

# Texas Register

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

Open Meetings-notices of open meetings

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

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# The Governor

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

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## Executive Orders

AWR 91-12

### DECLARING THE DAY FOLLOWING THANKSGIVING DAY A STATE HOLIDAY

WHEREAS, the Legislature, in Senate Bill 1095, sec. 31, Regular Session, 72nd Legislature, provided that the fourth Friday of November would be a state holiday; and

WHEREAS, the Legislature, in House Bill 1, Second Called Session, 72nd Legislature, Article V, section 7, paragraph 3, provided that agencies of state government were not required to have enough personnel on hand to carry on the public business on the Friday immediately following the fourth Thursday in November; and

WHEREAS, in 1991, there are five Fridays in the month of November, and the Friday following Thanksgiving Day is the fifth Friday of November; and

WHEREAS, there is an irreconcilable difference between the two laws; and

WHEREAS, the day following Thanksgiving Day has traditionally been observed as a state holiday with all public offices of state government closed; and

WHEREAS, in six years out of seven, the fourth Friday of November is the day following Thanksgiving Day; and

WHEREAS, it is the clear intent of the Legislature that November 29, 1991, the fifth Friday in November, the day following Thanksgiving, rather than November 22, 1991, the fourth Friday in November, be observed as a state holiday;

NOW, THEREFORE, I, Ann W. Richards, Governor of Texas, by the authority vested in me, do hereby declare that November 29, 1991 shall be observed as a state holiday and that November 22, 1991 shall not be observed as a state holiday. On November 29, 1991, the public offices of the agencies of state government shall be closed. The agencies of state government will not be required to have enough personnel on hand to carry on the public business.

Issued in Austin, Texas on October 10, 1991.

TRD-9112589      Ann W. Richards  
Governor of Texas



AWR 91-9A

### ESTABLISHING THE GOVERNOR'S TASK FORCE ON ECONOMIC TRANSITION

Executive Order AWR 91-9 is amended as follows and shall be known as AWR 91-9A as amended October 4, 1991.

WHEREAS, defense contract spending and the operation of military installations within the state have a significant impact of the Texas economy; and

WHEREAS, changes in the global political climate and national budgetary priorities allow for decreases in defense spending and the closure of military facilities within these United States and within the State of Texas; and

WHEREAS, the resulting economic dislocations and installations closings will seriously affect thousands of Texans and the Texas economy; and

WHEREAS, the state must mobilize its resources to smooth the transition for its affected cities, industries, and employees to civilian activities; and

WHEREAS, the state must take advantage of opportunities will result from economic development and diversification;

NOW, THEREFORE, I, Ann W. Richards, Governor of Texas, by the authority vested in me do hereby establish the Governor's Task Force on Economic Transition. The Task Force consists of the following persons: Secretary of State Hohn Hannah, Chair; Joan Baker; Sandy Dochen; Dr. Jeff Dumas; Robert Gonzales; Paul Gormly; Horace Grace; Gloria Hernandez; Robert Kohler; Jeff Latcham; Donald R. Looney; Hans Mark; Gwen Marlin; Tommy Joe Mills; Dr. Leo Newland; Glen Peterson; A. L. Pollard; Doug Richardson; James M. Steed; Gwen Webb; Roger Williams; Mary Beth Williamson; and John Ybanez.

The Task Force shall meet at the call of the Chair.

The Texas Department of Commerce shall provide reimbursement to the public members for their travel expenses incurred in attending meetings of the Task Force from the date of the creation of the Task Force.

Coordination of the Task Force will reside in the Governor's Department of Finance and Business Development.

The Task Force is charged with the following responsibilities:

1. To determine the level and extent of the statewide economic impact of the military closings and to pinpoint regional and local economic impacts.

2. To advise state and local agencies on actions to encourage planning for the transition of military facilities, businesses, and workers to civilian activities.

3. To recommend ways in which state and local agencies can use existing resources to assist in retraining and employment of those persons adversely affected by closings and lay-offs.

4. To determine what role the state should play to help businesses and corporations find commercial markets for their military-oriented goods and services.

The following state agencies are directed to cooperate with and assist the Task Force: The Texas Department of Commerce, the Texas Education Agency, the Texas Employment Commission, the Texas Department of Human Services, The Texas Higher Education Coordinating Board, and the Comptroller of Public Accounts.

This amendment of AWR 91-9 shall be effective immediately and shall remain in full force and effect until modified, amended or rescinded by me.

Issued in Austin, Texas on October 4, 1991.

TRD-91112572      Ann W. Richards  
                         Governor of Texas



## AWR 91-11

### RE-ESTABLISHING THE CHRISTOPHER COLUMBUS QUINCENTENARY TEXAS JUBILEE COMMISSION

WHEREAS, the year 1992 marks the 500th anniversary of the discovery of the New World by Christopher Columbus; and

WHEREAS, the Christopher Columbus Quincentenary Jubilee Commission was established by Congress by Public Law 98-375 and charged with reporting to the Congress its recommendations for a comprehensive national commemoration of the 500th anniversary of Columbus' voyages of discovery in 1492; and

WHEREAS, the Commission's Report calls for commemorative programs and events which shall have a lasting impact on our educational and cultural life and which will provide for broad public participation; and

WHEREAS, one of the primary purposes of the celebratory events is to create a strengthened awareness of the common history and heritage of American peoples; and

WHEREAS, the Commission has encouraged state and city officials to plan state and local quincentenary programs and to establish Quincentenary Commissions in furtherance thereof; and

WHEREAS, the State of Texas wishes to participate in and contribute to this important celebratory event; and

WHEREAS, William P. Clements, Jr., former Governor of the State of Texas, created the Christopher Columbus Quincentenary Texas Jubilee Commission; and

WHEREAS, work remains to be done to accomplish the original purposes of that Commission,

NOW THEREFORE, I, Ann W. Richards, Governor of the State of Texas, under the authority vested in me, do hereby re-establish the Christopher Columbus Quincentenary Texas Jubilee Commission.

#### I. Purpose

The Commission shall propose, evaluate, recommend, and coordinate activities throughout the State of Texas which develop the themes recognized in the Quincentenary Jubilee Commission Report in commemoration of Columbus' discovery of the New World.

#### II. Functions

A. The Commission shall encourage development of projects which will increase knowledge and understanding of Columbus and his background and the importance of Columbus' voyages in the development of the modern world.

B. The Commission shall encourage development of projects which acknowledge the important impact which the diversity of settlers in this country has had on the development of our political, economic, and cultural heritage.

C. The Commission shall encourage development of projects which acknowledge the ethnic diversity, democratic accessibility, and the ideals of a republican and constitutional government which are hallmarks of American societies and which have spread throughout the world.

E. The Commission shall encourage projects which reflect upon the legacy of Columbus' vision as evidence of the human ability to grow, learn, and to seek new frontiers.

F. The Commission shall encourage, coordinate, and publicize other celebratory activities of interested civic groups and cultural institutions which comport with the spirit of the report issued by the Quincentenary Jubilee Commission.

#### III. Organization

A. The Commission shall consist of the following members: Nick Lampson, Chairman; Sheldon Hall, Vice Chairman; Grace Alcala, Robert S. Bambace, Joy Clayton, Debbie Dillard, Irene Kissling, Shaun O'Brien, Roland Poncho, Steve Marak, III, Ginger Purdy; Henry O. Strunk; and David C. Zwingman.

B. Nick Lampson and Sheldon Hall shall serve as the Chairman and Vice-Chairman, respectively.

C. The members of the Commission shall serve without compensation or reimbursement of actual expenses.

D. The Commission shall serve at the call of the Chairman. A majority of the Commission shall constitute a quorum.

#### IV. Reports

The Commission shall periodically submit to the Governor a schedule and an evaluation of proposed projects and recommend suggested projects for official recognition by the State of Texas.

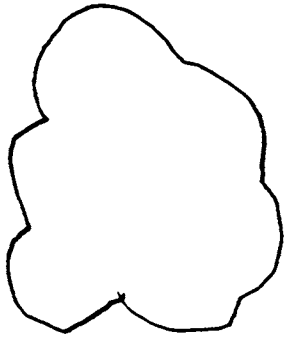
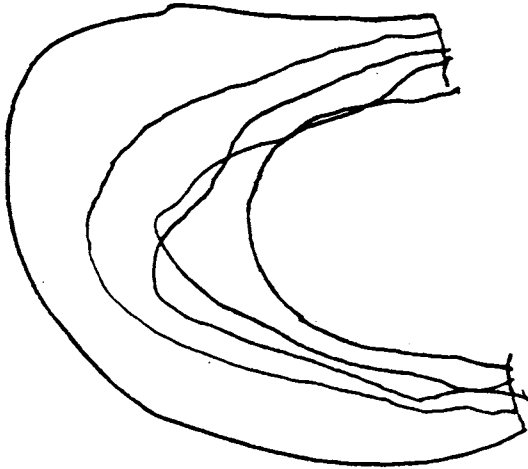
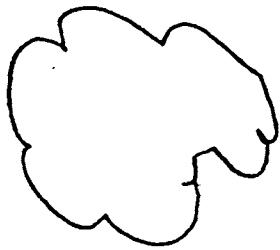
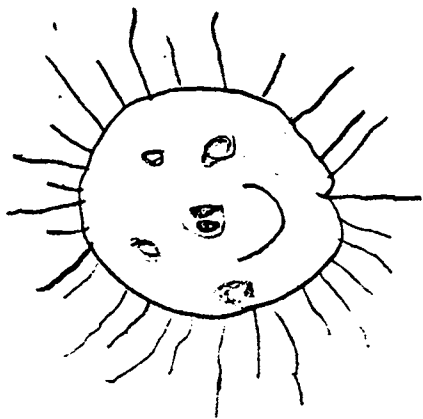
This Executive Order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me. Issued in Austin, Texas on October 7, 1991.

TRD-9112573

Ann W. Richards  
Governor of Texas



AMY  
MEYER



Name: Amy Meyer

Grade: 1

School: Oak Hill Elementary, Austin ISD

# Emergency Sections

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

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

## TITLE 1. ADMINISTRATION

### Part IV. Office of the Secretary of State

#### Chapter 81. Elections

##### Voting Systems

###### • 1 TAC §81.54

The Office of the Secretary of State is renewing the effectiveness of the emergency adoption of the new §81.54, for a 60-day period effective November 9, 1991. The text of the new §81.54 was originally published in the July 19, 1991, issue of the *Texas Register* (16 TexReg 3979).

Issued in Austin, Texas, on October 10, 1991.

TRD-9112553

Tom Harrison  
Special Assistant for  
Elections  
Office of the Secretary of  
State

Effective date: November 9, 1991

Expiration date: January 8, 1992

For further information, please call: (512) 463-5650

## TITLE 22. EXAMINING BOARDS

### Part XI. Board of Nurse Examiners

#### Chapter 213. Practice and Procedure

###### • 22 TAC §§213.19, 213.20-213.22

The Board of Nurse Examiners adopts on an emergency basis amendments to §213.19 and §213.20 and new §213.21 and §213.22, concerning licensure of persons with criminal convictions, licensure of persons who have been hospitalized or treated for mental illness, or are chemically dependent, declaratory orders of eligibility for licensure, and representation. The emergency adoption of these amendments and new sections are a direct result of the passage of Texas Civil Statutes, Article 4519a during the 72nd Legislative Session. These rules will further clarify procedures used in determining a candidate's eligibility to write the licensure examination based upon review of documentation. The representation section was merely renumbered to allow for sequential ordering of the rules.

The emergency adoption of these amendments and new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4514, §1, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives.

##### §213.19. Licensure of Persons with Criminal Convictions.

(a) This section sets out the guidelines and criteria on the eligibility of persons with criminal convictions [backgrounds] to obtain a license as a registered nurse. The board [Board of Nurse Examiners] may refuse to admit persons to its licensure examinations, may refuse to issue a license or certificate of registration, or may refuse to issue a temporary permit to any individual that has been convicted of a felony, a misdemeanor involving moral turpitude, or engaged in conduct resulting in the revocation of probation imposed pursuant to such conviction.

(b) Criminal convictions which directly relate to the occupation of registered nurse.

(1) The board may refuse to admit persons to its licensure examinations, may refuse to issue a license or certificate of registration, or may refuse to issue a temporary permit to any individual that has been convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a registered nurse.]

(b)(2) In considering whether a criminal conviction renders the individual ineligible for licensure as [directly relates to the occupation of] a registered nurse, the board shall consider:

(1) [(A)] the nature and seriousness of the crime; and

(2) [(B)] the relationship of the crime to the potential ability of the individual to render safe professional nursing care [purposes for requiring a license to be a registered nurse]. The following felonies and misdemeanors [relate to the duties and responsibilities of a registered nurse because these criminal offenses] may indicate an inability [or a tendency to be unable] to perform as a registered nurse:

(A)[(i)] [the misdemeanor of] knowingly or intentionally acting as a registered nurse without a license issued under the Nurse Practice Act;

(B) [(ii)] a misdemeanor and/or felony involving moral turpitude;

(C)[(iii)] a misdemeanor and/or a felony offense under various titles of the Texas Penal Code:

(i)[(I)] murder;

(ii)[(II)] assault;

(iii)[(III)] burglary;

(iv)[(IV)] robbery;

(v)[(V)] theft;

(vi)[(VI)] rape or sexual abuse;

(vii)[(VII)] patient abuse;

(viii)[(VIII)] injury to an elderly person;

(ix)[(IX)] child molestation, abuse, endangerment, or neglect;

(x)[(X)] felony conviction for driving while intoxicated, driving under the influence of alcohol or drugs, or driving while the ability is impaired;

(xi)[(XI)] use, sale, distribution, illegal possession, or manufacturing of narcotics, controlled substances, or dangerous drugs; and

(xii)[(XII)] offenses of attempting or conspiring to commit any of the offenses in this subsection.[:]

(D)[(iv)] the misdemeanors and felonies listed in subparagraph (C) of this paragraph, which are not inclusive in that the board may consider other particular crimes in special cases in order to promote the intent of the Nurse Practice Act and this chapter;

(i)[(C)] the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(ii)[(D)] the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a registered nurse.[: and]

[(E) the relationship of the crime to the purposes for requiring a license to practice professional nursing.]

(e)[(3)] In connection with a complaint alleging conviction of a crime [which directly relates to the duties and responsibilities of a registered nurse], the board shall consider the following evidence regarding [as to] present fitness to practice professional nursing:

(1)[(A)] the extent and nature of the person's past criminal activity; and

(2)[(B)] the age of the person at the time of the commission of the crime;

(3)[(C)] conduct and work activity of the person prior to and after the criminal activity;

(4)[(D)] evidence of rehabilitation while incarcerated or following release;

(5)[(E)] letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; letters from the sheriff or chief of police where the person resides; and other persons having contact with the convicted person; and

(6)[(F)] records of steady employment, provisions for dependents, any payment of all court costs, supervision fees, fines, and restitution if ordered as a result of the person's conviction.

(d)[(c)] Procedures for denying a license to a person with a criminal background include the following.

(1) The executive director [secretary] shall give written notice to the person that the board proposes to deny the application for a license or permission to write the licensure examination [after a formal hearing].

(2) If the board denies an application for a license or permission to write the licensure examination under this section, the executive director [secretary] shall give the person written notice of the reasons for the decision.[:]

[(A) of the reasons for the decision;

[(B) that the person, after exhausting administrative appeals, may file an action in any of the district courts in the county of residence for review of the evidence presented to the board and its decision;

[(C) that the person must begin the judicial reviews by filing a petition with the court within 30 days after the board's action is final and appealable; and

[(D) of the earliest date that the person may appeal.]

*§213.20. Licensure of Persons who have been Hospitalized or Treated for Mental Illness, or are Chemically Dependent.*

(a) Purpose. This section sets out the guidelines and criteria on the eligibility of persons with mental illness and/or chemical dependency to obtain a license as a registered nurse. The board [Board of Nurse Examiners] may refuse to admit persons to its licensure examinations, may refuse to issue a license or certificate of registration, or may refuse to issue a temporary permit to any individual with lack of fitness to practice by reason of mental illness or intemperate use of alcohol or drugs that could result in injury to patients or the public.

(b) Definition. For purposes of this rule "mental illness" is defined as an illness, disease, or condition which either substantially impairs the person's thought processes, perception of reality, emotional stability [process], [or] judgment, [;] or [grossly impairs behavior as manifested by recent disturbed] behavior. ["Mental illness" does not include epilepsy, senility, alcoholism, or mental deficiency.]

[(1) The board may refuse to admit a person to its licensure examinations, may refuse to issue a license or certificate of registration, or may refuse to issue a temporary permit to any individual who is mentally ill or is chemically dependent, if this condition(s) directly effects the registered nurse's ability to practice professional nursing.]

(c)[(2)] In considering whether mental illness and/or chemical dependence directly effects the practice of a registered nurse, the board shall consider:

(1) [(A)] the nature and seriousness of mental illness;[.] and [Excluded are problems which are short term in nature, such as a situational crisis in which there is an external event that threatens the ability of the individual to cope, the individual receives counseling and his/her functioning is no longer impaired. Examples of situational crises include but are not limited to:]

[(i) natural disasters such as earthquake, tornado, or hurricane;

[(ii) loss through death or divorce;

[(iii) loss of employment;

[(iv) rape; or

[(v) post partum depression; and]

(2)[(B)] whether the individual is impaired by drug or alcohol use.

[(c) Procedures for denying a license to a person with mental illness and/or chemical dependence.]

(d)[(1)] The executive director [secretary] shall give written notice to the person that the board proposes to deny the application for a license or permission to write the licensure examination [after a formal hearing].

(e)[(2)] If the board denies an application for a license under this section, the executive director [secretary] shall give the person written notice[:] of the reasons for the decision.

[(A) of the reasons for the decision;

[(B) that the person, after exhausting administrative appeals, may file an action in any of the district courts in the county of residence for review of the evidence presented to the board and its decision;

[(C) that the person must begin the judicial reviews by filing a petition with the court within 30 days after the board's action is final and appealable; and

[(D) of the earliest date that the person may appeal.]

*§213.21. Declaratory Order of Eligibility for Licensure.*

(a) An individual enrolled or planning to enroll in a basic nursing program who has reason to believe that he/she is ineligible for licensure may petition the board for a declaratory order as to his/her eligibility.

(b) The individual must submit a petition on forms provided by the board which includes:

(1) a statement of the individual indicating the reason(s) and basis of potential ineligibility;

(2) if the potential ineligibility is due to criminal conviction, any court documents including, but not limited to, any indictments, judgments, probation records, and evidence of completion of probation, if applicable;

(3) if the potential ineligibility is due to mental illness, evidence of evaluation, including a prognosis, by a psychologist or psychiatrist, evidence of treatment, including any medication;

(4) if the potential ineligibility is due to chemical dependency including alcohol, evidence of evaluation and treatment, after care and support group attendance; and

(5) the required fee.

(c) An investigation of the petition and the individual's eligibility may be conducted.



(d) The petitioning individual or the board may amend the petition at any time before a final determination is made.

(e) If the board proposes to find the petitioning individual ineligible for licensure, he/she is entitled to a hearing in accordance with Texas Civil Statutes, Article 1525(b) as amended.

(f) In the absence of new evidence known to but not disclosed by the petitioning individual or not reasonably available to the board at the time the declaratory order is issued, the board's ruling on the petition is final.

**§213.22. Representation.** Any representative for any party appearing for any proceeding before the agency must be an attorney licensed to practice law.

Issued in Austin, Texas, on October 9, 1991.

TRD-9112561

Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Effective date: October 10, 1991

Expiration date: February 7, 1992

For further information, please call: (512) 835-8650

◆ ◆ ◆  
• 22 TAC §213.21

The Board of Nurse Examiners adopts on an emergency basis the repeal of §213.21, concerning representation. The emergency adoption of this repeal is necessary to allow for renumbering with the addition of a new section also being adopted on an emergency basis regarding declaratory orders.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 4514, §1, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives.

**§213.21. Legal Council.**

Issued in Austin, Texas, on October 9, 1991.

TRD-9112559

Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Effective date: November 10, 1991

Expiration date: February 7, 1992

For further information, please call: (512) 835-8650

◆ ◆ ◆  
Chapter 217. Licensure and Practice

• 22 TAC §§217.6-217.8

The Board of Nurse Examiners adopts on an emergency basis amendments to §§217.6-217.8, concerning temporary permits, failure

to renew license, and reactivation from inactive status. The emergency adoption of these amendments is a direct result of the passage of Texas Civil Statutes, Article 4523(c) during the 72nd Legislative Session. These amendments include the provision for the issuance of a temporary permit for an RN who has been out of practice for four or more years (Article 4523(c)); and for the inclusion of continuing education requirements.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 4514, §1, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives.

**§217.6. Temporary Permit.**

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

(d) Registered nurse with an inactive or delinquent licenses. A registered nurse who has not practiced nursing for four or more years may be issued a temporary permit for the limited purpose of completing a refresher course, extensive orientation to the practice of professional nursing, or academic course. The permit is valid for six months and is nonrenewable.

**§217.7. Failure to Renew License (Certificate of Reregistration).**

(a) A registered nurse who is not practicing professional nursing in Texas and who allows his or her license [reregistration] to lapse for a period of time less than four years may be his or her license [registration] up to date by filing such forms as the board may require, showing evidence of having completed 20 contact hours of acceptable continuing education within two years immediately preceding the application for relicensure, and paying the current licensure [registration] fee and a fee equal to the examination fee.

(b) A registered nurse who is not practicing professional nursing [in Texas] and who allows his or her license [annual reregistration] to lapse for four or more years will be required to submit a duly executed application for temporary permit for the limited purpose of completing a refresher course, extensive orientation to the practice of professional nursing, or academic course. [form obtained from the board's office with the following:]

(1) Evidence of a refresher course or agreement to complete a refresher course, agreement to work under supervision of a registered nurse, or a copy of the applicant's current registered nurse license from another jurisdiction with evidence of recent employment in nursing.

(2) A recent fade-proof identification photograph (approximately two

inches by two inches). The registrant's name, address, and date photograph was made and registration number shall be written on the back of the photograph.

(3) after evaluation and approval, the delinquent registrant will be required to pay the current registration fee plus a fee equal to the examination fee.]

(c) Upon submission of evidence of completion of the refresher course, extensive orientation to the practice of professional nursing, or academic course, the nurse will be required to submit a duly executed application form obtained from the board's office with the following:

(1) a current, passport type photograph with the signature, address, license number, and date photograph was made written on the back;

(2) evidence of having completed 20 contact hours of acceptable continuing education within two years immediately preceding the application for relicensure; and

(3) the current licensure fee plus a fee equal to the examination fee.

**§217.8. Reactivation from Inactive Status.**

(a) A registered nurse who has [is] not practiced [practicing professional nursing and whose license has been in an inactive status for less than four years may reactivate the license by completing the application form, [and] paying the required [a \$5.00] reactivation fee and the current licensure [reregistration] fee[.], and submitting verification of completion of 20 hours of continuing education in compliance with §217.15 of this title (relating to Continuing Education), beginning September 1993.

(b) A registered nurse who has [is] not practiced [practicing] professional nursing in Texas and whose license has been in an inactive status for more than four years will submit the following:

(1) an application for licensure form;

(2) verification of employment as a registered nurse in another jurisdiction [state]; or

(3) verification of completion [evidence] of a refresher course, extensive orientation to the practice of professional nursing or academic course which meets the board's requirements and was completed within the last year [or an agreement to supervised employment or agreement to a refresher course;

(4) evidence of completion of 20 contact hours of CE in compliance with §217.15 of this title (relating to Continuing Education);

(5)[(4)] a current passport type photo; and

(6)[(5)] the required reactivation fee [of \$10] plus the current licensure [re]registration fee.

(c) A registered nurse who has not practiced professional nursing in Texas or another jurisdiction within the last four years and has not participated in a refresher course within the last year must submit:

(1) an application for temporary permit limited to completion of a refresher course, extensive orientation to the practice of professional nursing, or academic course; and

(2) the required fee.

(d) Upon completion of the refresher course, extensive orientation to the practice of professional nursing, or academic course which meets the board's requirements, the nurse shall then comply with §217.8(b) of this section (relating to Reactivation from Inactive Status).

Issued in Austin, Texas, on October 9, 1991.

TRD-9112563 Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Effective date: October 10, 1991

Expiration date: February 7, 1992

For further information, please call: (512) 835-8650

## Chapter 223. Fees

### • 22 TAC §223.1

The Board of Nurse Examiners adopts on an emergency basis an amendment to §223.1, concerning fees. The emergency adoption of the amendment is a direct result of the legislation passed during the 72nd Legislative Session whereby the renewal fee was set at \$30 and the passage of Article 4519a authorized issuance of declaratory orders of eligibility for licensure with a fee not to exceed \$25.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 4514, §1, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives.

**§233.1. Fees.** The Board of Nurse Examiners has established reasonable and necessary fees for the administration of its functions in the following amounts:

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

(6) Licensure [re]registration (each biennium)—\$30 [\$22];

(7)-(14) (No change.)

(15) declaratory order of eligibility—\$25.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112566 Louise Waddill, Ph.D. R.N.  
Executive Director  
Board of Nurse Examiners

Effective date: October 10, 1991

Expiration date: February 7, 1992

For further information, please call: (512) 463-8650

## Part XIV. Texas Optometry Board

### Chapter 273. General Rules

#### • 22 TAC §273.4

The Texas Optometry Board adopts on an emergency basis an amendment to §273.4, concerning fees assessed to licensees. House Bill 1, 72nd Legislature, First Called Session (Appropriations Act), contains the appropriation pattern for the agency. Rider Number 4 of the agency's appropriation pattern requires that the annual license fee be increased by an amount sufficient to cover the cost of the appropriation. The board has determined that an increase of \$15 would be required for individual annual license renewal. Since the renewal process begins during the last week of October, the need for the emergency rule amendment is required. In addition, with the passage of Senate Bill 774, 72nd Legislature, optometrists may become therapeutically certified and must make application through the board. A fee is required both for application and certificate issue; the listing of the fees in this rule section is necessary to begin collection immediately.

The rule amendment is also being submitted simultaneously through the regular process for rule adoption.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

#### §273.4. Fees (No Refundable).

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

(e) License renewal—\$25 [\$110];

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

(h) Therapeutic certification application—\$55;

(i) Therapeutic certificate—\$25.

Issued in Austin, Texas, on October 11, 1991.

TRD-9112851 Lois Ewald  
Executive Director  
Texas Optometry Board

Effective date: October 11, 1991

Expiration date: February 8, 1992

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

## Part XX. Texas Board of Private Investigators and Private Security Agencies

### Chapter 460. Application Processing and Refunds

#### • 22 TAC §460.1

The Texas Board of Private Investigators and Private Security Agencies repeals on an emergency basis §460.1, concerning processing of applications for a license concerning the time limitation of the board in issuing a license after application and the procedures to be followed by applicants for receiving a refund of the filing fee.

The board has determined that the repeal of this section as soon as possible is in the public interest and is necessary to comply with the Administrative Procedures Act, Texas Civil Statutes, Article 6252-13b.1, §3, agency rules, which sets forth specific guidelines for the processing of applications.

The section is repealed under Texas Civil Statutes, Article 4413 (29bb), §11, which provides the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

#### §460.1. Processing of Applications for a License.

Issued in Austin, Texas, on October 7, 1991.

TRD-9112387 Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 8, 1991

Expiration date: February 5, 1992

For further information, please call: (512) 463-5545

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis §460.1, concerning acceptance for filing; defective applications. This section sets forth guidelines for the acceptance of, processing of, and time limitations on applications.

The Board has determined that adoption of this section as soon as possible is in the public interest and is necessary to comply with the Administrative Procedures Act, Texas Civil Statutes, Article 6252-13b.1, §3, agency rules, which sets forth specific guidelines for the processing of applications.

