Preparation Guidelines (IPG). TCC and TMOGA further recommended specific changes to the IPG should the TNRCC elect to adopt the IPG by reference.

TNRCC agrees with TCC and TMOGA to incorporate the emissions calculation methodology directly into §115.116(a)(2)(B) and has made the recommended change. Upon this change, no reference is made to the IPG in any of the adopted provisions.

EPA expressed concerns about adopting the September version of the IPG by reference in §115.116(a)(2)(B) and §115.116(a)(6). EPA indicated that every time TNRCC wishes to update the IPG in the future, it would have to go through rulemaking to make the new document enforceable. Dow recommended changing the rule language by making reference to the latest version of the IPG. Furthermore, EPA indicated that the IPG will have to be submitted and reviewed as part of the SIP revision to be approved.

The Texas Register Rules, 1 Texas Administrative Code Chapter 91, §91.41(c), require agencies which adopt documents by reference to give notice of revisions to the referenced document by amending, through rulemaking, the rule in which it is referenced. This point is now moot since the TNRCC has deleted §115.116(a)(6) and included the emission calculation methodology in §115.116(a)(2)(B) to obtain the desired RE emission credits. No reference is made to the IPG in any of the adopted provisions.

EPA recommended revising §115.116(a)(2)(B) to include language stating that "these calculated emissions shall be reported in the annual emissions inventory submittal" in order to avoid confusion over whether these calculated emissions are a violation.

TNRCC agrees with EPA and has made the recommended change.

TCC and TMOGA commented that calculation of emissions resulting from secondary seal gap exceedances should be limited to tanks with secondary seals required to be physically measured during inspection.

TNRCC agrees and has made the recommended change.

TCC, TMOGA, and Exxon Baytown expressed concerns about the characterization of the calculated emissions under §115.116(a)(2)(B) as "excess emissions" that must be reported as "upsets."

TNRCC agrees with the commenters and deleted the phrases "excess emissions" and "upset emissions."

GHASP questioned whether fugitive emissions should be counted as upsets since TNRCC is treating emissions resulting from seal gap failures as upsets.

Fugitive emissions from leaking components such as valves and pump seals are not normally considered to be upset emissions. These fugitive emissions are specifically calculated in the emissions inventory. The TNRCC has clarified §115.116(a)(2)(B) by deleting the phrase "upset emissions." The purpose of including the emissions calculation methodology in §115.116(a)(2)(B) is to insure that all emissions associated with external floating roof storage tanks are accounted for and included in the annual emissions inventory submittal.

GHASP questioned whether TNRCC is trying to reassign emissions from one category to another by requiring sources to report upset emissions.

Emissions resulting from seal gap exceedances are not currently required to be reported as part of the annual emissions inventory. The inclusion of a requirement to calculate reportable emissions during seal gap exceedances and report them to the TNRCC would result in a better account of what is actually being emitted to the atmosphere from this source category. These reportable emissions are not a subset of the inventory. They are to be reported in addition to what is currently being reported.

TCC, TMOGA, Dow, DuPont, Exxon Baytown, and Monsanto objected to the adoption of the IPG by reference in §115.116(a)(6). TCC, TMOGA, and Exxon Baytown commented that the owner and/or operator of any storage tank would be legally bound to every line of the IPG, not just its tank-related provisions.

TNRCC agrees that the adoption of the IPG by reference in this paragraph is unnecessary. The rule effectiveness (RE) emission reductions for which the TNRCC has taken credit are a result of an inclusion of a procedure in the IPG that calculates emissions during periods of secondary seal gap exceedances on external floating roof tanks. The proposed §115.116(a)(2)(B) requires that emissions be calculated in accordance with the methodology specified in the IPG and be reported annually. TNRCC agrees that the calculation methodology should be included in §115.116(a)(2) to obtain the desired RE emission reduction credits. TNRCC has

therefore deleted §115.116(a)(6) in its entirety.

TCC, TMOGA, and Exxon Baytown suggested changing the compliance date in §115.119 from December 31, 1995 to January 1, 1996. This change allows owners and operator to begin their appropriate recordkeeping at the beginning of the calendar year.

TNRCC has made the recommended change.

Exxon Baytown recommended that the specific counties affected by the storage tank rule not be listed in §115.119, but rather that the nonattainment areas be listed since the areas are defined in §115.10.

In general, the TNRCC has endeavored to list the specific counties in the Counties and Compliance Schedules section of each undesignated head in Chapter 115 for the convenience of the reader and believes that it is appropriate to continue to do so. The intent is to insure that there is no confusion about which counties are affected by changes to various undesignated heads in Chapter 115.

GHASP and Exxon Baytown commented on §115.122(a)(4). GHASP objected to language which allows companies that exceed the provisions of this subsection to not control their emissions once they fall below the exemption limit that they exceeded. Exxon Baytown requested that additional discussion about the intent of the change to OIAI be provided.

The Once-In-Always-In (OIAI) concept is an EPA requirement. There are methods available to remove a source from the OIAI requirements; for example, a federally enforceable permit or the Alternative Means of Control (AMOC) process. On August 11, 1993, the staff met with members of the TCC and EPA Region 6 to discuss this and other issues. EPA stood firmly by its policy, which was first stated in the November 1987 SIP call and which the former Texas Air Control Board was required to include in the Reasonably Available Control Technology (RACT) fixups. EPA indicated the intent was to provide for federal enforcement of sources, not to allow for an exceedance of the exemption level, and to prevent the dismantling of the control device which would result in a significant increase in the emissions inventory (i.e., a through-put reduction of 5.0% could result in an emissions increase of 90% if the control device were removed). A policy memo from G.T. Helms dated August 23, 1990 states that the purpose of this requirement is to discourage a source already subject to the regulation from installing minimal ("less than RACT") controls to circumvent RACT requirements, and to improve the clarity of VOC regulations by minimizing confusion over whether variations in production cause a particular source to be covered by a regulation. The language is the result of negotiations with EPA and the affected industries to maintain the OIAI concept while allowing an incentive for cost effective and innovative approaches to pollution prevention and waste minimization which would reduce emissions at or below the controlled levels prior to removal of control devices.

The proposed changes to §115.122(a)(4)(B) were recommended by the TNRCC legal staff prior to the adoption of identical changes to the OIAI rules in most of the undesignated heads in Chapter 115 on May 4, 1994. Unfortunately, the recommended changes to §§115.122(a)(4)(B) and 115.212(a)(12)(B) could not be made at that time since these sections had not been proposed for change. The current changes to §115.122(a)(4)(B) do not affect the intent of the OIAI rules; they simply make §115.122(a)(4)(B) consistent with other OIAI rules. An identical change to §115.212(a)(12)(B) will likewise be initiated in the near future.

GHASP requested the TNRCC define "substantially equivalent" and "continuous compliance" in §115.123, regarding Alternative Control Requirements.

The TNRCC position remains that these terms have the meaning commonly ascribed to them in the field of air pollution control, and the TNRCC does not believe that further definition is necessary.

Exxon Baytown, TCC, and TMOGA supported the proposed amendments to §115.127(a)(5)(C).

The revisions to §115.127(a)(5)(c) are adopted without change.

GHASP requested the TNRCC define "substantially equivalent" in §115.143, regarding Alternative Control Requirements.

The TNRCC position remains that this term has the meaning commonly ascribed to it in the field of air pollution control, and the TNRCC does not believe that further definition is necessary.

GHASP also questioned why the term "compliance" was used rather than "continuous compliance."

The word "continuous" was inadvertently left out in the original proposal, and the TNRCC has corrected this language.

GHASP commented on §115.147 and objected to any allowance of 80% control efficiency in §115.147(6).

The 80% control efficiency is only allowed after demonstration to the Executive Director of some very stringent criteria. It is not a blanket exemption and is only allowed under specific circumstances.

Exxon Baytown recommended that the specific counties affected by the wastewater rule not be listed in §115.149, but rather that the nonattainment areas be listed since the areas are defined in §115.10.

In general, the TNRCC has endeavored to list the specific counties in the Counties and Compliance Schedules section of each undesignated head in Chapter 115 for the convenience of the reader and believes that it is appropriate to continue to do so.

EPA and GHASP stated that the control of wastewater emissions in BPA must be mandatory, rather than a contingency measure.

In order to fulfill FCAA requirements for adoption of RACT, wastewater rules will eventually be mandatory in BPA. The purpose of the current rulemaking, however, is simply to sat-

isfy ROP SIP requirements and not to implement RACT.

DuPont, TCC, and TMOGA did not support the automatic implementation of the wastewater contingency rule in BPA in 1999 and stated that the one-year compliance schedule for this contingency measure is too short.

The specific contingency measures, if any, to be implemented will be selected from all available contingency measures. The TNRCC's decision as to which contingency rules to implement will be based on the overall evaluation of the emission reduction credits that are generated from these rules and the cost effectiveness and economic impacts. The TNRCC agrees that a longer compliance schedule is reasonable and has changed the compliance schedule to three years.

Grand Prairie and NCTCOG supported extending the compliance date in §115.159 for municipal solid waste landfills located in DFW from May 31, 1995 to May 31, 1996.

TNRCC appreciates the support and has adopted this subsection without change.

Grand Prairie commented that TNRCC should allow flexibility for site-specific conditions in implementing the landfills rule.

Section 115.153, concerning Alternate Means of Control, which is not the subject of the current rulemaking, already allows for flexibility in complying with the rule.

GHASP, DuPont, and Exxon Baytown commented on §115.219, concerning Counties and Compliance Schedules. GHASP stated that the control of marine vessel loading emissions in BPA must be mandatory, rather than a contingency measure.

Marine vessel loading rules will eventually be mandatory in BPA due to Title III air toxics and RACT requirements. The purpose of the current rulemaking, however, is simply to satisfy ROP SIP requirements.

DuPont, TCC, and TMOGA did not support the automatic implementation of the marine vessel loading contingency rule in BPA in 1999 and stated that the one-year compliance schedule for this contingency measure is too short.

The specific contingency measures, if any, to be implemented will be selected from all available contingency measures. The TNRCC's decision as to which contingency rules to implement will be based on the overall evaluation of the emission reduction credits that are generated from these rules and the cost effectiveness and economic impacts. The TNRCC agrees that a longer compliance schedule is reasonable and has changed the compliance schedule to three years.

Exxon Baytown recommended that the specific counties affected by the marine vessel loading contingency rule not be listed, but rather that the nonattainment areas be listed since the areas are defined in §115.10. Exxon Baytown also stated that the abbreviation "FCAA" is unnecessary.

Storage of Volatile Organic Compounds

• 30 TAC §§115.112, 115.113, 115.115-115.117, 115.119

In general, the TNRCC has endeavored to list the specific counties in the Counties and Compliance Schedules section of each undesignated head in Chapter 115 for the convenience of the reader and believes that it is appropriate to continue to do so. The TNRCC agrees that it is unnecessary to abbreviate the 1990 Amendments to the Federal Clean Air Act as "FCAA" in §115.219(c) and has deleted this abbreviation. The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.115. Approved Test Methods.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with §115.112(a) of this title (concerning Control Requirements) shall be determined by applying the following test methods, as appropriate:

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

(7) determination of true vapor pressure using American Society for Testing and Materials (ASTM) Test Methods D323-89, D2879, D4953, D5190, or D5191 for the measurement of Reid vapor pressure; or

(8) (No change.)

(b) For Gregg, Nueces, and Victoria Counties, compliance with §115.112(b) of this title shall be determined by applying the following test methods, as appropriate:

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

(7) determination of true vapor pressure using ASTM Test Methods D323-89, D2879, D4953, D5190, or D5191 for the measurement of Reid vapor pressure; or

(8) (No change.)

§115.116. Monitoring and Recordkeeping Requirements.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following recordkeeping requirements shall apply.

(1) (No change.)

(2) The results of inspections required by §115.114(a) of this title (relating to Inspection Requirements) shall be recorded. For secondary seal gaps that are required to be physically measured during inspection, these records shall include a cal-

ulation of emissions for all secondary seal gaps that exceed 1/8 inch (0.32 cm) where the accumulated area of such gaps is greater than 1.0 square inch per foot (21 square centimeters per meter) of tank diameter. These calculated emissions (Tr) shall be reported in the annual emissions inventory submittal required by §101.10 of this title (relating to Emissions Inventory Requirements). The emissions shall be calculated using the following methodology:
Figure 1: 30 TAC §115.116(a)(2)

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

(b) (No change.)

§115.119. Counties and Compliance Schedules. All persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Hardin, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties affected by the requirement to calculate and report emissions resulting from secondary seal gaps that exceed 1/8 inch (0.32 cm) where the accumulated area of such gaps is greater than 1.0 square inch per foot (21 square centimeters per meter) of tank diameter as specified in §115.116(a)(2) of this title (relating to Monitoring and Recordkeeping Requirements) shall be in compliance with these calculation and emission reporting requirements beginning with the calendar year that starts on January 1, 1996.

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

Issued in Austin, Texas, on January 4, 1995.

TRD-9500226 Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: January 27, 1995

Proposal publication date: October 7, 1994

For further information, please call: (512) 239-1970

Vent Gas Control

• 30 TAC §§115.121-115.123, 115.127

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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

Issued in Austin, Texas, on January 4, 1995.

TRD-9500227 Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: January 27, 1995

Proposal publication date: October 7, 1994

For further information, please call: (512) 239-1970

Industrial Wastewater

• 30 TAC §§115.143, 115.147, 115.149

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.149. Counties and Compliance Schedules.

(a) For Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller Counties, any person who is the owner or operator of an affected source category within a plant shall be in compliance with this undesignated head (relating to Industrial Wastewater) as soon as practicable, but no later than November 15, 1996.

(b) For Hardin, Jefferson, and Orange Counties, any person who is the owner or operator of an affected source category within a plant shall be in compliance with this undesignated head (relating to Industrial Wastewater) as soon as practicable, but no later than three years, after the Texas Natural Resource Conservation Commission publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the NAAQS for ozone by the November 15, 1999 attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act §172(c)(9).

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

Issued in Austin, Texas, on January 4, 1995.

TRD-9500228 Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: January 27, 1995

Proposal publication date: October 7, 1994

For further information, please call: (512) 239-1970

Municipal Solid Waste Landfills

• 30 TAC §115.159

The amendment is adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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

Issued in Austin, Texas, on January 4, 1995.

TRD-9500229 Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: January 27, 1995

Proposal publication date: October 7, 1994

For further information, please call: (512) 239-1970

Subchapter C. Volatile Organic Compound Transfer Operations

Loading and Unloading of Volatile Organic Compounds

• 30 TAC §115.219

The amendment is adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.219. Counties and Compliance Schedules.

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

(c) All affected marine terminals in Hardin, Jefferson, and Orange Counties shall be in compliance with §115.211(a), §115.212(a), §115.213(a), §115.214(a), §115.215(a), §115.216(a), and §115.217(a) of this title as soon as practicable, but no later than three years after the Texas Natural Resource Conservation Commission (TNRCC) publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the national ambient air quality standard (NAAQS) for ozone by the November 15, 1999 attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act, §172(c)(9).