The new section is adopted under Texas Civil Statutes, Article 4413 (29bb), §11, which provides the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

**§460.1. Acceptance for Filing; Defective Applications.**

(a) Applications submitted for filing are dated upon receipt. If found to be complete the application will be accepted for filing. The director will within 45 days submit written notice informing each applicant either that the application submitted is complete and accepted for filing or that it is deficient. Applications failing to comply with the requirements of these regulations will not generally be accepted for filing. In the case of minor defects as to completeness, the director may accept the application for filing with the request to the applicant for additional information. A defective application will be returned to the applicant following its receipt with a statement of the reason for not accepting the application for filing. A defective application may be corrected and resubmitted for filing at any time. For timely filed renewal applications, no notice will be issued for filing, since the existing license or other authorization remains in effect until the director has made a final determination of the application. The director shall determine whether to deny or issue a license or other authorization within 60 days after a complete application has been filed.

(b) An applicant may appeal for a timely resolution of any dispute arising from a violation of a period set forth by filing a written request addressed to the director requesting review of the application to determine whether the established 60-day period was exceeded for issuance or denial of a license or other authorization listed therein. The director shall dismiss as untimely any such appeal filed more than 30 days after the department has notified the applicant that an application has been approved or denied.

(c) The responsibility for the application lies with the applicant and the fact that these forms for any reason are not received does not relieve the applicant from making timely application and paying his fee.

(d) Accepting an application for filing has no bearing on whether the application will be granted.

Issued in Austin, Texas, on October 7, 1991.

TRD-9112368

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 8, 1991

Expiration date: February 5, 1992

For further information, please call: (512) 463-5545



**TITLE 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

**Chapter 3. Tax Administration**

**Subchapter O. State Sales and Use Tax**

**• 34 TAC §3.310**

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.310, concerning laundry, cleaning, and garment services. The emergency amendment is necessary because the change in the Tax Code, Chapter 151, becomes effective October 1, 1991. The 72nd Legislature, 1991, First Called Session, repealed the sales and use tax exemption for wrapping and packaging supplies used by persons providing laundry, and garment cleaning services. On or after October 1, 1991, persons providing laundry and dry cleaning services must pay tax on wrapping and packaging supplies transferred to the customer with the item cleaned.

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

**§3.310. Laundry, Cleaning, and Garment Services.**

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

(d) With the exception of wrapping and packaging supplies, sales [Sales] tax is not due on items that are transferred to the customers as an integral part of the laundry, cleaning, and garment personal services. For example, [Examples include clothes hangers, plastic bags, or paper used to wrap cleaned garments,] buttons[,] and thread used in mending or tailoring. Examples of items transferred in residential carpet, drapery, or upholstery cleaning include: carpet protectors, fire retardants, antistatic applications, flea killers, and rust inhibitors. See §3.285 of this title (relating to Resale Certificate; Sales for Resale). Sales tax is due on the purchase of wrapping and packaging supplies used to provide taxable services.

(e) -(i) (No change.)

Issued in Austin, Texas, on October 8, 1991.

TRD-9112358

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: October 8, 1991

Expiration date: February 5, 1992

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



**Subchapter S. Interstate Motor Carrier Sales and Use Tax**

**• 34 TAC §3.444**

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.444, concerning computation of the proportioned tax. The emergency amendment reflects the changes to the Tax Code, Chapter 157, made by the 72nd Legislature, 1991, First Called Session. The tax rate used in the computation was increased.

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

**§3.444. Computation of the Proportioned Tax-Interstate Motor Vehicles.**

(a) (No change.)

(b) Computation of the proportioned tax.

(1) (No change.)

(2) Multiply [the percentage calculated in paragraph (1) of this subsection by 6.0% of] the purchase price of each interstate motor vehicle purchased in Texas or first brought into Texas during the reporting period by the current tax rate, and that result by the percentage calculated in paragraph (1) of this subsection. A vehicle first brought into Texas includes those entering Texas for the first time ever, and those entering Texas for the first time:

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

(c) Credit for tax paid to another state. If the motor carrier has previously paid any legally imposed sales or use tax to another state upon a motor vehicle subject to tax under subsection (b) of this section a deduction or credit may be taken in accordance with the Tax Code, §157.102(a)(3). In computing the proportioned credit allowed, credit may not be taken for sales or use tax previously paid to Texas or another state in excess of the current tax rate multiplied by [6.0% of] the purchase price of any vehicle.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112355

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: October 8, 1991

Expiration date: February 5, 1992

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



## Subchapter EE. Board and Motor Sales and Use Tax

### • 34 TAC §3.741

The Comptroller of Public Accounts adopts on an emergency basis new §3.741, concerning the imposition of the boat and boat motor sales and use tax. The new emergency adoption is necessary so that persons in the business of selling boats and boat motors will be aware of the new tax, the tax rate, and the manner in which the tax is collected effective October 1, 1991.

Chapter 160, Tax Code, was passed by the 72nd Legislature, 1991. The tax is assessed on certain boats and motors formerly taxed under the Tax Code, Chapter 151.

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

#### §3.741. Imposition and Collection of Tax; Definitions.

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

(1) Dealer—A person or entity engaged in the business of buying, selling, or exchanging boats or boat motors at an established or permanent place of business in this state. At each such place of business a sign must be conspicuously displayed showing the name of the dealership so that it may be located by the public, and sufficient space must be maintained for an office, service area, and display of boats and boat motors.

(2) Department—The Texas Parks and Wildlife Department.

(3) Manufacturer—A person or entity engaged in the business of manufacturing new and unused boats and motors for the purpose of sale or trade.

(4) Retail sale—Any sale of a boat or boat motor other than a sale in which the dealer or manufacturer acquires the boat or boat motor for the exclusive purpose of resale. Dealers and manufacturers, as defined, are the only persons or entities that may acquire a boat or boat motor for resale.

(5) Tax assessor-collector—Any of the county tax assessors-collectors in the State of Texas.

(6) Taxable boat—Any watercraft, other than a seaplane on water, not more than 65 feet in length, manufactured or used primarily for noncommercial purposes. This includes motorboats, sailboats, jet skis, and boats designed to accommodate an outboard motor. Excluded from this definition are canoes, kayaks, rowboats, inflatable rafts, or other watercraft designed to be propelled by paddle, oar, or pole. These

watercraft excluded will continue to be taxed under limited sales, excise and use tax, unless some other exemption applies.

(7) Taxable motor—Any self-contained internal combustion propulsion system of any horsepower, excluding fuel supply, used to propel a watercraft, that is detachable from the boat and used primarily for noncommercial purposes. Electric boat motors are excluded.

(8) Total consideration—The amount paid or to be paid for a taxable boat or boat motor, including all accessories attached at the time of or before the sale. This amount includes the costs of transportation before the sale and any manufacturer's or importer's excise tax imposed by the United States government. This amount does not include any separately stated finance charges, service charges, or other interest charges. Also excluded from total consideration will be the value of a taxable boat or boat motor taken by the seller as all or part of the consideration for the sale of the boat or boat motor. No other tangible, intangible, or real property will be excluded from total consideration. Also excluded from total consideration are charges for transportation of the boat or boat motor after the sale.

(9) Use—Any storage or other exercise of rights of ownership in this state by any person or entity, excluding the storage, display, or holding of a boat or boat motor exclusively for sale by a dealer or manufacturer, as defined in this subsection.

#### (b) Imposition of the tax.

(1) A tax is imposed on each retail sale of a taxable boat or boat motor in this state. The tax is the obligation of and shall be paid by the purchaser of the taxable boat or boat motor.

(2) The tax rate is 6.25% of total consideration paid or to be paid.

(c) Collection of the tax. The tax may be collected and remitted by either of the following methods.

(1) After the completion of the seller, donor, or trader's affidavit for the sale of a boat or a motor, if the seller collects the tax from the purchaser, the seller must remit the tax to either a county tax-assessor collector or to the department within 20 working days from the date the taxable boat or motor is delivered to the purchaser.

(2) After the completion of the seller, donor, or trader's affidavit for the sale of a boat or a motor, the seller may give the original affidavit to the purchaser. The purchaser is then required to remit the tax to either a county tax assessor-collector or to the department within 20 working days from the date the taxable boat or motor is delivered to the purchaser.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112356

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: October 8, 1991

Expiration date: February 5, 1992

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

## Subchapter FF. Water Commission Gross Receipts Assessment

### • 34 TAC §3.761

The Comptroller of Public Accounts adopts on an emergency basis new §3.761, concerning final reports due under the Water Code, §13.453. Senate Bill 2, 72nd Legislature, 1991, repealed the requirement that the 0.001667% assessment be reported to the Comptroller of Public Accounts. The repeal was effective September 1, 1991.

This new emergency section requires all filers to file a final report on or before October 15, 1991.

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

#### §3.761. Due Date for Assessment.

(a) Annual filers shall file a final report with the comptroller and pay the assessment imposed by the Water Code, §13.451, for the months of July and August 1991. The due date for this report and payment is October 15, 1991.

(b) Quarterly filers shall file a final report with the comptroller and pay the assessment imposed by the Water Code, §13.451, for the months of July and August 1991. The due date for this report and payment is October 15, 1991.

Issued in Austin, Texas, on October 11, 1991.

TRD-9112674

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: October 14, 1991.

Expiration date: February 11, 1992

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

**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part III. Texas Youth Commission**

**Chapter 91. Discipline and Control**

**Disciplinary Practices**

• 37 TAC §91.11

The Texas Youth Commission (TYC) adopts on an emergency basis an amendment to §91.11, concerning disciplinary transfer/assigned minimum length of stay consequence. The emergency amendment will allow the Commission to move a youth to a program of more restriction when he or she has previously been classified for a high risk offense. The emergency adoption is necessary in order for the commission to add one criteria for disciplinary movement to existing criteria following a Level II hearing.

The amendment is adopted on an emergency basis under the Human Resources Code, §61.075, which provides TYC with the authority to permit the liberty or confinement of a youth in TYC custody.

*§91.11. Disciplinary Transfer/Assigned Minimum Length of Stay Consequence.*

(a) (No change.)

(b) (No change.)

(1) Rules.

(2) Criteria. A youth may be transferred or assigned a minimum length of stay if it is found at a Level II hearing that the youth has committed:

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

(C) any major rule violation and has previously been classified for a high risk offense;

(D)((C)) any major rule violation causing substantial bodily injury;

(E)((D)) the sum of two or more major rule violations within 30 days at the most recent permanent placement and any subsequent temporary placement; or

(F)((E)) the sum of three or more major rule violations at the most recent permanent placement and any subsequent temporary placement.

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

Issued in Austin, Texas, on October 7, 1991.

TRD-9112499

Ron Jackson  
Executive Director  
Texas Youth Commission

Effective date: October 9, 1991

Expiration date: February 6, 1992

For further information, please call: (512) 483-5244

**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part III. Texas Commission on Alcohol and Drug Abuse**

**Chapter 150. Licensure of Chemical Dependency Counselors**

**Counselor Licensure Rules**

• 40 TAC §§150.1-150.18, 150.20, 150.22

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§150.1-150.18, 150.20, and 150.22, concerning counselor licensure procedures in order to meet legislative deadline requiring chemical dependency counselors providing services be licensed by January 1, 1992. The new rules establish procedures regarding licensure requirements, application process and fees, transition period, disciplinary action and ethical standards for chemical dependency counselors. The emergency adoption will insure chemical dependency counselors in the state meet certain ethical standards and educational and experiential requirements to ensure quality services to clients.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4512c, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to establish a procedure by which the commission is to license chemical dependency counselors.

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

**Applicant**—A person who applies for a license under this chapter.

**Approved providers**—Those individuals, partnerships, corporations, associations, organizations, organized health care systems, education institutions, governmental agencies, or private practitioners who have been approved and issued an Education Provider Certificate by the commission.

**Chemical dependency counseling**—Assisting an individual or group to develop an understanding of chemical dependency problems, define goals, and plan action reflecting the individual's or group's interest, abilities, and needs as affected by claimed or indicated chemical dependency problems.

**Chemical dependency counselor**—A person who renders, for compensation, chemical dependency counseling or chemical dependency counseling-related services to an individual, group, organization, corpo-

ration, institution, or the general public, who implies that the person is licensed, trained, or experienced in chemical dependency counseling, and who holds a license issued under this chapter to engage in the practice of chemical dependency counseling.

**Commission**—The Texas Commission on Alcohol and Drug Abuse.

**Continuing education**—The variety of forms of learning experiences, including, but not limited to, lectures, conferences, academic studies, in-service education, institutes, seminars, and workshops undertaken by chemical dependency counselors for license renewal.

**Continuing Education Hour**—At least 50 minutes of participation in an organized, systematic learning experience which deals with and is designed for the acquisition of knowledge, skills, and information.

**Counselor intern**—A student, intern, or trainee pursuing a course of study in chemical dependency counseling (or a closely related field) at a regionally accredited institution of higher education or training institution approved by the commission, who:

(A) performs chemical dependency counseling activities and services as a part of his or her supervised course of study;

(B) has completed 270 classroom hours of approved curricula, including no less than 135 classroom hours of chemical dependency specific education, and 135 classroom hours of chemical dependency related education;

(C) has been designated a counselor intern by the regionally accredited institution of higher education or training institution at which he or she is enrolled;

(D) does not act as a "counselor intern" for more than three years;

(E) has made application to the commission and been approved for counselor intern status, and has paid the counselor intern fee.

**Person**—An individual, firm, partnership, corporation, association, or other business or professional entity.

**Practice of chemical dependency counseling**—Providing or offering to provide, for compensation, chemical dependency counseling services involving the application of the principles, methods, and procedures of the chemical dependency counseling profession.

**State**—Includes any state, territory, or insular possession of the United States and the District of Columbia.

Twelve core functions are:

(A) screening. The process by which a client is determined appropriate and eligible for admission to a particular program;

(B) intake. The administrative and initial assessment procedures for admission to a program;

(C) orientation. Describing to the client:

(i) general nature and goals of the program;

(ii) rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

(iii) in a non-residential program, the hours during which services are available;

(iv) treatment costs, if any, to be borne by the client; and

(v) client's rights.

(D) assessment. Those procedures by which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems and needs for the development of the treatment plan;

(E) treatment planning. Process by which the counselor and the client:

(i) identify and rank problems needing resolution;

(ii) establish agreed upon immediate and long-term goals; and

(iii) decide on a treatment process and the resources to be utilized;

(F) counseling (individual, group, and significant others). The utilization of special skills to assist individuals, families or groups in achieving objectives through:

(i) exploration of a problem and its ramifications;

(ii) examination of attitudes and feelings;

(iii) consideration of alternative solutions; and

(iv) decision making.

(G) case management. Activities which bring services, agencies, resources or people together within a planned framework or action toward the achievement of established goals. It may involve liaison activities and collateral contracts;

(H) crisis intervention. Those services which respond to an alcohol and/or

drug abuser's needs during acute emotional and/or physical distress;

(I) client education. Provision of information to individuals and groups concerning alcohol and other drug abuse and the available services and resources;

(J) referral. Identifying the needs of the client that cannot be met by the counselor or agency and assisting the client to utilize the support systems and community resources available;

(K) report and record keeping. Charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries and other client-related data;

(L) consultation. Relating with one's own and other professionals to assure comprehensive, quality care of the client.

#### *§150.2. License Required.*

(a) A person may not engage in the practice of chemical dependency counseling in this state unless the person is licensed as a chemical dependency counselor under this chapter.

(b) A person may not use any name, title, or designation indicating that the person is licensed under this chapter, unless that person holds a current, valid license obtained from the commission pursuant to the requirements of this chapter and Texas Civil Statutes, Article 4512o.

(c) This section does not apply to those persons listed in §150.3(b)(4) of this chapter (relating to Exemptions).

#### *§150.3. Exemptions.*

(a) A person is exempt from this chapter if the person:

(1) does not engage in the practice of chemical dependency counseling in this state;

(2) does not represent to the public, directly or indirectly, that the person is engaged in the practice of chemical dependency counseling in this state, or licensed under this chapter; and

(3) does not use any name, title, or designation indicating that the person is licensed under this chapter.

(b) This chapter does not apply to the activities and services of:

(1) a person employed as a counselor by a federal institution, if the person is performing chemical dependency counseling within the scope of the person's employment;

(2) a student, intern, or trainee pursuing a course of study in chemical dependency counseling (or a closely related field) at a regionally accredited institution of higher education or training institution approved by the commission if those activities and services constitute a part of the supervised course of study;

(3) a person who is not a resident of this state if:

(A) the person does not engage in the practice of chemical dependency counseling in this state for more than 30 days during any 12-month period; and

(B) the person is authorized to perform chemical dependency counseling activities and services under the laws of the state of the person's residence;

(4) a licensed physician or psychologist; licensed professional counselor; certified social worker; religious leader of a congregation providing pastoral chemical dependency counseling within the scope of his or her duties; or school counselor certified by the Central Education Agency.

(c) A person otherwise exempt under this section who elects to obtain a license under this chapter is subject to this chapter to the same extent as any other license holder.

*§150.4. Discrimination Prohibited.* The consideration of a license application, the conduct of an examination, the establishment and enforcement of a rule, a disciplinary proceeding, and any other action and decision performed under this chapter shall be done without regard to the sex, race, religion, national origin, color, or political affiliation of the person affected.

#### *§150.5. Commission Powers and Duties.*

(a) The commission shall:

(1) adopt and enforce rules as necessary for the performance of its duties under Texas Civil Statutes, Article 4512o, and this chapter;

(2) establish standards of conduct and ethics for persons licensed under this chapter; and

(3) ensure strict compliance with and enforcement of Texas Civil Statutes, Article 4512o, and this chapter.

(b) The commission may institute an action in district court to enjoin a violation of this chapter, Texas Civil Statutes, Article 4512o, or of a rule of the commission adopted pursuant thereto. For the commission to sustain the action, it is not necessary to allege or prove the lack of an adequate remedy at law or that substantial or irreparable damage would result from the continued violation. Either party to the action may appeal to the appellate court hav-

ing jurisdiction of the cause. The commission is not required to give an appeal bond in all such causes of action. The Attorney General shall represent the commission in all actions and proceedings in district court to enforce this chapter, Texas Civil Statutes, Article 4512o, or of a rule promulgated thereto.

#### *§150.6. Consumer Information.*

(a) The commission shall prepare information of consumer interest describing the regulatory functions of the commission and the procedures by which consumer complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

(b) Each person licensed under this chapter shall display prominently at all times in the person's place of business a sign containing the name, mailing address, and telephone number of the commission and a statement informing a consumer that a complaint against a person licensed under this chapter may be directed to the commission.

#### *§150.7. Advertising.*

(a) The commission shall not adopt a rule restricting competitive bidding or advertising by a person regulated by the commission under this chapter, except to prohibit a false, misleading, or deceptive practice.

(b) The commission shall not include in rules adopted under this chapter a rule that:

(1) restricts the persons use of any medium for advertising;

(2) restricts the person's personal appearance or use of the persons voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

#### *§150.8. Official Roster.*

(a) The commission shall prepare and publish a roster showing the names and addresses, as reflected by the commission's records, of all licensed chemical dependency counselors. A copy of the roster shall be mailed to each person licensed by the commission and shall be filed with the secretary of state.

(b) A persons name and address shall not appear in the roster unless all fees assessed against the person under this chapter are current and paid in full at the time the roster is sent to the printer or publisher.

(c) A person who holds a license issued under this chapter shall be required to provide written notification to the com-

mission of a change in address within (14) days of any such change.

#### *§150.9. Fees.*

(a) The commission shall assess application, examination, license renewal, and other fees in amounts sufficient to cover the costs of administering this chapter.

(b) The schedule of fees shall be as follows:

- (1) application fee—\$25;
- (2) licensure examination fee—\$150;
- (3) licensure fee—\$40;
- (4) license renewal fee—\$40;
- (5) late renewal fee:

(A) when renewed after expiration date but on or within 90 days of expiration—\$75;

(B) when renewed more than 90 days but within two years of the expiration date—\$150;

(6) license certificate duplication or replacement fee—\$10.

(7) counselor intern application fee—\$25.

(c) Fees paid to the commission by applicants are not refundable.

(d) Remittances submitted to the commission in payment of fees may be in the form of cashier's check, or money order.

(e) The commission may charge a fee for the roster published under §150.8, of this chapter (relating to Official Roster).

#### *§150.10. Licensure: Application; License Requirements; Issuance of License.*

(a) Application. An application for a license under this chapter must:

(1) be on a form prescribed and furnished by the commission and shall include:

(A) specific information regarding personal data (name, address, telephone number, etc.), employment and type of practice, other licenses and certifications held, criminal convictions, educational background including practicum experience, supervised experience, and references;

(B) a statement that the applicant has read the Statute (Texas Civil Statutes, Article 4512o), and commission rules (Title 40, Texas Administrative Code, Chapter 150) and agrees to abide by them;

(C) the applicant's permission to the commission to seek any information or references it deems necessary to determine the applicant's qualifications;

(D) a statement that the applicant, if issued a license, shall return the license to the commission upon the revocation or suspension of the license;

(E) a statement that the applicant understands that fees submitted in the licensure process are nonrefundable;

(F) the applicant's signature, application date, and notarization; and

(G) a recent full-face wallet size photograph of the applicant with the imprint of the notary seal on the edge;

(2) contain a statement made under oath that states that the applicant's education, experience, and other qualifications meet the requirements established by the commission to obtain a license under this chapter.

(b) Requirements for licensure. To be eligible for a license under this chapter, a person must:

(1) be a resident of the State of Texas;

(2) be at least 18 years of age;

(3) have a high school diploma or its equivalent;

(4) have completed 270 classroom hours of approved curricula, calculated as follows:

(A) the applicant must have satisfactorily completed a minimum of 135 classroom hours of chemical dependency specific education;

(B) a maximum of 135 classroom hours of related education may be utilized for this requirement;

(5) have 4,000 hours of approved supervised experience working with chemically dependent persons;

(6) have completed 300 hours of approved supervised field work practicum;

(7) have two letters of reference from licensed chemical dependency counselors;

(8) submit a case presentation to the commission;

(9) pass an oral examination approved by the commission;

(10) be determined by the commission to be worthy of the public trust and confidence;



(11) pass the chemical dependency counselor examination under §150.11, of this chapter (relating to Examination); and

(12) sign a written agreement to abide by the standards of ethics approved by the commission and contained in §150.22, of this chapter (relating to Ethical Standards).

(c) Additional information. The commission may require additional information regarding the quality, scope, and nature of the experience and competence of the applicant if the commission determines that a person's application lacks sufficient information for consideration by the commission.

(d) Exemptions.

(1) Applicants holding a baccalaureate degree in chemical dependency counseling shall be exempted from the requirements of subsection (b)(4) and (6) of this section. On presentation of verifying documentation by the applicant, the commission may waive any portion of subsection (b)(5) of this section if it deems that such requirements have been met as evidenced by such documentation.

(2) Applicants holding a baccalaureate degree in psychology, sociology, or any other related program approved by the commission shall be exempted from the requirements of subsection (b)(4) and (6) of this section. In addition, upon presentation of verifying documentation by the applicant, the commission may waive any portion of subsection (b)(5) of this section if it deems that such requirements have been met as evidenced by such documentation.

(e) Disabled applicants. The commission recognizes that disabled applicants may encounter unusual problems in applying for licensure and will make an effort to accommodate these applicants. The commission, on a case-by-case basis, will consider requests for special arrangements for disabled applicants provided that such requests are reasonable and do not violate the law or the rules of the commission.

(f) Issuance of licenses. Upon successful completion of all requirements to obtain a license under this chapter, the commission will issue a license to the applicant as follows.

(1) The commission will send each applicant whose application has been approved and who has passed the examination, a licensure form to complete and return with the licensure fee.

(2) Upon receiving an applicant's completed licensure form and licensure fee, the commission will issue the applicant a license containing a license number.

(3) The commission will replace a lost, damaged, or destroyed license certificate upon written request from a licensed chemical dependency counselor and pay-

ment of the license certificate replacement fee. Requests for replacement must contain a notarized statement by the licensed chemical dependency counselor, setting forth in detail all facts relating to the loss or destruction of the counselor's original license, or must be accompanied by the damaged license certificate.

*§150.11. Examination.*

(a) At least twice each year, the commission shall prepare and administer or contract with an organization approved by the National Certification Reciprocity Consortium/Alcoholism and Other Drug Abuse (NCRCA/ODA) for the preparation and administration of an examination to determine the qualifications of an applicant for a license under this chapter. The examination shall be conducted as determined by the commission and in a manner that is fair and impartial to and considers each school or system of chemical dependency counseling. An applicant shall be known to the examiners only by number until after the examination has been graded and the licenses have been granted or denied. The scope and content of the examination shall be sufficient to ensure professional competence in keeping with the highest standards of the chemical dependency counseling profession.

(b) An applicant who fails the examination may take a subsequent examination upon application for reexamination and payment of the required examination fee. However, an applicant shall not be reexamined on more than three occasions during a period of three years from the date the applicant failed such examination.

(c) If requested by a person who fails the examination, the commission shall furnish an analysis of the person's performance on the examination.

(d) The commission shall notify each examinee of the results of the examination not later than the 30th day after the date on which the examination is administered.

*§150.12. Use of Title.*

(a) Unless a person is licensed under this chapter or is specifically exempted from the application of this chapter, the person may not use:

(1) the term "chemical dependency counselor" or any combination, variation, or abbreviation of that term as a professional, business, or commercial identification, title, name, or representation; or

(2) any letter, abbreviation, work symbol, slogan, sign, or any combination or variation that would be likely to create the impression that a person is qualified or authorized to practice chemical dependency counseling or is a licensed chemical dependency counselor.

(b) A person may not hold himself or herself out to the public as being engaged in the practice of chemical dependency counseling, offer chemical dependency counseling, offer chemical dependency counseling services under an assumed trade, business, professional, partnership, or corporate name or title, or use the term "licensed chemical dependency counselor" or "LCDC" or any combination or variation of those terms and abbreviations, alone or in combination with other term, unless the person actually is engaged in the practice of chemical dependency counseling and is licensed in accordance with this chapter.

*§150.13. License Expiration; Renewal.* A license issued under this chapter shall be valid for two years from the date of issuance. The expiration date shall be set forth on the license certificate. The biennial renewal fee is payable on renewal of the license before or on the expiration date.

(1) Requirements for license renewal. In order to renew a license issued pursuant to this chapter, a person must:

(A) make application to the commission for renewal of the license;

(B) pay the application renewal fee;

(C) complete at least 60 hours of continuing education approved by the commission including course work in each of the following areas: ethics, HIV education, cultural awareness and sensitivity, and the Twelve Core Functions in each two-year period in which the person holds a license; and

(D) demonstrate to the commission that the applicant continues to meet the requirements set forth in §150.10(b)(1) and (10) of this chapter (relating to Licensure: Application; License Requirements, Issuance of License).

(2) License renewal after date of expiration. Licenses issued pursuant to this chapter shall expire two years after the date of issuance. Should any person fail to renew a license issued under this chapter on or before two years from the date of issuance the following rules shall apply:

(A) within 30 days from the date of expiration of the license, the commission shall notify the person in writing of the date of the license expiration, the amount of the renewal fee, and any continuing education provisions required to renew the license by sending a notice to the person at the address on file with the commission;



(B) after 30 days, but within the first 90 days from the date of expiration of a license issued pursuant to this chapter, a person may renew the license by complying with the requirements set forth in subsection (a) of this section, and by paying to the commission a late renewal fee which shall be equal to one-half of the current examination fee for a license;

(C) after 90 days, but within two years from the date of expiration of a license issued pursuant to this chapter, a person may renew the license by complying with the requirements set forth in subsection (a) of this section, and by paying to the commission a late renewal fee which shall be equal to the current examination fee for the license.

(3) Renewal not allowed. After two years from the date of expiration of a license issued pursuant to this chapter, renewal of the expired license shall not be allowed. In order to obtain a license a person must comply with all of the requirements and procedures for obtaining an original license under this chapter.