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 4, 1995.

TRD-9500230

Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: January 27, 1995

Proposal publication date: October 7, 1994

For further information, please call: (512) 239-1970

Chapter 330. Municipal Solid Waste

Subchapter Q. Memoranda of Agreement and Joint Rules with Other Agencies

• 30 TAC §330.733

(Editor's Note: The following adopted rule is being published in its entirety due to an error that occurred when it was proposed in the July 19, 1994, issue of the Texas Register (19 TexReg 5605). The graphic material contained in this rule was inadvertently omitted from the July 19, 1994 publication. This new rule is being adopted without changes to the proposed text. However, due to the error that occurred in the July 19, 1994 issue, the rule is being published for clarification.)

The Texas Natural Resource Conservation Commission (TNRCC) adopts new §330.733, concerning the agreement of the TNRCC to inspect asbestos disposal sites under its jurisdiction for conformance with 40 Code of Federal Regulations (CFR) Part 61, Subpart M, §61.154, for the Texas Department of Health (TDH), without changes to the proposed text as published in the July 19, 1994, issue of the *Texas Register* (19 TexReg 5605).

The Texas Air Control Board formerly regulated air emissions of asbestos from demolition and renovation activities. By amending Article 4477-3a of Vernon's Texas Civil Statutes, Subsections (k)-(n), House Bill (HB) 1680 of the 73rd Legislature transferred this regulatory responsibility to the TDH. As a result, the TDH will be implementing the Environmental Protection Agency's (EPA's) 40 CFR Part 61, Subpart M, National Emission Standard for Asbestos, as it pertains to demolitions and renovations involving potential asbestos emissions, beginning September 1, 1994. HB 1680 also requires the TDH and the TNRCC to develop a Memorandum of Understanding (MOU) on inspection of asbestos disposal sites under the TNRCC jurisdiction and to adopt the MOU by rule.

Section 330.733 is added to Chapter 330, Subchapter Q, to adopt the TNRCC/TDH MOU on inspection of asbestos disposal sites by rule and to state where a copy of the MOU can be obtained. The MOU is published as a Figure 1: 30 TAC §330.733 (a) in the Appendix Section of this issue of the *Texas Register*.

Copies of the MOU are available upon request from the Waste Policy Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6087.

The effective date of the MOU is the same as the effective date of this rule amendment.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Water Code, §§5.103, 5.105, and 26.011, which provides the TNRCC the authority to adopt rules necessary to carry out its powers, duties, and policies and to protect water quality in the state. The new section is also adopted under the Health and Safety Code, §361.011 and §361.024, which provides the TNRCC the authority to adopt rules necessary to manage municipal solid waste.

§330.733. Adoption of Memorandum of Understanding by Figure.

(a) The Texas Natural Resource Conservation Commission adopts a memorandum of understanding (MOU) between the Texas Department of Health (TDH) and the Texas Natural Resource Conservation Commission (TNRCC).

Figure 1: 30 TAC §330.733(a).

The memorandum contains the agreement of the TNRCC to inspect asbestos disposal sites under its jurisdiction for conformance with 40 CFR Part 61, Subpart M, §61.154 and provide copies of inspection and enforcement documentation to the TDH. This effort will support the TDH in the regulation of Activities per 40 CFR Part 61, Subpart M.

(b) Copies of the MOU are available upon request from the Waste Policy Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6087.

(c) The effective date of the MOU is the same as the effective date of the rule amendment adding this section.

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

Issued in Austin, Texas, on January 5, 1995.

TRD-9500174

Kevin McCalla
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Effective date: January 26, 1995

Proposal publication date: July 19, 1994

For further information, please call: (512) 239-6087

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 5. Funds Management (Fiscal Affairs)

Claims Processing—Purchase Vouchers

• 34 TAC §5.54

The Comptroller of Public Accounts adopts the repeal of §5.54, concerning consulting services contracts, without changes to the proposed text as published in the October 7, 1994, issue of the *Texas Register* (19 TexReg 8002).

The section is being repealed so that a substantially revised section may be adopted.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Government Code, §2254.039(a), which authorizes the comptroller to adopt rules relating to the purchase of consulting services by state agencies.

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

Issued in Austin, Texas, on January 5, 1995

TRD-9500145

Martin E Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: January 26, 1995

Proposal publication date: October 7, 1994

For further information, please call: (512) 463-4028

The Comptroller of Public Accounts adopts new §5.54, concerning consulting services contracts, to replace §5.54 that is being repealed, without changes to the proposed text as published in the October 7, 1994, issue of the *Texas Register* (19 TexReg 8002).

The new section covers the procedures that state agencies must follow when entering into consulting services contracts or amending, renewing, or extending those contracts. The new section also specifies the requirements that state agencies must satisfy when submitting purchase documents to the comptroller to make payments under consulting services contracts.

The new section is necessary because of legislative action during the 73rd Legislature, 1993. Senate Bill 248 transferred the consulting services statute from the Texas Civil Statutes to the Government Code. The bill also made numerous non-substantive changes to the statute. Senate Bill 381 and House Bill 2626 substantively changed the definition of "state agency" in the consulting services statute.

ute The term now has a more limited meaning than provided by the previous definition. Finally, the consulting services rider in the General Appropriations Act (GAA), Article V, §140, for the 1992-1993 fiscal biennium was replaced by a substantively different rider in the GAA, Article V, §118, for the 1994-1995 fiscal biennium.

The new section is also necessary because of the implementation of the uniform statewide accounting system (USAS) on September 1, 1993. The USAS implementation resulted in a state agency being able to submit payment requests electronically to the comptroller. The implementation also resulted in the use of new terms that are not reflected in the current version of §5. 54.

No comments were received regarding adoption of the new section

The new section is adopted under the Government Code, §2254.039(a), which authorizes the comptroller to adopt rules relating to the purchase of consulting services by state agencies

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

Issued in Austin, Texas, on January 5, 1995.

TRD-9500144 Martin E. Cherry
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Effective date: January 26, 1995

Proposal publication date: October 7, 1994

For further information, please call: (512) 463-4028

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

The Texas Department of Human Services (DHS) adopts amendments to §§15.430, 15.432, and 15.475, concerning client participation in transfer of resources, exceptions to transfer of resources, and deeming of income, in its Medicaid Eligibility rule chapter, without changes to the proposed text as published in the December 2, 1994, issue of the *Texas Register* (19 TexReg 9483).

The justification for the amendments is to reinstate a rule which was omitted when transfer of resource rules were recodified, ensure that the same exceptions to transfer of resources are consistent throughout the rule chapter, and ensure that income sources that are excluded in determining a client's countable income are also excluded from income deemed from an ineligible parent or spouse.

The amendments will function by ensuring that DHS is in compliance with federal policy requirements, and ensuring that the application of statewide policy is consistent.

No comments were received regarding adoption of the amendments.

Subchapter D. Resources

• 40 TAC §15.430, §15.432

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; and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments implement the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500266 Nancy Murphy
 Section Manager, Media
 and Policy Services
 Texas Department of
 Human Services

Effective date: March 1, 1995

Proposal publication date: December 2, 1994

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

Subchapter E. Income

• 40 TAC §15.475

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs; and under Texas Civil Statutes, Article 4413(502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500267 Nancy Murphy
 Section Manager, Media
 and Policy Services
 Texas Department of
 Human Services

Effective date: March 1, 1995

Proposal publication date: December 2, 1994

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

Chapter 48. Community Care for Aged and Disabled

1915(c) Medicaid Home and Community-based Waiver Services for Aged and Disabled Adults Who Meet Criteria for Alternatives to Nursing Facility

• 40 TAC §§48.6003, 48.6005, 48.6030

The Texas Department of Human Services (DHS) adopts amendments to §§48.6003, 48.6005, and 48.6030, without changes to the proposed text as published in the December 2, 1994, issue of the *Texas Register* (19 TexReg 9484)

The justification for the amendments is to delete the requirement that a nursing facility waiver provider be under contract with DHS to provide primary home care services; to delete the personal assistance service category of licensure and add a licensed home health category of licensure; to increase the effective time of the preadmission level-of-care to 120 days; to allow applicants to qualify for services while using Medicare and other third party resources; to change the time by which a nursing facility waiver eligible client must receive waiver services; and to delete the limit of four hours protective supervision per week.

The amendments will function by allowing more providers to provide nursing facility waiver services and more applicants to qualify for nursing facility waiver services

During the comment period, DHS received a comment from the Texas Health Care Association. The commenter questioned whether the proposed rules change the nursing facility medical necessity rules. In response to the commenter, these rules do not change the nursing facility medical necessity rules; these rules only change the references to the nursing facility medical necessity rules.

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; and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds

The amendments implement the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

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

Issued in Austin, Texas, on January 9, 1995.

TRD-9500268 Nancy Murphy
 Section Manager, Media
 and Policy Services
 Texas Department of
 Human Services

Effective date: February 1, 1995

Proposal publication date: December 2, 1994

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





Name: Logan Rodgers

Grade: 5

School: Cambridge Elementary, Alamo Heights ISD

Logan R.

TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

FIGURE 1: 28 TAC §5.4001(c)(2)(B)(III)

TEXAS CATASTROPHE PROPERTY INSURANCE ASSOCIATION I. PROCEDURE FOR CALCULATING POOL PARTICIPATION INCLUDING CREDIT FOR VOLUNTARY WRITINGS.

[1]	[2]	[3]	[4]
STATEWIDE DIRECT WRITTEN PREMIUM	NET DIRECT WRITTEN PREMIUM	COMPANY PERCENT OF STATEWIDE PREMIUMS WRITTEN	TOTAL PREMIUM IN CATASTROPHE AREA
(a)(b)(c) E.C. CMP HO	Total of Col. [1] (a) & (b) x 90% Col [1] (c) x 40% (50%)*	[2] ÷ Total of [2]	(TCPIA + Voluntary)
[5]	[6]	[7]	[8]
NORMAL REQUIRED QUOTA IN DESIGNATED AREA	CREDIT FOR COMPANY'S VOLUNTARY PREMIUMS	DIFFERENCE BETWEEN NORMAL REQUIRED PARTICIPATION AND VOLUNTARY CREDIT PREMIUMS	ASSIGNMENT IN ASSOCIATION PRIOR TO OFFSET
([3] x [4])	(not to exceed column [5])	([5] - [6])	[7] ÷ Total of [7]
[9]	[10]	[11]	
ASSIGNMENT AFTER OFFSET FACTOR	ASSIGNMENT AFTER APPLICATION OF	NET ASSIGNMENT IN ASSOCIATION	
	20% minimum or 190% maximum of Column [3] (170% maximum)**	(After application of offset following minimum-maximum limitations)	

*For association policies effective on and after January 1, 1983.

**For association policies effective on and after January 1, 1984.

FIGURE 2: 28 TAC §5.4001(e)(1)(A)(I)

Height Zone (Feet)

Wind Pressure (Lb. per Sq. Ft.)

Less than 30	35
30-49	45
50-99	55
100-499	70
500-1,199	80
1,200-and above	90

FIGURE 1 30 TAC §115.116(a)(2)

A. Allowable Seal Gap (>1/8 inch wide): A_s (square inches) = 1 square inch per tank diameter foot x tank diameter

B. Measured Seal Gap: M_s (square inches)

C. Reportable Seal Gap Area: $R_s = M_s - A_s$ in square inches

D. Reportable Seal Gap/Allowable Ratio: $RR_s = R_s$ divided by A_s

E. Tank Circumference: T_c (feet)

F. Reportable Seal Gap Length (total linear feet of seal gap greater than 1/8 inch gap width): R_l

G. Reportable Seal Gap Length/Tank Circumference Ratio: $RR_l = R_l/T_c$

H. Tank Emissions (with good single seal): $T_s =$ AP-42 Calculation (convert to pounds/day)

I. Tank Emissions (with two good seals): $T_{ss} =$ AP-42 Calculation (convert to pounds/day)

Note: Use maximum local monthly average ambient temperature as reported by the National Weather Service to calculate true vapor pressure.

J. Reportable emissions: Tr (pounds) = $(Ts - Tss)$
x RRs x RRI x 90 days

Note: In no case should Tr be greater than $(Ts - Tss)$.

MEMORANDUM OF UNDERSTANDING
Between
THE TEXAS DEPARTMENT OF HEALTH
and
TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Purpose: Section 1 of H.B. 1680, passed by the 73rd Legislature, 1993, transferred responsibility for emissions related to asbestos demolition and renovation activities to the Texas Department of Health (TDH). It also required the TDH and the Texas Natural Resource Conservation Commission (TNRCC) to adopt, by rule, a joint memorandum of understanding concerning the inspection of solid waste facilities that receive asbestos.

Jurisdiction of the Texas Department of Health: The TDH will:

- (1) Maintain overall responsibility for the asbestos demolition and renovation activities related to 40 Code of Federal Regulations (CFR), Part 61, Subpart M, §§ 61.140, 61.141, 61.143, 61.145, 61.146, 61.148, 61.150, 61.152, and 61.157.
- (2) Negotiate with the Environmental Protection Agency (EPA) on the work to be performed in agreement with TNRCC.
- (3) Provide funding to pay for initial inspector training in Fiscal Year 1995.
- (4) Report to the EPA on the number of asbestos disposal site inspections performed by TNRCC.

Jurisdiction of the Texas Natural Resource Conservation Commission:

The TNRCC will:

- (1) Maintain an up-to-date listing of municipal landfills authorized to accept regulated asbestos and provide an up-to-date copy to the TDH. (Municipal Solid Waste Division, Permits Section)
- (2) Inspect asbestos disposal sites for conformance with 40 CFR Part 61, Subpart M, §61.154. The TDH will be notified within 30 days that an inspection has been performed by TNRCC and will be provided a copy of the inspection results within 60 days. (Field Operations Division)
- (3) Perform the number of inspections negotiated between the TDH and the EPA related to 40 CFR §61.154.
- (4) Pursue all enforcement action related to §61.154 violations and provide notification to the TDH within 30 days of the inspection if a violation will be issued and provide to the TDH a copy of the Notice of Violation within 60 days. (Field Operations Division)
- (5) Provide copies of all applicable documentation related to 40 CFR §61.154 to : Texas Department of Health, Division of Occupational Health, 1100 West 49th, Austin, TX 78756.

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 before 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 listed 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. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department of Agriculture

Monday, January 16, 1995, 4:00 p.m.

Waco Hilton, Town Square North Room
Waco

Texas Soybean Producers Board

AGENDA:

Call to order

Discussion and action: Minutes and financial report

Election results

Research reports and prioritization

New business: Appointment of director for District Two; election of secretary/treasurer

Swearing in of new board members

Discussion: USB report

Old business

Adjourn

Contact: Trent Roberts, 1501 North Pierce, Suite 100, Little Rock, Arkansas, 72207, 1-800-247-8691.

Filed: January 6, 1995, 2:16 p.m.