**§150.14. Reciprocity.** Upon application and payment of the current licensure fee under this chapter, the commission may:

(1) issue a license to a person who is then currently certified or licensed by another state as a chemical dependency counselor (or its equivalent) if the commission determines that the certification or licensing requirements of the state of origin are substantially equivalent to the requirements of this chapter; or

(2) waive any or all of the other licensing requirements under this chapter and issue a license to an applicant who holds a current valid chemical dependency counselor certificate or license (or its equivalent) issued by another state with which the commission has a chemical dependency counselor reciprocity agreement.

**§150.15. Continuing Education.** Until such time as the commission prepares or approves the preparation and administration of continuing education programs for licensed chemical dependency counselors, approval by the Texas Association of Alcoholism and Drug Abuse Counselors (TAADAC) as an approved provider, will be recognized by the commission as meeting the requirements for approved continuing education courses under this chapter.

**§150.16. Disciplinary Action; Grounds.** The commission may refuse to issue or renew a license, place on probation a license holder whose license has been suspended, reprimand a license holder, or revoke or suspend a license issued under this chapter for:

(1) violating or assisting another to violate this chapter, Texas Civil Statutes, Article 4512o or a rule of the commission adopted pursuant thereto;

(2) circumventing or attempting to circumvent this chapter, Texas Civil Statutes, Article 4512o or a rule of the commission adopted pursuant thereto;

(3) participating, directly or indirectly, in a plan the purpose of which is the evasion of this chapter, Texas Civil Statutes, Article 4512o or a rule of the commission adopted pursuant thereto;

(4) engaging in false, misleading, or deceptive conduct as defined by Business and Commerce Code, §17.46;

(5) engaging in conduct that discredits or tends to discredit the profession of chemical dependency counseling;

(6) revealing or causing to be revealed, directly or indirectly, a confidential communication made to the licensed chemical dependency counselor by a client or recipient of services, except as required by law;

(7) having a license to practice chemical dependency counseling in another jurisdiction refused, suspended, or revoked for a reason that the commission finds would constitute a violation of this chapter, Texas Civil Statutes, Article 4512o or a rule of the commission adopted pursuant thereto; or

(8) refusing to perform an act or service for which the person is licensed to perform under this chapter on the basis of the client's or recipient's age, sex, race, religion, national origin, color, or political affiliation.

**§150.17. Disciplinary Action; Procedure.**

(a) Complaints. A person may file a complaint alleging a violation of this chapter, Texas Civil Statutes, Article 4512o, or a rule of the commission adopted pursuant thereto, by filing a charge with the commission in writing and under oath. After investigation, if the commission determines that disciplinary action is warranted it shall follow the procedures set forth in subsections (b)-(g) of this section. The commission shall keep an information file on each complaint or charge filed. The commission shall inform each party quarterly in writing as to the status of the complaint during the consideration of a charge filed under this section until the charge is finally resolved.

(b) Notice of intent to take disciplinary action. Whenever the commission proposes to take disciplinary action against a person, including refusal to issue a license, refusal to renew a license, suspension or revocation of a license, or issuance of a formal reprimand, the person shall be given written notification by the issuance of a notice of intent to take disciplinary action, which shall be mailed to the person at the

address on file at the commission.

(c) Show cause hearing before executive director. Any person who has been issued a notice of intent to take disciplinary action, under subsection (b) of this section, shall be entitled to submit within 30 days of mailing of such notice, a request for hearing before the executive director and shall be given the opportunity to show cause why such disciplinary action should not be taken by the commission. At the show cause hearing the person shall have the right to introduce evidence, to call witnesses, and to cross-examine witnesses who testify in support of the commission's proposed disciplinary action. The commission shall be entitled to submit evidence through affidavits and documentation, or through the testimony of witnesses. The rules of evidence shall not apply. The executive director shall decide whether or not the show cause hearing shall be recorded.

(d) Notice of denial, refusal, suspension, or revocation of a license; notice of formal reprimand. After a show cause hearing under subsection (b) of this section, or after 30 days from the mailing of the notice of intent to take disciplinary action, if a show cause hearing was not requested the person shall be given written notification of the decision of the executive director as to the proposed disciplinary action. If the executive director decides to uphold the proposed disciplinary action, a notice of denial, refusal, suspension or revocation of a license or notice of formal reprimand shall be issued to the affected person, who shall also be provided with written notification of the grounds upon which such action was taken, and the procedure for seeking an appeal.

(e) Contested cases; administrative review. A person who has been issued a notice of denial, refusal, suspension or revocation of a license or a notice of formal reprimand shall have the right to contest such disciplinary action by the commission pursuant to the procedures set forth for administrative review of contested cases in the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), provided however, within 30 days from the mailing of the notice of denial, refusal, suspension or revocation of a license, the person shall be required to give notice to the commission of the person's intent to contest such disciplinary action.

(f) Final action. Unless contested pursuant to the procedures set forth in subsection (e) of this section or as otherwise required by law, the commission's disciplinary action shall become final 31 days after mailing of the notice of denial, refusal, suspension or revocation of a license or notice of formal reprimand, and shall not thereafter be subject to appeal or review.

(g) Probation of a license which has been suspended or revoked. When a license has been suspended or revoked by

the commission, the commission may order that the revocation or suspension be probated as long as the license holder complies with the terms of probation established by the commission. The commission shall determine the length of the probationary period at the time the probation is ordered. At any time while the license holder is on probation, the commission may hold a hearing and on majority vote rescind the probation and enforce the commission's original action in revoking or suspending the license.

#### *§150.18. Civil Penalty Enforcement.*

(a) A person who violates this chapter, Texas Civil Statutes, Article 4512o, or a rule of the commission adopted pursuant thereto, is subject to a civil penalty of not less than \$50 nor more than \$500 for each day of violation.

(b) If it appears that a person has violated, is violating, or is threatening to violate this chapter, Texas Civil Statutes, Article 4512o or a rule of the commission adopted pursuant thereto, the commission may bring a civil action in a district court for injunctive relief to restrain the continued violation or threat of violation for the assessment and recovery of a civil penalty, as the court may consider proper, or for both injunctive relief and a civil penalty. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter, Texas Civil Statutes, Article 4512o or a rule of the commission adopted pursuant thereto, the district court may grant injunctive relief as the facts warrant.

(c) At the request of the commission, the attorney general shall bring an action in the name of this state for injunctive relief or to recover a civil penalty or for both injunctive relief and a civil penalty, as authorized in Texas Civil Statutes, Article 4512o, §18(b).

#### *§150.20. Transition.*

(a) A person shall not be required to obtain a license under this Act until January 1, 1992.

(b) On or before January 1, 1992, but before August 31, 1993, the commission may, upon application to the commission and payment of the application and licensure fee, issue a license to a person who has not taken the chemical dependency counselor examination required by §10 of this chapter, provided that:

(1) on or before January 1, 1992, the person: meets the requirements of §150.10(a), and (b)(1), (2), (3), (10) and (12) of this chapter; and

(2) on or before October 1, 1991, the person:

(A) is certified as an alcohol and drug abuse counselor by the Texas Association of Alcohol and Drug Abuse Counselors; or

(B) holds a baccalaureate degree or higher in chemical dependency counseling or in sociology, psychology, criminology, or other related fields, including, without limitation, social work, criminal justice, public health and nursing, conferred by an educational program approved by the commission and has successfully completed two years of actual and active chemical dependency counseling experience approved by the commission.

#### *§150.22. Ethical Standards.*

(a) Discrimination not allowed. The licensed chemical dependency counselor shall not discriminate against any client or other person on the basis of race, religion, age, sex, handicap, national origin, sexual orientation, or economic condition.

(b) Responsibility. The licensed chemical dependency counselor shall maintain objectivity, integrity, and the highest standards in the provision of services to the client.

(c) Competence. The licensed chemical dependency counselor shall:

(1) endeavor to prevent the practice of chemical dependency counseling by unqualified or unauthorized persons;

(2) report violations of Texas Civil Statutes, Article 4512o, or rules adopted thereto, including, without limitation, violations of this section, to the commission;

(3) be required to recognize the limitations of his or her ability and shall not offer services or utilize techniques which exceed that counselor's professional competence;

(4) not engage in the practice of chemical dependency counseling if impaired by, intoxicated by, or under the influence of chemicals, including, alcohol;

(5) support peer assistance programs.

(d) Legal standards and professional conduct. The licensed chemical dependency counselor shall uphold the law and refrain from unprofessional conduct. In so doing, the licensed chemical dependency counselor shall:

(1) not make any claim, directly, or by implication, that the counselor possesses professional qualifications or affiliations that the counselor does not possess;

(2) not mislead or deceive the public, or any person, in any way;

(3) not promote, develop, market, profit from, or associate himself or

herself with any commercial product, unless the counselor has determined that such commercial product does not tend to mislead the public, is factually accurate, and is consistent with the ethical standards of the profession as set forth in this section;

(4) not commit any crime of moral turpitude, or any act which might tend to discredit the profession.

(e) Public statements. The licensed chemical dependency counselor shall:

(1) report information fairly and accurately to clients, other professionals, and the general public, and shall not make inappropriate, unprofessional, or inaccurate representations;

(2) acknowledge the work of others, and shall document materials and techniques used in the performance of the counselor's professional services;

(3) be required to advise all persons the counselor instructs or provides training to, in the skills, or techniques of chemical dependency counseling, of the requisite training or qualifications required to properly perform such skills or techniques.

(f) Publication credit or acknowledgment. The licensed chemical dependency counselor shall give credit to, or expressly acknowledge all persons or works which have contributed to or directly influenced any publication of the counselor.

(g) Client welfare. The licensed chemical dependency counselor shall respect a client's dignity, and shall not engage in any action injurious to the welfare of any client or person to whom the counselor is providing services. The licensed chemical dependency counselor shall:

(1) remain loyal and professionally responsible to the client at all times, and shall inform the client of the counselor's loyalties and responsibilities;

(2) not engage in any activity which could be considered a professional conflict, and shall be required to immediately remove himself or herself from such conflict should one arise;

(3) terminate any professional relationship or counseling service which is not beneficial, or is in any way detrimental to the client;

(4) always act in the best interest of the client;

(5) never require a client to divulge confidential information obtained from another professional, without obtaining the express, and informed consent of the professional and the client, which informed consent shall contain the purposes for which such information shall be used;

(6) not engage in the practice of chemical dependency counseling in settings or locations which are inappropriate, harm-

ful to the client or others, or would tend to discredit the profession of chemical dependency counseling.

(h) Confidentiality. The licensed chemical dependency counselor shall protect the privacy of all clients and, unless required by law, without express written consent, shall not disclose confidential information, however acquired. The licensed chemical dependency counselor shall remain cognizant of and obey all state and federal laws and regulations relating to confidentiality of chemical dependency treatment records, and shall:

(1) inform the client, and obtain the client's consent, before recording the client, allowing another person to observe or monitor the client, or using client records for any purpose other than the provision of chemical dependency treatment of that client;

(2) ensure the maintenance of confidentiality with respect to client records;

(3) not discuss or divulge information obtained in clinical or consulting relationships except in appropriate settings, for professional purposes which clearly relate to the case;

(4) make every effort to avoid invasion of the privacy of the client;

(5) not reveal client identifying information, except as is required by law, without the express, written consent of the client.

(i) Client relationships. The licensed chemical dependency counselor shall inform the client about all relevant and important aspects of the professional relationship between the client and the counselor, and shall:

(1) in the case of clients who are not their own consentors inform the client's parent(s) or legal guardian(s) of circum-

stances which might influence the professional relationship;

(2) not enter into a professional relationship with members of the counselor's family, close friends or associates, or others whose welfare might be jeopardized in any way by such relationship;

(3) not engage in any type or form of sexual activity with a client.

(j) Relationships with other professionals. The licensed chemical dependency counselor shall treat other professionals with respect, courtesy, and fairness, and shall:

(1) not offer to provide, or provide professional services to a client who is undergoing chemical dependency treatment by another professional except with the knowledge of the other professional, and consent by the client, unless and until termination of chemical dependency treatment by the other professional;

(2) cooperate with professional peer review groups or programs, professional ethics committees or associations, and shall promptly supply all requested or relevant information unless prohibited by law.

(k) Remuneration. The licensed chemical dependency counselor shall, in advance of treatment, establish financial arrangements with the client, which shall be in accordance with professional standards in the relevant community, including, without limitation, informing the client of the counselor's fee schedule for all treatment services to be provided to the client, and shall:

(1) not charge exorbitant or unreasonable fees for any treatment service;

(2) not pay or receive any commission, consideration, or benefit of any kind related to the referral of a client for treatment;

(3) not engage in fee splitting with other professionals, without the written consent of the client;

(4) not use the client relationship for the purpose of personal gain, or profit, except for the normal, usual charge for treatment provided;

(5) not provide treatment to a client, or accept a professional fee or any gift or gratuity from a client if the client is entitled to chemical dependency treatment free of charge, or at minimal cost to the client, through an agency or other institution, unless the client consents in writing.

(l) Professional obligations. The licensed chemical dependency counselor shall support changes in public policy and legislation which advocate the provision of chemical dependency treatment for individuals impaired by chemical dependency of any kind, and shall inform the public through active participation in community affairs of the effects of chemical dependency, and shall:

(1) make every effort to provide access to treatment, including advising clients about resources and services, taking into account the financial constraints of the client; and

(2) in all activities of the profession, act to promote the welfare of all human beings.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112387

Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: October 8, 1991

Expiration date: February 5, 1991

For further information, please call: (512) 867-8720

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Anne Clary



Name: Anne Clary  
Grade: 2  
School: Oak Hill Elementary, Austin ISD

# Proposed Sections

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

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

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 19. Seed Division

#### • 4 TAC §§19.1-19.3, 19.11, 19.12

The Texas Department of Agriculture (the department) proposes amendments to §§ 19.1, 19.2, 19.3, and 19.12 and new §19.11, concerning regulations to administer the Texas Seed Law, Texas Agriculture Code, Chapter 61.

The amendment to §19.1 clarifies the definition of "brand" as used in Chapter 19 to prevent the use of the term in the labeling for a variety name. The amendment to §19.2 eliminates the variable percentage of hybrid seed labeling to promote the marketing of a higher quality of hybrid seed.

The amendment to §19.3 adds castor and annual bluegrass seed to the existing list of noxious weed seeds. The addition of castor will enable noxious weed control districts to establish guidelines for keeping this weed out of highly productive food grade corn areas. The addition of annual bluegrass will keep Texas from serving as the dumping ground for inferior quality turfgrass seed. Other amendments are made to this section to make the list consistent with recognized taxonomy weed seed name changes and to correct misspelled names.

The amendment to §19.12 updates the rules for testing seed, establishes criteria for labeling of seed, and updates the name and address of the department's seed program office.

Old §19.11 has been proposed for repeal by the department, and is replaced by new §19.11, concerning special provisions for labeling of vegetable seed. New §19.11 clarifies labeling regulations now used for vegetable seed sold from bulk containers in order to allow for a more practical enforcement of the vegetable seed labeling provisions.

John Metcalf, coordinator for seed law, 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. Metcalf also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide for a higher quality of seed being sold in Texas; to provide more information for consumers purchasing seed; and to allow for more practical enforcement of seed labeling provisions. There will be no effect on small or large 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 John Metcalf, Coordinator for Seed Law, P.O. Box 629, Giddings, Texas 78942. Comments must be received no later than 30 days from the date of the publication of this proposal in the *Texas Register*.

The amendments and new section are proposed under the Texas Agriculture Code, §61.002, which authorizes the department to adopt rules for the efficient enforcement of the Texas Seed Law, Texas Agriculture Code, Chapter 61.

**§19.1. Definitions.** In addition to the definitions in the Texas Agriculture Code, Chapter 61, §61.001 (1981), the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Brand**—A word, name, symbol, number, or design used to identify seed of one person to distinguish it from seed of another person as an indication of source, and not to indicate the genetic identity of the seed.

**§19.2. Labeling of Hybrid Seed.**

(a) If any one kind or kind and variety of seed present in excess of 5.0% is

hybrid seed, it shall be designated hybrid on the label. The percentage that is hybrid shall be at least 95% of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varieties are present in excess of 5.0% and are named on the label, each that is hybrid shall be designated as hybrid on the label. Any one kind or kind and variety that has pure seed which is less than 95% but more than 90% [75%] hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show the percentage of pure seed that is hybrid seed. No kind or variety of seed shall be labeled as hybrid if the pure seed contains less than 90% hybrid seed. [:]

(b) hybrid wheat and hybrid millet shall be labeled the same as all other hybrids except that if any one kind or kind and variety that has pure seed which is less than 95% but more than 75% hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show:

(1) the percentage of pure seed that is hybrid seed; or

(2) a statement such as "contains from 75% to 95% hybrid seed." No one kind or variety of seed shall be labeled as hybrid if the pure seed contains less than 75% hybrid seed.

**§19.3. Noxious Weed Seeds.** It shall be unlawful to sell, offer for sale, or expose for sale any agricultural or vegetable seed for planting purposes within this state containing noxious weed seed in excess of the following limitations per pound.

(1) Prohibited noxious weed seeds are:

<u>Common Name</u>	<u>Scientific Name</u>	<u>Limitation per pound</u>
annual bluegrass	<i>Poa annua</i>	prohibited 1/
balloonvine	<i>Cardiospermum</i> [ <i>Cardiosperm</i> ] <i>halicacabum (L.)</i>	prohibited
field bindweed	<i>Convolvulus arvensis</i>	prohibited
hedge bindweed	<i>Calystegia sepium</i> [ <i>Convolvulus sepium</i> ]	prohibited
cocklebur	<i>Xanthium spp.</i>	prohibited
itchgrass	<i>Rottboellia</i> <i>cochinchinesis</i> [ <i>Rottboellia</i> ] [ <i>exaltata</i> ]	prohibited
nutgrass	<i>Cyperus rotundus and</i> <i>cyperus esculentus</i>	prohibited
nutgrass tubers	<i>Cyperus spp.</i>	prohibited
serrated tussock	<i>Nassella</i> [ <i>nasella</i> ] <i>trichotoma</i>	prohibited

(2) Restricted noxious weed seeds and limitations per pound are:

<u>Common Name</u>	<u>Scientific Name</u>	<u>Limitation per pound</u>
Bermudagrass	<u>Cynodon dactylon</u> [ <i>Cynodon spp.</i> ]	name and number
blessed milk thistle	<i>Silybum marianum (L.)</i>	20
blessed thistle	<i>Cnicus benedictus</i>	100
blueweed	<i>Helianthus ciliaris</i>	100
bracted plantain and buckhorn plantain	<i>Plantago aristata</i> <i>Plantago lanceolata</i>	300
Canada thistle	<i>Cirsium arvense</i>	100
<u>castor</u>	<u><i>Ricinus communis</i></u>	<u>name and number</u>
cheat or chess	<i>Bromus secalinus and</i> <i>Bromus commutatus</i>	300
common giant mustard	<i>Rapistrum rugosum</i>	300
corncockle	<i>Agrostemma githago</i>	300
darnel and/or Persian ryegrass	<i>Lolium temulentum</i> <i>Lolium persicum</i>	300
dock and sorrel	<i>Rumex spp.</i>	300
dodder	<i>Cuscuta spp.</i>	100
giant foxtail	<i>Setaria faberi</i>	100
goatgrass	<i>Aegilops spp.</i>	20
horsenettle and purple nightshade	<i>Solanum carolinense</i> <i>Solanum elaeagnifolium</i>	300
Johnsongrass	<i>Sorghum halepense</i>	name and number
<u>morningglory</u> [morning glory]	<i>Ipomoea spp.</i>	name and number
puncturevine	<i>Tribulus terrestris</i>	300
quackgrass	<u><i>Elytrigia repens</i></u> [ <i>Agropyron repens</i> ]	100
red rice	<i>Oryza sativa var</i>	1

Russian knapweed	<i>Centaurea repens</i> [ <i>Centaurea picris</i> ]	100
wild carrot	<i>Daucus carota</i>	300
wild mustards and wild turnips	<i>Brassica and</i> <i>Sinapia sp.</i> [ <i>Brassica spp.</i> ]	300
wild oat and/or feral oat	<i>Avena fatua (L.)</i> <i>Avena spp. (feral oat)</i>	300
wild onion and/or wild garlic	<i>Allium spp.</i>	100
wild radish	<i>Raphanus raphanistrum</i>	100

1/ Seeds are considered noxious weed seed when present in lawn and turf seed such as perennial ryegrass, turf type tall fescue, chewings fescue, rough bluegrass, turf type annual ryegrass and/or mixture containing these grasses.

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

(5) If castor occurs in excess of 5.0% of the whole by weight, its presence therein must be indicated as an agricultural seed on the label of such seed pursuant to the provisions of the Act, 61.004(a)(1)(3) (concerning labeling of agricultural seed).

(6)[(5)] Restricted noxious weed seeds in any combination in excess of 500 per pound are prohibited from sale, provided, however, that the rate per pound of Bermudagrass, giant Bermudagrass, Johnsongrass, morningglory, and castor [and morning glory] are exempt from the total count.

**§19.11. Special Provisions For Labeling of Vegetable Seed.**

(a) If vegetable seed is sold or offered for sale from jars, cans, bins, or other bulk containers to which the purchaser has access before buying, the seller shall attach to the container a label bearing all required information including the name and address of the seller.

(b) Containers of seed prepackaged by the seller must be labeled in accordance with requirements applying to the specific kind(s) of seed in said prepackaged container.

(c) In such cases it shall be permissible under the law for the seller to adopt and use the analysis furnished by the original seller, however responsibility for any

alleged deficiencies in quality of seed made subsequent to such a sale, shall be with the seller at the time such allegations are made.

(d) The requirement for a vegetable seed license will be waived for the seller if the original container bears labeling information adequately reflecting this requirement being met.

(e) The germination test period for seed sold from an opened hermetically-sealed container cannot exceed nine months from date the container was opened. The date on which the container was opened must be designated on the container.

**§19.12. Seed Testing Procedures and Tolerances.** The Texas Department of Agriculture hereby adopts by reference *Rules for Testing Seeds* of the Association of Official Seed Analysts, Volume 12, Number 3 (1988) [Volume 6, Number 2 (1981) and as subsequently amended as the procedures, methods, and tolerances for seed testing conducted under authority of the Act and this title, except that in the enforcement of this Act no tolerance will be allowed for balloonvine, serrated tussock, and itchgrass, a tolerance of one will be allowed for cocklebur, and the tolerance allowed for pure live seed will be the same as for germination. A laboratory test used for labeling purposes must be made by one of the Texas Department of Agriculture seed laboratories or the Official State Seed Laboratory of another state or a Registered Seed Technologist/Society of Commercial Seed Technologist member laboratory.

Information relative to obtaining copies of the material adopted by reference may be obtained by writing the Texas Department of Agriculture, Seed Quality [Division], P.O. Box 629, Giddings, Texas 78942 [P.O. Box 12847, Austin, Texas 78711]. A copy is also available for public inspection at the Texas Department of Agriculture, Seed Quality [Division], W.H. (Bill) Pieratt Building, Giddings. [Stephen F. Austin Building, Austin.]

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

Issued in Austin, Texas, on October 14, 1991.

TRD-9112679

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: November 18, 1991

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

◆ ◆ ◆  
• 4 TAC §19.4

The Texas Department of Agriculture (the department) proposes an amendment to §19.4, concerning service testing fees for agricultural seed, vegetable seed, and flower seed. The amendment is proposed in order to make the section consistent with mandatory fee increases made by the 72nd Legislature, 1991, and to bring the amount of fees closer to the actual cost to the department for providing testing services. The proposed amend-



ments increases service testing fees for agricultural seed, vegetable seed, and flower seed, and adds new categories for flower and grasses and wildflower mixed seeds and for winter test readings. The fees for purity test and germination test, complete test, grasses purity test and germination, and grasses complete test were increased in 1987 and 1989 in accordance with the General Appropriations Act, Senate Bill 1, 70th Legislature, 1987, First Called Special Session, House Bill 1, 71st Legislature, 1991, and Texas Civil Statutes, Article 5429 (now Government Code, §§316.041-316.045). Current costs for those testing fees, set in 1989, are not reflected in the existing §19.4.

John Metcalf, coordinator for seed law, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated increase in revenue in the amount of \$64,300 per year. There will be no effect on local government.

The cost of compliance with the section above the current cost for small businesses will be an additional \$1.50 for a purity test and germination test only and for a purity and germination test on seed containing high inert matter; an additional \$2.50 for a purity test and germination test on grasses; an additional \$3.00 for a standard complete test; an additional \$5.00 for a complete test on grasses and mixtures and seed containing high inert matter; a cost of \$25 per test of flower seed; a cost of \$50 per test of grasses and wildflower mixed; a cost of \$25 per test of winter test readings; and an additional \$1.50 for a vigor test. The cost of compliance will be the same for small and large businesses depending upon the number of samples tested and kind of test performed.

Mr. Metcalf also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the bringing of the amount of fees collected closer to actual cost to the state for providing testing services. The anticipated economic cost to persons who are required to comply with the section as proposed will be dependent upon the number of samples tested and kind of test performed.

Comments on the proposal may be submitted to John Metcalf, Coordinator for Seed Law, P.O. Box 629, Giddings, Texas 78942. Comments must be received by the department no later than 30 days from the date of the publication of this proposal in the *Texas Register*.

The amendments are proposed under the Texas Agriculture Code, §61.002, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient enforcement of Texas Agriculture Code, Chapter 61; §61.009, which authorizes the department to fix by rule and collect fees for germination and purity testing; the General Appropriations Act, House Bill 1, 72nd Regular Session, 1991, which has increased fees for seed lab testing for the 1991-1992 biennium; and the Government Code, Subchapter E, which provides for the adjustment of state fees by the Legislature in the General Appropriations Act.

**§19.4. Service Testing.**

(a) The following schedule of tests and charges therefore shall be applicable to all service testing of agricultural seed, vegetable seed, and flower seed conducted by this department:

- (1) standard germination test only[,] and purity test only [or noxious weed examination only]: \$7.50 [\$4.00] each (except grasses: \$12.50 each; noxious weed examination only: \$4.00 each; and[,] mixtures [,] and seed containing high inert matter: \$9.50 [\$8.00] each);
  - (2) complete test (purity and germination): \$15 [\$7.00] each (except grasses: \$25 each; [,] and mixtures [,] and seed containing high inert matters: \$17 [\$12] each);
  - (3) vigor test [(cold test method)]: \$9.50 [\$8.00] each;
  - (4) tetrazolium or phenol test: \$11 each;
  - (5) examination of 10-pound rice seed sample for presence of red rice: \$11 each;
  - (6) moisture test: \$6.00 each;
  - [and]
  - (7) fescue Endophyte test: \$25 each; [.]
  - (8) flower: \$25;
  - (9) grasses and wildflower mixed: \$50; and
  - (10) winter test readings: \$25.
- (b)-(c) (No change.)

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

Issued in Austin, Texas, on October 14, 1991.

TRD-9112678 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: November 18, 1991

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

**• 4 TAC §19.11**

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

The Texas Department of Agriculture (the department) proposes the repeal of §19.11, concerning the notification of cottonseed shipments into Texas. The department proposes the repeal of §19.11 because there is no longer a need for the department to monitor shipment of cottonseed into Texas.

John Metcalf, coordinator, seed law, 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.

Mr. Metcalf 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 enforcing the repeal will be more efficient use of seed program resources. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to John Metcalf, Coordinator, Seed Law, P.O. Box 629, Giddings, Texas 78942.

The repeal is proposed under the Texas Agriculture Code, §61.002 which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient enforcement of the Texas Seed Law, Chapter 61, Texas Agriculture Code.

**§19.11. Notification of Cottonseed Shipments Into 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 October 14, 1991.

TRD-9112677 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: November 18, 1991

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

**Chapter 29. Texas Agricultural Diversification Program: Grant and Loan Program**

**• 4 TAC §§29.1-29.13**

The Texas Department of Agriculture proposes new §§29.1-29.13, concerning rules for the administration of the Texas Agricultural Diversification Program (TADP) matching grants program. The new sections provide a statement of purpose of the program, definitions, categories, criteria for all grants, schedule of awards and formats for the pre-proposal and full proposal. On November 3, 1987, Texas voters approved Constitutional Amendment 4. This provided the Texas Department of Agriculture with constitutional authority to implement House Bill 49. House Bill 49 created the Texas Agricultural Diversification Act Program and the Texas Agricultural Finance Authority. The Texas Agricultural Diversification Act Program consists of the linked deposit loan program, three matching grant programs and the rural microenterprise loan program. It is the general objective of the grant programs to support projects which will stimulate increased economic activity within the Texas food and agriculture industry and to demonstrate the technical feasibility and

commercial viability of alternative crop production, processing of agricultural products and direct marketing enterprises.

Richard Salmon, coordinator for the Texas Agricultural Diversification Act Program, 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 these sections.

Mr. Salmon 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 the dissemination of information to prospective applicants on the process for application and awarding of grant monies under the Texas Agricultural Diversification Program. 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 proposed new sections may be submitted to Dolores Alvarado Hibbs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of the publication of the proposed amendment in the *Texas Register*.

The new sections are proposed under the Texas Agriculture Code, Chapter 44, which authorizes the Commissioner of Agriculture, with the assistance and approval of the TADP board of directors, to create and implement agricultural diversification programs authorized under Chapter 44, including recommending additional criteria for the awarding of grants and loans authorized under Chapter 44.

**§29.1. Purpose.** The matching grants program is designed to help diversify the Texas agricultural industry by providing grants to assist in the transfer of newly developed agricultural crops and technologies to the marketplace:

- (1) by supporting the commercial use of agriculture research and innovation;
- (2) by increasing the capabilities of community and regional organizations to train and assist new or expanding agriculture-based businesses; and
- (3) by starting small business incubators.

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

**Act**—The Texas Agricultural Diversification Act, Texas Agriculture Code, Chapter 44.

**Board**—The Board of Directors of the Texas Agricultural Diversification Program.

**Business day**—A day on which the department is open for business. The term shall not include Saturday, Sunday or a holiday officially observed by the state. The department's normal business hours are 8 a.m. to 5 p. m. each business day.

**Department**—The Texas Department of Agriculture.

**Nonprofit organization**—A not for profit local, community, or regional organization that can demonstrate their nonprofit status by providing one of the following:

(A) a copy of the IRS ruling, indicating tax-exempt status;

(B) a copy of the Texas Secretary of State charter indicating non-profit status; or

(C) documentation of its status as an educational entity recognized by the State of Texas.

**Small Business Incubator**—A nonprofit development agency that provides concentrated business assistance services to new small agriculture enterprises.

**Sponsor**—A nonprofit organization located in the State of Texas.

### **§29.3. Advisory Board.**

(a) The Agricultural Diversification Board is established for the agricultural diversification program. The board is comprised of the commissioner of agriculture, the director of the Institute for International Agribusiness Studies at Prairie View A&M University, and four members appointed by the governor with the advice and consent of the senate. The governor shall appoint the chairman of the board.

(b) The speaker of the house of representatives shall appoint one state representative as an ex officio nonvoting member of the board. The commissioner shall provide annual reports to the ex officio members accounting for the receipt and use of all gifts and grants of money from the federal government, any local government, or any private corporation or other person for the agricultural diversification program.

(c) Members of the board serve terms of two years expiring January 1 of each odd-numbered year.

(d) The board members are entitled to actual and necessary expenses incurred in carrying out their official duties.

(e) The board shall assist the commissioner in the creation and implementation of the agricultural diversification program, including recommending additional criteria for the awarding of grants.

(f) If a vacancy occurs on the board, the governor shall appoint another individual to complete the term.

**§29.4. Criteria for all Grants.** In evaluating applications for grants under this chapter, the commissioner and the board shall consider:

(1) the scientific and technical merit of the application;

(2) the anticipated benefits arising from a grant to the applicant, including both potential job creation and commercial benefits of the agricultural industry;

(3) the market value of the assets of the applicant;

(4) the qualifications of the applicant;

(5) the reasonableness of the applicant's proposed budget;

(6) the extent and level of other funding sources for the applicant;

(7) the funding commitments needed for continued development; and,

(8) the present involvement and support of local organizations, including educational organizations.

**§29.5. Money for Grants.** The commissioner may accept gifts and grants of money from the federal government, local governments, or private corporations or other persons for use in making grants under the agricultural diversification program. The legislature may appropriate money for grants under the program.

### **§29.6. Research and Innovation Grant.**

(a) **Purpose.** The purpose of this grant shall be to support research and innovation leading to organizational or marketing improvements in business based on agriculture or to the commercialization of new crops, new agricultural products, or new production processes.

(b) **Eligibility.** A recipient of a grant under this section must be a nonprofit organization, such as a university, community college, or other institution affiliated with a small business in a project meeting the requirements of subsection (a) of this section.

(c) **Match.** A recipient of a grant under this section must match the amount of state grant with an equal amount of other money (cash), with at least one-half of the matching money (cash) coming from the private sector.

(d) **Award process.** The commissioner shall review and evaluate each grant application submitted under this section and award the grants with the consent of a majority of the board.

(e) **Amount.** A grant under this section may not exceed \$30,000.

### **§29.7. Business Assistance Grant.**

(a) **Purpose.** The purpose of this grant is to increase the capabilities of community and regional organizations to provide training and assistance to new and expanding businesses based on agriculture.

(b) **Eligibility.** A recipient of a grant under this section must be nonprofit community or regional organization, such as a community college or council of government.

(c) **Match.** A recipient of a grant under this section must match the amount of the state grant with an equal amount of other money (cash).

(d) **Award Process.** The commissioner shall review and evaluate each grant application submitted under this section and award the grants with the consent of a majority of the board.

(e) **Amount.** A grant under this section may not exceed \$30,000.

#### **§29.8. Small Business Incubator Grant.**

(a) **Purpose.** The purpose of this grant is to provide seed money for self-financing small business incubators. These incubators shall provide business services to small enterprises that process or market agricultural crops in the state or that produce alternative agricultural crops in this state.

(b) **Eligibility.** A recipient of a grant under this section must be a local nonprofit organization, such as a community college or council of government.

(c) **Match.** A recipient of a grant under this section must match the amount of state grant with assets valued at \$3.00 for every \$1.00 of the state grant. The state grant must be used primarily for professional services. The local matching share may be in the form of land, building, business assistance, and dedicated loan pools as well as cash contributions.

(d) **Award process.** The commissioner shall evaluate each grant application under this section and award the grants with the consent of a majority of the board.

(e) **Amount.** A grant under this section may not exceed \$100,000.

#### **§29.9. Schedule of Grant Awards.**

(a) Technical review of the pre-proposals and full proposals is made by the department and evaluations are made by the board.

(b) The cycle(s) of yearly grant awards is determined by the department and will vary somewhat from year to year.

(c) An example of a typical grant award schedule is detailed in paragraphs (1)-(6) of this subsection.

##### **(1) Step 1:**

(A) posting of the solicitation in the *Texas Register*;

(B) mail-out of pre-proposal to nonprofits, universities, community colleges and others on the program's database;

##### **(2) Step 2:**

(A) deadline for submission of pre-proposals to the department;

(B) technical review by the department;

(C) distribution of pre-proposals to the board for evaluation;

##### **(3) Step 3:**

(A) completed evaluations from the board are due back to the department;

(B) tabulation of results and ranking of candidates;

(C) invitation to submit full proposals are mailed to top candidates;

##### **(4) Step 4:**

(A) deadline for submission of full proposals to the department;

(B) technical review by the department;

(C) distribution of full proposals to the board for evaluation;

##### **(5) Step 5:**

(A) completed evaluations from the board are due back to the department;

(B) tabulation of results and ranking of candidates;

##### **(6) Step 6:**

(A) meeting of board and awarding of grants;

(B) notification of awards are mailed to grantees.

#### **§29.10. Format for Pre-Proposal.**

(a) The pre-proposal is a shorter version of the full proposal and is primarily used to eliminate projects that do not meet the minimum requirements of the program and grant category under which they are applying.

(b) Any pre-proposal that is incomplete or received after the due date will be rejected by the department in technical review.

(c) The pre-proposal must contain the following:

(1) a TDA title page consisting of three sections:

(A) a general information section;

(B) a project budget; and

(C) a breakdown of matching funds;

(2) a summary of the project of no more than three single-spaced pages including:

(A) a statement of the project purpose;

(B) the program objectives it will address;

(C) the economic impact to the Texas agricultural industry;

(D) the list of project objectives; and

(E) the plan for the dissemination of information;

(3) a resume on the principal investigator.

#### **§ 29.11. Format for Full Proposal.**

(a) The full proposal is more detailed and contains background, supporting letters, and documentation on the matching funds. Any full proposal that is incomplete or received after the due date will be rejected by the department in technical review.

(b) The full proposal must contain the following:

(1) a TDA title page consisting of three sections;

(A) a general information section;

(B) a project budget; and

(C) a breakdown of matching funds;

(2) a summary of the project of no more than eight single-spaced pages which:

(A) clearly state the purpose of the project;

(B) identifies the TADP objective(s) the project will address;

(C) describe the economic potential to the Texas agricultural industry;

(D) list the project objectives; and

(E) describe the plan for the dissemination of information;

(3) proof of nonprofit status in either of the following ways:

(A) by providing a copy of IRS ruling indicating tax-exempt status;

(B) by providing a copy of sponsor's charter from the Texas Secretary of State, indicating nonprofit status; or

(C) if a university, community college, etc., by providing a written statement explaining the sponsor's educational status as recognized by the state and signed by the principal investigator;

(4) a work plan for the project listing the anticipated accomplishments and their timetables;

(5) resumes of principal investigator and key personnel involved on the project;

(6) documentation of matching funds for cash and in-kind match must be as follows:

(A) for research and innovation grants:

(i) letters of commitment for the cash match as well as any additional in-kind match must be provided;

(ii) match must be in the form of cash and the minimum ratio of matching funds to grant requested is one to one;

(iii) at least one-half of the matching funds must come from the private sector;

(B) for business assistance grants:

(i) letters of commitment for the cash match as well as any additional in-kind match must be provided;

(ii) match must be in the form of cash;

(iii) the minimum ratio of matching funds to grant requested is one to one;

(C) for small business incubator grants:

(i) provided letters of commitment for the in-kind match as well as any cash match must be provided;

(ii) match may be in the form of land, buildings, business assistance,

and dedicated loan pools as well as cash contributions;

(iii) the minimum ratio of matching funds to grant request must be three to one; and

(7) letters of support from local, state, and federal organizations.

#### *§29.12. Deadlines for Submissions.*

(a) Pre-proposals and full proposals must be delivered to the department no later than 5 p.m. on the date specified in either the pre-proposal or full proposal.

(b) Facsimile transmissions will not be accepted.

(c) Questions concerning the pre-proposal, full proposal, or requests for copies of documents may be directed to the TADA coordinator at the address in subsection (d) of this section or by calling (512) 463-7624.

(d) One original and six copies of the pre-proposal and full proposal are required and should be mailed to TADA Coordinator, Texas Agricultural Diversification Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

#### *§29.13. Other Information.*

(a) Although applicants may request up to 100,000 for Small Business Incubators, the suggested amount to request is \$50,000 or less, for the Research and Innovation and Business Assistance grants, the suggested amount to request is 30,000 or less.

(b) Employees of the Texas Department of Agriculture, members of the Texas Agricultural Diversification Program Board, and their immediate families are not eligible for the program.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112604

Dolores Alverado Hibbe  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: November 18, 1991

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



## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive Rules

##### General Rules

##### • 16 TAC §23.5

The Public Utility Commission of Texas proposes new §23.5, concerning Public Utility Commission assessment. The new section would provide a framework for adjusting the rates of utilities if the assessment provided for under Texas Civil Statutes, Article 1446c, §78 is changed. The new section also provides that utilities shall state on consumers' bills the rate of the assessment.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be charged rates that reflect the purposes of the assessment under Texas Civil Statutes, Article 1446c, §78. There will be no effect on small businesses other than the possibility of reduced utility rates. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Wilson also has determined that for each year of the first five years the proposed section is in effect there will be no impact on employment in the geographical areas affected by implementing the requirements of the section.

Comments on the proposal (13 copies) may be submitted to Mary Ross McDonald, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757 within 30 days after publication of the proposed section. Comments should refer to Project Number 10629.

The new section is proposed under the Public Utility Regulatory Act, §16(a), which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

#### *§23.5. Public Utility Commission Assessment.*

(a) All utilities shall state in a conspicuous manner on the customer's bill the rate of assessment being collected by the comptroller of public accounts of the State of Texas. The statement shall be amended whenever the comptroller notifies the utility that a different rate is being assessed.

(b) Upon notification by the comptroller of a change in the assessment, each utility shall file a proceeding under Texas Civil Statutes, Article 1446c, §43, to adjust rates to account for the adjustment in the

assessment unless the utility already has a proceeding pending before the commission in which the adjustment for the assessment may be addressed.

(c) If the only cost of service adjustment that the utility requests in its application is the adjustment to the assessment and if the change in the assessment results in a change of less than 2.0% of gross receipts so as to constitute a minor rate change under Texas Civil Statutes, Article 1446c, §43(b), the limitation on the request shall constitute good cause under §43(b) to allow the rate to go into effect prior to the expiration of 35 days; however, the rate shall not go into effect prior to the effective date of the change in the rate of assessment.

(d) If the only cost of service adjustment that the utility requests in its application is the adjustment to the assessment, the limitation on the request shall constitute good cause under §21.69(d) of this title (relating to Applications, Testimony, and Exhibits) for the waiver of the requirement that the utility file a rate filing package. In such case, the utility shall file testimony and calculations detailing the manner in which the adjustment to rates is being calculated to account for the change in the assessment.

(e) If the only cost of service adjustment that the utility requests in its application is the adjustment to the assessment and an affected person requests a hearing, a hearing shall be held and the case processed on an expedited basis.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112641

Mary Ross McDonald  
Secretary of the  
Commission  
Public Utility Commission  
of Texas

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 458-0100

## Customer Service and Protection

### • 16 TAC §23.57

The Public Utility Commission of Texas proposes new section §23.57, concerning telecommunications privacy issues. The proposed section defines terms, requires local exchange carriers to examine potential privacy implications in all applications for new services or new features, requires customer notification of the transference of automatic number identification to 800 subscribers, and establishes criteria for releasing customer proprietary network information that is compiled by local exchange carriers in their normal course of business.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that customer proprietary network information compiled by and available to local exchange carriers will be released under controlled circumstances, and that local exchange carriers will be required to identify and address privacy concerns before introducing any new service. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Wilson also has determined that for each year of the first five years the proposed section is in effect there will be no impact on employment in the geographical areas affected by implementing the requirements for the section.

Comments on the proposal (13 copies) may be submitted to Mary Ross McDonald, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Reply comments may be submitted to the same address within 60 days after publication. Comments and reply comments should refer to Project Number 9547.

The new section is proposed under Texas Civil Statutes, Article 1446c, §16, which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

#### §23.57. Telecommunications Privacy.

(a) Privacy considerations. Customers should be permitted to control the outflow of information about themselves. Any local exchange carrier proposing to offer a new service or a new feature to an existing service that will compromise current privacy expectations must offer a means of restoring the lost degree of privacy, unless it can show good cause for not doing so.

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

(1) Automatic number identification (ANI)—The automatic transmission by the local switching system of the originating billing telephone number to an interexchange carrier or other communications carrier in the normal course of telephone operations.

(2) Aggregate CPNI—A configuration of CPNI that has been collected by a local exchange carrier and organized such that none of the information will identify an individual customer.

(3) Customer proprietary network information (CPNI), customer-specific—Any information compiled on a

customer by a local exchange carrier in the normal course of providing telephone service. This information includes, but is not limited to, the customer's name, address, telephone number(s), originating billing telephone number transmitted as the ANI, line type(s), technical characteristics (e.g., rotary service), class of service, current telephone charges, long distance billing record, local service billing record, directory assistance charges, usage data, and calling patterns.

(4) Supplemental services—Telecommunications features or services that are not required for basic telephone service that are offered by multiple vendors, and may be offered by a local exchange carrier.

(5) Optional calling features or plans—Tariffed telecommunications features or plans offered by a local exchange carrier that are not required for basic telephone service and that are not offered by multiple vendors.

(c) New services or features. Privacy shall be addressed explicitly in each application filed by a local exchange carrier under the provisions of §23.24 of this title (relating to Form and Filing of Tariffs), or §23.26 of this title (relating to New and Experimental Services) for approval of new services or new features. Each application shall:

(1) identify all privacy issues relevant to the new service or feature proposed in the application;

(2) state how the public can restore any lost degree of privacy that would be experienced as a result of the new service or feature proposed in the application;

(3) state if there will be any charge to customers of the local exchange carrier for restoring any lost degree of privacy experienced as a result of the new service or feature proposed in the application, and address how the public interest is served by the charge;

(4) state how the local exchange carrier will educate the public as to the implications for privacy and the means by which the public can restore any lost degree of privacy experienced as a result of the service or feature proposed in the application; and

(5) state whether the service will allow for the calling party's telephone number to be delivered to the called party or to any third party.

(d) Automatic number identification. The local exchange carriers shall print in the white pages of their telephone directories, and send as a billing insert annually to all of their customers, the statement: "When an 800 number is dialed from your telephone, your telephone number may be transmitted to the company you have called and may be available to that company's service representative before your call is answered."

(e) Customer proprietary network information (customer-specific). Unless otherwise provided by this section, a local exchange carrier must ensure that all customer-specific CPNI that has been authorized for release by the customer to a third party is provided under the same terms and conditions and at the same price as it is made available to all other businesses affiliated with the local exchange carrier and local exchange carrier personnel marketing supplemental services.

(1) Before releasing customer-specific CPNI to any third party, including, but not limited to, providers of supplemental services, any businesses affiliated with the local exchange carrier, and local exchange carrier personnel marketing supplemental services, but not including local exchange carrier personnel marketing optional calling features or plans, a local exchange carrier must obtain written authorization by balloting each residential and business customer one time. The ballot shall be reviewed by the staff of the Telephone Utility Analysis Division before it is sent to customers. The staff shall notify the general counsel of any concerns it may have with the proposed ballot, and the general counsel shall notify the local exchange carrier within 10 days of submission if the proposed ballot may not be distributed.

(A) The ballot must describe specifically what information is to be released if authorization is granted.

(B) If the authorization is to be requested for categories of information, the specific information contained in each category must be listed and the ballot must allow the customer to authorize each category of information separately.

(C) The ballot must allow the customer the option of listing only specific third parties for the local exchange carrier to release information to.

(D) The ballot may allow the customer the choice of releasing the information to any businesses affiliated with the local exchange carrier and to the local exchange carrier's supplemental services marketing personnel only.

(E) The ballot may allow the customer the choice of releasing the information to any party.

(F) The ballot must state that there will be no charge to the customer for restricting or releasing any of the information listed on the ballot.

(2) A local exchange carrier may use customer-specific CPNI to market optional calling features of plans to custom-

ers at the time the customer is requesting new business or residential service. However, at any other time, and before releasing customer-specific CPNI to local exchange carrier personnel marketing optional calling features or plans to any other customers, the local exchange carrier must send each customer a separate mailing, other than a billing statement, which states that the customer may choose to limit the amount of mail and promotional calls received from local exchange carrier personnel marketing optional calling features and plans, and how the customer may inform the local exchange carrier of that choice. The mailing shall be reviewed by the staff of the Telephone Utility Analysis Division before it is sent to customers. The staff shall notify the general counsel of any concerns it may have with the proposed mailing, and the general counsel shall notify the local exchange carrier within 10 days of submission if the proposed mailing may not be distributed.

(3) A local exchange carrier may provide customer-specific CPNI to third parties without obtaining prior written authorization from the customer as provided in subparagraphs (A)-(E) of this paragraph.

(A) A local exchange carrier may provide ANI to a provider of emergency services.

(B) A local exchange carrier may provide ANI to interexchange carriers or to other common carrier access customers.

(C) A local exchange carrier may provide ANI if otherwise required by law.

(D) A local exchange carrier must provide names, addresses, and telephone numbers of customers, other than those customers that have requested that such information be unlisted, to any entity requesting such information for the purpose of telephone directory publication. The local exchange carrier must offer to provide this information in the same format, and under the same terms and conditions as it is provided to the party that publishes the directory for the local exchange carrier.

(E) The local exchange carrier must provide names, addresses, and telephone numbers of customers, other than those customers that have requested that such information be unlisted for the purpose of directory publication, to any entity requesting such information.

(f) Aggregate CPNI. If a local exchange carrier compiles and uses aggregate CPNI for marketing purposes or provides aggregate CPNI to any business associated with the local exchange carrier for market-

ing purposes, it must also provide aggregate CPNI to any third party upon request. A local exchange carrier must offer to provide aggregate CPNI under the same terms and conditions and at the same price as it is made available to all businesses affiliated with the local exchange carrier and to local exchange carrier personnel marketing supplemental services.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112640

Mary Ross McDonald  
Secretary of the  
Commission  
Public Utility Commission  
of Texas

Earliest possible date of adoption: December 17, 1991

For further information, please call: (512) 458-0100

## Part IV. Texas Department of Licensing and Regulation

### Chapter 60. Texas Commission of Licensing and Regulation

#### Subchapter B. Organization of the Commission of Licensing and Regulation

##### • 16 TAC §60.25

The Texas Commission of Licensing and Regulation proposes an amendment to §60.25, concerning general powers and duties of the commission in waiving excused and late fees and penalties after August 1, 1990, for individuals on active duty in the United States Armed Forces.

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

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

Comments on the proposal may be submitted to Elvis G. Schulze, General Counsel, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 9100, §12, which provides the commission with the authority to adopt rules as necessary for its own procedures.

**§60.25. General Powers and Duties of Commission.**

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

(e) Licenses, registrants, certificate, and permit holders will be notified at least 30 days in advance of impending expiration of the licenses, registrations, certificates, or permits. Failure to renew the license, registration, certificate, or permit in a timely manner occurring after August 1, 1990, will only be excused and late fees and penalties waived if the individual establishes to the satisfaction of the department that the individual failed to renew the license in a timely manner because the individual was on active duty in the United States Armed Forces.

(f)-(j) (No change.)

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

Issued in Austin, Texas, on October 10, 1991.

TRD-9112801

Larry E. Kosta  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 463-3127



**Chapter 64. Employers of Certain Temporary Common Workers**

- 16 TAC §§64.1, 64.10, 64.20, 64.40, 64.60, 64.61, 64.70, 64.71, 64.72, 64.73, 64.74, 64.80, 64.81, 64.90, 64.91

The Texas Department of Licensing and Regulation proposes new §§64.1, 64.10, 64.20, 64.40, 64.60, 64.61, 64.70, 64.71, 64.72, 64.73, 64.80, 64.81, 64.90, and 64.91 concerning the employers of certain temporary common workers, and Texas Civil Statutes, Article 5221a-10, and the Texas Department of Licensing and Regulation Act, Texas Civil Statutes, Article 9100, gives the Texas Department of Licensing and Regulation authority to regulate, administer, and license this Act.

Elvis G. Schulze, general counsel, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect is an estimated increase in revenue of \$14,823 in 1992; \$13,387, in 1993-1996. There will be no fiscal implications for local government as a result of enforcing or administering the sections.

Mr. Schulze, general counsel, 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 health and welfare of temporary

common workers. The cost of compliance with the section for small businesses will be \$300 per year for a license. The anticipated economic cost to persons who are required to comply with the sections as proposed will be \$300 per year for a license.

Comments on the proposal may be submitted to Elvis G. Schulze, General Counsel, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas (512) 463-3127.

The new sections are proposed under Texas Civil Statutes, Article 5221a-10 and Article 9100, which provides Texas Department of Licensing and Regulation with the authority to regulate, administer, and license this Act.

**§64.1. Authority.**

(a) The sections in this Chapter are promulgated under the Employer of Certain Temporary Common Workers Act (Texas Civil Statutes, Article 5221a-10) and the Texas Department of Licensing and Regulation Act (Texas Civil Statutes, Article 9100).

(b) Regulatory, administrative, and licensing authority under this Act shall be conducted by the department and commissioner under Texas Civil Statutes, Article 9100.

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

**Commissioner**—The Commissioner means the commissioner of licensing and regulation.

**Common worker**—An individual who performs labor involving physical tasks that do not require a particular skill, training in a particular occupation, craft, or trade, or practical knowledge of the principles or processes of an art, science, craft, or trade.

**Conspicuous place**—A location on a licensed premises that is in open view to the general public.

**Department**—The Texas Department of Licensing and Regulation.

**Governmental subdivision**—A municipality, county, special district, zone, authority, or other entity that is chartered, created, or authorized by the state.

**Labor hall**—A central location maintained by a license holder where common workers assemble and are dispatched to work for a third party user.

**Person**—An individual, association, corporation, organization, agency, business trust, estate trust, joint venture, partnership, or any other legal entity.

**Registered agent**—The individual or entity, designated by the temporary common worker employer to which all departmental communications or correspondence will be addressed.

**Temporary common worker agent or temporary common worker agency**—A temporary common worker employer.

**Temporary common worker employer**—A person that provides common worker employees to a third party user.

**Third party user**—A person who uses the services of a common worker provided by a temporary common worker employer.

**§64.20. Licensing Requirements General.**

(a) Each person desiring a State of Texas temporary common worker employer license or a temporary common worker agency license shall request an application from the department.

(b) All applications shall be submitted only on the form approved by the commissioner and provided by the department.

(c) The application for a license must:

(1) state the name, address, and telephone number of the applicant, including the trade name by which the applicant does business; the names, addresses, and telephone numbers of all partners, the extent of their respective interest(s) if such interest is 10% or greater, and the street address and telephone number of the labor hall;

(2) state the name, address, and telephone number of the registered agent for the labor hall, including the office or position held by that person with the labor hall;

(3) meet fire and health standards established by state or federal law, or municipal ordinance.

**§64.60. Powers and Duties of the Department and Commissioner.**

(a) All temporary common worker employer agents and/or agencies holding licenses shall be notified in writing of the pending expiration of their license not later than the 30th day before the date on which the license expires.

(b) The department shall issue a license to all applicants who comply with all provisions of the Act and the department rules.

(c) The commissioner shall enforce this Act pursuant to Texas Civil Statutes, Article 5221a-10 and Article 9100.

**§64.61. Municipal Regulation.**

(a) A license issued under this Act supersedes a license required by or issued by a municipality or any other governmental subdivision of the state.

(b) A license holder may not be required to hold a license issued by a municipality or any other governmental subdivision of the state to practice as a temporary common worker employer in the municipal or governmental subdivision.

**§64.70. Rights and Duties of a license holder.**

(a) A license holder must display the license in a conspicuous place in each



place of business operated by the license holder in the state.

(b) Each temporary common worker employer and/or temporary common worker agency must notify the department of any changes in information regarding the location or ownership. The notification must be received by the department no later than 30 days after the change occurs.

(c) Each temporary common worker employer and/or temporary common worker agency shall provide their employees with access to the name, mailing address, and telephone number of the department for purpose of directing complaints to the department.

(d) The license holder must allow the department and representatives of other governmental subdivisions, as part of an inspection or investigation, to enter the business premises during regular business hours and examine and copy any records that relate directly or indirectly to the inspection or investigation being conducted. The department and representatives of other governmental subdivisions may inspect all records, books, and documents, whether paper or electronic, pertaining to the business operation.

(e) Each license holder within two working days from its receipt of a written complaint from a consumer, must attempt to resolve the complaint not later than the 10th day after the date of receipt. If the license holder is unable to resolve the complaint within the specified 10 days, the complaint shall be referred to the department.

#### *§64.71. Other Duties of Labor Hall License Holder.*

(a) A license holder shall promptly pay or distribute to the proper individuals all money or other things of value entrusted to the license holder by a third person for such purpose.

(b) A license holder shall comply with the terms and provisions of contracts entered into between the license holder and common workers and third party users.