TRD-9500217

Wednesday, January 18, 1995, 1:30 p.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

Office of Hearings

AGENDA:

Administrative hearing to be held by teleconference regarding alleged violation of Texas Agriculture Code Annotated, §§103.1-103.15 (Vernon 1982) by Jon M. Howerton doing business as Melon World as petitioned by Jerry Flaming and Joel Flaming.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: January 10, 1995, 9:26 a.m.

TRD-9500324

Thursday-Friday, January 19-20, 1995, 3:00 p.m. and 8:30 a.m., respectively.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

Texas Agricultural Finance Authority

AGENDA:

Thursday, January 19-

Discussion on: Commitments of the Authority for Wright Fibers, Inc. and Texas Hill County Food Processors, Inc. and application for Levelland Knitting Mills, Inc.

Friday, January 20-

Discussion and action on: Minutes of last meeting; loan guaranty application for Levelland Knitting Mills, Inc., Wright Fibers, Inc.; Texas Hill Country Food Processors, Inc.; presentations for senior managing underwriter for Revenue Bond Program by Lewis, de Rozario and Company and by

Rauscher Pierce Refsnes, Artemis Capital Group and Walton Johnson; discussion and action on: Hiring of senior managing underwriter for Revenue Bond Program; discussion on: Portfolio for Young Farmer Loan Guarantee Program, portfolio for Loan Guaranty Program; discussion and action on: Sunset report for Texas Department of Agriculture and next meeting date.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: January 6, 1995, at 2:16 p.m.

TRD-9500218

Thursday-Friday, January 19-20, 1995, 3:00 p.m. and 8:30 a.m., respectively.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

Revised Agenda

Texas Agricultural Finance Authority

AGENDA:

Friday, January 20-

The following agenda items are being submitted in addition to the previously submitted agenda: Discussion and action on Southwest Mariculture loan; and discussion on Texas Agricultural Finance Authority budget.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: January 9, 1995, 4:57 p.m.

TRD-950308

Tuesday, February 7, 1995, 10:30 a.m.
Texas Department of Agriculture, 900B
East Expressway 83
San Juan
Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982) by Teddy Bertuca Company, Inc. as petitioned by Charles Wetegrove Company, Inc.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: January 5, 1995, 3:30 p.m.

TRD-9500169

Tuesday, February 7, 1995, 11:00 a.m.
Texas Department of Agriculture, 900B
East Expressway 83
San Juan
Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982) by Teddy Bertuca Company, Inc., as petitioned by Val Verde Vegetable Company, Inc.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: January 5, 1995, 3:30 p.m.

TRD-9500168

Tuesday, February 7, 1995, 1:00 p.m.
Texas Department of Agriculture, 900B
East Expressway 83
San Juan
Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982) by Teddy Bertuca Company, Inc. as petitioned by Valley Onions, Inc.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: January 5, 1995, 3:29 p.m.

TRD-9500167

Wednesday, February 15, 1995, 3:00 p.m.
Texas Department of Agriculture, 900 B
East Expressway 83
San Juan
Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Anno-

tated §§103.001-103.015 (Vernon 1982) by Houston Fruitland, Inc. as petitioned by Javi Farms, Inc.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: January 9, 1995, 2:55 p.m.

TRD-9500291

Friday, March 3, 1995, 10:00 a.m.
Texas Department of Agriculture, 1700
North Congress Avenue, Room 924A
Austin
Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas pesticide laws or regulations by Ed Shores doing business as Shores Ag-Air, Inc.

Contact: Joyce C. Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: January 10, 1995, 9:28 a.m.

TRD-9500325

Thursday, February 16, 1995, 10:00 a.m.
Texas Department of Agriculture, 900 B
East Expressway 83
San Juan
Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §76.116(a)(1) (Vernon Supplement 1994) and 4 Texas Administrative Code, §7.22 by Ben Rowland doing business as Rowland Dusters.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: January 9, 1995, 2:56 p.m.

TRD-9500292

Thursday, March 16, 1995, 10:00 a.m.
Texas Department of Agriculture, 900 B
East Expressway 83
San Juan
Office of Hearings

AGENDA:

Administrative hearing to review alleged violations of Texas Weights and Measures Law contained in Chapter 13 of the Texas Agriculture Code by Petco #427.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: January 9, 1995, 2:56 p.m.

TRD-9500293

Thursday, March 30, 1995, 10:00 a.m.
Texas Department of Agriculture, 1700
North Congress Avenue, Room 928B
Austin
Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas pesticide laws by Kenneth Schwarz doing business as Schwarz Flying Service.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: January 5, 1995, 3:29 p.m.

TRD-9500166

◆ ◆ ◆
Texas Commission on Alcohol and Drug Abuse

Thursday, January 12, 1995, 9:00 a.m.
3201 Loop 289 South, Holiday Inn
Lubbock
Emergency Meeting

Program Development and Initiatives Committee

AGENDA:

Call to order; approval of minutes; division updates; vendor updates; Management Information System; old business; new business; adjourn.

Reason for Emergency: Construction on the new SAFP facilities will be completed ahead of schedule, accelerating the timeline for implementation of treatment with new vendors. Preparations for implementing the new SAFP programs requires an emergency posting.

Contact: Ted Sellers, 710 Brazos, Austin, Texas 78701, (512) 867-8132.

Filed: January 6, 1995, 3:11 p.m.

TRD-9500234

◆ ◆ ◆
The State Bar of Texas

Thursday-Friday, January 12-13, 1995, 8:30 a.m.
The Texas Law Center, 1414 Colorado,
Room 206

Austin

Emergency Revised Agenda

Commission for Lawyer Discipline

AGENDA:

Add: The case of Allen J. Wolf to Item Numbers 13 and 18 for discussion and appropriate action.

Reason for Emergency: This case requires action prior to the next scheduled meeting of the Commission for Lawyer Discipline.

Contact: Anne McKenna, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: January 6, 1995, 3:04 p.m.

TRD-9500232

Texas Bond Review Board

Wednesday, January 18, 1995, 10:30 a.m.
300 West 15th Street, Clements Building,
Tenth Floor Library

Austin

1995 Lottery for Allocation of State Ceiling

AGENDA:

- I. Welcome and opening remarks
- II. Explanation of lottery process
- III. First lottery—to determine placement of applications in line for reservation
- IV. Break (15 minutes)
- V. Second lottery—to determine reservation dates for initial allocation reservations

Contact: Albert L. Bacarisse, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: January 6, 1995, 3:11 p.m.

TRD-9500236

Children's Trust Fund of Texas (CTF)

Monday, January 23, 1995, 9:00 a.m.
401 West 15th Street

Austin

Children's Trust Fund of Texas Council

AGENDA:

- Introduction
- Chairperson's report
- Executive director's report
- Recess to attend CTF Fiscal Advisory Committee meeting
- Reconvene
- New business
- Adjourn

Contact: Sue Marshall, 8929 Shoal Creek Boulevard, Suite 200, Austin, Texas 78757-6854, (512) 458-1281.

Filed: January 5, 1995, 10:50 a.m.

TRD-9500126

Monday, January 23, 1995, 2:00 p.m.
401 West 15th Street

Austin

Fiscal Advisory Committee

AGENDA:

Welcome and introductions

Chairperson's report

Discussion of future plans and tasks

Contact: Sue Marshall, 8929 Shoal Creek Boulevard, Suite 200, Austin, Texas 78757-6854, (512) 458-1281.

Filed: January 5, 1995, 10:50 a.m.

TRD-95.00125

Texas Commission for the Deaf and Hearing Impaired

Friday, January 27, 1995, 9:00 a.m.

Brown-Heatley Building, Room 1430, 4900 North Lamar Boulevard

Austin

Board

AGENDA:

Call to order; public comment; approval of minutes for November 4, 1994; executive director's report including discussion and possible action on MOUs with other agencies, discussion of and possible decisions on financial/budget information; Board for Evaluation of Interpreters' report including certifications and revocations and calendar revisions; Direct Services report including update on programs and award of contract for Camp Sign; information items; scheduling of next meeting date; and adjournment.

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: January 6, 1995, 4:13 p.m.

TRD-9500245

Texas Planning Council for Developmental Disabilities

Wednesday, January 18, 1995, 5:30 p.m.

Hyatt Regency, Big Bend A-B Room, 208 Barton Springs Road

Austin

Executive Committee Meeting

AGENDA:

Wednesday, January 18, 1995

5:30 p.m.—Call to order

1. Introductions
2. Public comments
3. Approval of minutes of September 21, 1994

4. Committee responsibilities for review and evaluation of grant projects

5. Consideration of stipends applications

6. Consideration of bylaws amendments

7. Review of associate membership procedures

A. Role

B. Selection procedure

8. Consideration of fiscal year 1995 budget revisions

9. Chair's report

10. Executive director's report

A. Review of TPCDD staffing pattern

B. Update on council name change

C. Other discussion items

11. Announcements

9:00 p.m.—Adjourn

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Rosalinda Lopez at (512) 483-4094.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

Filed: January 9, 1995, 9:38 a.m.

TRD-9500269

Texas Interagency Council on Early Childhood Intervention

Thursday-Friday, January 12-13, 1995, 10:00 a.m. and 8:30 a.m., respectively

4412 Spicewood Springs Road, Building 600

Austin

Emergency Revised Agenda

Advisory Committee to the Interagency Council on Early Childhood Intervention

AGENDA:

According to the agenda, the Advisory Committee to the Interagency Council on Early Childhood Intervention will be called to order at 10:00 a.m. on Thursday, January 12, 1995, to approve the October 1994 minutes; hear public comment; discuss ongoing business; hear chair reports; hear briefings; and hear executive director's report. At 2:00 p.m. the subcommittees for Program Services, Interagency Coordination, Early Identification, and Personnel Preparation will meet in separate meeting rooms. On Friday, January 13, 1995, the Advisory

Committee to the Interagency Council on Early Childhood Intervention will be called to order at 8:30 a.m.; hear council report; hear director's forum report; continue subcommittee meetings; hear subcommittee reports; FYI; and adjourn.

Reason for Emergency: Posting inaccuracy of meeting body. It should read Advisory Committee to the Interagency Council on Early Childhood Intervention.

Contact: Linda Hill, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 562-4900.

Filed: January 5, 1995, 4:08 p.m.

TRD-9500173

Texas Education Agency

Friday, January 13, 1995, 1:00 p.m.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

Revised Agenda

State Board of Education (SBOE)

AGENDA:

Addition to agenda: Discussion of the role of the State Board of Education in the nomination of the commissioner of education.

Contact: Criss Clajudi, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 5, 1995, 1:49 p.m.

TRD-9500142

Thursday-Friday, January 19-20, 1995, 8:30 a.m. and 9:30 a.m., respectively.

El Paso Airport Hilton Hotel, 2027 Airway Boulevard

El Paso

State Board of Education Task Force on Adult Education and Literacy

AGENDA:

On Thursday, January 19, 1995, beginning at 8:30 a.m., the task force will discuss the following topics:

Concerns and recommendations of individuals testifying to the task force at the hearings to date and implications for policy development

Review of the first draft policy statement and recommendations for revision, including committee work on the policy.

On Friday, January 20, 1995, beginning at 9:30 a.m., the task force will hold a hearing at the Ysleta ISD Cultural Arts Center, 9600 Sims Drive, El Paso, Texas 79925.

On Friday, January 20, 1995, beginning at 1:00 p.m., the task force will discuss the following topics:

Continued committee work on the policy Task Force review of committee work on revision of draft policy statement.

Contact: Deborah Stedman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9294.

Filed: January 10, 1995, 9:10 a.m.

TRD-9500312

Wednesday-Thursday, January 25-26, 1995, 8:30 a.m.

Sheraton Austin Hotel, Colorado Room, 500 North IH-35

Austin

Committee on Teacher Appraisal

AGENDA:

January 25-Welcome and introductions; overview of the meeting; Focus Group results (assumptions and beliefs, appraisal system characteristics, student performance and teacher appraisal); developing descriptors of proficiencies (A Rubric for Teacher Appraisal: Looking at Teacher Performance Holistically, Shifting Appraisal/Assessment Paradigms); Teacher Appraisal Rubric (continued) (Novice, Proficient, Intensive Assistance); role of self-appraisal in appraisal/assessment system.

January 26-Role of professional development plans in appraisal/assessment system; preliminary discussion on instrumentation; public relations campaign; next steps (timelines, expectations).

Contact: Dr. Nolan Wood, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

Filed: January 5, 1995, 4:55 p.m.

TRD-9500182

Advisory Commission on State Emergency Communications

Wednesday, January 18, 1995, 1:00 p.m.

Capitol Extension Building, Room E2.016, 15th and Congress, North of the Capitol (Underground)

Austin

Commission Meeting

AGENDA:

The commission will call the meeting to order and recognize guests; hear public comment (individuals are encouraged to provide comment after each agenda item or before commission action); hear reports and discuss and take commission action, as necessary, on: GTE, billing and revenue remittance issues (The commission may meet in executive session on the above item as authorized under the Texas Open Meetings

Act, and pursuant to Government Code, Chapter 551, Subchapter D, §551.071, consultation with Attorney General concerning pending or contemplated litigation); procurement of poison control network telecommunications equipment; approval of November meeting minutes; adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe, Suite 2-212, Austin, Texas 78701-3942, (512) 305-6911.

Filed: January 6, 1995, 2:30 p.m.

TRD-9500222

State Employee Charitable Campaign

Thursday, January 26, 1995, 4:00 p.m.

2000 East Martin Luther King Boulevard
Austin

State Policy Committee Meeting

AGENDA:

I. Welcome and introductions; review of minutes

II. Report on Task Force Committee

III. Appointment of State Campaign Manager

IV. Adjourn

Contact: Anne Murphy, 2000 East Martin Luther King Boulevard, Austin, Texas 78767, (512) 472-6267.

Filed: January 9, 1995, 4:11 p.m.

TRD-9500302

Texas Employment Commission

Tuesday, January 17, 1995, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; staff reports; internal procedures of Commission appeals; consideration and action on higher level appeals in unemployment compensation cases listed on Commission Docket 3; and set date of next meeting.

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

Filed: January 9, 1995, 3:36 p.m.

TRD-9500298

Texas Energy Coordination Council

Thursday, January 19, 1995, 9:00 a.m.

J. J. Pickle Research Center, 10100 Burnet Road, Building 133, Room 1.202

Austin

AGENDA:

Approve minutes

Legislative policy recommendation

Decisions on funding of TECC programs

Update an allocations of TECC funds

Presentations: Dr. Vaughn Nelson, wind, Bob Walters, solar

Report on building Energy Institute

Discuss replacement of executive director

Election of TECC chair and vice-chair

Discussion of items of pertinence to TECC mission and goals

Contact: Alan B. Sowards, 201 East 14th Street, Room 104, Austin, Texas 78701, (512) 463-1609.

Filed: January 9, 1995, 8:14 a.m.

TRD-9500253

Texas Ethics Commission

Friday, January 13, 1995, 9:30 a.m.