(c) A license holder shall take out a policy of insurance with an insurance carrier authorized to do business in the State of Texas in the amount of at least \$100,000/\$300,000, which insures the license holder against liability for damage to persons or property arising out the license holder's operation, or ownership of any motor vehicle for the transportation of operations as a labor hall. A copy of such policy shall be filed with the department. Additionally, all labor halls shall be insured for fire and extended liability coverage.

(d) All vehicles used for hire by a license holder for the transportation of individuals in his operations as a labor hall shall:

(1) have displayed prominently at the entrance of the vehicle the name of

the labor hall and the number of their license issued by the department;

(2) be equipt with one 10 pound BC fire extinguisher or two five pound BC fire extinguishers;

(3) shall comply with all Texas vehicle inspection and safety regulations for the transportation of passengers for hire as defined by the Texas Railroad Commission regulations.

(e) Each license holder shall, semimonthly or at the time of each payment of wages, furnish each client/worker employed by the labor hall either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing in detail each and every deduction made from the wages.

(f) A license holder shall comply with all provisions of statutes or codes, including but not limited to, Texas Department of Health Rules on Food Service Sanitation; Mechanical and Building Code; National Electrical Code; the Accident Prevention Manual for Industrial Operations; National Fire Prevention Code; Life Safety Code; State or Federal laws.

(g) A license holder that violates set standards or codes may have its license suspended or revoked.

#### *§64.72. Additional Provisions For Labor Halls.*

(a) An attendant must be on the labor hall premises as an agent for legal process for both the labor hall and the registered agent at all times that common workers are on the premises during normal business hours.

(b) The labor hall premises must have a lobby or waiting room with a floor area not less than the greater of 450 square feet. The lobby or waiting room must have adequate heat and ventilation.

(c) A labor hall may allow the pick up or drop off of workers only in a safe location.

#### *§64.73. Revocation or Denial of License.*

(a) A license may be revoked or denied to an applicant for the following reasons:

(1) the applicant or registered agent is under eighteen (18) years of age;

(2) the applicant or applicant's spouse is delinquent in payment for taxes, fees, fines, or penalties assessed or imposed against the applicant or applicant's spouse by the state or any political subdivision;

(3) the applicant has failed to provide all information reasonably required by the commissioner for issuance or renewal of the license or has falsely answered a question or request for information on the application form;

(4) the applicant, the applicant's spouse, or any entity owned, controlled, or affiliated with the applicant has had a labor hall license revoked within the last two years;

(5) the applicant, the applicant's spouse, or any entity owned, controlled, or affiliated with the applicant has had a labor hall license suspended within the last 60 days;

(6) knowingly permitting the sale of alcoholic beverages anywhere on the premises where the license holder operates or proposes to operate as a labor hall;

(7) knowingly allow prostitution, gambling, intoxication, drug dealing or illegal drug use on the premises;

(8) furnish any male or female for immoral purposes; and/or cause to be sent, any male or female to enter as servant, inmate, or for any purpose whatsoever, to any place of bad repute, house of ill fame, or assignation house, or any house or place of amusement kept for immoral purposes; the character of which such license holder could have ascertained by reasonable diligence;

(9) knowingly send a common worker to a place where a strike or lockout exists without first furnishing the common worker with a written statement of the existence of the strike or lockout.

(10) furnish employment to any child, as defined by federal and state statute, in violation of the statutes regulating the employment of children or the compulsory attendance at school;

(11) the applicant has failed to submit the required license fee.

(b) If the department determines that an applicant should be denied a license, the commissioner shall notify the applicant in writing that the application is denied and inform the applicant of the right to an appeal.

#### *§64.80 Fees-Initial license.*

(a) The fee for an initial license is \$300.

(b) This fee is not refundable.

#### *§64.81. License renewal.*

(a) A license issued under this Act is valid for one year and may be renewed.

(b) If a license holder fails to renew the license by the required date, the license holder must pay the fee to the department to renew the license. If the license is not renewed before the first anniversary of the date that the license expired, the license holder must apply for a new license in the manner required for an original license.



**§64.90. Sanctions.**

(a) Any person may file a complaint with the commissioner by sworn affidavit alleging a violation of the Act. The commissioner shall investigate the alleged violation upon receipt of the complaint and may investigate any common worker employer and/or a temporary common worker agency as necessary.

(b) If it appears that a person is in violation of, or is threatening to violate, the Act or a rule or order of the commissioner related to the Act, the commissioner may institute an administrative penalty not exceeding \$1,000 for each violation and not exceeding \$250,000 in the aggregate by:

(1) giving notice of the violation(s) on the preliminary report issued by the department;

(2) a statement of the right of the person charged to a hearing on the occurrence of the violation and the sanction and any terms thereof;

(3) not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under this rule, including the recommended sanction and all accompanying conditions, or make a written request for a hearing on that determination;

(4) if the person charged with the violation accepts the determination of the commissioner, the commissioner shall issue an order approving the determination and ordering that the recommended sanction and accompanying conditions be imposed upon that person;

(5) if the person charged fails to respond in a timely manner to the notice or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearing examiner to conduct the hearing;

(6) if an administrative hearing is held and the person wishes to dispute the administrative sanction imposed, not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §16(c), the person charged shall file a petition for judicial review contesting the fact of the violation and/or the administrative sanction. Judicial review is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court as provided by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §19; and

(7) a motion for rehearing is a prerequisite for an appeal.

(c) The commissioner may institute an action with the Attorney General for collection of any assessed administrative

penalty not received by the department for payment of the assessed penalty.

(d) If it appears that a person is in violation of, or is threatening to violate, the Act or a rule or order of the commissioner related to the Act, the commissioner may request from the Attorney General an action for injunctive relief to restrain the person from continuing the violation.

**§64.91. Sanctions-Revocation or Suspension Because of a Criminal Conviction.**

(a) Pursuant to Texas Civil Statutes, Article 6252-13c, the commissioner, after a hearing, may suspend or revoke an existing license, because that person has a felony or misdemeanor conviction that directly relates to the duties and responsibilities involved in operating as a common worker employer and/or temporary common worker agency. The department may also, after hearing, suspend, revoke or deny a license because of a person's felony probation revocation, parole revocation, or revocation of mandatory supervision.

(b) In determining whether a criminal conviction directly relates to the operation as a temporary common worker employer and/ or temporary common worker agency, the commissioner shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the ability, capacity, or fitness to perform the duties as a temporary common worker employer and/or temporary common worker agency;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person was previously involved.

(c) In determining the present fitness of a person who has been convicted of a crime, the commissioner shall also consider:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial re-

sponsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(d) It shall be the responsibility of the license holder or applicant, to the extent possible, to secure and provide the department the recommendations of the prosecution, law enforcement and correctional authorities as required.

(e) Proof shall be furnished in such form as may be required by the department, that a record of steady employment, has supported his or her dependents per court order, has otherwise maintained a record of good conduct, and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112397

Larry E. Kostra  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 463-3127

◆ ◆ ◆  
**Chapter 76. Boxing**

- 16 TAC §§76.1, 76.10, 76.20-76.27, 76.40, 76.50-76.53, 76.60, 76.61, 76.70-76.80, 76.90-76.93, 76.101-76.116

The Texas Department of Licensing and Regulation proposes new §§76.1, 76.10, 76.20-76.27, 76.40, 76.50-76.53, 76.60, 76.61, 76.70-76.80, 76.90-76.93, and 76.101-76.116, concerning boxing. The proposed rules are a revision of existing rules found in 16 TAC Chapter 61. They are intended to simplify, clarify, and organize existing responsibilities, licensing requirements, and fees, without substantive change. Upon final adoption after public and industry comments are received, they are intended to replace the existing rules of Chapter 61.

Rudy Garcia, director of business and occupational 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. Garcia 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 a simplification and clarification of existing rules. 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 Rudy Garcia, Director of Business and Occupational Programs, 920 Colorado, P.O. Box 12157, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Articles 8501-1 and 9100, which provide the Texas Department of Licensing and Regulation with the authority to regulate boxing.

**§76.1. Authority.** These rules are promulgated under the authority of the Texas Boxing and Wrestling Act, Texas Civil Statutes, Article 8501-1, and Texas Civil Statutes, Article 9100.

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

**Bout**—A boxing contest, match, or exhibition.

**Boxing promoter**—A person to be licensed by the commissioner who arranges, advertises, or conducts a boxing contest, match, or exhibition.

**Chief second**—The second designated by the contestant as the primary advisor or assistant to the contestant.

**Commission**—The Texas Commission of Licensing and Regulation.

**Commissioner**—The commissioner of Licensing and Regulation or his designated representative.

**Contest**—A boxing bout, match, or exhibition.

**Deadwood**—The numerical difference between tickets printed and tickets utilized.

**Event**—An organized series of individual boxing contests or bouts.

**He**—Gender neutral pronoun which shall be used to mean he or she.

**Individual**—A natural person as distinguished from a partnership, corporation, or association.

**License**—A document issued by the commissioner permitting a person to perform at a boxing event.

**Manager**—A person to be licensed by the commissioner who, under contract, agreement, or other arrangement with any boxer undertakes to directly or indirectly, controls, or administers the boxing affairs of boxers.

**Matchmaker**—A person to be licensed by the commissioner who is not a promoter and who brings together professional boxers or procures matches for professional boxers.

**Physician**—An individual licensed to practice medicine by the Texas State Board of Medical Examiners.

**Second**—A person to be licensed by the commissioner who is present at any boxing event to provide assistance or advice to a boxer during the contest.

**Timekeeper**—A person to be licensed by the commissioner who is the official timer of the length of rounds and the intervals between same.

**Working Pass**—An entry permit issued by a promoter to individuals employed for the event.

#### **§76.20. Licensing Promoter.**

(a) License required. Before a person performs as a boxing promoter, he must be licensed by the commissioner. A licensed promoter may not act as, and cannot be licensed as, second, boxer, referee, timekeeper, or judge. If he is so licensed, he must submit any other licenses for cancellation. A promoter may be licensed as a manager.

(b) Application. Each promoter applicant shall submit:

- (1) a completed application form;
- (2) proof of financial ability to pay purses, arena rental, personnel, advertising, and other expenses as required by §76.40 of this title (relating to Bond Requirements for Promoters);
- (3) other licenses listed in subsection (a) of this section, for cancellation, if applicable;
- (4) the required fee; and
- (5) to an interview. Any person applying for a promoter's license for the first time shall appear before the commissioner for an initial interview.

#### **§76.21. Licensing Referee.**

(a) License required. Before an individual performs as a referee, he shall be licensed by the commissioner. A licensed referee shall keep the license in his possession.

(b) Application. Each referee applicant shall submit:

- (1) a completed application form;
- (2) two recent passport-sized photographs;
- (3) results of an annual physical examination; and
- (4) license fee.

(c) Restrictions on referee. An individual may not act as a referee for a boxing event if the referee has a direct or indirect financial interest in any boxer.

#### **§76.22. Licensing Matchmaker.**

(a) License required. Before an individual performs as a matchmaker, he shall be licensed by the commissioner. A licensed matchmaker shall keep the license in his possession.

(b) Application. Each matchmaker applicant shall submit:

- (1) a completed application form;

(2) two recent passport-sized photographs; and

(3) license fee.

(c) Restrictions on Matchmaker. No matchmaker shall hold any other type boxing-related license or manage a boxer, either directly or indirectly.

#### **§76.23. Licensing Judge.**

(a) License required. Before an individual performs as a judge, he shall be licensed by the commissioner. A licensed judge shall keep his license in his possession at all times.

(b) Application. Each judge applicant shall submit:

- (1) a completed application form;
- (2) two recent passport-sized photographs; and
- (3) license fee.

(c) Restrictions on judges. An individual may not act as a judge for a boxing event if the judge has a direct or indirect financial interest in any boxer.

#### **§76.24. Licensing Timekeeper.**

(a) License required. Before an individual performs at a contest as a timekeeper, he shall be licensed by the commissioner. A licensed timekeeper shall keep the license in his possession.

(b) Application. Each timekeeper applicant shall submit:

- (1) a completed application form;
- (2) two recent passport-sized photographs; and
- (3) license fee.

#### **§76.25. Licensing Manager.**

(a) License required. Before an individual performs as a manager, he shall be licensed by the commissioner. A licensed manager may act as a second without a second's license. A licensed manager shall keep the license in his possession. A manager may be licensed as a promoter.

(b) Application. Each manager applicant shall submit:

- (1) a completed application form;
- (2) two recent passport-sized photographs;
- (3) license fee.

#### **§76.26. Licensing Second.**

(a) License required. Before an individual performs as a second, he shall be licensed by the commissioner. A licensed

second shall keep the license in his possession. A licensed manager may act as a second without a second's license.

(b) Application. Each second applicant shall submit:

- (1) a completed application form;
- (2) two recent passport-sized photographs; and
- (3) license fee.

#### ***§76.27. Licensing Boxer.***

(a) License required. Before an individual performs as a boxer, he shall be licensed by the commissioner. A licensed boxer shall keep the license in his possession.

(b) Application. Each boxer applicant shall submit:

- (1) a completed application form;
- (2) two recent passport-sized photographs;
- (3) license fee; and
- (4) proof of a comprehensive medical examination as required by §76.111 of this title (relating to Technical Requirements-Boxer).

(c) Minors. The department shall not issue a license to any one under age 18.

(d) Age 35. The department will not issue a license to any boxer age 35, without a hearing. Before issuing any license to a boxer age 35, the Department shall require physical testing including, but not limited to, neurological examination, ophthalmologic examination, EEG, EKG, and stress tests.

(e) Physical training. Anyone applying for a boxer's license without significant professional or amateur boxing experience may be required to show proof of proper training as a boxer. A boxer without previous ring experience shall furnish the department written certification outlining his training routine for the four weeks prior to fight date.

#### ***§76.40. Bond Requirements for Promoters.***

(a) Performance bond if needed. Financial responsibility may be shown by submitting a financial statement, prepared by a certified public accountant, indicating liquid working capital of \$10,000 or more, or a \$10,000 performance bond guaranteeing payment of all obligations relating to the promotional activity.

(b) Surety bond. A \$5,000 surety bond, written by a bonding company authorized to do business in the State of Texas, shall remain in effect for four years after the effective cancellation date.

***§76.50. Reporting Requirements—Promoter.*** Show reports. A promoter shall submit the tax report and the 3.0% gross receipts tax payment for a show within 72 hours after holding the show.

***§76.51. Reporting Requirements—Ringside Physician.*** Physical disqualification. If a boxer is disqualified during a pre-fight physical examination, the physician shall notify the department and promoter immediately.

#### ***§76.52. Reporting Requirements—Manager.***

(a) If a boxer's physical exam shows him unfit for competition because of any weakness or disability, the boxer shall not participate in a contest. An immediate report of the facts shall be made to the promoter and the department by the manager or boxer.

(b) If a boxer becomes ill or is injured and cannot take part in a contest for which he is under contract, he or his manager shall contact the promoter and the department immediately.

#### ***§76.53. Reporting Requirements—Boxer.***

(a) Required reports. Boxer applicants shall submit all required medical reports, as well as any other reports required by the department, to the department's office in Austin. A boxer's manager shall also be responsible for the boxer's medical and boxing records.

(b) Ill or injured boxer. If a boxer becomes ill or is injured and cannot take part in a contest for which he is under contract, he or his manager shall contact the promoter and the department immediately.

***§76.60. Responsibilities of the Department for Timekeepers.*** Assignment. The department shall assign two timekeepers for each show, one to keep time and one to count for the knockdowns.

#### ***§76.61. Responsibilities of the Department for Medical Consultants.***

(a) The department shall have three consulting physicians at all times. The commissioner shall seek the advice of the Texas Board of Medical Examiners for a list of medical doctors licensed by the board and qualified to act as department medical consultants. From this list the commissioner shall select one physician with neurological training and one ophthalmologist. All three physicians should have a sports medicine background. The commissioner may appoint additional personnel as necessary. All medical consultants serve at the pleasure of the commissioner.

(b) The medical consultants shall be paid actual traveling and per diem expenses incurred while performing official duties.

#### ***§76.70. Responsibilities of Promoter.***

(a) Promotion and financial responsibility. A licensed promoter for an approved boxing event shall be responsible for all promotion responsibilities as required by rule and shall bear all financial responsibility for such boxing event.

(b) Officiation. No promoter shall officiate at any event.

(c) Advertising. Written department approval of any boxing event shall be obtained prior to beginning ticket sales, or advertising any show, show date, contest, or match.

(d) Written notice. The department must receive written notice from the promoter of all proposed boxing event dates, ticket prices, and participants of main events, at least 21 days prior to the proposed event date.

(e) Card approval. Requests for boxing card approval shall be received in writing from the promoter by the department at least 10 working days prior to the event date. The request shall contain the full legal name and address, date of birth, social security number, ring name, weight, previous record, and number of rounds to be fought for each contestant, as well as the name of the manager or agent of each of the contestants. In addition, the department may require submission of a certified birth certificate.

(f) Change in card. Notice of any change in the card shall be received by the department before the scheduled weigh-in. Only department-approved substitutes shall be permitted. Notices announcing changes or substitutions in the card must also be conspicuously posted at the box office and announced from the ring before the opening contest.

(g) Department approval. All departmental approval must be in writing.

(h) Boxing show cancellation notice. Notice of any change in announced or advertised locations or times or cancellations, shall be submitted to the department before the scheduled weigh-in. Notices announcing changes or substitutions shall also be conspicuously posted at the box office and announced from the ring before the opening contest.

(i) Providing a physician. The promoter shall provide and compensate two department-approved ringside physicians for each event. At least one ringside physician shall conduct the pre-fight physical.

(j) Contests between sexes. No promoter, matchmaker, or any other person shall arrange, match, or advertise any boxing contest between persons of the opposite sex.

(k) Drinks. No promoter shall conduct an event where concessionaires dis-

pense beverages in containers other than plastic or paper cups.

(l) Matchmaking. Only a licensed promoter or licensed matchmaker shall arrange matches.

(1) promoters shall file the following information with the department relating to his matchmakers:

(A) the matchmaker's name, address, telephone number, and license number; and

(B) notice of any change in his arrangement with any matchmaker.

(2) if a matchmaker is employed by a promoter, the matchmaker and the promoter shall be jointly responsible to the department for matches made and for the timely submission of contracts, license applications, and license fees to the department.

(m) Compensating ring officials. Immediately after the event, the promoter shall compensate the ringside physicians and the department-assigned timekeepers, judges, and referees, including travel expenses and overnight lodging if required.

(n) Dressing rooms. The promoter should provide a private dressing room for officials.

(1) The promoter shall provide no less than two private dressing rooms of adequate size for the boxers and their managers, trainers, and seconds.

(2) The promoter shall provide female boxers with adequate separate dressing rooms.

(3) The only people allowed in the boxer's dressing room shall be the promoter, the promoter's matchmaker, boxer, manager, second, press, ringside physician, ring officials, and department representatives.

(4) No alcoholic beverages, drugs, or other illegal substances shall be allowed in the dressing rooms.

(o) Weigh-in. The weigh-in shall take place on the date of the event at a specific time set by the promoter and approved by the department between the hours of 6 a.m. and 2 p.m. Contestants failing to make the contract weight shall have two hours within which to meet the allowances shown on the schedule in §76.112 of this title (relating to Technical Requirements-Boxers Weigh-In and Time Requirements) and shall be re-weighed. The promoter shall provide a private area for the ringside physician to perform weigh-in examinations. The department shall present the rules at the weigh-in.

(p) Safety. It shall be the promoter's responsibility to ensure the safety of the boxers, officials, and spectators.

(1) The promoter shall provide all ringside emergency equipment required by §76.101 of this title (relating to Technical Requirements-Ring and Equipment).

(2) There shall be a pre-fight plan and route to remove an injured fighter from the ring and arena. Upon request, the promoter shall inform the department of these plans. The plan shall include the name and location of a local hospital emergency room.

(3) Security shall be sufficient to maintain order.

(4) The promoter shall provide insurance to cover medical, surgical, and hospital care with a minimum limit of \$20,000 for injuries sustained while participating in a boxing contest and \$20,000 to a boxer's estate if he dies from injuries received while participating in a contest. The insurance premium may not be deducted from the boxer's purse. The promoter shall provide a certificate of insurance showing proper coverage at the same time he provides the department his contracts with those participating in the event.

*§76.71. Responsibilities—Medical Consultants.* The responsibilities of medical consultants are as follows:

(1) act as medical consultants to the department;

(2) attend and participate in department-approved boxing seminars;

(3) recruit and train ringside physicians;

(4) recommend safety policies;

(5) attend hearings if needed;

(6) develop safety bulletins for the department; and

(7) obtain specialty consultation for the department when needed.

*§76.72. Responsibilities—Ringside Physician.* The responsibilities of the ringside physician are as follows.

(1) perform comprehensive medical examinations;

(2) participate in the solutions to boxing-related medical problems;

(3) attend periodic training which may be offered by the department;

(4) remain at ringside at all times during the scheduled bouts; and

(5) immediately examine a boxer who suffers a knockout, concussion, or other head injury and report to the department on the severity.

*§76.73. Responsibilities—Referee.*

(a) The referee shall conduct a rules meeting one hour before the first bout of

the event. All boxers, managers, seconds, and referees must attend the rules meeting.

(b) The referee or commissioner may disqualify a boxer and the contest given to the opposing boxer for the use of profanity, including gestures, by boxer, his manager, or his second if used after a warning by the referee or department representative. The offender may also be subject to further disciplinary action.

(c) The referee or the commissioner may eject any second who violates department rules and disqualify the second's contestant.

(d) The department shall assign referees to officiate at boxing contests. If three judges are not available, the referee may act as a judge. The referee is the chief contest official and has general supervision over the contest. No manager, promoter, matchmaker, second, or boxer shall officiate at any contest.

(e) If an assigned referee is unable to officiate, he shall notify the department at least five hours before the contest unless it is a true emergency situation.

(f) The referee or ringside physician may terminate any contest where there is any reason to believe that continuing it might result in serious injury to either boxer.

*§76.74. Responsibilities—Judge.*

(a) The department shall assign judges to officiate at boxing contests. If three judges are not available, the referee may act as a judge. A majority vote of the judging officials shall determine the outcome of the contest. No manager, promoter, matchmaker, second, or boxer shall officiate at any contest.

(b) If an assigned judge is unable to officiate, he shall notify the department at least five hours before the contest unless it is a true emergency.

(c) The judges shall score the contest by the terms of §76.105 of this title (relating to Technical Requirements-Referee).

*§76.75. Responsibilities—Matchmakers.*

(a) No one licensed as a matchmaker shall have a financial interest in a boxer.

(b) Only a licensed promoter or licensed matchmaker shall arrange matches.

(c) No matchmaker shall officiate at any contest.

*§76.76. Responsibilities—Manager.*

(a) No manager shall officiate at any contest.

(b) Managers shall be responsible for their boxers' conduct and shall ensure

they comply with all applicable laws and rules.

(c) Use of profanity, including gestures, by a boxer, his manager, or his second is prohibited and, if used after a warning by the referee or department representative, the boxer may be disqualified and the contest given to the opposing boxer. The offender may also be subject to further disciplinary action.

(d) A boxer's manager shall be responsible for the boxer's medical and boxing records.

#### §76.77. Responsibilities—Second.

(a) Use of profanity, including gestures, by a boxer, his manager or his second is prohibited and, if used after a warning by the referee or department representative, the boxer may be disqualified and the contest given to the opposing boxer. The offender may also be subject to further disciplinary action.

(b) Each boxer shall have two or three seconds unless the department permits otherwise. Each contestant shall have one chief second. The seconds shall dress neatly.

(c) The referee, or the department may eject any second who violates department rules and disqualify the seconds' contestant. A second shall:

(1) remain seated in the chairs provided during the rounds;

(2) not excessively coach a boxer during a round and shall remain silent when instructed to do so by a department representative or the referee;

(3) not throw water on his contestant or assist him in any way other than during rest periods. Excessive use of water in a corner on a contestant shall result in one warning by the referee or department. The corners shall be kept clean, dry, and free from objects by the seconds;

(4) not toss a towel or any other object into the ring in token surrender of his boxer. He may not get on the ring apron as a sign of surrender;

(5) not use any unapproved solution during the contest; and

(6) not swing a towel instead of a fan during rest periods between rounds.

#### §76.78. Responsibilities—Boxers.

(a) A boxer shall not perform under any name which does not appear in departmental records.

(b) Boxers shall box in proper ring attire including protection cup, which shall be firmly adjusted prior to entering the ring. The trunks' waistband shall extend above the waistline and the hem may not extend below the knee. Mouthpieces shall be worn

at the beginning of each round. Shoes shall be of soft material and shall not be fitted with spikes, cleats, or hard heels.

(c) Use of profanity, including gestures, by a boxer, his manager, or his second is prohibited and, if used after warning by the referee or department representative, the boxer may be disqualified and the contest given to the opposing boxer. The offender may also be subject to further disciplinary action.

(d) No boxer shall officiate at any event.

(e) All contestants shall be in the dressing room at least 45 minutes before the show is scheduled to begin, unless excused by the department. The contestants shall be ready to enter the ring immediately after the preceding contest is finished.

#### §76.79. Responsibilities of the Licensee—Female Boxer.

(a) A negative pregnancy test shall be obtained the day prior to or the day of the fight. Results shall be submitted to the department prior to the weigh-in.

(b) Evidence of fibrocystic disease, nipple discharge, or other evidence of breast disease may result in disqualification. Mammography may be requested by the examining physician.

(c) The examining physician may request a buccal smear if there is any doubt regarding the contestant's sex.

(d) A pelvic exam shall be required, and any evidence of ovarian disease will result in disqualification.

(e) If the female boxers are a main event, or billed as such, they shall be examined seven days prior to the fight because of higher risk for disqualification.

(f) Contestants shall wear a mouthpiece, breast protection, and 10-ounce gloves.

#### §76.80. Fees—Annual Application Fees.

(a) Promoter's license fee. The promoter's license fee shall be \$500.

(b) Fees for all other licensees. Each license application shall be accompanied by the annual license fee as follows:

- (1) boxer—\$25;
- (2) manager—\$100;
- (3) second—\$25;
- (4) matchmaker—\$100;
- (5) referee—\$50;
- (6) judge—\$25;
- (7) timekeeper—\$25.

#### §76.90. Sanctions—Administrative Sanctions.

(a) If a person violates the Texas Boxing and Wrestling Act (the Act), or a rule or order adopted or issued by the commissioner relating to the Act, the commissioner shall:

(1) issue a written reprimand to the person that specifies the violation;

(2) deny, revoke, or suspend the person's license;

(3) place on probation a person whose license has been suspended.

(b) If a suspension is probated, the commissioner may require the person to:

(1) report regularly to the commissioner on matters that are the basis of the probation; or

(2) limit practice to the areas prescribed by the commissioner.

(c) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner determines that a violation has occurred, the commissioner shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative sanction be imposed on the person charged, and recommending the precise nature and conditions, if any, of that proposed sanction. The commissioner shall base the recommended sanction, and any accompanying conditions, on the following factors:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(d) Not later than the 14th day after the day on which the preliminary report is issued, the department shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the proposed sanction, and any accompanying conditions; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation and the sanction and any terms thereof.

(e) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under this rule, including the recommended sanction and all accompanying conditions, or make a written request for a hearing on that determination.

(f) If the person charged with the violation accepts the determination of the commissioner, the commissioner shall issue an order approving the determination and ordering that the recommended sanction and accompanying conditions be imposed upon that person.

(g) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing.

(h) If an administrative hearing is held, and the person wishes to dispute the administrative sanction imposed, not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), §16(c), the person charged shall file a petition for judicial review contesting the fact of the violation and/or the administrative sanction. Judicial review is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court as provided by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), §19.

(i) A motion for a rehearing is a prerequisite for an appeal.

#### *§76.91. Sanctions-Administrative Penalty/Fine.*

(a) If a person violates the Texas Boxing and Wrestling Act (the Act), or a rule or order adopted or issued by the commissioner relating to the Act, the commissioner may, in addition to or in lieu of a sanction imposed under §80.90 of this title (relating to Sanctions-Administrative Sanctions), assess an administrative penalty in an amount not to exceed \$1,000 for each violation.