1101 Camino La Costa, Room 235

Austin

AGENDA:

The commission will take roll call; hear comments by the commissioners and the executive director, and communications from the public; approve the minutes of the January 12, 1995, meeting; briefing, discussion, and possible action to waive certain fines assessed for late filing of a report; public discussion and possible action to amend the commission's rule concerning additional fines for Title 15 reports filed eight days before an election; discussion and possible action in regard to the study of laws concerning conflicts of interest of government officials; briefing, discussion, and possible action regarding the project to establish an electronic database under Texas Government Code, §571.066; briefing, discussion, and possible action concerning recommendations to the 74th Legislature for any necessary statutory changes; discussion and possible action in response to the following Advisory Opinions Requests Numbers 269, 271, 273, 274, and 277; the commission will meet in executive session to discuss personnel matters, specifically, the position of executive director and/or general counsel; possible action regarding personnel matters, specifically the position of execu-

tive director and/or general counsel; and adjourn.

Contact: Sarah Woelk, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: January 5, 1995, 1:03 p.m.

TRD-9500133

General Land Office

Tuesday, January 17, 1995, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

School Land Board

AGENDA.

Approval of previous board meeting minutes; adoption of resolution for Jack Giberson, chief clerk; report on DCRC State Trust; pooling applications, B.A.D. A. (10,340 Sand), Colorado and Lavaca counties; Sprayberry (Trend Area), Howard County; consideration of tracts, terms and conditions for the April 4, 1995 oil, gas and other minerals lease sale; consideration of Texas-U.S. Maritime Boundary location; applications to purchase excess acreage, Hudspeth County; applications to patent under Article VII, §4(a), Texas Constitution, on lands in Rusk, Polk and Lee counties; coastal public lands-commercial lease renewals, Offats Bayou, Galveston County; Copano Bay, Aransas County; Neches River, Jefferson County; easement applications and renewals; Lavaca River, Jackson County, West Bay, Galveston County; Galveston Bay, Galveston County; Cow Bayou, Harris County; executive session-pending and proposed litigation; executive session-consideration of acquisition and disposition of property in Harris County; open session-consideration of acquisition and disposition of property in Harris County; executive session-consideration of a name for the East El Paso County project and status report; open session-consideration of a name for the East El Paso County project and other possible action; briefing on cabin management plan.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: January 9, 1995, 4:18 p.m.

TRD-9500306

Texas Department of Health

Thursday, January 12, 1995, 8:30 a.m.

Room G-107, Texas Department of Health, 1100 West 49th Street

Austin

Emergency Meeting

Maternal and Child Health Advisory Committee

AGENDA:

The committee will receive public comments; discuss and possibly act on: approval of the minutes from the October 13, 1994 meeting; Title V futures; report to legislature; and legislative issues (CIDC change: cystic fibrosis; remove mandate for scoliosis screening; children's health plan; Maternal and Infant Health Improvement Act; and perinatal regionalization).

Reason for Emergency: Unforeseeable circumstances.

Contact: Madelin Walls, 1100 West 49th Street, Austin, Texas 78752, (512) 458-7700. For ADA assistance, call Richard Butler at (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: January 5, 1995, 5:00 p.m.

TRD-9500183

Friday, January 13, 1995, 8:30 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Board Briefing Meeting

AGENDA:

The board will be briefed by the Commissioner of Health on current activities of the Texas Department of Health.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler at (512) 458-7695 or T. D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: January 5, 1995, 3:26 p.m.

TRD-9500160

Friday, January 13, 1995, 9:30 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Health and Clinical Services Committee

AGENDA:

The committee will discuss approval of the minutes from the November 18, 1994 meeting, and discuss and possibly act on: emergency and proposed rules establishing an area rabies quarantine in designated south Texas counties; Shots Across Texas update; long-term funding options for the Chronically Ill and Disabled Children's Services Program; and work force strategy report.

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

458-7484. For ADA assistance, call Richard Butler at (512) 458-7695 or T. D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: January 5, 1995, 3:26 p.m.

TRD-9500161

Friday, January 13, 1995, 10:30 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Strategic Management Committee

AGENDA:

The committee will meet to discuss the approval of the minutes from the December 14, 1994 meeting, and discuss and possibly act on: monthly budget update; historically underutilized business program update; and border health update.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: January 5, 1995, 3:27 p.m.

TRD-9500162

Friday, January 13, 1995, 11:30 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health

AGENDA:

The board will meet during lunch to participate in a discussion of the Texas Department of Health Employee Advisory Committee activities.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: January 5, 1995, 3:25 p.m.

TRD-9500158

Friday, January 13, 1995, 1:00 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health

AGENDA:

The board will discuss approval of the minutes from the December 14, 1994 meeting, and discuss and possibly act on: the commissioner's report; recommendation to the State Medicaid Director to adopt rules

(adding licensed professional counselors and advanced clinical practitioners as Medicaid providers; and rules concerning selective contracting); emergency and proposed rules (establishing an area rabies quarantine in designated south Texas counties); proposed rule concerning memorandum of understanding between the Texas Department of Mental Health and Mental Retardation, the Texas Department of Health, and the Texas Department of Human Services regarding a uniform tool to assess decision-making capacity of patients; committee reports (strategic management; health financing; health and clinical services; human resources; and Regulatory Committee (appointment of director of hospital licensing); announcements and comments not requiring board action; and meeting date for February, 1995.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708, at least two days prior to the meeting

Filed: January 5, 1995, 3:25 p.m.

TRD-9500159



Texas Higher Education Coordinating Board

Thursday, January 26, 1995, 9:00 a.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Access and Equity Committee

AGENDA:

Report on the second Texas Educational Opportunity Plan for Public Higher Education (1989-1994)

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:23 a.m.

TRD-9500186

Thursday, January 26, 1995, 9:15 a.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Research Committee

AGENDA:

Consideration of the report of the committee created to evaluate the Advanced Research Program and Advanced Technology Program, pursuant to Texas Education Code, §142.006 and §143.007; and report on electric vehicle research program at the University of Texas at Austin.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:25 a.m.

TRD-9500187

Thursday, January 26, 1995, 9:30 a.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Committee of the Whole

AGENDA:

Consideration of a report on progress made on goals of the Master Plan for Higher Education in Texas adopted in 1993 and consideration of an update to that plan.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:25 a.m.

TRD-9500188

Thursday, January 26, 1995, 10:00 a.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Health Affairs Committee

AGENDA:

Consideration of approval and certification of adequacy of financing for new degree programs and academic administrative changes: University of Houston-Entry-level Doctor of Pharmacy degree (Pharm.D); University of Texas at Brownsville-Bachelor of Science in Nursing (BSN) degree with major in Nursing; University of Texas Medical Branch at Galveston-change the Division of Orthopaedic Surgery to the Department of Orthopaedic Surgery; and University of Texas Southwestern Medical Center at Dallas-change the Division of Urology to the Department of Urology.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:25 a.m.

TRD-9500189

Thursday, January 26, 1995, 10:30 a.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Student Services Committee

AGENDA:

Report on cost and efficiency study of the Hinson-Hazlewood College Student Loan Program required by Senate Bill 511 (73rd Legislature); consideration of adoption of amendments to board rules for the Physi-

cian Education Loan Repayment Program (§§21.254, 21.255, 21.257, and 21.261); consideration of adoption of amendments to board rules for the Paul Douglas Teacher Scholarship Program (§§21.307, 21.309, 21.311, 21.312, 21.320, 21.323, and 21.325); and consideration of adoption of amendments to board rules regarding the deferral of emergency student loans and the collection of tuition (§21.3(c) and §21.4).

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:26 a.m.

TRD-9500190

Thursday, January 26, 1995, 10:45 a.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Campus Planning Committee

AGENDA:

Consideration of matters relating to the committee on campus planning.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:26 a.m.

TRD-9500191

Thursday, January 26, 1995, 1:00 p.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Universities Committee

AGENDA:

Consideration of matters relating to the committee on universities.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:26 a.m.

TRD-9500192

Thursday, January 26, 1995, 2:00 p.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Community Technical Colleges Committee

AGENDA:

Consideration of matters relating to the committee on community and technical colleges.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:26 a.m.

TRD-9500193

Thursday, January 26, 1995, 2:30 p.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Technology Committee

AGENDA:

Consideration of approval of report on Telecommunication prepared by Coordinating Board staff, as specified in Senate Concurrent Resolution 66 (73rd Legislature); consideration of process to develop standards of service related to the use of educational technology at public universities, community colleges, and technical colleges.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:27 a.m.

TRD-9500194

Thursday, January 26, 1995, 3:00 p.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Administration and Financial Planning Committee

AGENDA:

Consideration of authorizing the issuance of \$50 million of Hinson-Hazlewood College Student Loan Bonds at the April, 1995 meeting of the Board; consideration of procedure to contract with bond counsel and financial advisor; consideration of a report on enrollment forecasts for Texas public institutions of higher education; consideration of recommended adjustments to appropriations to ten public universities as a result of the State Auditor's audit of formula variables; and consideration of a plan for distributing funds trustee to the Texas Higher Education Coordinating Board for TASP-related non-course-based remedial instruction.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:27 a.m.

TRD-9500195

Friday, January 27, 1995, 8:30 a.m.

Chevy Chase Office Complex, Building One, 7700 Chevy Chase Drive

Austin

Coordinating Board Meeting

AGENDA:

Consideration of matters relating to the Committee on Access and Equity; the Committee on Research; the Committee of the Whole; the Committee on Health Affairs;

the Committee on Student Services; the Committee on Campus Planning; the Committee on Universities; the Committee on Community and Technical Colleges; the Committee on Technology; the Committee on Administration and Financial Planning; and reports to the board.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1995, 9:27 a.m.

TRD-9500196

◆ ◆ ◆
Texas Department of Housing and Community Affairs

Friday, January 13, 1995, 9:30 a.m.

1700 North Congress Avenue, Room 118

Austin

Board Meeting

AGENDA:

The Board will meet to consider and possibly act on the following: Minutes of meetings of November 10, and December 9, 1994; approval of State Low Income Housing Plan; authorization of \$500,000 for capacity building according to priorities set in Housing Plan; HOME Program to amend award for Rio Grande Valley State Center to Valley Coalition for Homeless; amendment to fiscal year 1992 grantees to modify number of units serviced; Houston Trust Fund award modification for Williamson-Burnet County opportunities; letter of agreement between Department and Texas State Affordable Housing Corporation; transfer of funds from Housing Assistance Fund of 1987A CMO issue to Separate Housing Assistance Fund held by Treasury; signature authority on letters of instruction and other documents; interim Home Construction Loan; revision of down payment assistance; resolution to include various CHMRBs in Commercial Paper Program; Series 1993 CHMRB Program approving amendments to provide for current delivery of bonds in addition to future delivery and designating authorized representatives; Series 1994 CHMRB Program approving amendments to authorize conversions; and to provide to current delivery of bonds in addition to future delivery, designating authorized representatives and delegating authority to approve certain documents; delegating authority to replace Remarketing Agent on 1984 Series A and B Multi-Family Housing Bonds-Oxford Development Projects; amendments to Series 1995A-L Refunding Bond documents and delegating authority to approve other documents; executive session on anticipated litigation-Residential Mortgage Revenue Bonds; executive director's report; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: January 5, 1995, 1:38 p.m.

TRD-9500139

Friday, January 13, 1995, 1:30 p.m.

1700 North Congress Avenue, Room 118
Austin

Board Meeting

AGENDA:

The Board will meet to hold a working session on legislative issues; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: January 5, 1995, 1:36 p.m.

TRD-9500137

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Texas State Affordable Housing Corporation

Friday, January 13, 1995, Noon.

1700 North Congress Avenue, Room 118
Austin

Board Meeting

AGENDA:

The Board will meet to consider and possibly act on the following: Minutes of meeting of August 23, 1994; approval of loan from the Texas Department of Housing and Community Affairs for the purchases of the Contract for Deeds; authorizing the executive director to negotiate price and culminate purchases of the obligations of property and any necessary documents; Letter of Agreement between the Texas Department of Housing and Community Affairs and the Texas State Affordable Housing Corporation; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: January 5, 1995, 1:37 p.m.

TRD-9500138

◆ ◆ ◆
Texas Commission on Human Rights

Wednesday, January 18, 1995, 9:00 a.m.

1701 North Congress Avenue, Room 1-100
Austin

AGENDA:

Discussion and vote on agenda item(s) covered in executive session as necessary or

required; welcoming of guests; minutes; administrative reports; administrative enforcement project; annual policy conference; participation in the EEOC Task Force; legislative issues for the 74th Legislative Session; recommendations affecting the Commission in the African-American Legislative Summit Report; Legislative Budget Board's recommendations for the Commission's legislative appropriations request; Commission's testimony at hearing for the Subcommittee of the Senate Finance Committee; interagency contract with the Office of the Attorney General; proposed intern program; EEO compliance training; Commission's personnel policy on grievances; Commission's annual report; Commission reports required under Article V, §98 and §99; amendment to procedural rules; commissioner issues; unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: January 9, 1995, 11:55 a.m.

TRD-9500273

◆ ◆ ◆
Texas Incentive and Productivity Commission

Tuesday, January 24, 1995, 10:00 a.m.

Clements Building, Fifth Floor, Committee Room #5, 15th and Lavaca

Austin

AGENDA:

- I. Call to order and roll call
- II. Approval of minutes of previous meeting
- III. Consideration of employee suggestions for approval
- IV. Consideration of 1995 productivity bonus plans for approval
- V. Consideration of revisions to State Employee Incentive Program rules for approval
- VI. Report on administrative matters
- VII. Adjournment

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: January 10, 1995, 9:59 a.m.

TRD-9500328

◆ ◆ ◆
Texas Juvenile Probation Commission

Friday, January 13, 1995, 8:00 a.m.

2015 South IH-35

Austin

Internal Audit Committee

AGENDA:

Call to order; excuse absences; internal auditor's report on strategic planning; internal auditor's first quarter 1995 status report; update on approved personnel positions; public comments; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: January 5, 1995, 3:23 p.m.

TRD-9500154

Friday, January 13, 1995, 9:30 a.m.

2015 South IH-35

Austin

Board Meeting

AGENDA:

Call to order; excuse absences; Internal Audit Committee report-internal auditor's report on strategic planning; internal auditor's first quarter 1995 status report; update on approved personnel positions; TJPC/TYC Joint Task Force meeting-fiscal year 1995 update on community corrections/TYC commitments; NCCD consultation on Risk Assessment Project-update on Travis County, TJPC, TYC meeting; Yarbrough Group proposal; mentally impaired offenders; legislative activity update, report on Comptroller John Sharp's document "Gaining Ground," discussion of TCADA contributing to TJPC/TYC Juvenile Justice Joint Committee; appointments to the Texas Advisory Council on Juvenile Services; Evaluation Committee report-executive session; TJPC/DPRS Committee report; diversity training; director's report-agency accomplishments; resolution, discussion of the study of the Harris County Juvenile Probation Department; public comments; schedule next meeting; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: January 5, 1995, 3:22 p.m.