(b) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(c) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner determines that a violation has occurred, the commissioner shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty not to exceed \$1,000 for each violation be imposed on the person charged, and recommending the amount of that proposed penalty. The commissioner shall base the recommended amount of the proposed penalty on the following factors:

- (1) the seriousness of the violation;
- (2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(d) Not later than the 14th day after the day on which the preliminary report is issued, the department shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the amount of the penalty recommended; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation and the amount of the penalty.

(e) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under this rule, including the recommended penalty, or make a written request for a hearing on that determination.

(f) If the person charged with the violation accepts the determination of the commissioner, the commissioner shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(g) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing.

(h) If an administrative hearing is held, not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), §16(c), the person charged shall:

(1) pay the penalty in full; or

(2) file a petition for judicial review contesting the fact of the violation and/or the administrative penalty/fine. Judicial review is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court as provided by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), §19. If this petition for judicial review is filed, the person must forward the amount of the administrative penalty/fine to the department for deposit in an escrow account, or post a supersedeas bond with the department in the amount of the penalty/fine, until judicial review is final.

(i) A person charged with a penalty who is financially unable to comply with it

is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(j) Except as provided by subsection (i) of this section, failure to forward the amount assessed or post the bond with the department, in the manner and within the period prescribed by the department, results in a waiver of legal rights to judicial review. If the person charged fails to forward the amount assessed or post the bond, the department or the attorney general may bring an action for the collection of the penalty.

(k) A motion for rehearing is a prerequisite for an appeal.

#### *§76.92. Sanctions-Revocation or Suspension Because of a Criminal Conviction.*

(a) Pursuant to Texas Civil Statutes, Article 6252-13c, the commissioner, after a hearing, may suspend or revoke an existing license or disqualify a person from receiving a license, because that person has a felony or misdemeanor conviction that directly relates to the duties and responsibilities involved in operating without a license. The department may also, after hearing, suspend, revoke, or deny a license because of a person's felony probation revocation, parole revocation, or revocation of mandatory supervision.

(b) In determining whether a criminal conviction directly relates to the operation of a license, the commissioner shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the license;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person was previously involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the license.

(c) In determining the present fitness of a person who has been convicted of a crime, the commissioner shall also consider:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(d) It shall be the responsibility of the applicant, to the extent possible, to secure and provide the department the recommendations of the prosecution, law enforcement and correctional authorities as required.

(e) The applicant shall also furnish proof, in such form as may be required by the department, that he has maintained a record of steady employment, has supported his dependents per court order, has otherwise maintained a record of good conduct, and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted. If any section, paragraph, sentence, clause, or word of these rules is held to be invalid, the invalidity does not affect other provisions of these rules which can be given effect without the invalid portion.

#### *§76.100. Technical Requirements—Conduct of Promotion.*

(a) Rounds scheduled. Licensed promoters shall schedule no less than 25 rounds of boxing for each event. All professional boxing contests shall have three-minute rounds with one-minute rest periods between rounds. No boxing or sparring event shall exceed 10 rounds, except a championship contest, which shall not exceed 12 rounds.

(b) Special added attractions. The term "special added attraction" shall mean the appearance of any person or persons in any capacity at any boxing event whose reputation or ability is calculated to increase attendance.

(c) Purses. Purses shall be paid to the boxer by the promoter immediately after each exhibition. Payment of percentage contracts shall be made as soon as the amount can be determined. Payments shall be made in the presence of an authorized department representative.

(d) Decision. The announcer shall announce the decision at the end of the fight. A draw shall be called if each of the officials votes differently or any two vote a draw. In all contests, the total points the referee and judges give each contestant may be announced.

#### *§76.101. Technical Requirements—Ring and Equipment.*

(a) Ring. The ring shall be a square with sides not less than 16 feet nor more than 24 feet inside the ropes. The ring floor shall extend at least 24 inches beyond the ropes on all sides. The ring floor shall be of at least 3/4-inch material, shall be adequately supported, and shall be padded with ensolite or similar closed-cell foam that is at least one-inch thick. The padding shall extend over the edge of the ring platform and have a top covering of canvas, duck, or similar material approved by the department. The covering shall be clean and be tightly stretched and laced to the ring platform and may not have tears, holes, or overlapping seams. The ring platform shall have at least three sets of steps into the ring during a contest: one set for each boxer's corner, and one set in the neutral corner on the department side. These steps shall be used for the ringside physician and the department. The ring corners shall be protected inside the ring with a urethane pad at least six inches wide. It shall be covered with material similar to the ring floor covering, and the covering must be long enough to cover all the rope joints. Ring posts shall be made of some strong material, preferably steel, and shall be at least three inches in diameter. The posts shall be secured under the ring to prevent spreading.

(b) Ring ropes. There shall be four ring ropes at least one inch in diameter which are evenly spaced, one foot apart. The lower rope shall be 18 inches above the ring floor. The ropes shall be attached to the ring posts with turnbuckles and shall be stretched taut during all contests. The bottom rope shall be padded with at least 1/2 inch of soft material.

(c) Bell. The promoter shall ensure the presence of a department approved bell. It shall be large enough to make a sound the contestants and the referee can hear.

(d) Ring equipment. The promoter shall furnish an appropriate receptacle for spitting for each boxer's corner. Such receptacles may include the use of a funnel attached to a hose and bucket or in the alternative, a bucket may be used. The second or manager shall ensure that the contestants use these funnels when washing out their mouths. The promoter shall provide enough water buckets for the contestants to use. Each bucket shall be clean before being used. Promoters shall also provide stools and other articles required to conduct the contests. The ring shall be set up at least two hours before fight time. The promoter shall provide three chairs in each contestant's corner. These chairs shall be labeled "seconds" and shall be used only by the contestant's official seconds.

(e) Scales. The promoter shall furnish scales to be used for weighing in boxers. The department may require that the scales be certified.

(f) Bandages. Contestants shall use six inches of one-inch wide, medical diachylon tape across the back of each hand before bandaging the hands. This tape shall not touch the contestant's knuckles. Contestants shall use soft surgical bandage not more than 15 yards long or two inches wide, that is held in place by not more than two yards of one-inch medical diachylon tape for each hand. These bandages shall be applied in the dressing room, under the examination of a department representative, no sooner than 45 minutes before fight time. Hands shall be wrapped dry, and no liquid may be applied to any bandage or tape. If any other material or substance is used on the boxer's hands other than that mentioned in this paragraph, the boxer and manager shall face disciplinary action by the department.

(g) Gloves. Gloves for all main events shall be new and made to fit the hands of any contestant whose hands may be an unusual size. If gloves used in preliminary contests have been used before, they shall be whole, clean, in sanitary condition, and subject to inspection by the referee or department representative. Any gloves found unfit shall be discarded immediately and replaced with acceptable gloves. There shall be an extra set of eight-ounce and an extra set of 10-ounce gloves on hand to be used in case gloves are broken or in any way damaged during a contest. Contestants in all weight categories up to, and including welterweights shall use eight-ounce gloves. In heavier classes, they may wear eight-ounce or 10-ounce gloves. Gloves shall be in the possession of the boxing promoter and shall be made available for inspection by the department for a minimum of seven days after a bout.

(h) Ring apron. The ring apron shall be kept clear at all times of all objects. This includes articles such as cameras, microphones, advertisements, television cameramen, and photographers. The promoter shall provide a separate camera platform at a neutral corner of the ring for use by television cameramen. The television cameramen shall be allowed on the ring apron only during the one minute rest period or between bouts. No seats may be sold at the ring apron.

(i) Ring Barrier, free area, and spectator seats. There shall be a barrier and free area between the ringside and the first row of seats. There must be at least eight feet between the edge of the ringside table farthest from the ring and the first row of seats. No alcoholic beverages are permitted within the barrier.

(j) Ringside physicians. There shall be a physician at ringside at all times.

(k) Emergency equipment. The promoter shall insure that an emergency medical technician and appropriate medical equipment are located within the ring barrier during the event. The promoter shall



ensure that there is a resuscitator, oxygen, and a stretcher at ringside. The promoter shall also provide a certified ambulance with an emergency medical technician on site for all contests.

(l) Judges' and physicians' seats. The judges' chairs shall be high enough that their shoulders shall be no lower than the ring floor. The method of elevating the chairs must be practical and safe. The promoter shall provide seats for ringside physicians in neutral corner(s).

(m) Ringside tables. The promoter shall have at least one, but may have no more than three, authorized representative(s) at ringside at all times. Only the promoter's representative(s), department officials, the press, physicians, and judges shall sit at the ringside tables.

#### *§76.102. Technical Requirements—Contract between Promoter and Boxer.*

(a) Promoters shall have written agreements or contracts with boxers, executed in triplicate on department forms, showing the amount of guarantee or percentage promised, the number and time limit of rounds, when and where the boxers are scheduled to appear, weight, and all other details governing contracts and agreements.

(b) The promoter shall furnish one executed copy of the contract to the boxer or his manager, retain one executed copy, and submit one executed copy to the department.

(c) All required information must be typed or legibly printed, and any changes or addenda shall be initialed by the boxer and promoter.

(d) Promoters shall fulfill the terms of their contracts with boxers. All contestants appearing in accordance with a promoter and boxer contract at the weigh-in, shall be compensated by the promoter, even if the opponent failed to appear at the weigh-in or the event.

(e) Boxers shall fulfill the terms of their contracts. When a contestant fails to appear in accordance with his contract, he shall satisfactorily prove he was ill, had a valid reason for not appearing, or was otherwise prevented from carrying out the agreement. A doctor's certificate shall be required in case of illness. Affidavits are required to support other circumstances.

#### *§76.103. Technical Requirement—Tickets.*

##### (a) Printing tickets.

(1) All tickets shall have the price, including any service surcharge or handling fee, identify the promoter by license number, and date of the event printed plainly on each half.

(2) Roll tickets with consecutive numbers shall be sold only at the box office on the day of the show.

(3) Tickets of different prices shall be printed on different colored ticket stock.

(4) If a promoter is using a computerized and bonded ticket service, the department may waive paragraph (2) of this subsection.

(b) Ticket inventory. When he receives tickets, including roll tickets from the printer, the promoter shall submit a sworn inventory to the department of all tickets delivered to any outlet or event sponsor. This inventory shall account for any known overprints, changes, or extras.

(c) Seating capacity. Tickets shall not be sold for more than the actual capacity of the place where the event is being held.

(d) Ticket prices. Licensed promoters shall not sell tickets for any price other than the price printed on them, change the ticket price at any time after tickets have been placed on sale, or sell any ticket at any time during the show at a lesser price than tickets for the same seats were sold or offered before the show.

(e) Ticket taking. All tickets shall be torn in half and one half returned to the ticket holder at the entrance gate. The other half shall be immediately deposited in a sealed container, where it shall remain until the opening of the container is witnessed by a department representative. No one shall pass through the gate without having their ticket torn or shall occupy a seat unless holding a ticket half or having been issued a working pass.

(f) Exchanges. A purchaser shall present his ticket half to the promoter for a refund at face value if the advertised main event or special added attraction is postponed or does not take place as advertised. No tickets shall be refunded after the show has taken place. Tickets in the hands of ticket services shall be returned to the promoter not later than when the box office at the boxing event site has closed.

##### (g) Accounting for tickets.

(1) Department representatives shall check the number of ticket containers at gates and their locations. They shall also check the containers for seals or padlocks. Tickets shall be accounted for after the show, and a department representative may review the accounting.

(2) Promoters shall hold tickets of every description used for any boxing event for at least 30 days after the event. The tickets shall be kept in separate packages for each show so the department can perform an audit.

(h) Gross receipts. When computing gross receipts, the face value of all tickets, except deadwood, shall be included whether the tickets were sold for cash, given away, or bartered for services provided.

#### *§76.104. Technical Requirements—Ringside Physician.*

(a) Weigh-in physical examination. The pre-fight medical examinations shall be administered on the day of the event at the weigh-in. The department shall provide forms for recording the results of these examinations.

(b) License for weigh-in. The manager or his authorized agent shall accompany the boxer to the weigh-in. No boxer shall be weighed-in unless he presents a Texas boxing license.

(c) Late weigh-in. If a boxer is late to weigh-in, the boxer and manager are subject to departmental disciplinary action.

(d) Disqualification by weight. If a boxer's body weight at weigh-in is 5.0% or more over his contracted weight, he will be disqualified for the contest, and he and his manager are subject to departmental disciplinary action.

(e) Examination Room. Only the boxer and his manager, ringside physician, and department representatives are allowed in the examination room during the physical.

(f) Disqualification by drugs. If, in an attempt to make weight, the boxer shows evidence of dehydration, having taken diuretics, or other drugs, or having used any other harsh modality, the examining physician shall disqualify him and recommend disciplinary action.

(g) Information and conduct. The boxer and manager shall furnish all information required by the department and conduct themselves professionally at all times.

(h) Between-round care. When the ringside physician enters a boxer's corner, the second in the ring shall yield immediately to the physician's examination. The department may disqualify a boxer, manager, and/or second for unprofessional conduct in failing to cooperate with the ringside physician.

(i) Termination of contests. The referee may terminate any contest where there is any reason to believe that continuing it might result in serious injury to either boxer. The ringside physician, notwithstanding anything to the contrary herein, may enter the ring during the progress of a contest, or between rounds, and terminate any boxing contest to prevent serious injury to either contestant.

(j) Post-contest medical examination. The ringside physician shall perform this examination at the end of a contest. The physician's recommendations, including rest periods, medical disqualifications, and any other exam results, shall be reported on the department inspector's report. It is the boxer's and manager's joint responsibility to comply with all requirements, including rest periods and medical suspensions. A



boxer shall automatically receive medical suspensions/rest periods for the following:

(1) cut—medical suspension time based on physician's recommendation;

(2) technical knockout—minimum of 30-day medical suspension;

(3) knockout—60-day minimum medical suspension for the first knockout. If a boxer has had two knockouts within 12 months, he will receive a 120-day medical suspension. If he has had three knockouts within 12 months, or three consecutive knockouts, he will be medically disqualified from further competition. In addition to these suspensions, the physician may require neurological testing and consultation at any time;

(4) mandatory rest—all contestants shall receive a minimum mandatory rest period of three days for each round or portion of a round fought in any contest. The ringside physician may recommend longer rest periods. In no event shall the rest period be less than seven days; and

(5) six consecutive losses—a contestant who receives six consecutive losses shall receive an automatic suspension.

(k) Disagreement with medical suspension, or disqualification. If a boxer disagrees with a medical disqualification, medical suspension, or rest period set at the discretion of a ringside physician or a disqualification set by the department, he may request a hearing to show proof of fitness. The hearing shall be provided at the earliest opportunity after the department receives a written request from the boxer or his manager.

(l) Medical disqualifications are as follows.

(1) General. Medical disqualification of a boxer is for his own safety and may be made at the discretion of the department.

(2) Event. Medical disqualification may be made at the discretion of the ringside physician on the date of the event without a hearing.

(m) Contests in other states. The department shall recognize and honor other states' medical suspensions. Any Texas boxer who boxes outside the State of Texas and receives a medical suspension shall report the fight results and medical suspension to the department within 72 hours after the event.

(n) Drugs. The administration or use of any drugs or alcohol either prior to or during a contest is prohibited. Medication administered by a physician may be allowed. The department may order a drug screen at any time. If a drug screen is performed, the boxer or his manager must pay for it.

#### **§76.105. Technical Requirements—Referee.**

(a) Before each bout, the referee shall call the contestants and their chief seconds together for final instructions. The referee shall hold the chief second responsible for his contestant's conduct during the contest. Referees must instruct contestants that wrestling and rough tactics will not be tolerated and to protect themselves at all times. The contestants, after receiving final instructions, shall shake hands and retire to their corners. They shall not shake hands again until the beginning of the last round.

(b) The referee may stop a fight during or between rounds because of an injury or a contestant's poor physical condition. He may also stop a fight and make a decision to disqualify both contestants if he feels they are not boxing in earnest.

(c) When a low blow incapacitates a contestant, the referee shall give him three minutes to recover. The referee may confer with the ringside physician. No contestant may be awarded a contest on a low-blow foul claim. If a contestant falls to the ring floor or otherwise indicates an unwillingness to continue because of a low-blow claim, he shall be declared the loser by a technical knockout.

(d) When a punch knocks a contestant down, the referee shall order the opponent to go to the ring's farthest neutral corner, pointing to the corner, and immediately pick up the timekeeper's count. He shall audibly announce the passing of the seconds, accompanying the count with upward motions of his arm for each second and indicating the count with visual finger counts at the end of each second. The referee shall stop counting if the opponent does not remain in the neutral corner until the count is complete. No contestant who is knocked down shall be allowed to resume boxing until the referee has finished counting to eight. If a contestant who is down rises before the count of eight and goes down again without being struck, the referee shall resume the count where he stopped. When a round, other than the last round, ends before a contestant who was knocked down rises, the bell shall not ring, and the count shall continue. If he rises before the count of eight, the bell shall ring and end the round. The referee's count is the official one.

(e) If a contestant leaves the ring during the one-minute period between rounds and is not in the ring to resume boxing when the bell rings, the referee shall count that contestant out as if he were down.

(f) If a contestant who has been knocked out of the ring or has fallen out of the ring during the contest fails to return immediately, the referee shall count him out as if he were down. Seconds shall not assist contestants back into the ring.

#### **§76.106. Technical Requirements—Judge Scoring.**

(a) A contestant shall be deemed down when:

(1) any part of his body other than his feet is on the ring floor;

(2) he is hanging over the ropes in a defenseless manner; or

(3) he is rising from a down position.

(b) Fouls are defined as:

(1) hitting below the belt;

(2) holding an opponent with one hand and hitting him with the other;

(3) hitting an opponent who is down or is getting up after being down;

(4) holding an opponent or deliberately maintaining a clinch;

(5) butting with the head or shoulder or using the knee;

(6) hitting with the inside or butt of the hand, the wrist, or the elbow;

(7) hitting or "flicking" with open gloves;

(8) wrestling or roughing at the ropes;

(9) purposely going down without being hit;

(10) striking deliberately at the area of the body around the kidneys;

(11) jabbing an opponent's eyes with the thumb of a glove;

(12) using abusive or profane language;

(13) hitting at the back of the head or neck (rabbit punches);

(14) failing to obey the referee; and

(15) engaging in any physical action or contact other than sportsmanlike boxing, which may injure another contestant.

(c) In scoring a contest, the elements of offense, defense, clean hitting, ring generalship, and sportsmanship shall be carefully considered. Scoring shall be by the 10-point must system. The winner of any round is marked 10; the loser is marked nine or less. When a round is even, each contestant shall receive 10 points. A clean knockdown shall be scored heavily. The referee shall call time and then advise the judges of a foul as soon as it occurs and the number of points they should deduct. Referees and judges shall clearly write their decision and sign them individually. A draw shall be called if each of the officials votes differently or any two vote a draw.

(d) When a boxer is knocked down three times in any one round, the contest shall be automatically terminated. The

boxer scoring the knockdowns shall be the winner by a technical knockout. The referee may stop a contest at any time if the boxer cannot defend himself.

(e) If a boxer is accidentally butted in a fight but can continue, the referee shall stop the contest, inform the judges, and acknowledge the butt. If a contest is stopped before the end of the third round because of an accidental butt, the contest shall be declared a technical draw. If after the third round an accidental butt injury occurs or worsens and the contest is stopped, all completed rounds shall be scored. The boxer ahead on points shall be declared the winner by technical decision.

(f) If the contestant who is knocked down does not rise before the count of 10, the referee shall declare him the loser by a knockout.

(g) When a contestant does not answer the bell signifying the start of a round, the referee shall give a ten count and declare him the loser by a technical knockout.

#### *§76.107. Technical Requirements—Timekeeper.*

(a) All professional boxing events shall have three-minute rounds with one-minute rest periods between rounds. The timekeeper shall blow his whistle 10 seconds prior to the end of each one-minute rest period. The timekeeper shall sound the bell at the beginning and at the end of each round, but not during the round.

(b) When a boxer is down, the timekeeper shall rise and start his count, continuing until he reaches the count of 10 seconds.

(c) If the referee is absent from the ring or temporarily incapacitated, the timekeeper shall immediately sound the bell to temporarily discontinue the contest.

(d) The timekeeper shall furnish a department-approved bell and a whistle or buzzer. It must be large enough to make a sound the contestants and the referee can hear.

(e) No one licensed as a timekeeper shall have a financial interest in a boxer.

#### *§76.108. Technical Requirements—Manager.*

(a) The manager or second shall ensure that the contestants use funnels or buckets when washing out their mouths during the bout.

(b) A boxer and manager shall face disciplinary action by the department if any other material or substance is used on the boxer's hand other than that mentioned in §76.101 of this title (relating to Technical Requirements—Ring and Equipment).

(c) Weigh-in requirements are as follows.

(1) The manager or chief second shall accompany the boxer to the weigh-in.

(2) If a boxer is late to weigh-in, the boxer and manager shall be subject to departmental disciplinary action.

(3) If a boxer's body weight at weigh-in is 5.0% or more over his contracted weight, he will be disqualified for the contest, and he and his manager shall be subject to departmental disciplinary action.

(d) Only the boxer, his manager, ringside physician, and department representatives shall be allowed in the examination room during the physical.

(e) The boxer, his manager, or chief second shall furnish all information required by the department, conduct themselves professionally at all times, and cooperate fully with the ringside physician and the department. Failure to do so may result in disqualification of the boxer.

(f) It is the boxer's and manager's joint responsibility to comply with all requirements, including rest periods and medical suspensions/rest period for cuts, technical knockout, and knockout.

(g) A boxer or his manager shall submit a written request for a hearing to show proof of fitness if the boxer disagrees with a medical disqualification, medical suspension, or rest period set at the discretion of a ringside physician or a suspension set by the department.

(h) If a drug screening test is ordered by the department, the boxer or manager shall pay for it.

#### *§76.109. Technical Requirements—Second.*

(a) The manager or chief second shall accompany the boxer to the weigh-in.

(b) The second or manager shall ensure that the contestants use funnels or buckets when washing out their mouths during the bout.

(c) The boxer, his manager, or chief second shall furnish all information required by the department, conduct themselves professionally at all times, and cooperate fully with the ringside physicians and the department. Failure to do so may result in disqualification of the boxer.

#### *§76.110. Technical Requirements—Between-round Care.*

(a) Only one second shall be allowed in the ring with the boxer between rounds, and he shall leave the ring enclosure at the sound of the timekeeper's whistle. Two seconds shall be allowed on the apron. All seconds shall leave the ring platform promptly when the bell sounds for the beginning of each round, removing all obstructions including stools, buckets, and equipment.

(b) Only ice, water, cotton swabs, gauze pads, clean towels, Adrenalin 1:1000,

Avitene, Thrombin, Vaseline or other surgical lubricant, medical diachylon tape, and Enswell shall be allowed in the corner. All containers shall be properly labeled with the manufacturers' label and not contaminated by any foreign substance. The use of unapproved substances shall result in disciplinary action.

(c) Excessive use of any lubricant on the boxer's body, arms, or face is prohibited.

(d) Only water shall be permitted for dehydration of a boxer between rounds. Honey, glucose, or sugar, or any other substance may not be mixed with the water. Electrolyte solutions are prohibited.

(e) When the ringside physician enters a boxer's corner, the second in the ring shall yield immediately to the physician's examination. The department may disqualify a boxer, manager, and/or second for unprofessional conduct in failing to cooperate with the ringside physician.

(f) If a contestant who has been knocked out of the ring or has fallen out of the ring during the contest fails to return immediately, the referee may count him out as if he were down. Seconds shall not assist contestants back into the ring.

(g) When the referee's or judges' decision has been announced, both contestants and their seconds shall leave the ring immediately.

#### *§76.111. Technical Requirements—Boxer.*

(a) Comprehensive medical examination. All boxers applying for a license shall pass a comprehensive medical examination before they can be licensed. The examination has three parts; a medical, boxing history, and a physical examination and EEG. This examination shall be given by a physician and the physician shall report the examination results on a department-approved form. Out-of-state boxers may get the department comprehensive medical examination form and have it completed by a physician. The examining physician may require tests such as CAT scans, MRI, and EKGs. The boxer and manager are jointly responsible for ensuring this examination is completed.

(b) Eye examination. All boxers applying for a license shall undergo a complete medical eye exam by an ophthalmologist and submit the results on a department-approved form. Exams by optometrists do not meet this requirement.

(c) Contracts. Boxers shall fulfill the terms of their contracts. When a contestant fails to appear in accordance with his contract, he shall satisfactorily prove he was ill, had a valid reason for not appearing, or was otherwise prevented from carrying out the agreement. A doctor's certificate shall be required in case of illness. Affidavits are required to support other circumstances.

**§76.112. Technical Requirements-Boxer's Weigh-in and Time Requirements.**

(a) The weigh-in shall take place on the date of the contest at a specific time set by the promoter and approved by the department between the hours of 6 a.m. and 2 p.m. Contestants failing to meet the weight

allowances shown on the schedule in subsection (c) of this section shall have two hours within which to meet the allowances and will be re-weighed.

(b) Every contestant shall undergo a weigh-in physical examination. The pre-

fight medical examinations will be administered at the weigh-in.

(c) No contestants shall engage in a boxing contest where the weigh-in weight difference exceeds the allowance shown in the following schedule.

WEIGHT	ALLOWANCE
112 lbs. or under	3 lbs.
112-118 lbs.	4 lbs.
119-126 lbs.	5 lbs.
127-135 lbs.	6 lbs.
136-147 lbs.	8 lbs.
148-160 lbs.	10 lbs.
161-175 lbs.	12 lbs.
176-190 lbs	15 lbs.
190 lbs. or over	No limit

(d) The manager or chief second shall accompany the boxer to the weigh-in. No boxer shall be weighed-in unless he presents a Texas boxing license.

(e) If a boxer is late to weigh-in, the boxer and manager are subject to departmental disciplinary action.

(f) If a boxer's body weight at weigh-in is 5.0% or more over his contracted weight, he shall be disqualified for the contest, and he and his manager shall be subject to departmental disciplinary action.

(g) Only the boxer, manager, ring-side physician or department representatives shall be allowed in the examination room during the physical.

(h) If, in an attempt to make weight, the boxer shows evidence of dehydration, having taken diuretics, or other drugs, or having used any other harsh modality, the examining physician shall disqualify him and recommend disciplinary action.

(i) The boxer, his manager, or chief second shall furnish all information required by the department, conduct themselves professionally at all times, and cooperate fully with the ringside physician and the department. Failure to do so may result in disqualification of the boxer.

(j) If a boxer's physical examination shows him unfit for competition because of any weakness or disability, the boxer may not participate in a contest. An immediate report of the facts shall be made to the promoter and the department by the manager or boxer.

(k) A boxer and manager shall face disciplinary action by the department if any other material or substance is used on the

boxer's hand other than that mentioned in §76.101 of this title (relating to Technical Requirements-Ring and Equipment).

(l) It is the boxer's and manager's joint responsibility to comply with all requirements, including rest periods and medical suspensions/rest periods for cuts, technical knockout, and knockout.

(m) When the referee's or judges' decision has been announced, both contestants and their seconds shall leave the ring immediately.

**§76.113. Technical Requirements-Medical Disqualifications.**

(a) Termination of contests. The referee, or commissioner may terminate any contest where there is any reason to believe that continuing it might result in serious injury to either boxer. The ringside physician, notwithstanding anything to the contrary herein, may enter the ring during the progress of a contest, or between rounds, and terminate any boxing contest to prevent serious injury to either contestant.

(b) Disagreement with suspension. If a boxer disagrees with a medical disqualification, medical suspension, or rest period set at the discretion of a department ring-side physician or a disqualification set by the department, he may request a hearing to show proof of fitness. The hearing shall be provided at the earliest opportunity after the department receives a written request from the boxer or his manager.

(c) General. Medical disqualification of a boxer is for his own safety and may be made at the discretion of the department after a hearing.

(d) Event. Medical disqualification may be made at the discretion of the examining ringside physician on the date of the contest without a hearing.

(e) Contest in other states. The department shall recognize and honor other states' medical suspensions. Any Texas boxer who boxes outside the State of Texas and receives a medical suspension shall report the fight results and medical suspension to the department within 72 hours of boxing event.

(f) Drugs. The administration or use of any drugs or alcohol either prior to or during a contest is prohibited. Medication administered by a physician may be allowed. The department may order a drug screen at any time. If a drug screen is performed, the boxer or his manager shall pay for it.

**§76.114. Technical Requirements-Post-Contest Procedures.**

(a) Decision. The announcer shall announce the decision at the end of the fight. A draw shall be called if each of the officials votes differently or any two vote a draw. In all contests, the total points the referee and judges give each contestant may be announced.

(b) Change in decision. A decision rendered at the end of any boxing contest shall not be changed unless the department determines that the compilation of the referee's and judges' scorecard shows a clerical or mathematical error which caused the decision to be given to the wrong boxer.

**§76.115. Technical Requirements-Championship Contests.**

(a) National and international. Only championship contests sanctioned by department-recognized sanctioning organizations shall be approved by the department as championship contests. Before championship contests can be advertised, the con-

testants' contracts shall be on file with, and approved by the department.

(b) Rules. In a championship contest held in Texas, the department may approve changes in the rules governing conduct of contests to conform with international rules. A request for such changes shall be submitted to the department in writing at least 48 hours prior to the scheduled date of the contest.

#### §76.116. Technical Requirements—Amateur Contests.

(a) Amateur status. Any club seeking nonprofit amateur tax-exempt status under this law, shall complete a department information form concerning ownership, affiliation, and other relevant information.

(b) Conduct of contests. All amateur contests where an admission fee is charged shall be conducted under the conditions contained in the Texas Boxing and Wrestling Act, §7(c).

(c) Rules. All amateur contests shall be conducted under the rules of the amateur associations, as approved by the department.

(d) Departmental approval. Departmental approval shall be in writing.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112663

Larry E. Kosta  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 463-3127

## TITLE 19. EDUCATION Part II. Texas Education Agency

### Chapter 75. Curriculum

#### Subchapter C. Essential Elements—Grade Seven-Eight

• 19 TAC §§75.41-75.44,  
75.47-75.51

The Texas Education Agency proposes the amendments to §§75.41-75.44, 75.47-75.51, concerning the essential elements—grades seven-eight. The sections are being amended as a result of the five-year curriculum review process, preliminary discussions with the State Board of Education, and changes in content that were included in Proclamations 68, 1991 and 1992. Proclamation 1992 is scheduled to be presented to the board for approval in January 1992.

Dr. Leroy Psencik, division director of general education has determined that for the first five-year period the sections are in effect there will be fiscal implications as a result of enforcing or administering the sections. There will be no fiscal implications for state government. The effect on local government for the first five-year period will be that local school districts will be required to update their curriculum guides. The cost of these updates is probably minimal in some districts, consisting of errata sheets distributed to teachers. Other districts may choose to reproduce entire curriculum guides at a higher cost. As a result of these changes, districts will not be required to fund any new staff position. No new supplemental materials are needed for the teachers since the content is in place in the most recently adopted textbooks. There will be no fiscal implications for small businesses.

Dr. Psencik and Criss Cloudt, director for planning coordination, have 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 assistance to publishers in developing teacher editions with references to the revised essential elements and textbook reviewers in reviewing coverage of the revised essential elements in the textbooks. The revisions will allow school districts sufficient time to update curriculum guides and materials and to plan staff development programs for implementing new textbooks based on the revised essential elements. 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 Criss Cloudt, Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the chapter has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §21.101, which provides the State Board of Education with the authority to adopt rules designating the essential elements for a well-balanced curriculum for state school districts.

#### §75.41. English Language Arts.

(a) English language arts, grade seven (one unit). Essential elements described in this subsection for English language arts, grade seven, shall be superseded by the essential elements described in subsection (h) of this section effective September 1993. English language arts, grade seven, shall include the following essential elements:

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

(b) English language arts, grade eight (one unit). Essential elements described in this subsection for English language arts, grade eight, shall be superseded by the essential elements described in subsection (i) of this section effective September 1993. English lan-

guage arts, grade eight, shall include the following essential elements:

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

(c) Reading, grade seven (one unit). Essential elements described in this subsection for reading, grade seven, shall be superseded by the essential elements described in subsection (j) of this section effective September 1993. Reading, grade seven, shall include the following essential elements:

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

(d) Reading, grade eight (one unit). Essential elements described in this subsection for reading, grade eight, shall be superseded by the essential elements described in subsection (k) of this section effective September 1993. Reading, grade eight, shall include the following essential elements:

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

(e) Reading improvement, grade seven (one unit). Reading improvement, grade seven, shall include the following essential elements.

(1) Determine the meaning of words in oral and written communication. The student shall be provided opportunities to:

(A) develop strategies to decode written language in connected text including structural analysis and contextual clues;

(B) develop strategies to use dictionaries and thesauruses to analyze and produce meaningful communication; and

(C) develop strategies to expand vocabulary, including the use of content area vocabulary and multimeaning words;

(2) Construct implicit and explicit meaning from oral and written communication, including student writing. The student shall be provided opportunities to:

(A) develop and expand language through wide reading;

(B) develop and expand language by listening to text read aloud;

(C) develop and activate background knowledge central to the text;

(D) integrate new information with background knowledge to increase reading and listening comprehension; and

(E) use oral and written composing processes.

(3) Apply listening, speaking, reading, and writing strategies to a variety of purposeful language situations. The student shall be provided opportunities to:

(A) develop fluency through wide reading at an independent level on a daily basis;

(B) develop fluency in writing by writing for a variety of purposes including journal entries, writing in response to written text, writing to summarize, etc., on a daily basis;

(C) experience success in reading, writing, listening, and speaking in order to develop positive attitudes about the language arts;

(D) set an appropriate purpose for reading and/or listening prior to engaging in reading and/or listening activities;

(E) predict, confirm predictions about text and/or reread to modify predictions;

(F) understand events in sequential order, determine the main ideas and supporting details, predict probable future outcomes or actions, distinguish between fact and nonfact, recognize points of view, recognize forms of propaganda, make inferences and draw conclusions, perceive cause and effect relationships, summarize written text, and evaluate and make judgments and generalizations based on an analysis of information provided in the text by producing oral and written texts;

(G) respond to text or to a speaker by writing to extend ideas;

(H) read flexibly by adjusting reading rate according to purpose including reading for pleasure, reading for information, and reading to monitor understanding of text; and

(I) read text presented or formatted in a variety of ways including interpreting graphic sources and life skills materials, following complex written directions, and using reader aids such as bold faced headings and italics.

(4) Apply a variety of study strategies to practical situations including materials and assignments from other classes in which students are enrolled.

The student shall be provided opportunities to:

(A) use library resources;

(B) develop strategies for note taking in a variety of contexts;

(C) use a variety of study techniques including skimming, scanning, surveying, and reviewing;

(D) use a variety of strategies for time management and organization of materials; and

(E) develop strategies for test taking in a variety of contexts.

[(1) Word attack skills to decode written language. The student shall be provided opportunities to:

[(A) apply phonic analysis;

[(B) use contextual clues;

[(C) use structural analysis; and

[(D) use the dictionary as a key to pronunciation.

[(2) Vocabulary development to understand written materials. The student shall be provided opportunities to:

[(A) choose appropriate meaning of multimeaning words; and

[(B) expand vocabulary in content areas.

[(3) Comprehension skills to gain meaning from whatever is read. The student shall be provided opportunities to:

[(A) select the directly stated or implied main idea in paragraphs and in longer selections;

[(B) recognize specific facts and details supporting the main idea;

[(C) arrange events in sequential order;

[(D) make inferences and draw conclusions;

[(E) distinguish between fact and opinion;

[(F) perceive cause and effect relationships; and

[(G) predict probable future outcomes or actions.

[(4) Reading skills applied to a variety of practical situations. The student shall be provided opportunities to:

[(A) follow a set of written directions;

[(B) use a card catalog and standard library references;

[(C) use parts of a book; and

[(D) use graphic sources: charts, graphs, maps, diagrams.]

(f) Reading improvement, grade eight (one unit). Reading improvement, grade eight, shall include the following essential elements.

(1) Determine the meaning of words in oral and written communication. The student shall be provided opportunities to:

(A) develop strategies to decode written language in connected text including structural analysis and contextual clues;

(B) develop strategies to use dictionaries and thesauruses to analyze and produce meaningful communication; and

(C) develop strategies to expand vocabulary, including the use of content area vocabulary and multimeaning words.

(2) Construct implicit and explicit meaning from oral and written communication, including student writing. The student shall be provided opportunities to:

(A) develop and expand language through wide reading;

(B) develop and expand language by listening to text read aloud;

(C) develop and activate background knowledge central to the text;

(D) integrate new information with background knowledge to increase reading and listening comprehension; and

(E) use oral and written composing processes.

(3) Apply listening, speaking, reading, and writing strategies to a variety of purposeful language situations. The student shall be provided opportunities to:

(A) develop fluency through wide reading at an independent level on a daily basis;

(B) develop fluency in writing by writing for a variety of purposes including journal entries, writing in response to written text, writing to summarize, etc., on a daily basis;

(C) experience success in reading, writing, listening, and speaking in order to develop positive attitudes about the language arts;

(D) set an appropriate purpose for reading and/or listening prior to engaging in reading and/or listening activities;

(E) predict, confirm predictions about text and/or reread to modify predictions;

(F) understand events in sequential order, determine the main ideas and supporting details, predict probable future outcomes or actions, distinguish between fact and nonfact, recognize points of view, recognize forms of propaganda, make inferences and draw conclusions, perceive cause and effect relationships, summarize written text, and evaluate and make judgments and generalizations based on an analysis of information provided in the text by producing oral and written texts;

(G) respond to text or to a speaker by writing to extend ideas;

(H) read flexibly by adjusting reading rate according to purpose including reading for pleasure, reading for information, and reading to monitor understanding of text; and

(I) read text presented or formatted in a variety of ways including interpreting graphic sources and life skills materials, following complex written directions, and using reader aids such as bold faced headings and italics.

(4) Apply a variety of study strategies to practical situations including materials and assignments from other classes in which students are enrolled. The student shall be provided opportunities to:

(A) use library resources;

(B) develop strategies for note taking in a variety of contexts;

(C) use a variety of study techniques including skimming, scanning, surveying, and reviewing;

(D) use a variety of strategies for time management and organization of materials; and

(E) develop strategies for test taking in a variety of contexts.

[(1) Word attack skills to decode written language. The student shall be provided opportunities to:

[(A) demonstrate basic word attack skills: phonic analysis, structural analysis, contextual clues; and

[(B) use the dictionary as a key to pronunciation: phonetic respelling, syllabication, accents.

[(2) Vocabulary development to understand written materials. The student shall be provided opportunities to:

[(A) select the appropriate meaning of multimeaning words; and

[(B) recognize vocabularies associated with a variety of content areas.

[(3) Comprehension skills to gain meaning from whatever is read. The student shall be provided opportunities to:

[(A) identify the implied main idea;

[(B) choose supporting facts and details;

[(C) arrange events in sequential order;

[(D) perceive cause and effect relationships;

[(E) summarize and make generalizations; and

[(F) analyze information and make judgments on the basis of information given.

[(4) Reading skills applied to a variety of practical situations. The student shall be provided opportunities to:

[(A) follow written directions including substeps;

[(B) use various parts of a book: chapter headings, marginal notes, footnotes, appendices;

[(C) interpret graphic materials: diagrams, graphs, charts, maps, globes, schedules; and

[(D) use reference materials: dictionaries, encyclopedias, catalogs, almanacs, periodicals, newspapers.]

(g) Speech, grades seven and/or eight (one-half-one unit). Essential elements described in this subsection for speech, grades seven and/or eight, shall be superseded by the essential elements described in subsection (I) of this section effective September 1994. Speech, grades seven and/or eight, shall include the following essential elements:

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

(h) English language arts, grade seven (one unit). Essential elements for English language arts, grade seven, as described in this subsection shall be effective September 1993. English language arts, grade seven, shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts.

(1) Integrated listening and speaking behaviors to receive and produce meaning. The student shall be presented opportunities to:

(A) listen attentively in different settings for a variety of purposes:

(i) focus attention on and listen to both adult and peer speakers during large and small group interactions;

(ii) listen to receive direction, gain information, and enhance appreciation of language;

(iii) respond to a speaker by retelling what was heard, by asking questions, and/or by contributing information; and

(iv) analyze and evaluate the intent and content of the speaker's message; and

(B) speak fluently in different settings for a variety of purposes and audiences:

(i) use a variety of words to convey meaning;

(ii) describe personal ideas, feelings, and experiences;

(iii) entertain others with stories, poems, and dramatic activities;

(iv) give directions;

(v) share information;

(vi) persuade others using language appropriate to the listener; and

(vii) develop skill in using the conventions of English to produce effective oral communication.

(2) Integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both written and oral compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes;

(B) use materials from a variety of sources such as personal experience and a variety of literary forms;

(i) use various composition models as aids in developing writing skills; and

(ii) use aural and visual stimuli for writing;

(C) synthesize information from a variety of sources;

(D) use a variety of idea-generating strategies;

(E) select and narrow a topic for a specific purpose;

(F) write first drafts of compositions in a variety of formats for specific audiences and purposes in a variety of modes, including practical writing:

(i) write for expressive, informative, persuasive, and literary purposes;

(ii) use narrative, descriptive, classificatory, and evaluative modes;

(iii) write paragraphs, multi-paragraph compositions, and compositions synthesizing information from various sources; and

(iv) demonstrate clear and logical thinking in support and development of a central idea;

(G) revise compositions using a variety of techniques including self-assessment, peer interaction, and conferences;

(i) revise content, organization, and topic development to address the purpose and audience effectively;

(ii) revise for effective word choice, including the appropriate use of formal and informal writing, transition, and clarity of language to convey intended meaning;

(iii) revise by combining sentence parts and sentences to produce a variety of sentence structures, including simple, compound, and complex, to convey intended meanings;

(iv) proofread final drafts for effective use of language; conventional usage and syntax; appropriate transition; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility; and

(v) evaluate one's own writing as well as that of others;

(H) share products of written composition in a variety of ways; and

(I) use technology to enhance the written and oral composing processes.

(3) Integrated literature and reading concepts and strategies using a variety of literary forms (genres) and other meaningful forms of print. The student shall be provided opportunities to:

(A) understand and analyze the major differences among poems, short stories, plays, and nonfiction as the characteristics of each genre contribute to the meaning of the individual work;

(B) understand and analyze setting, characterization, plot, and author's purpose and point of view;

(C) understand figurative language and sound devices as they contribute to meaning;

(D) develop literary appreciation:

(i) select books for individual needs and interests;

(ii) respond to various forms of literature representing the diversity of our cultural and literary heritage; and

(iii) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(E) expand vocabulary including specialized vocabularies:

(i) use context and structural analysis to understand the meaning of words; and

(ii) choose appropriate meanings of multimeaning words;

(F) use comprehension strategies to construct meaning from text:

(i) set an appropriate purpose for reading and/or listening prior to engaging in reading and/or listening activities;

(ii) develop literal meaning through recognition of details and sequential order;

(iii) develop global meaning by analyzing a piece of text to identify the stated or implied main idea and to develop a summary;

(iv) develop inferential meaning by analyzing a variety of texts, including literature, using strategies such as determining cause and effect, predicting outcomes and future actions, and drawing conclusions;

(v) evaluate a variety of texts, including literature, using strategies such as distinguishing fact from opinion, making generalizations, and recognizing persuasive techniques;

(vi) identify the author's point of view and purpose; and

(vii) compare and contrast points of view on the same topic; and

(G) develop and use study strategies:

(i) follow written directions;

(ii) locate information using parts of a book;

(iii) locate information using the dictionary, encyclopedia and other library references, including database searching strategies;

(iv) use and interpret graphic sources in meaningful context;

(v) prepare for subject area assignments;

(vi) adjust the method and rate of reading to the purpose of the material; and

(vii) develop note-taking and test-taking strategies in a variety of contexts.

(I) English language arts, grade eight (one unit). Essential elements for English language arts, grade eight, as described in this subsection shall be effective September 1993. English language arts, grade eight, shall include the follow-

ing essential elements which include recursive processes as well as products within integrated strands of English language arts.

(1) Integrated listening and speaking behaviors to receive and produce meaning. The student shall be presented opportunities to:

(A) listen attentively in different settings for a variety of purposes:

(i) focus attention on and listen to both adult and peer speakers during large and small group interactions;

(ii) listen to receive direction, gain information, and enhance appreciation of language;

(iii) respond to a speaker by retelling what was heard, by asking questions, and/or by contributing information; and

(iv) analyze and evaluate the intent and content of the speaker's message; and

(B) speak fluently in different settings for a variety of purposes and audiences:

(i) use a variety of words to convey meaning;

(ii) describe personal ideas, feelings, and experiences;

(iii) entertain others with stories, poems, and dramatic activities;

(iv) give directions;

(v) share information;

(vi) persuade others using language appropriate to the listener; and

(vii) develop skill in using the conventions of English to produce effective oral communication.

(2) Integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both written and oral compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes;

(B) use materials from a variety of sources such as personal experience and a variety of literary forms;

(i) use various composition models as aids in developing writing skills; and

(ii) use aural and visual stimuli for writing;

(C) synthesize information from a variety of sources;

(D) use a variety of idea-generating strategies;

(E) select and narrow a topic for a specific purpose;

(F) write first drafts of compositions in a variety of formats for specific audiences and purposes in a variety of modes including practical writing:

(i) write for expressive, informative, persuasive, and literary purposes;

(ii) use narrative, descriptive, classificatory, and evaluative modes;

(iii) write paragraphs, multi-paragraph compositions, and compositions synthesizing information from various sources; and

(iv) demonstrate clear and logical thinking in support and development of a central idea;

(G) revise compositions using a variety of techniques including self-assessment, peer interaction, and conferences:

(i) revise content, organization, and topic development to address the purpose and audience effectively;

(ii) revise for effective word choice, including the appropriate use of formal and informal writing, transition, and clarity of language to convey intended meaning;

(iii) revise by combining sentence parts and sentences to produce a variety of sentence structures, including simple, compound, and complex, to convey intended meanings;

(iv) proofread final drafts for effective use of language; conventional usage and syntax; appropriate transition; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility; and

(v) evaluate one's own writing as well as that of others;

(H) share products of written composition in a variety of ways; and

(I) use technology to enhance the written and oral composing processes.

(3) Integrated literature and reading concepts and strategies using a variety of literary forms (genres) and other meaningful forms of print. The student shall be provided opportunities to:

(A) understand and analyze the major differences among poems, short stories, plays, and nonfiction as the characteristics of each genre contribute to the meaning of the individual work;

(B) understand and analyze setting, characterization, plot, mood, and author's purpose and point of view;

(C) understand figurative language and sound devices as they contribute to meaning;

(D) develop literary appreciation:

(i) select books for individual needs and interests;

(ii) respond to various forms of literature representing the diversity of our cultural and literary heritage; and

(iii) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(E) expand vocabulary by including specialized vocabularies:

(i) use context and structural analysis to understand the meaning of words; and

(ii) choose appropriate meanings of multimeaning words;

(F) use comprehension strategies to construct meaning from text:

(i) set an appropriate purpose for reading and/or listening prior to engaging in reading and/or listening activities;

(ii) develop literal meaning through recognition of details and sequential order;

(iii) develop global meaning by analyzing a piece of text to identify the stated or implied main idea and to develop a summary;

(iv) develop inferential meaning by analyzing a variety of texts, including literature, using strategies such as determining cause and effect, predicting outcomes and future actions, and drawing conclusions;

(v) evaluate a variety of texts, including literature, using strategies such as distinguishing fact from



opinion, making generalizations, and recognizing persuasive techniques;

(vi) identify the author's point of view and purpose; and

(vii) compare and contrast points of view on the same topic; and

(G) develop and use study strategies:

(i) follow written directions;

(ii) locate information using parts of a book;

(iii) locate information using the dictionary, encyclopedia, and other library references including data base searching strategies;

(iv) use and interpret graphic sources in meaningful context;

(v) prepare for subject area assignments;

(vi) adjust the method and rate of reading to the purpose of the material; and

(vii) develop note-taking and test-taking strategies in a variety of contexts.

(j) Reading, grade seven (one unit). Essential elements for reading, grade seven, as described in this subsection shall be effective September 1993. Reading, grade seven, shall include the following essential elements.

(1) Integrated listening and speaking behaviors to receive and produce meaning. The student shall be presented opportunities to:

(A) listen attentively in different settings for a variety of purposes:

(i) focus attention on and listen to both adult and peer speakers during large and small group interactions;

(ii) listen to receive direction, gain information, and enhance appreciation of language;

(iii) respond to a speaker by retelling what was heard, by asking questions, and/or contributing information; and

(iv) analyze and evaluate the intent and content of the speaker's message; and

(B) speak fluently in different settings for a variety of purposes and audiences:

(i) use a variety of words to convey meaning;

(ii) describe personal ideas, feelings, and experiences;

(iii) entertain others with stories, poems, and dramatic activities;

(iv) give directions;

(v) share information;

(vi) persuade others using language appropriate to the listener; and

(vii) develop skill in using the conventions of English to produce effective oral communication.

(2) Construct meaning. The student shall be presented opportunities to:

(A) expand vocabulary including specialized vocabularies:

(i) use context to understand the meaning of words; and

(ii) choose appropriate meanings of multimeaning words;

(B) use comprehension strategies to construct meaning from text:

(i) develop literal meaning through recognition of relevant details and sequential order;

(ii) develop global meaning by analyzing a piece of text to identify the stated or implied main idea and to develop a summary;

(iii) develop inferential meaning by analyzing literature using strategies such as determining cause and effect, predicting outcomes, and drawing conclusions;

(iv) evaluate literature using strategies such as distinguishing fact from opinion, making generalizations, recognizing forms of propaganda and persuasive techniques; and

(v) identify the author's point of view and purpose;

(C) develop and use study strategies:

(i) follow written directions;

(ii) locate information using parts of a book;

(iii) locate information using the dictionary, encyclopedia, and other library references, including data base searching strategies;

(iv) use and interpret graphic sources;

(v) prepare for subject area assignments;

(vi) adjust the method and rate of reading to the purpose and type of material; and

(vii) develop note-taking and test-taking strategies in a variety of contexts; and

(D) develop literary appreciation:

(i) select books for individual needs and interests;

(ii) respond to various forms of literature representing the diversity of our cultural and literary heritage;

(iii) understand and analyze setting, characterization, story line, author's technique, and point of view to gain meaning; and

(iv) understand sound devices and figurative language as they contribute to meaning.

(3) Construct implicit and explicit meaning from oral and written communication, including student writing. The student shall be presented opportunities to:

(A) develop fluency through wide reading at an independent level on a daily basis;

(B) develop fluency in writing by writing for a variety of purposes including journal entries, writing in response to written text, writing to summarize, etc., on a daily basis;

(C) experience success in reading, writing, listening, and speaking in order to develop positive attitudes about the language arts;

(D) set an appropriate purpose for reading and/or listening prior to engaging in reading and/or listening activities; and

(E) respond to text or to a speaker by writing to extend ideas.

(k) Reading, grade eight (one unit). Essential elements for reading, grade eight, as described in this subsection shall be effective September 1993. Reading, grade eight, shall include the following essential elements.

(1) Integrated listening and speaking behaviors to receive and produce meaning. The student shall be presented opportunities to:

(A) listen attentively in different settings for a variety of purposes:

(i) focus attention on and listen to both adult and peer speakers during large and small group interactions;

(ii) listen to receive direction, gain information, and enhance appreciation of language;

(iii) respond to a speaker by retelling what was heard, by asking questions, and/or contributing information; and

(iv) analyze and evaluate the intent and content of the speaker's message; and

(B) speak fluently in different settings for a variety of purposes and audiences:

(i) use a variety of words to convey meaning;

(ii) describe personal ideas, feelings, and experiences;

(iii) entertain others with stories, poems, and dramatic activities;

(iv) give directions;

(v) share information;

(vi) persuade others using language appropriate to the listener; and

(vii) develop skill in using the conventions of English to produce effective oral communication.

(2) Construct meaning. The student shall be presented opportunities to:

(A) expand vocabulary including specialized vocabularies:

(i) use context to understand the meaning of words; and

(ii) choose appropriate meanings of multimeaning words;

(B) use comprehension strategies to construct meaning from text:

(i) develop literal meaning through recognition of relevant details and sequential order;

(ii) develop global meaning by analyzing a piece of text to identify the stated or implied main idea and to develop a summary;

(iii) develop inferential meaning by analyzing literature using strategies such as determining cause and effect, predicting outcomes and future actions, and drawing conclusions;

(iv) evaluate literature using strategies such as distinguishing fact from opinion, making generalizations, recognizing forms of propaganda and persuasive techniques; and

(v) identify the author's point of view and purpose;

(C) develop and use study strategies:

(i) follow written directions;

(ii) locate information using parts of a book;

(iii) locate information using the dictionary, encyclopedia, and other library references, including data base searching strategies;

(iv) use and interpret graphic sources;

(v) prepare for subject area assignments;

(vi) adjust the method and rate of reading to the purpose and type of material; and

(vii) develop note-taking and test-taking strategies in a variety of contexts; and

(D) develop literary appreciation:

(i) select books for individual needs and interests;

(ii) respond to various forms of literature representing the diversity of our cultural and literary heritage;

(iii) understand and analyze setting, characterization, story line, mood, and author's purpose and point of view;

(iv) understand sound devices and figurative language as they contribute to meaning; and

(v) recognize the basic types of characteristics of nonfiction.

(3) Integrated listening, speaking, reading, and writing strategies applied to a variety of purposeful language situations. The student shall be presented opportunities to:

(A) develop fluency through wide reading at an independent level on a daily basis;

(B) develop fluency in writing by writing for a variety of purposes including journal entries, writing in response to written text, writing to summarize, etc., on a daily basis;

(C) experience success in reading, writing, listening, and speaking in order to develop positive attitudes about the language arts;

(D) set an appropriate purpose for reading and/or listening prior to

engaging in reading and/or listening activities; and

(E) respond to text or to a speaker by writing to extend ideas.

(I) Speech, grades seven and/or eight (one-half-one unit). Essential elements for speech, grade seven and/or eight, as described in this subsection shall be effective September 1994. Speech, grades seven and/or eight, shall include the following essential elements.

(1) The competent communicator. The student shall be provided opportunities to:

(A) demonstrate awareness of the importance of communication in social, academic, citizenship, and occupational roles;

(B) demonstrate awareness of the basic components of the communication process and their inter-relatedness;

(C) demonstrate awareness of the basic components of the listening process and their inter-relatedness;

(D) demonstrate awareness of the process for building self-esteem by examining personal uniqueness;

(E) demonstrate awareness of how personal perception of self and others impacts communication;

(F) demonstrate awareness of the role of individual needs and values in determining communication choices;

(G) demonstrate awareness of the importance of exercising personal responsibility in making communication choices; and

(H) demonstrate awareness of the importance of verbal, nonverbal, and listening skills for developing communication effectiveness.

(2) The competent communicator-informing. The student shall be provided opportunities to:

(A) demonstrate skill in interpersonal conversations for the purpose of requesting, providing, and acting upon information;

(B) demonstrate competence in gathering, recording, organizing, evaluating, and using information from a variety of primary and secondary sources for meeting personal needs; participating

in interviews, conversations, and discussions; presenting speeches; and evaluating information given by others;

(C) demonstrate competence in verbal, nonverbal, and listening skills by participating in interviews and group discussions for the purpose of imparting information to an audience;

(D) demonstrate competence in public communication by preparing, organizing, writing, and adapting notes for an informative speech;

(E) demonstrate competence in using effective rehearsal techniques to reduce communication apprehension, build self-confidence, and facilitate command of ideas and information;

(F) demonstrate effective use of verbal and nonverbal behaviors in presenting speeches;

(G) demonstrate effective use of critical listening skills in responding to speeches; and

(H) demonstrate awareness of effective skills in listening and notetaking for academic achievement.