TRD-9500153

◆ ◆ ◆
Texas Board of Professional Land Surveying

Friday, January 20, 1995, 9:00 a.m.

7701 North Lamar Boulevard, Suite 400
Austin

Board Meeting

AGENDA:

The Board will meet to approve the minutes of the previous meeting; to hear a presentation from David Watson concerning the home study program; to discuss and possi-

bly act on active complaints and show cause actions; to hear and possibly act on recommendations from committee reports; to select and approve the April, 1995 examinations; to discuss and possibly act on revisions of Board Rules 663.19(e), 663.19(f), 663.18(a) and 661.121; to discuss and possibly act on correspondence to and from the Board; to nominate NCEES Emeritus members; to discuss and possibly act on the Department of Insurance's proposed Procedural Rule P-41; to discuss and possibly act on requirements of aerial surveys; to discuss and possibly act on old business and new business; to receive comments from the public and review applications for the April 1995, examinations. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Sandy Smith at (512) 452-9427 two work days prior to the meeting so that appropriate arrangements can be made.

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

Filed: January 9, 1995, 2:11 p.m.

TRD-9500202

Board of Law Examiners

Thursday, January 19, 1995, 8:30 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

Hearings Panel

AGENDA:

The hearings panel will hold public hearings and conduct deliberations on character and fitness of applicants and/or declarants. (Character and fitness deliberations may be conducted in executive session, pursuant to §82.003(a), Texas Government Code.)

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: January 5, 1995, 3:24 p.m.

TRD-9500156

Friday-Sunday, January 20-22, 1995, 8:30 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

AGENDA:

The Board will: call to order/determine quorum; hold public hearings and conduct deliberations on character and fitness of applicants/declarants (deliberations may be

conducted in executive session pursuant to §82.003(c), Texas Government Code); study/consider contracting with Attorney General for legal services; consider requests for excused absences; consider approval of minutes, financial reports, and investment reports; consider budget amendment recommendation; meet with legal counsel (in executive session pursuant to §2(e), Open Meetings Act) to discuss pending litigation; consider special requests; review exam questions (in executive session pursuant to §82.003(b), Texas Government Code); conduct formal reviews with failing examinees (conducted one on one, therefore not subject to the Open Meetings Act); hear and act on various reports from staff, board members, and Supreme Court liaison; consider rule amendment recommendation; study/consider lawful practice policy; hear communications from the public; and adjourn.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: January 6, 1995, 4:40 p.m.

TRD-9500250

Texas Department of Licensing and Regulation

Wednesday, January 18, 1995, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Fourth Floor

Austin

Inspections and Investigations, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Garry Hayden doing business as Garry Hayden A/C Service, for violation of the Texas Civil Statutes, Article 8861, §8, Article 9100, 16 TAC §75.90(f), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: January 9, 1995, 2:12 p.m.

TRD-9500284

Thursday, January 19, 1995, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an administrative hear-

ing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Billy Baxter Wilson doing business as Bill Wilson A/C and Heat, for violation of the Texas Civil Statutes, Article 8861, §5(a), Article 9100, 16 TAC §75.40(f) and §75.70(d), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: January 9, 1995, 2:12 p.m.

TRD-9500285

Friday, January 20, 1995, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Ed Embry doing business as Embry's Air Conditioning and Heating, for violation of the Texas Civil Statutes, Article 8861, §3B and §8, Article 9100, 16 TAC §75.90(f), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: January 9, 1995, 2:13 p.m.

TRD-9500286

Thursday, January 26, 1995, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Manufactured Housing

AGENDA:

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Buddy Ballard doing business as Buddy's House Moving, for violation of the Texas Civil Statutes, Article 5221f, §7(d), Article 9100, 16 TAC §69.125(e) (1), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: January 9, 1995, 2:13 p.m.

TRD-9500287

Thursday, January 26, 1995, 10:30 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Joel Aziz doing business as Steamchem, for violation of the Texas Civil Statutes, Article 8861, Article 9100, 16 TAC §75.22(a) and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: January 9, 1995, 2:13 p.m.

TRD-9500288

◆ ◆ ◆
Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association

Tuesday, January 17, 1995, 9:00 a.m.

301 Congress Avenue, Suite 500, Board Austin

Board of Directors

AGENDA:

Consideration and possible action on: 1) election of officers; 2) approval of minutes; 3) Guaranty Association activities; 4) executive session; 5) matters discussed in executive session; 6) financial reports; 7) report from committees; 8) impaired/insolvent member insurers; 9) amendments to bylaws and adoption of committee policy and procedures; 10) notice procedures in Texas domestic estates; 11) update of monitoring the 74th Legislative Session; 12) next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, #500, Austin, Texas 78701, (512) 476-5101.

Filed: January 9, 1995, 2:12 p.m.

TRD-9500283

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Wednesday, January 18, 1995, 9:30 a.m.

Building E, Room 201-S, 12118 North Interstate 35

Austin

AGENDA:

The purpose of the hearing will be to determine whether Emergency Order Number 95-0137-IWD, granted by the Texas Natural Resource Conservation Commission on January 4, 1995 to Bethlehem Steel Corporation should be affirmed, modified or set

aside. The order authorizes Bethlehem Steel Corporation to discharge once-through cooling water at a volume not to exceed 110,000 gallons during any 24-hour period. The effluent is to be discharged directly into the Sabine-Neches Canal in Segment Number 0703 of the Neches-Trinity Coastal Basin.

Contact: E. J. Bernacki, III, P.O. Box 13087, Austin, Texas 78711, (512) 239-0600.

Filed: January 5, 1995, 10:49 a.m.

TRD-9500124

Wednesday, January 18, 1995, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The Commission will consider approving the following matters on the contested agenda: water quality enforcements; sludge enforcement; air quality enforcements; rules; water utility matter; authorization to construct, modify, affirm, or set aside emergency order; agency enforcement report; proposal for decision; executive session; 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 rescheduling an item in its entirety or for particular action at a future date or time.

(Registration begins at 8:45 a.m. until 9:30 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: January 6, 1995, 3:10 p.m.

TRD-9500233

Wednesday, January 18, 1995, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The Commission will consider approving the following matters on the uncontested agenda: temporary order; district matters; water utility matters; water right matter; settled hearings; 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 rescheduling an item in its entirety or for particular action at a future date or time.

(Registration begins at 8:45 a.m. until 9:30 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle,

Austin, Texas 78753, (512) 239-3317.

Filed: January 6, 1995, 3:11 p.m.

TRD-9500235

Tuesday, January 24, 1995, 10:00 a.m.

State Capitol Building, Capitol Extension Room E-1.016

Austin

Petroleum Storage Tank Advisory Committee

AGENDA:

Call to order.

Approval of previous meeting minutes.

Discussion of TNRCC Subchapter M, PST reimbursement cost guidelines.

Discussion of strategy to privatize PST pollution liability insurance.

Discussion of items tabled from previous meetings.

Schedule future meetings.

Contact: Dwight C. Russell, P.E., 7801 North Lamar Boulevard, Suite D-77, Austin, Texas 78752, (512) 452-8834.

Filed: January 6, 1995, 4:13 p.m.

TRD-9500247

◆ ◆ ◆
Texas Board of Physical Therapy Examiners

Thursday, January 19, 1995, at 1:00 p.m.

7700 Floyd Curl Drive, Fourth Floor North Tower/Library

San Antonio

Applications Review Committee

AGENDA:

I. Call to order

II. Consideration and possible committee recommendation Re: application of Jocelyn Tan Lasmarias

III. Consideration and possible committee recommendation Re: application of Agnes Kiss

IV. Consideration and possible committee recommendation relating to reviewing credentialing agencies

V. Review and possible committee recommendation relating to rules concerning examination score requirements.

VI. Adjourn

Contact: Gerard Swain, 3001 South Lamar Boulevard, #101, Austin, Texas 78704, (512) 443-8202.

Filed: January 6, 1995, 12:43 p.m.

TRD-9500212

Texas Department of Protective and Regulatory Services

Friday, January 13, 1995, 9:00 a.m.

701 West 51st, First Floor, Public Hearing Room

Austin

Texas Board of Protective and Regulatory Services

AGENDA:

According to the agenda, the Texas Board of Protective and Regulatory Services will conduct a work session in the southwest section of the Public Hearing Room to be briefed on rules for level of care standards and definitions and legislative issues, including confidentiality and criminal history record information. The board will move to the main Public Hearing Room no earlier than 11:00 a.m. to approve minutes of December 9, 1994, meeting; hear public testimony; hear chair's comments and announcements; hear comments and announcements from the board; hear executive director's report; consider and approve fiscal year 1995 internal audit plan; consider request to reconsider the board's decisions regarding revisions to the Minimum Standards for Licensed Day-Care Centers; consider and approve \$9000, Interstate Placement of Children; consider and approve publishing facility investigation rules; and hear status of adult protective services forecasting effort. The meeting will adjourn no later than 5:00 p.m.

Contact: Michael Gee, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030, (512) 450-3645.

Filed: January 5, 1995, 1:04 p.m.

TRD-9500134

Texas Department of Public Safety

Tuesday, January 10, 1995, 1:30 p.m.

DPS Area Office, 111 Tri Star

Webster

Public Safety Commission

AGENDA:

Approval of minutes

Budget matters

Internal audit report

Personnel matters

Pending and contemplated litigation

Real estate matters

Public comment

Miscellaneous and other unfinished business

Contact: James Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700.

Filed: January 9, 1995, 3:49 p.m.

TRD-9500300

Public Utility Commission of Texas

Monday, January 30, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A hearing on the merits will be held on the above date and time in Docket Number 11027-complaint of the City of McKinney against Southwestern Bell Telephone Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 9, 1995, 2:10 p.m.

TRD-9500279

Tuesday, January 31, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A joint prehearing conference is scheduled in Docket Number 13745-Northeast Texas Electric Cooperative, Inc.; Docket Number 13753-Sam Rayburn G&T Electric Cooperative, Inc.; Docket Number 13754-Tex-La Electric Cooperative, Inc.; Docket Number 13789-Gulf States Utilities Company, Inc.; Docket Number 13795-West Texas Utilities Company, Inc.; Docket Number 13796-Southwestern Electric Power Company; Docket Number 13797-Central Power and Light Company; Docket Number 13800-South Texas Electric Cooperative, Inc.; Docket Number 13801-El Paso Electric Company; Docket Number 13802-Lower Colorado River Authority; Docket Number 13803-Texas Utilities Electric Company; Docket Number 13804-Houston Lighting and Power Company; Docket Number 13805-Medina Electric Cooperative, Inc.; Docket Number 13810-Texas-New Mexico Power Company; Docket Number 13812-Southwestern Public Service Company for the purchase of firm energy and capacity from qualifying facilities pursuant to Substantive Rule 23.66(h) (4).

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 5, 1995, 3:29 p.m.

TRD-9500165

Tuesday, February 7, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A settlement conference has been scheduled for the above date and time in Docket Number 13575-application of Texas Utilities Electric Company for approval of notices of intent and in Docket Number 13749-application of Texas Utilities Electric Company for approval of demand-side management programs and contracts, renewable resources agreement, and cost recovery mechanisms.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 5, 1995, 11:17 a.m.

TRD-9500131

Friday, February 17, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

An interim hearing has been scheduled in Docket Number 12065-complaint of Kenneth D. Williams against Houston Lighting and Power Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 6, 1995, 10:49 a.m.

TRD-9500207

Tuesday, March 14, 1995, 9:00 a.m. (Rescheduled from Tuesday, January 24, 1995, 10:00 a.m.)

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A joint hearing on the merits has been rescheduled for the above date and time in Docket Number 13575-application of Texas Utilities Electric Company for approval of notices of intent and in Docket Number 13749-application of Texas Utilities Electric Company for approval of demand-side management programs and contracts, renewable resources agreement, and cost recovery mechanisms.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 5, 1995, 11:17 a.m.

TRD-9500130

Tuesday, March 28, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A hearing on the merits will be held on the above date and time in Docket Number 13762-application of Southwestern Electric Power Company for authority to implement a real time pricing pilot program.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 6, 1995, 9:59 a.m.

TRD-9500198

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Texas State Soil and Water Conservation Board

Tuesday, January 17, 1995, 1:00 p.m.

311 North Fifth Street, Hearings Room

Temple

AGENDA:

Review and take appropriate action on the following:

Minutes from November 16, 1994 board meeting; district director appointments; division and reorganization of Montgomery-Walker Soil and Water Conservation District #425, NACD quota; FFA-TEA agreement on statewide speech contest; public information/education report; district audit/financial statement status report; review fiscal year 1994 annual financial report; report on fiscal year 1995 expenditures for four-month period ending December 31, 1994; board member travel; status report on legislative appropriation request for 1996-1997 biennium; review of proposed state and federal legislation affecting districts; year end recruiting update with affirmative action update; state board member elections in State Zones One, Three and Five; Conservation Awards Program; NACD national convention; reports from agencies and guests; comments on 31 TAC, Part XVII, Chapter 523, Agricultural/Silvicultural Water Quality Management; adoption of 31 TAC, Part XVII, Chapter 523, Agricultural/Silvicultural Water Quality Management; guidelines for implementation of Senate Bill 503 Program; statewide nonpoint source management activities; Corpus Christi Bay National Estuary Program; Texas Coastal Management Program; Clean Water Act Reauthorization; Gulf of Mexico Program; Texas Natural Resources Conservation Commission proposed Con-

fined Animal Feeding Operations Rules; Senate Bill 503, Demonstrations for Confined Animal Feeding Operations; Small Watershed Program analysis; status report on USDA-Natural Resources Conservation Service reorganization; Senate Bill 503 Program status report; next regular board meeting-March 15, 1995.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, TEX-AN 820-1250.

Filed: January 6, 1995, 4:06 p.m.

TRD-9500244

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Teacher Retirement System of Texas

Monday, January 16, 1995, 10:00 a.m.

Loews Anatole Hotel, Veranda Library, 2201 Stemmons Freeway

Dallas

Board of Trustees Nominations Committee

AGENDA:

Interview Candidates for Investment Advisor and Interview and Candidates for Real Estate Consultant.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: January 6, 1995, 2:30 p.m.

TRD-9500221

Tuesday, January 17, 1995, Noon.

1000 Red River, Room 420-E

Austin

Medical Board

AGENDA:

Discussion of 1) the files of members who are currently applying for disability retirement and 2) the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: January 5, 1995, 11:09 a.m.

TRD-9500129

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Texas Department of Transportation/Texas Parks and Wildlife Department

Friday, January 27, 1995, 1:30 p.m.

200 East Riverside Drive, Room 102

Austin

Interagency Abandoned Rail Corridor Committee

AGENDA:

Approval of minutes. Discussion of proposed Santa Fe Railroad acquisition/merger. Discussion on status of various forthcoming, pending, and authorized abandonment proceedings. Discussion of any introduced legislation affecting rail corridors.

Contact: Paul Douglas, 125 East 11th Street, Austin, Texas 78701, (512) 416-2342.

Filed: January 10, 1995, 9:40 a.m.

TRD-9500326

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University of Houston System

Saturday, January 14, 1995, 1:00 p.m.

1600 Smith, Suite 3400, DHS Offices

Houston

Board of Regents

AGENDA:

To discuss and/or approve the revised program and budget for the Academic/Student Service Building at University of Houston-Downtown.

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: January 6, 1995, 2:16 p.m.

TRD-9500219

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University Interscholastic League

Wednesday, January 11, 1995, 2:00 p.m.

3001 Lake Austin Boulevard, Third Floor

Austin

Emergency Meeting

Waiver Review Board

AGENDA:

A.-D. Business meeting

AA. Appeal of foreign exchange student Marko Stojovic, Henderson High School

E. Adjourn

Reason for emergency: Request for waiver just received. Decision of Waiver Board determines if student can continue representing school on team Wednesday night.

Contact: Rachel Seewald, 3001 Lake Austin Boulevard, Austin, Texas 78713, (512) 471-5883.

Filed: January 9, 1995, 1:50 p.m.

TRD-9500276

Texas Workers' Compensation Commission

Thursday, January 12, 1995, 9:00 a.m.

4000 South IH-35, Room 910-911, Southfield Building

Austin

AGENDA:

1. Call to order
2. Recognition of TWCC Employee of the Year
3. Approval of minutes for the public meeting of December 7, 1994
4. Discussion and possible action regarding policy and procedures on Commissioners' role and responsibilities
5. Discussion and possible action on issues concerning the Medical Advisory Committee including selection of new members and possible other appointments
6. Discussion and possible action on adoption of rules: 108.1, 102.5, 102.8, 102.9, 124.1, 124.2, 124.4
7. Executive session
8. Action on matters considered in executive session
9. General reports, discussion and possible action on issues relating to commission activities
10. Confirmation of future public meetings and hearings
11. Discussion and possible action on electing a chairman and vice-chairman for the Texas Workers' Compensation Commission
12. Adjournment

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690.

Filed: January 6, 1995, 2:44 p.m.

TRD-9500231

Regional Meetings

Meetings Filed January 5, 1995

The Ark-Tex Council of Governments Executive Committee met at 1604 North Jefferson, Mt. Pleasant, January 10, 1995, at 4:00 p.m. Information may be obtained from Pam Plummer, P.O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8683. TRD-9500136.

The Ark-Tex Council of Governments Ark-Tex Private Industry Council met at the Northeast Texas Community College, FM 1735 Chapel Hill Road, Mt. Pleasant, January 12, 1995, at 2:30 p.m. Information may be obtained from Sandy Dean, P.O. Box

5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9500157.

The Austin-Travis County MHMR Center Board of Trustees, Human Resources Committee, met at 1430 Collier Street, Board Room, Austin, January 11, 1995, at 4:30 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 440-4031. TRD-9500127.

The Bi-County Water Supply met at the Office, FM 2254, Pittsburg, January 10, 1995, at 7:00 p.m. Information may be obtained from Freeman Phillips, P.O. Box 848, Pittsburg, Texas 75686, (903) 856-5840. TRD-9500141.

The Blanco County Appraisal District Board of Directors met at Avenue G and Seventh Street, Johnson City, January 10, 1995, at 5:00 p.m. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (210) 868-4013. TRD-9500172.

The Brazos Valley Development Council Executive Committee met in the BVDC Conference Room, 1706 East 29th Street, Bryan, January 11, 1995, at 1:30 p.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9500122.

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, January 9, 1995, at 7:00 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9500123.

The Cass County Appraisal District Board of Directors met at 502 North Main Street, Linden, January 10, 1995, at 7:00 p.m. Information may be obtained from Janelle Clements, P.O. 1150, Linden, Texas 75663, (903) 756-7545. TRD-9500177.

The Concho Valley Council of Governments Private Industry Council met at 5028A Knickerbocker Road, San Angelo, January 11, 1995, at 3:00 p.m. Information may be obtained from Monette Molinar, 5002 Knickerbocker Road, San Angelo, Texas 76904, (915) 944-9666. TRD-9500149.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, January 23, 1995, at 8:30 a.m. Information may be obtained from Kathy Pierson, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9500163.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, January 18, 1995, at 9:00 a.m. Information may be obtained from Kathy Pierson, P.O. Box 2816, Den-

ton, Texas 76202-2816, (817) 566-0904. TRD-9500164.

The Hays County Appraisal District Board of Directors met at 21001 North IH-35, Kyle, January 12, 1995, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9500148.

The Henderson County Appraisal District Board of Directors met at 1751 Enterprise Street, Athens, January 10, 1995, at 5:30 p.m. Information may be obtained from Lori Fetterman, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9500155.

The Jones County Appraisal District Board of Directors will meet at 1137 East Court Plaza, Anson, January 19, 1995, at 8:30 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, (915) 823-2422. TRD-9500135.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, January 10, 1995, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9500151.

The Lower Colorado River Authority Board of Trustees and Board of Trustees Investment Subcommittee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, January 10, 1995, at 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9500152.

The Lower Rio Grande Valley Tech Prep Associate Degree Consortium (also known as Tech Prep of the Rio Grande Valley, Inc.) Board of Directors met in the Board Room, Conference Center, Texas State Technical College, Corner of Loop 499 and Oak Street, Harlingen, January 11, 1995, at Noon. Information may be obtained from Pat Bubb, Tech Prep of the Rio Grande Valley, Inc., TSTC Conference Center, Harlingen, Texas 78550-3697, (210) 425-0729. TRD-9500128.

The Rockwall County Central Appraisal District Board of Directors met at 106 North San Jacinto, Rockwall, January 10, 1995, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034. TRD-9500170.

The Sulphur-Cypress Soil and Water Conservation District Number 419 met at 1809 West Ferguson, Suite D, Mt. Pleasant, January 12, 1995, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9500150.

The Taylor County Central Appraisal District Board of Directors met at 1534 South Treadaway, Abilene, January 11, 1995, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381 or Fax: (915) 676-7877. TRD-9500147.

The Wise County Appraisal District Board of Directors met at 206 South State Street, Decatur, January 10, 1995, at 7:00 p.m. Information may be obtained from Freddie Triplett, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9500140.

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Meetings Filed January 6,
1995

The Barton Springs/Edwards Aquifer Conservation District (Work Session.) Board of Directors met at 1124A Regal Row, Austin, January 12, 1995, at 5:30 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax: (512) 282-7016. TRD-9500243.

The Barton Springs/Edwards Aquifer Conservation District (Regular Meeting.) Board of Directors met at 1124A Regal Row, Austin, January 12, 1995, at 5:30 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax: (512) 282-7016. TRD-9500242.

The Coleman County Water Supply Corporation Board of Directors met at 214 Santa Anna Avenue, Coleman, January 11, 1995, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9500214.

The Concho Valley Quality Work Force Planning will meet at 5014 Knickerbocker, San Angelo, January 17, 1995, at 4:00 p.m. Information may be obtained from Joan Allen, P.O. Box 61276, San Angelo, Texas 76906, (915) 944-9666. TRD-9500251.

The Dallas Area Rapid Transit Committee of the Whole met at 1401 Pacific, Conference Room "C", Dallas, January 10, 1995, at 11:00 a.m. Information may be obtained from Vanessa A. Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9500215.

The Dallas Area Rapid Transit Board met at 1401 Pacific, Board Room, Dallas, January 10, 1995, at 6:30 p.m. Information may be obtained from Vanessa A. Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9500216.

The East Texas Council of Governments JTPA Board of Directors met at the Roy H. Laird Country Club, 1306 Houston Street,

Kilgore, January 12, 1995, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9500185.

The Hickory Underground Water Conservation District Number 1 Board and Advisors met at 2005 South Bridge Street, Brady, January 12, 1995, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9500223.

The Hockley County Appraisal District Board of Directors met at 1103 Houston, Levelland, January 9, 1995, at 7:00 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9500249.

The Hockley County Appraisal District Appraisal Review Board met at 1103 Houston, Levelland, January 10, 1995, at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9500248.

The Hunt County Appraisal District Board of Directors met at 4801 King Street, Greenville, January 12, 1995, at 6:30 p.m. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3510. TRD-9500246.

The Limestone County Appraisal District Board of Directors will meet at 200 State Street, LCAD Office, Ground Floor, County Courthouse, Groesbeck, January 17, 1995, at 1:30 p.m. Information may be obtained from Karen Wietzikoski, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9500213.

The Lower Rio Grande Valley Development Council Hidalgo County Metropolitan Planning Organization will meet at the Fairway Resort Hotel, Brassie Room, 2105 South Tenth Street, McAllen, January 18, 1995, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481. TRD-9500206.

The Manville Water Supply Corporation Board met at Spur 277, Board Room, Coupland, January 12, 1995, at 7:00 p.m. Information may be obtained from Tony Graf, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9500197.

The Montague County Tax Appraisal District Board of Directors met at the Appraisal District Office, 312 Rusk Street, Montague, January 11, 1995, at 5:00 p.m. Information may be obtained from Wanda Russell, P.O. Box 121, Montague, Texas 76251, (817) 894-2081. TRD-9500252.

The Texas Municipal Power Agency (TMPA) (Workshop.) Board of Directors met at the Chamber of Commerce Offices, 4001 East 29th, Suite 175, Bryan, January

11, 1995, at 6:30 p.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9500239.

The Texas Municipal Power Agency (TMPA) Audit and Budget Committee met at the Gibbons Creek Steam Electric Station, Administration Building, 2-1/2 Miles North of Carlos on FM-244, Carlos, January 12, 1995, at 7:30 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9500240.

The Texas Municipal Power Agency (TMPA) Board of Directors met at the Gibbons Creek Steam Electric Station, Administration Building, 2-1/2 Miles North of Carlos on FM-244, Carlos, January 12, 1995, at 9:00 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9500241.

The Sabine Valley Center Finance Committee met at 107 Woodbine Place, Judson Road, Longview, January 12, 1995, at 6:30 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471, Ext. 362. TRD-9500237.

The Sabine Valley Center Board of Trustees met at 107 Woodbine Place, Judson Road, Longview, January 12, 1995, at 7:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471, Ext. 362. TRD-9500238.

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Meetings Filed January 9,
1995

The Ark-Tex Council of Governments (Rescheduled from January 10, 1995, at 4:00 p.m.) Executive met at 1604 North Jefferson, Mt. Pleasant, January 10, 1995, at 3:00 p.m. Information may be obtained from Pam Plummer, P. O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8683. TRD-9500307.

The Central Texas Area Consortium (Regular Meeting.) met at 2 North Fifth, Temple, January 12, 1995, at 7:00 p.m. Information may be obtained from Michael B. Herring, 3311 Southwest H. K. Dodgen Loop #248, Temple, Texas 76502, (817) 791-9102. TRD-9500278.

The Central Texas MHMR Center Board of Trustees will meet at 408 Mulberry Drive, Brownwood, January 16, 1995, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9500272.

The East Texas Quality Work Force Planning Committee Executive and Board

will meet at 3900 University Boulevard, Muntz Library, UT Tyler, Tyler, January 18, 1995, at 11:00 a.m. Information may be obtained from Shelly McNeal, 3900 University Boulevard, Tyler, Texas 75799, (903) 566-7315. TRD-9500296.

The ESC Region XVII Board of Directors will meet at 111 West Loop 289, Lubbock, January 24, 1995, at 9:00 a.m. Information may be obtained from Virgil (Ed) Flathouse, 1111 West Loop 289, Lubbock, Texas 79416. TRD-9500299.

The Falls County Appraisal District Board of Directors will meet at the Intersection of Highways 6 and 7, Falls County Courthouse, First Floor, Marlin, January 17, 1995, at 5:30 p.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661, (817) 883-2543. TRD-9500271.

The Golden Crescent Private Industry Council Planning Committee met at 2401 Houston Highway, Victoria, January 12, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9500303.

The Harris County Appraisal District Appraisal Review Board will meet at 2800 North Loop West, Eighth Floor, Houston, January 18, 1995, at 8:00 a.m. Information may be obtained from Susan Jordan, 2800 North Loop West, Houston, Texas 77092, (713) 957-5222. TRD-9500304.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East

Richmond Street, Giddings, January 17, 1995, at 9:30 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9500289.

The Lower Neches Valley Authority (Called Meeting.) Board of Directors will meet at 7850 Eastex Freeway, Beaumont, January 13, 1995, at 9:30 a.m. Information may be obtained from A. T. Hebert, Jr., 7850 Eastex Freeway, Beaumont, Texas 77708, (409) 892-4011. TRD-9500281.

The Lower Neches Valley Authority Board of Directors will meet at 7850 Eastex Freeway, Beaumont, January 17, 1995, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., 7850 Eastex Freeway, Beaumont, Texas 77708, (409) 892-4011. TRD-9500280.

The Palo Pinto Appraisal District Board of Directors will meet at the Court House, Highway 180, Palo Pinto, January 18, 1995, at 3:00 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD-9500297.

The TML Group Benefits Risk Pool Board of Trustees will meet at the Hyatt Regency Hill Country Resort, 9800 Resort Drive, San Antonio, January 13, 1995, at 8:00 a.m. Information may be obtained from Suzanne Steindorf, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521. TRD-9500254.

The Upshur CAD Board of Directors will meet at Warren and Trinity Street, Gilmer,

January 23, 1995, at 1:00 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9500294.

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**Meetings Filed January 10,
1995**

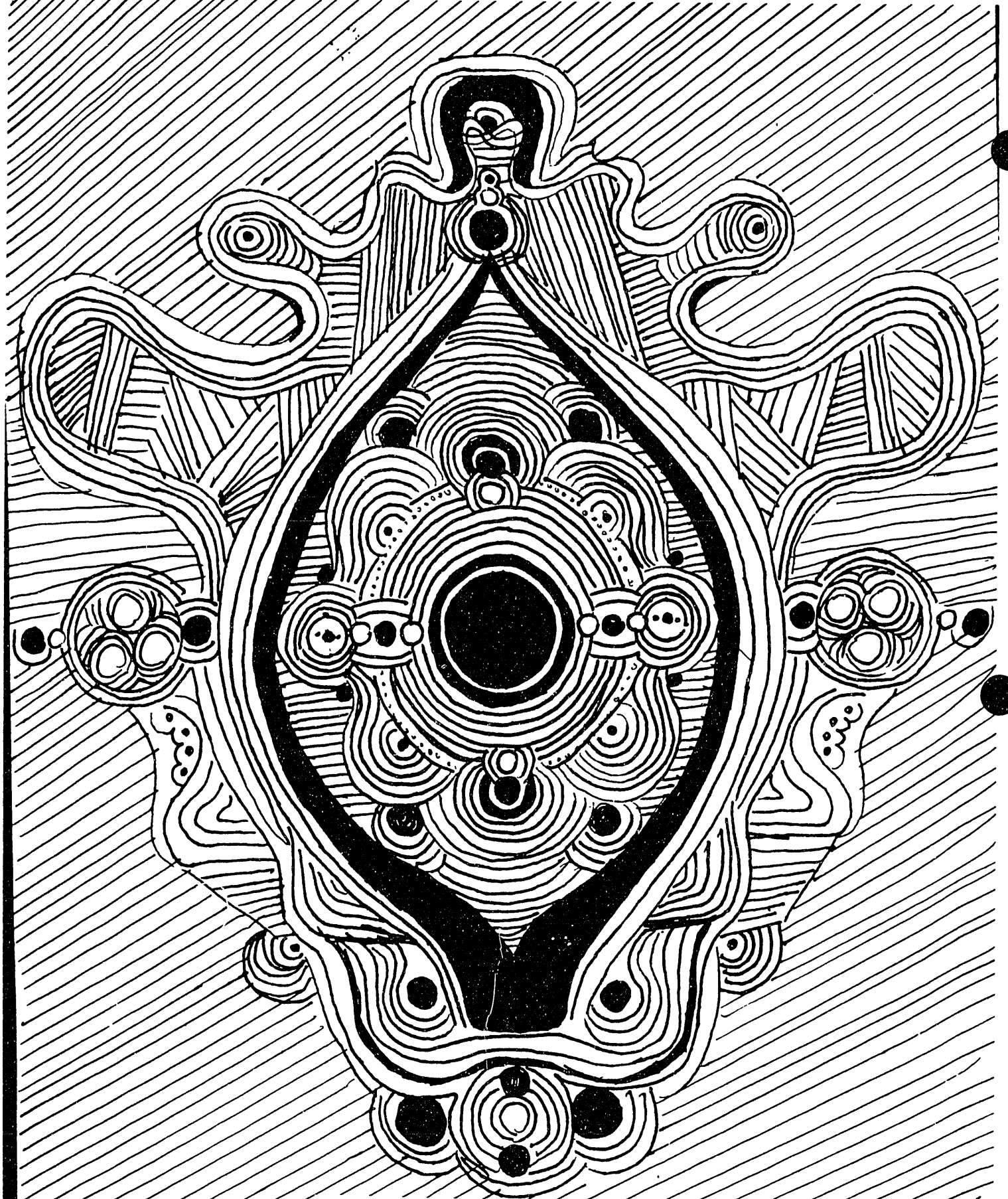
The Dewitt County Appraisal District Board of Directors will meet at 103 Bailey Street, Cuero, January 17, 1995, at 7:30 p.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9500310.

The Falls County Appraisal District Appraisal Review Board will meet at the intersection of Highways 6 and 7, Falls County Courthouse, First Floor, Marlin, January 19, 1995, at 9:00 a.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661. TRD-9500311.

The Lampasas County Appraisal District Board of Directors will meet at 109 East Fifth Street, Lampasas, January 19, 1995, at 7:00 p.m. Information may be obtained from Tommy L. Watson, P.O. Box 175, Lampasas, Texas 76650, (512) 556-8058. TRD-9500313.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, January 19, 1995, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9500314.

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Name: Kimberly Weinberg
Grade: 8
School: Tom Browne Middle School, Corpus Christi

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.

Office of Consumer Credit Commissioner Notice of Rate Ceilings

las and methods described in Texas Civil Statutes, Title 79, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formu-

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u>	<u>Commercial⁽²⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	01/09/95-01/15/95	18.00%	18.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on January 3, 1995.

TRD-9500113 Leslie L. Pettjohn
Acting Commissioner

Filed: January 5, 1995

Texas Department of Criminal Justice Request for Qualifications

It is the intent of the Texas Department of Criminal Justice (TDCJ) to repair or replace several existing road and paving areas serving various existing prison units. Services for these, and future projects, shall be provided under an indefinite delivery agreement with a duration of approximately two years. The Engineering Directorate of TDCJ is soliciting qualifications from firms interested in providing engineering services for these projects.

The projects consist of approximately 25 separate jobs at various units throughout the TDCJ system. Estimated construction cost of currently included projects is approximately \$3.5 million. TDCJ intends to select no fewer than two firms to perform this work under an indefinite delivery agreement and assign projects by geographic area. The Northern Area, currently consisting of approximately 13 projects and estimated at \$2.5 million in construction cost, will include TDCJ Units located around Palestine, Gatesville, and Amarillo. The Southern Area, with approximately 12 projects and estimated at \$1 million in construction cost, shall include units in the Huntsville/Houston vicinity. Although a firm's stated preference for one area or the other will be considered in making the project

assignments, the Engineering Directorate reserves the right to make assignments that best serve the interests of TDCJ. Additional projects may be assigned as funding becomes available and is approved by the agency.

All drawings shall be produced on a CADD system compatible with AutoCad release 12. All specifications shall be written according to CSI MasterFormat and SectionFormat standards, using a word processing program compatible with WordPerfect 5.1.

Responses to this Request for Qualifications must be received by TDCJ Engineering Directorate at the following address no later than 3:00 p.m., Wednesday, January 25, 1995. Interested parties must contact Lawrence Fox at the Engineering Directorate (409) 294-6901 to obtain an information packet for preparing their Statement of Qualifications. A HUB (Historically Underutilized Business) participation goal of 30% has been established for these projects.

Issued in Austin, Texas, on January 4, 1995.

TRD-9500143 Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Filed: January 5, 1995

Texas Department of Health Notice of Intent to Revoke Certificates of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health

(department), filed a complaint against the following registrant: William Wright, D.D.S., Bedford, R14312.

The department intends to revoke the certificate of registration; order the registrant to cease and desist use of such radiation machine(s); order the registrant to divest himself of such equipment; and order the registrant to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the items in the complaint are corrected within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the registrant for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the items in the complaint are not corrected, the certificate of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on January 5, 1995.

TRD-8500178 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: January 5, 1995

Notices of Intent to Revoke Radioactive Material Licenses

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following licensees: Texas Chiropractic College, Pasadena, L03715; Baytown Radiology Associates, Baytown, L01904.

The department intends to revoke the radioactive material licenses; order the licensees to cease and desist use of such radioactive materials; order the licensees to divest themselves of the radioactive material; and order the licensees to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the items in the complaints are corrected within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the licensees for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the items in the complaints are not corrected, the radioactive material licenses will be revoked

at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on January 5, 1995.

TRD-8500178 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: January 5, 1995

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following licensee: Capitan Corporation, Odessa, L04211.

The department intends to revoke the radioactive material license; order the licensee to cease and desist use of such radioactive materials; order the licensee to divest himself of the radioactive material; and order the licensee to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the items in the complaint are corrected within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the licensee for a hearing to show cause why the radioactive material license should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the items in the complaint are not corrected, the radioactive material license will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on January 5, 1995.

TRD-8500181 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: January 5, 1995

Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Cease and Desist Order issued December 2, 1994, to Steeplechase Diagnostic Center, Inc., 11301 Fallbrook, Suite 120, Houston, Texas 77065, holder of Certification of Mammography Systems Number M00152.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, the Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on January 5, 1995.

TRD-9500179

Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: January 5, 1995

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Texas Department of Insurance
Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas for Acordia of Southern California, Inc. (doing business under the assumed name of Acordia Benefit Services of Southern California), a foreign third party administrator. The home office is in Irvine, California.

Application for admission to Texas for Alden Associates, Inc., a foreign third party administrator. The home office is in Waterbury, Connecticut.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on January 6, 1995.

TRD-9500200

D. J. Powers
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: January 6, 1995

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**Texas Natural Resource Conservation
Commission**

**Notice of Applications for Waste
Disposal Permits period of January
2-6, 1995.**

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing;" a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If

no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

Roy H. Cullen; the Pearland Tract Wastewater Treatment Facilities; the wastewater treatment facilities are approximately 0.3 mile northeast of the intersection of FM Road 518 and FM Road 865, approximately 2.5 miles east of State Highway 288 and 3.6 miles west of the City of Pearland in Brazoria, Texas; renewal; 12424-01.

El Campo Aluminum Company; The facility which casts, extrudes, and anodizes aluminum; is on Gladys Street, between Lilly Street and Route 59, in the City of El Campo, Wharton County, Texas; renewal; 01208.

City of Holland; the wastewater treatment facilities are approximately 0.5 mile east of the intersection of Travis Street and U.S. Highway 95 in Bell County, Texas; renewal; 10897-01.

Horsepen Bayou Municipal Utility District; the Concord Bridge Wastewater Treatment Facilities; the facilities are approximately 1-3/4 miles south of FM Road 529 (Spencer Road) and 1/2 mile west of Addicks-Fairbanks Road in Harris County, Texas; renewal; 12128-01.

Huntsman Corporation; a petrochemical manufacturing plant; the plant site is approximately five miles east of the City of Conroe, south of FM Road 1485 and approximately 1/2 mile west of the City of Cut-N-Shoot, Montgomery County, Texas; amendment; 00584.

Lafarge Corporation; the former cement manufacturing facility; is adjacent to and west of Meacham Field (airport) and at 3900 Angle Road in the City of Fort Worth, Tarrant County, Texas; renewal; 01955.

The Paks Corporation; a cedar wood oil plant; the plant is on the east side of FM Road 2169, approximately 1.3 miles north of the intersection of FM Road 2169 with U.S. Highway 290 (Interstate 10), Kimble County, Texas; renewal; 01391.

Remington Municipal Utility District Number 1; the wastewater treatment plant is approximately 3,000 feet southwest of Cypress Fairbanks High School and 7,300 feet southeast of the intersection of U.S. Highway 290 and Barker Cypress Road in Harris County, Texas; renewal; 13327-01.

Edward Ing-Min Shieh; the wastewater treatment plant; is at approximately 200 feet west of Interstate Highway 45 and approximately 800 feet south of Northville Road in Harris County, Texas; renewal; 12610-01.

Sun Environmental Services, Inc.; a commercial wastewater treatment facility which is designed to process petroleum wastes from tank bottoms, bilge water, ballast water, barge cleaning wastewater, oil spill clean-up waste and miscellaneous wash water from petroleum transport trucks;

the plant site is on the west bank of the Engineer's Slip at the termination of the Sabine-Neches Canal into Sabine Lake, Jefferson County, Texas; new; 03756.

Texas Department of Transportation; the Palo Pinto County Rest Area Wastewater Treatment Facilities; the facilities are on the northwest side of Interstate Highway 20 at a point approximately 0.25 mile west of the Parker County line in Palo Pinto County, Texas; renewal; 11311-01.

Texas Industries, Inc.; the Clodine Lightweight Aggregate Plant Wastewater Treatment Facilities; are at 7525 Harlem Road, approximately 0.7 mile south-southeast of the intersection of Harlem Road with State Highway 1093 and 4.4 miles west of State Highway 6 in Fort Bend County, Texas; renewal; 12966-01.

Diamond Shamrock Refining Company, L.P.; the waste disposal wells; are located on company property at the McKee Plant refinery approximately 50 miles north of Amarillo near the Town of Sunray in Moore County, Texas; renew and amend; WDW102 and WDW192.

Issued in Austin, Texas, on January 6, 1995.

TRD-9500208 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: January 6, 1995

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Notice of Awards

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for identification of the current status and historical trends in ambient water, sediment, fish and shellfish tissue quality in the Corpus Christi Bay National Estuary Program (CCBNEP) study area.

The notice for request for proposals was published in the June 17, 1994, issue of the *Texas Register* (19 TexReg 4779).

Description of Services. The contractor will provide information regarding identifying any significant or potential contamination of the ambient environment as evidenced by trends in degraded water, sediment, fish and shellfish tissue quality. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1995.

Effective Date and Value of Contract. The contract will be effective from December 14, 1994, until August 31, 1995. The total cost of the contract is \$80,000.

Name of the Contractor. The contract has been awarded to the Center for Research in Water Resources, The University of Texas at Austin, PRC 119, Austin, Texas 78712.

Persons who have questions concerning this award may contact Richard Volk, Corpus Christi Bay National Estuary Program, TAMU-CC, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 985-6767.

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for a conceptual ecosystem model of the Corpus Christi Bay National Estuary Program (CCBNEP) study area.

The notice for request for proposals was published in the June 7, 1994, issue of the *Texas Register* (19 TexReg 4451).

Description of Services. The contractor will provide a model demonstrating ecosystem linkages at all trophic levels and substrate types, and will provide a conceptual framework with which to assess ecological and environmental impacts associated with external influences. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1995.

Effective Date and Value of Contract. The contract will be effective from December 16, 1994, until August 31, 1995. The total cost of the contract is \$20,000.

Name of the Contractor. The contract has been awarded to The University of Texas Marine Science Institute, P.O. Box 1267, Port Aransas, Texas 78373-1267.

Persons who have questions concerning this award may contact Richard Volk, Corpus Christi Bay National Estuary Program, TAMU-CC, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 985-6767.

Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for a study of current status and historical trends of brown tide and red tide phytoplankton blooms in the Corpus Christi Bay National Estuary Program (CCBNEP) study area.

The notice for request for proposals was published in the June 21, 1994, issue of the *Texas Register* (19 TexReg 4842).

Description of Services. The contractor will provide a description and discussion of the occurrence and spatial and temporal variability of persistent brown and red tide nuisance algal blooms occurring within the Upper Laguna Madre and the adjacent bays and estuaries throughout the CCBNEP study area. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1995.

Effective Date and Value of Contract. The contract will be effective from December 16, 1994, until August 31, 1995. The total cost of the contract is \$30,000.

Name of the Contractor. The contract has been awarded to the University of Texas Marine Science Institute, P.O. Box 1267, Port Aransas, Texas 78373-1267.

Persons who have questions concerning this award may contact Richard Volk, Corpus Christi Bay National Estuary Program, TAMU-CC, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 985-6767.

Issued in Austin, Texas, on January 5, 1995.

TRD-9500265 Mark Jordan
Director, Water Policy Division
Texas Natural Resource Conservation
Commission

Filed: January 9, 1995

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**Notice of Opportunity to Comment on
Permitting Actions**

For the Week Ending January 6, 1995.

Approval of Wade Granger doing business as Granger Water Systems to amend Water Certificate of Convenience and Necessity Number 12684 and to decertify a portion of CCN Number 11398 issued to the City of Orange in Orange County, Texas (Application Number 30616-C, Vera Poe).

Approval of Lakeshore Utility Company, Inc. to amend Water Certificate of Convenience and Necessity Number 10843 in Henderson County, Texas (Application Number 30586-C, Vera Poe).

City of Gonzales for a minor amendment to Permit Number 10488-01 to change the method of disinfection from chlorination and dechlorination to an ultraviolet light disinfection system for the final phase of the permit. The proposed amendment will also enforce more stringent effluent limitations as needed in order to meet existing applicable rules and regulations. The permit currently authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 1,500,000 gallons per day, which will remain the same. The wastewater treatment facilities are approximately 4,000 feet east of U.S. Highway 183 and 5,000 feet south of U.S. Highway 90-A (St. Louis Street), at the confluence of Tinsley Creek and the Guadalupe River, immediately south of the City of Gonzales in Gonzales County, Texas.

San Antonio Water System for a minor amendment to Permit Number 10137-040 to authorize the composting of sludge onsite, marketing, and the distribution of composted sludge. The permit currently authorizes a discharge of treated domestic wastewater effluent at an interim volume not to exceed an average flow of 6,500,000 gallons per day and a final volume not to exceed an average flow of 8,500,000 gallons per day, which will remain the same. The proposed amendment will enforce more stringent effluent limitations as needed, in order to meet existing applicable rules and regulations. The Medio Creek Wastewater Treatment Facilities are approximately 1,300 feet north of the point where U.S. Highway 90 crosses Medio Creek and approximately 1.25 miles west of Interstate Highway 410 in Bexar County, Texas.

Application Number 23-2780A By Lannie Mecom Moses for a Texas Water Code, §11.122, water use permit application. Amendment to Certificate Number 23-2780 to change the purpose of use of 25 acre-feet of Class A irrigation water rights authorized by Certificate of Adjudication 23-2780 to mining use and to change the place of use of that 25 acre-feet to be within Zapata County, Texas, Rio Grande, Rio Grande Basin, Zapata County, Texas (Kellye Rila).

Issued in Austin, Texas, on January 6, 1995.

TRD-9500210 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: January 6, 1995

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**Provisionally-Issued Temporary Permits
to Appropriate State Water**

Listed are permits issued during the period of December 26, 1994-January 6, 1995.

Application Number TA-7383 by T. L. James and Company, Inc., for diversion of nine acre-feet of water in a one-year period for industrial use (highway construction). Water may be diverted from the stream crossing at FM 2269, approximately 2.5 miles northwest of Cameron, Milam County, Texas, Brazos River Basin.

Application Number TA-7382 by Dean Word Company for diversion of three acre-feet of water in a one-year period for industrial use. Water may be diverted from the

following diversion points: 1) from the West Mill Creek crossing of FM 109, approximately 14 miles west of Bellville, Austin County, Texas; and 2) from the Williams Creek crossing of FM 109, approximately 16 miles northwest of Bellville, Austin County, Texas, Brazos River Basin.

Provisionally-Issued Temporary permits to appropriate state water are issued for a period of not more than one year and authorize the use of not more than ten acre-feet of water. The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78731, (512) 239-3300.

Issued in Austin, Texas, on January 6, 1995.

TRD-9500211 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: January 6, 1995

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**Public Utility Commission of Texas
Notice of Application to Amend
Certificate of Convenience and
Necessity**

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on December 27, 1994, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 18(b), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. APPLICATION OF LUFKIN-CONROE TELEPHONE EXCHANGE, INC. TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY WITHIN MONTGOMERY COUNTY, Docket Number 13787, before the Public Utility Commission of Texas.

The Application. In Docket Number 13787, Lufkin-Conroe Telephone Exchange, Inc. seeks approval of the application to amend the boundary between its Conroe and Lake Conroe exchanges in order to reflect the manner in

which telecommunication service is presently being administered.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before February 13, 1995.

Issued in Austin, Texas, on January 4, 1995.

TRD-9500082 John M. Rentrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: January 4, 1995

State Securities Board Correction of Error

The State Securities Board proposed new §133.5, concerning the secondary trading exemption notice form. The rule appeared in the December 23, 1994, issue of the *Texas Register* (19 TexReg 10165).

The space between "§133." and "5" in line four of the preamble should be eliminated.

The State Securities Board proposed an amendment to §133.33, concerning uniform forms accepted, required or recommended by the Agency. The rule appeared in the December 23, 1994, issue of the *Texas Register* (19 TexReg 10166).

In §133.5-The space between "581-" and "5.T" in the penultimate line of the preamble should be eliminated.

The State Securities Board proposed new §133.35, concerning Application for Designation as Matching Service Under §109.15. The rule appeared in the December 23, 1994, issue of the *Texas Register* (19 TexReg 10166).

In §133.35-Given that the submission of §109.15 was returned, it is no longer accurate to state, as does the final line of the first paragraph of the preamble, that §133.35 and §109.15 are "concurrently" proposed.

Texas Department of Transportation Public Notice

The Texas Traffic Records Council is scheduled to have a meeting on February 2, 1995, at 1:30 p.m. at the Texas Department of Public Safety located at 5805 North Lamar Boulevard, in conference room B, Austin Texas. The Traffic Records Council is a Texas Department of Transportation (TxDOT) advisory committee composed of representatives for TxDOT, Department of Public Safety, Texas Health Department, metropolitan planning organizations, and county and city officials.

The purpose of the Traffic Records Council is to improve the traffic record systems in Texas. Items on the Council's agenda include reports from its Technology and Standards, and Education and Information, Data Linkage committees. Reports from the Forum and "Off-System" task force will be presented. Appointment of Ex-Officio Members to the Council will be made. There will also be a report on the support for the Texas Traffic Records Council.

For further information, contact Jim Taylor, Traffic Operations Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701, (512) 416-3150.

Issued in Austin, Texas, on January 5, 1995.

TRD-9500171 Diane L. Northam
Legal Executive Assistant
Texas Department of Transportation

Filed: January 5, 1995

The University of Texas System Consultant Contract Award

The University of Texas M. D. Anderson Cancer Center (UTMDACC) has filed an award for consultant services under the provisions of the Government Code, Chapter 2254.

The consultant is responsible for developing a re-engineering initiative in the Materials Management Department at UTMDACC to ensure a high quality, cost effective and customer focused department.

Specific tasks and focus areas include developing a Materials Management Information System, consolidating the Central Services and Central Stores Departments, reducing inventory, developing a Just In Time program, planning utilization of space and work flow design in dock areas, re-engineering processes in the Purchasing Department, standardizing products (excluding Pharmacy), recruiting a Director of Materials Management, and examining certification of buyers.

The consultant contract award has been awarded to Concepts in Healthcare, Inc., 171 Main Street, Suite 101, Ashland, Massachusetts 01721.

The contract award is for \$215,000. The contract period is August 1, 1994-December 31, 1995.

For more information regarding this award, contact Rick Bryant at (713) 792-3080.

Issued in Austin, Texas, on January 6, 1995.

TRD-9500184 Arthur H. Dilly
Executive Secretary to the Board of Regents
The University of Texas System

Filed: January 6, 1995

Waco Urban Transportation Study (City of Waco)

Requests for Proposals

The Metropolitan Planning Organization (MPO) for the Waco Urban Transportation Study is requesting proposals from qualified sources to provide a Land Use Study for the cities of the Waco Urban Transportation Study (WUTS) MPO area.

To receive a copy of the Request for Proposal (RFP) packet or to request additional information, contact Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570, (817) 750-5655.

A preproposal conference will be conducted at 2:00 p.m., Tuesday, January 31, 1995, in the Bosque Theatre of the Waco Convention Center. Attendance at the conference is

mandatory for firms intending to submit a response to this request for proposal. Submission of proposals by firms not attending the preproposal conference automatically will be disqualified.

The MPO and the City of Waco reserve the right to accept or reject any or all proposals as a result of this request, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the MPO or City of Waco. This RFP does not commit the MPO or City of Waco to award a contract or to pay cost incurred for the preparation of proposals.

An original and five copies of the written proposal must be received by the City no later than 5:00 p.m. on February 24, 1995. They should be addressed to: Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570.

Proposals will be evaluated by a staff committee. Each proposal will be evaluated for acceptability with emphasis on the various factors enumerated, assigning to that factor a numerical weight. The scores will be used to develop a list of proposers with whom negotiations may be conducted. Additional documentation shall be at the discretion of the MPO and City of Waco. Interviews, if necessary, will be conducted. The staff committee recommendation is subject to approval by the Waco City Council.

Criteria, Firm and Staff Experience-30 maximum points, Project Approach-30 maximum points, Demonstrated Past Performance Success-20 maximum points, Current Workload-10 maximum points, Conformance with RFP Requirements-10 maximum points, for a total of 100 points.

The firm selected to provide this study must be approved by the Waco City Council. The MPO and City of Waco may authorize contract negotiations to begin without further discussion with the proposers; therefore, each proposal should be submitted as completely as possible. The MPO and City of Waco reserve the right to request additional data or oral discussions/presentations in support of the written proposal. Contracts shall be awarded on the basis of the best interest of the MPO and City of Waco, price, content and other factors being considered in the RFP.

Issued in Waco, Texas, on January 4, 1995.

TRD-9500202 Anna K. Hayes
MPO Coordinator
Waco Urban Transportation Study (City of Waco)

Filed: January 6, 1995

The Metropolitan Planning Organization (MPO) for the Waco Urban Transportation Study is requesting proposals from qualified sources to provide a Transit Expansion Feasibility Study for the cities of the Waco Urban Transportation Study (WUTS) MPO area.

To receive a copy of the Request for Proposal (RFP) packet or to request additional information, contact Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570, (817) 750-5655.

A preproposal conference will be conducted at 2:00 p.m., Tuesday, January 31, 1995, in the Bosque Theatre of the Waco Convention Center. Attendance at the conference is mandatory for firms intending to submit a response to this request for proposal. Submission of proposals by firms not

attending the preproposal conference automatically will be disqualified.

The MPO and the City of Waco reserve the right to accept or reject any or all proposals as a result of this request, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the MPO or City of Waco. This RFP does not commit the MPO or City of Waco to award a contract or to pay cost incurred for the preparation of proposals.

An original and five copies of the written proposal must be received by the City no later than 5:00 p.m. on February 24, 1995. They should be addressed to: Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570.

Proposals will be evaluated by a staff committee. Each proposal will be evaluated for acceptability with emphasis on the various factors enumerated, assigning to that factor a numerical weight. The scores will be used to develop a list of proposers with whom negotiations may be conducted. Additional documentation shall be at the discretion of the MPO and City of Waco. Interviews, if necessary, will be conducted. The staff committee recommendation is subject to approval by the Waco City Council.

Criteria, Firm and Staff Experience-30 maximum points, Project Approach-30 maximum points, Demonstrated Past Performance Success-20 maximum points, Current Workload-10 maximum points, Conformance with RFP Requirements-10 maximum points, for a total of 100 points.

The firm selected to provide this study must be approved by the Waco City Council. The MPO and City of Waco may authorize contract negotiations to begin without further discussion with the proposers; therefore, each proposal should be submitted as completely as possible. The MPO and City of Waco reserve the right to request additional data or oral discussions/presentations in support of the written proposal. Contracts shall be awarded on the basis of the best interest of the MPO and City of Waco, price, content and other factors being considered in the RFP.

Issued in Waco, Texas, on January 4, 1995.

TRD-9500203 Anna K. Hayes
MPO Coordinator
Waco Urban Transportation Study (City of Waco)

Filed: January 6, 1995

The Metropolitan Planning Organization (MPO) for the Waco Urban Transportation Study is requesting proposals from qualified sources to provide a Land Use Study for the cities of the Waco Urban Transportation Study (WUTS) MPO area.

To receive a copy of the Request for Proposal (RFP) packet or to request additional information, contact Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570, (817) 750-5655.

A preproposal conference will be conducted at 2:00 p.m., Tuesday, January 31, 1995, in the Bosque Theatre of the Waco Convention Center. Attendance at the conference is mandatory for firms intending to submit a response to this request for proposal. Submission of proposals by firms not attending the preproposal conference automatically will be disqualified.

The MPO and the City of Waco reserve the right to accept or reject any or all proposals as a result of this request, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the MPO or City of Waco. This RFP does not commit the MPO or City of Waco to award a contract or to pay cost incurred for the preparation of proposals.

An original and five copies of the written proposal must be received by the City no later than 5:00 p.m. on February 24, 1995. They should be addressed to: Anna K. Hayes, MPO Coordinator, City of Waco, P. O. Box 2570, Waco, Texas 76702-2570.

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Criteria, Firm and Staff Experience-30 maximum points, Project Approach-30 maximum points, Demonstrated Past Performance Success-20 maximum points, Current Workload-10 maximum points, Conformance with RFP Requirements-10 maximum points, for a total of 100 points.

The firm selected to provide this study must be approved by the Waco City Council. The MPO and City of Waco may authorize contract negotiations to begin without further discussion with the proposers; therefore, each proposal should be submitted as completely as possible. The MPO and City of Waco reserve the right to request additional data or oral discussions/presentations in support of the written proposal. Contracts shall be awarded on the basis of the best interest of the MPO and City of Waco, price, content and other factors being considered in the RFP.

Issued in Waco, Texas, on January 4, 1995.

TRD-9500204 Anna K. Hayes
MPO Coordinator
Waco Urban Transportation Study (City of Waco)

Filed: January 6, 1995

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The Metropolitan Planning Organization (MPO) for the Waco Urban Transportation Study is requesting proposals from qualified sources to provide two Major Investment Analyses, Waco Drive Corridor and North Loop Corridor, for the Waco Urban Transportation Study (WUTS) MPO area.

To receive a copy of the Request for Proposal (RFP) packet or to request additional information, contact Anna

K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570, (817) 750-5655.

A preproposal conference will be conducted at 2:00 p.m., Tuesday, January 31, 1995, in the Bosque Theatre of the Waco Convention Center. Attendance at the conference is mandatory for firms intending to submit a response to this request for proposal. Submission of proposals by firms not attending the preproposal conference automatically will be disqualified.

The MPO and the City of Waco reserve the right to accept or reject any or all proposals as a result of this request, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the MPO or City of Waco. This RFP does not commit the MPO or City of Waco to award a contract or to pay cost incurred for the preparation of proposals.

An original and five copies of the written proposal must be received by the City no later than 5:00 p.m. on February 24, 1995. They should be addressed to: Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570.

Proposals will be evaluated by a staff committee. Each proposal will be evaluated for acceptability with emphasis on the various factors enumerated, assigning to that factor a numerical weight. The scores will be used to develop a list of proposers with whom negotiations may be conducted. Additional documentation shall be at the discretion of the MPO and City of Waco. Interviews, if necessary, will be conducted. The staff committee recommendation is subject to approval by the Waco City Council.

Criteria, Firm and Staff Experience-30 maximum points, Project Approach-30 maximum points, Demonstrated Past Performance Success-20 maximum points, Current Workload-10 maximum points, Conformance with RFP Requirements-10 maximum points, for a total of 100 points.

The firm selected to provide this study must be approved by the Waco City Council. The MPO and City of Waco may authorize contract negotiations to begin without further discussion with the proposers; therefore, each proposal should be submitted as completely as possible. The MPO and City of Waco reserve the right to request additional data or oral discussions/presentations in support of the written proposal. Contracts shall be awarded on the basis of the best interest of the MPO and City of Waco, price, content and other factors being considered in the RFP.

Issued in Waco, Texas, on January 4, 1995.

TRD-9500205 Anna K. Hayes
MPO Coordinator
Waco Urban Transportation Study (City of Waco)

Filed: January 6, 1995

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