(3) The competent communicator—expressing and responding to feelings. The student shall be provided opportunities to:

(A) demonstrate skills in describing feelings related to a variety of intrapersonal and interpersonal situations;

(B) demonstrate skills in empathic listening by responding appropriately to feelings of others in interpersonal and group situations;

(C) demonstrate effective verbal and nonverbal strategies for expressing agreement or disagreement in interpersonal and group situations;

(D) demonstrate skills for public expression of feelings by giving a speech on a topic of personal interest or concern; and

(E) demonstrate skills in empathic and recreational listening and responding by describing personal responses to class, public, or media presentations of speeches or other types of performances.

(4) The competent communal-participating in social rituals. The student shall be provided opportunities to:

(A) demonstrate awareness of the importance of social ritual to human interaction;

(B) demonstrate skills in a variety of interpersonal rituals such as making and acknowledging introductions, making and receiving telephone calls, and giving and accepting praise and criticism;

(C) demonstrate skill in conducting and/or participating in a group meeting through the use of parliamentary procedure;

(D) demonstrate skill in participating in public rituals such as introducing a speaker, presenting or accepting an award, or extending a welcome or farewell;

(E) demonstrate skill in a public ritual by making a speech for a special occasion; and

(F) demonstrate awareness of standards for public ritual by reporting responses to appropriate class, public, or media speeches or ceremonies.

(5) The competent communicator—persuading. The student shall be provided opportunities to:

(A) demonstrate skill for persuading in a variety of interpersonal situations such as accepting or rejecting peer pressure and making and responding to requests or commands;

(B) demonstrate verbal, nonverbal, and listening skills by participating in group discussion and activity for resolving issues and solving problems;

(C) demonstrate skills in analyzing various kinds of proofs, appeals, and language strategies used for persuading;

(D) demonstrate skill in persuading through the preparation and presentation of a persuasive speech;

(E) demonstrate skill in persuading through participation in informal or formal debate focused on contemporary controversial issues; and

(F) demonstrate skill in critical listening by analyzing, evaluating,

and responding to class presentations, public speeches, or media or advertising presentations.

(6) The competent communicator—imagining. The student shall be provided opportunities to:

(A) demonstrate skills in explaining or predicting outcomes or solving problems based on intrapersonal/interpersonal situations;

(B) demonstrate verbal and nonverbal skills to tell folk or original stories to an audience;

(C) demonstrate skill in interpreting literature by selecting, analyzing, adapting, and performing prose, poetry, and/or dramatic selections as an individual or group; and

(D) demonstrate skills in critical and appreciative listening by reporting personal responses to class, public, or media performances of literature.

*§75.42. Other Languages.* School districts are strongly encouraged to offer other languages in grades seven and eight [to the extent possible]. For districts which offer other languages in grades seven and/or [-] eight (one-two [two] units), the essential elements shall be those designated as Levels I, [or] II, III, and exploratory languages (one-half-one unit) in §75.62 of this title (relating to Other Languages). Districts may offer a level of a language in a two-year sequence or during one year when careful consideration is given to the language ability of students and the instructional time available on a campus.

*§75.43. Mathematics.*

(a) Mathematics, grade seven (one unit). Mathematics, grade seven, shall include the following essential elements.

(1) Problem solving—Experience in solving problems designed to systematically develop students' problem-solving abilities through a variety of strategies and approaches. The student shall be provided opportunities to engage in the following types of activities:

(A) develop an organized approach to solving application and nonroutine problems appropriate for grade seven;

(B) analyze problems by identifying relationships, discriminating relevant from irrelevant information, sequencing, observing patterns, prioritizing, and questioning;

(C) communicate an understanding of a problem by describing and discussing the problem and recording the relevant information;

(D) select appropriate strategies from a variety of approaches;

(E) select appropriate materials and methods for solutions; and

(F) generate and extend problems.

(2) Patterns, relations, and functions—use of models and patterns to develop the algebraic concepts of relations and functions. The student shall be provided opportunities to:

(A) investigate patterns generated by repeating and terminating decimals;

(B) build a concrete model of a functional relationship and describe the relationship using function notation;

(C) introduce the concept of using letters to represent variables;

(D) develop the concept of operations with variables using concrete materials as models;

(E) investigate solutions to simple open sentences (equalities and inequalities);

(F) evaluate algebraic expressions using mental calculations and calculators when appropriate; and

(G) formulate a possible problem when given a simple equation.

(3) Number and numeration concepts—concepts and skills associated with the understanding of numbers and the place value system. The student shall be provided opportunities to:

(A) convert between fractions, decimals, whole numbers, and percents mentally, on paper, and with a calculator;

(B) compare and order integers;

(C) explore the absolute value of an integer;

(D) simplify expressions involving exponents using a calculator when appropriate;

(E) develop the meaning of squares and square roots using geometric models; and

(F) express numbers in scientific notation including numbers less than one using a calculator when appropriate.

(4) Operations and computation—use of manipulatives to develop the concepts of basic operations on numbers and to apply these concepts to the computational algorithms. The student shall be provided opportunities to:

(A) select an appropriate operation and/or strategy to solve a problem and justify the selection;

(B) use the order of operations to solve multi-step problems using a calculator when appropriate;

(C) add, subtract, multiply, and divide fractions and mixed numbers resulting from problem situations;

(D) add, subtract, multiply, and divide integers resulting from problem situations using models and connecting to rules;

(E) write and solve a simple inequality resulting from a problem situation and graph the solution on a number line;

(F) write and solve simple linear equations from problem situations and check the reasonableness of the results;

(G) use proportions to solve a variety of problems; and

(H) estimate solutions to problems using decimals and percent.

(5) Measurement—concepts and skills using metric and customary units. The student shall be provided opportunities to:

(A) investigate the relationship between the perimeter and the area of a polygon;

(B) develop the concept of volume for prisms/cylinders as the product of the area of the base and the height, using models;

(C) develop the concept of volume for cones/pyramids as one-third

the product of the area of the base and the height, using models;

(D) explore surface area of three-dimensional figures using concrete models and graphing technology when appropriate;

(E) estimate and solve application and nonroutine problems involving volume; and

(F) explore the relationships between the dimensions and the volumes of similar solids by changing one of the dimensions.

(6) Geometry—properties and relationships of geometric shapes and their applications. The student shall be provided opportunities to:

(A) identify parts and characteristics of common geometric figures;

(B) develop the concept of the Pythagorean Theorem using several different approaches;

(C) classify triangles and quadrilaterals by sides and angles;

(D) construct an angle bisector, the bisector of a segment, perpendicular lines, parallel lines, and triangles;

(E) construct a model of a three-dimensional figure when given the top, side, and front views;

(F) use the properties and relationships of two- and three-dimensional figures to solve problems; and

(G) apply geometry to such areas as art, architecture, construction, etc.

(7) Probability, statistics, and graphing—use of probability and statistics to collect and interpret data. The student shall be provided opportunities to:

(A) compare different graphic representations of the same data to determine the appropriateness of the graph;

(B) use box and whisker graphs, stem and leaf plots, and histograms to display information in ways that illustrate the appropriate uses of mean, median, and mode;

(C) draw inferences and construct convincing arguments based on data analysis;

(D) investigate and recognize misuses of statistical or numeric information;

(E) construct sample spaces by using listing, tree diagrams, and frequency distribution tables;

(F) find the probability of simple events; and

(G) use permutations and combinations in application problems.

[(1) Concepts and skills associated with the understanding of numbers (whole, integer, and rational) and the place-value system. The student shall be provided opportunities to:

[(A) investigate the history of numeration systems;

[(B) round whole numbers and decimals;

[(C) use scientific notation;

[(D) factor (primes and composites);

[(E) find the least common multiple;

[(F) find the greatest common factor;

[(G) use fractions, decimals, ratio, and percent;

[(H) use integers; and

[(I) use exponential notation.

[(2) The basic operations on numbers (addition, subtraction, multiplication, division), their properties, and their uses. The student shall be provided opportunities to:

[(A) add, subtract, multiply, and divide rational numbers; and

[(B) use exponents.

[(3) Experience in solving problems by selecting and matching strategies to given situations. The student shall be provided opportunities to:

[(A) estimate solutions;

[(B) solve simple linear equations and inequalities;

[(C) use basic operations;

[(D) apply geometric concepts;

[(E) use denominate numbers in problem solving;

[(F) use proportion and percent; and

[(G) practice skills in personal finance.

[(4) Measurement concepts and skills using metric and customary units. The student shall be provided opportunities to:

[(A) use metric and customary units;

[(B) convert within the metric system;

[(C) determine perimeter and circumference;

[(D) find area, surface area, and volume; and

[(E) apply skills.

[(5) Properties and relationships of geometric shapes and their applications. The student shall be provided opportunities to:

[(A) use points to define lines, rays, angles, and planes;

[(B) understand properties and definitions of two- and three-dimensional figures;

[(C) use similarity, congruence, and symmetry;

[(D) construct geometric figures; and

[(E) apply skills.

[(6) The representation of numbers on a line and pairs of numbers on a coordinate plane. The student shall be provided opportunities to:

[(A) graph on a coordinate plane:

[(i) similar figures;

[(ii) reflection images;

and

[(iii) linear equations; and

[(B) apply skills.

[(7) The use of probability and statistics to collect and interpret data. The student shall be provided opportunities to:

[(A) use frequency distributions;

[(B) find the mean, median, and mode;

[(C) interpret and construct charts and graphs;

[(D) use simple event probability; and

[(E) apply skills.

[(8) Investigating the use of computing devices and their capabilities. The student shall be provided opportunities to use calculators and/or computers to solve mathematics problems.]

(b) Mathematics, grade eight (one unit). Mathematics, grade eight, shall include the following essential elements.

(1) Problem solving—experience in solving problems designed to systematically develop students' problem-solving abilities through a variety of strategies and approaches. The student shall be provided opportunities to engage in the following types of activities:

(A) develop an organized approach to solving application and nonroutine problems appropriate for grade eight;

(B) analyze problems by identifying relationships, discriminating relevant from irrelevant information, sequencing, observing patterns, prioritizing, and questioning;

(C) communicate an understanding of a problem by describing and discussing the problem and recording the relevant information;

(D) select appropriate strategies from a variety of approaches;

(E) select appropriate materials and methods for solutions; and

(F) generate and extend problems.

(2) Patterns, relations, and functions—use of models and patterns to develop the algebraic concepts of rela-

tions and functions. The student shall be provided opportunities to:

(A) use patterns to develop the concept of negative exponents;

(B) extend function notation from concrete models to graphic representations;

(C) generate ordered pairs with and without a calculator to graph linear equations;

(D) investigate compound statements as they apply to simple reasoning situations (and, or, if, if not); and

(E) extend the investigation of number patterns such as those found in Pascal's triangle and the Fibonacci sequence.

(3) Number and numeration concepts—concepts and skills associated with the understanding of numbers and the place value system. The student shall be provided opportunities to:

(A) extend scientific notation to numbers with a wide range of values using a calculator when appropriate;

(B) compare and order rational numbers;

(C) apply the concept of significant digits to solving problems with a calculator;

(D) investigate irrational numbers and their representations on a calculator as they arise from problem situations;

(E) describe the properties of terminating, repeating, and non-repeating decimals and convert between fractions and decimals; and

(F) extend basic number concepts and properties to algebraic applications.

(4) Operations and computation—use of manipulatives to develop the concepts of basic operations on numbers and to apply these concepts to the computational algorithms. The student shall be provided opportunities to:

(A) select an appropriate operation and/or strategy to solve a problem and justify the selection;

(B) estimate and solve application problems involving percent;

(C) add, subtract, multiply, and divide rational numbers in problem situations;

(D) estimate and solve application problems by writing and solving simple linear equations; and

(E) solve linear equations and inequalities with integer, fraction, and decimal solutions.

(5) Measurement—concepts and skills using metric and customary units. The student shall be provided opportunities to:

(A) estimate and solve application and nonroutine problems involving surface area and volume;

(B) solve right triangle problems using the Pythagorean theorem, indirect measurement, and the properties of 30-60-90 and 45-45-90 triangles;

(C) use precision and relative error, given the degree of accuracy required and the nature of a particular problem situation;

(D) use the concept of volume for prisms/cylinders as the product of the area of the base and the height; and

(E) use the concept of volume for cones/pyramids as one-third the product of the area of the base and the height.

(6) Geometry—properties and relationships of geometric shapes and their applications. The student shall be provided opportunities to:

(A) find the missing parts of similar figures;

(B) investigate the relationships between angles formed when parallel lines are cut by a transversal using graphing technology when appropriate;

(C) use a variety of methods to perform basic constructions;

(D) construct a geometric figure congruent to a given figure;

(E) draw three-dimensional figures from different perspectives;

(F) graph similar figures, reflections, translations, linear equations, and linear inequalities on a coordinate plane; and

(G) use geometry to solve problems in such areas as art, architecture, construction, etc.

(7) Probability, statistics, and graphing—use of probability and statistics to collect and interpret data. The student shall be provided opportunities to:

(A) understand and apply reasoning with proportions in problem situations;

(B) select an appropriate format for presenting collected data;

(C) evaluate arguments based on data analysis;

(D) find the probability of simple and compound events;

(E) use mathematical probabilities and experimental results for making predictions and decisions; and

(F) investigate bias to determine validation of an inference made from a set of data.

[(1) Concepts and skills associated with the understanding of numbers (whole, integer, and rational) and the place-value system. The student shall be provided opportunities to:

[(A) use exponential notation;

[(B) round whole numbers and decimals;

[(C) determine significant digits;

[(D) use scientific notation;

[(E) factor;

[(F) use ratio and percent; and

[(G) use integers.

[(2) The basic operations on numbers (addition, subtraction, multiplication, division), their properties and their uses. The student shall be provided opportunities to:

[(A) demonstrate rational number properties;

[(B) add, subtract, multiply, and divide rational numbers; and

[(C) find the absolute value.

[(3) Experience in solving problems by selecting and matching strategies to given situations. The student shall be provided opportunities to:

[(A) estimate solutions;

[(B) write and solve equations;

[(C) solve problems using denominate numbers;

[(D) apply geometric concepts;

[(E) apply proportion and percent;

[(F) use graphs;

[(G) use probability and statistics; and

[(H) practice skills in personal finance.

[(4) Measurement concepts and skills using metric and customary units. The student shall be provided opportunities to:

[(A) use metric and customary units;

[(B) convert within the metric system;

[(C) recognize precision;

[(D) find area, surface area, and volume; and

[(E) apply skills.

[(5) Properties and relationships of geometric shapes and their applications. The student shall be provided opportunities to:

[(A) use right triangle geometry with:

[(i) Pythagorean property;

[(ii) similarity;

[(iii) indirect measurement; and

[(iv) ratios;

[(B) apply skills; and

[(C) construct geometric figures.

[(6) The representation of numbers on a line and pairs of numbers on a coordinate plane. The student shall be provided opportunities to:

[(A) graph on a coordinate plane:

[(i) translations and reflections;

[(ii) linear equations; and

[(iii) nonlinear graphs; and

[(B) apply skills.

[(7) The use of probability and statistics to collect and interpret data. The student shall be provided opportunities to:

[(A) use counting methods and factorials;

[(B) draw Venn diagrams;

[(C) find the probability of simple and compound events;

[(D) use tables and graphs;

[(E) find the mean, median, and mode;

[(F) make predictions; and

[(G) apply skills.

[(8) Investigating the use of computing devices and their capabilities. The student shall be provided opportunities to:

[(A) use calculators and/or computers to solve mathematics problems; and

[(B) determine limitations and strengths.

[(c) Mathematics, grade seven. Essential elements for mathematics, grade seven, as described in this subsection shall be effective September 1991. Mathematics, grade seven, shall include the following essential elements:

[(1) Problem solving. Experience in solving problems designed to systematically develop students' problem-solving abilities through a variety of strate-

gies and approaches. The student shall be provided opportunities to engage in the following types of activities:

[(A) develop an organized approach to solving application and nonroutine problems appropriate for grade seven;

[(B) analyze problems by identifying relationships, discriminating relevant from irrelevant information, sequencing, observing patterns, prioritizing, and questioning;

[(C) communicate an understanding of a problem by describing and discussing the problem and recording the relevant information;

[(D) select appropriate strategies from a variety of approaches;

[(E) select appropriate materials and methods for solutions; and

[(F) generate and extend problems.

[(2) Patterns, relations, and functions. Use of models and patterns to develop the algebraic concepts of relations and functions. The student shall be provided opportunities to:

[(A) investigate patterns generated by repeating and terminating decimals;

[(B) build a concrete model of a functional relationship and describe the relationship using function notation;

[(C) introduce the concept of using letters to represent variables;

[(D) develop the concept of operations with variables using concrete materials as models;

[(E) investigate solutions to simple open sentences (equalities and inequalities);

[(F) evaluate algebraic expressions using mental calculations and calculators when appropriate; and

[(G) formulate a possible problem when given a simple equation.

[(3) Number and numeration concepts. Concepts and skills associated with the understanding of numbers and the place value system. The student shall be provided opportunities to:

[(A) convert between fractions, decimals, whole numbers, and percents mentally, on paper, and with a calculator;

[(B) compare and order integers;

[(C) explore the absolute value of an integer;

[(D) simplify expressions involving exponents using a calculator when appropriate;

[(E) develop the meaning of squares and square roots using geometric models; and

[(F) express numbers in scientific notation including numbers less than one using a calculator when appropriate.

[(4) Operations and computation. Use of manipulatives to develop the concepts of basic operations on numbers and to apply these concepts to the computational algorithms. The student shall be provided opportunities to:

[(A) select an appropriate operation and/or strategy to solve a problem and justify the selection;

[(B) use the order of operations to solve multi-step problems using a calculator when appropriate;

[(C) add, subtract, multiply, and divide fractions and mixed numbers resulting from problem situations;

[(D) add, subtract, multiply, and divide integers resulting from problem situations using models and connecting to rules;

[(E) write and solve a simple inequality resulting from a problem situation and graph the solution on a number line;

[(F) write and solve simple linear equations from problem situations and check the reasonableness of the results;

[(G) use proportions to solve a variety of problems; and

[(H) estimate solutions to problems using decimals and percent.

[(5) Measurement. Concepts and skills using metric and customary units. The student shall be provided opportunities to:

[(A) investigate the relationship between the perimeter and the area of a polygon;

[(B) develop the concept of volume for prisms/cylinders as the product of the area of the base and the height, using models;

[(C) develop the concept of volume of cones/pyramids as one-third the product of the area of the base and the height, using models;

[(D) explore surface area of three-dimensional figures using concrete models and graphing technology when appropriate;

[(E) estimate and solve application and nonroutine problems involving volume; and

[(F) explore the relationships between the dimensions and the volumes of similar solids by changing one of the dimensions.

[(6) Geometry. Properties and relationships of geometric shapes and their applications. The student shall be provided opportunities to:

[(A) identify parts and characteristics of common geometric figures;

[(B) develop the concept of the Pythagorean Theorem using several different approaches;

[(C) classify triangles and quadrilaterals by sides and angles;

[(D) construct an angle bisector, the bisector of a segment, perpendicular lines, parallel lines, and triangles;

[(E) construct a model of a three-dimensional figure when given the top, side, and front views;

[(F) use the properties and relationships of two- and three-dimensional figures to solve problems; and

[(G) apply geometry to such areas as art, architecture, construction, etc.

[(7) Probability, statistics, and graphing. Use of probability and statistics to collect and interpret data. The student shall be provided opportunities to:

[(A) compare different graphic representations of the same data to determine the appropriateness of the graph;

[(B) use box and whisker graphs, stem and leaf plots, and histograms to display information in ways that illustrate the appropriate uses of mean, median, and mode;

[(C) draw inferences and construct convincing arguments based on data analysis;

[(D) investigate and recognize misuses of statistical or numeric information;

[(E) construct sample spaces by using listing, tree diagrams, and frequency distribution tables;

[(F) find the probability of simple events; and

[(G) use permutations and combinations in application problems.

[(d) Mathematics, grade eight. Essential elements for mathematics, grade eight, as described in this subsection shall be effective September 1991. Mathematics, grade eight, shall include the following essential elements:

[(1) Problem solving. Experience in solving problems designed to systematically develop students' problem-solving abilities through a variety of strategies and approaches. The student shall be provided opportunities to engage in the following types of activities:

[(A) develop an organized approach to solving application and nonroutine problems appropriate for grade eight;

[(B) analyze problems by identifying relationships, discriminating relevant from irrelevant information, sequencing, observing patterns, prioritizing, and questioning;

[(C) communicate an understanding of a problem by describing and discussing the problem and recording the relevant information;

[(D) select appropriate strategies from a variety of approaches;

[(E) select appropriate materials and methods for solutions; and

[(F) generate and extend problems.

[(2) Patterns, relations, and functions. Use of models and patterns to



develop the algebraic concepts of relations and functions. The student shall be provided opportunities to:

[(A) use patterns to develop the concept of negative exponents;

[(B) extend function notation from concrete models to graphic representations;

[(C) generate ordered pairs with and without a calculator to graph linear equations;

[(D) investigate compound statements as they apply to simple reasoning situations (and, or, if, if not); and

[(E) extend the investigation of number patterns such as those found in Pascal's triangle and the Fibonacci sequence.

[(3) Number and numeration concepts. Concepts and skills associated with the understanding of numbers and the place value system. The student shall be provided opportunities to:

[(A) extend scientific notation to numbers with a wide range of values using a calculator when appropriate;

[(B) compare and order rational numbers;

[(C) apply the concept of significant digits to solving problems with a calculator;

[(D) investigate irrational numbers and their representations on a calculator as they arise from problem situations;

[(E) describe the properties of terminating, repeating, and non-repeating decimals and convert between fractions and decimals; and

[(F) extend basic number concepts and properties to algebraic applications.

[(4) Operations and computation. Use of manipulatives to develop the concepts of basic operations on numbers and to apply these concepts to the computational algorithms. The student shall be provided opportunities to:

[(A) select an appropriate operation and/or strategy to solve a problem and justify the selection;

[(B) estimate and solve application problems involving percent;

[(C) add, subtract, multiply, and divide rational numbers in problem situations;

[(D) estimate and solve application problems by writing and solving simple linear equations; and

[(E) solve linear equations and inequalities with integer, fraction, and decimal solutions.

[(5) Measurement. Concepts and skills using metric and customary units. The student shall be provided opportunities to:

[(A) estimate and solve application and nonroutine problems involving surface area and volume;

[(B) solve right triangle problems using the Pythagorean theorem, indirect measurement, and the properties of 30-60-90 and 45-45-90 triangles;

[(C) use precision and relative error, given the degree of accuracy required and the nature of a particular problem situation;

[(D) use the concept of volume for prisms/cylinders as the product of the area of the base and the height; and

[(E) use the concept of volume for cones/pyramids as one-third the product of the area of the base and the height.

[(6) Geometry. Properties and relationships of geometric shapes and their applications. The student shall be provided opportunities to:

[(A) find the missing parts of similar figures;

[(B) investigate the relationships between angles formed when parallel lines are cut by a transversal using graphing technology when appropriate;

[(C) use a variety of methods to perform basic constructions;

[(D) construct a geometric figure congruent to a given figure;

[(E) draw three-dimensional figures from different perspectives;

[(F) graph similar figures, reflections, translations, linear equations, and

linear inequalities on a coordinate plane; and

[(G) use geometry to solve problems in such areas as art, architecture, construction, etc.

[(7) Probability, statistics, and graphing. Use of probability and statistics to collect and interpret data. The student shall be provided opportunities to:

[(A) understand and apply reasoning with proportions in problem situations;

[(B) select an appropriate format for presenting collected data;

[(C) evaluate arguments based on data analysis;

[(D) find the probability of simple and compound events;

[(E) use mathematical probabilities and experimental results for making predictions and decisions; and

[(F) investigate bias to determine validation of an inference made from a set of data.]

#### *§75.44. Science.*

(a) Life science (one unit). Essential elements described in this subsection for life science shall be superseded by the essential elements described in subsection (c) of this section effective September 1994. Life science shall be a laboratory-oriented course and shall include the following essential elements.

(1)-(11) (No change.)

(b) Earth science (one unit). Essential elements described in this subsection for earth science shall be superseded by the essential elements described in subsection (f) of this section effective September 1995. Earth science shall be a laboratory-oriented course and shall include the following essential elements.

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

(c) Life science (one unit). Essential elements for life science as described in this subsection shall be effective September 1994. Life science shall be a laboratory/field oriented course and shall include the following essential elements.

(1) Manipulating laboratory materials and equipment. The student shall be provided opportunities to:

(A) manipulate objects, organisms, and models;

(B) use materials and instruments;

(C) construct models; and

(D) practice safe lab techniques.

(2) Acquiring scientific data and information. The student shall be provided opportunities to:

(A) observe properties and patterns of objects, organisms, models, phenomena, and events; and

(B) estimate and measure life science processes and properties.

(3) Sequencing, ordering, and classifying scientific data and information. The student shall be provided opportunities to:

(A) arrange time, events, and activities in sequential order; and

(B) classify life science processes and properties.

(4) Communicating scientific data and information. The student shall be provided opportunities to:

(A) identify and describe objects, organisms, events, and processes;

(B) record data from graphs, tables, maps, and other visuals; and

(C) describe technological advances.

(5) Interpreting scientific data and information. The student shall be provided opportunities to:

(A) interpret data about models, objects, organisms, actions, events and processes;

(B) interpret data from graphs, tables, maps, and other visuals;

(C) form operational definitions of objects, organisms, actions, events, and processes based on observations and information; and

(D) state relationships among objects, organisms, and events using operational definitions.

(6) Inferring, forming generalized statements, and making predictions using scientific data and information. The student shall be provided opportunities to:

(A) make inferences from data;

(B) form and state generalizations about objects, organisms, events, processes, and phenomena;

(C) predict outcomes based on scientific data and information; and

(D) predict outcomes from trends in scientific data.

(7) Identifying a problem, formulating a hypothesis and designing and conducting a scientific investigation. The student shall be provided opportunities to:

(A) use appropriate equipment and materials;

(B) collect measurement data;

(C) identify a problem;

(D) formulate a hypothesis;

(E) identify and manipulate the conditions of a life science investigation;

(F) design and conduct life science investigations to test a hypothesis;

(G) recognize and describe changes in objects, organisms, events, processes, phenomena over time; and

(H) recognize factors that govern changes in objects, organisms, events, processes, phenomena over time.

(8) Drawing conclusions about the processes and outcomes of a scientific investigation. The student shall be provided opportunities to:

(A) draw conclusions about the processes of a life science investigation;

(B) draw conclusions about the outcome of a life science investigation; and

(C) use knowledge of theories, facts, and concepts to explain observations, processes, and outcomes in a life science investigation.

(9) Relating and applying technology and scientific information to daily life. The student shall be provided opportunities to:

(A) relate objects, scientific principles, and activities to daily life;

(B) apply scientific knowledge to interpret consumer information obtained from tables, labels, and advertisements;

(C) apply scientific information to assess the impact of science on society, technology, and the environment;

(D) apply scientific knowledge to recognize the limitations of science relating to technological advances;

(E) apply technology and scientific information to explain natural processes and phenomena; and

(F) apply technology and scientific information to solve problems and make decisions.

(d) Science I, grade seven (one unit). Essential elements for Science I as described in this subsection shall be effective September 1994. Science I shall be a developmentally appropriate laboratory/field-oriented course coordinating instruction in biology, chemistry, physics, and earth/space science, and shall include the following essential elements.

(1) Manipulating laboratory materials and equipment. The student shall be provided opportunities to:

(A) manipulate objects, organisms, and models;

(B) use materials and instruments;

(C) construct models; and

(D) practice safe lab techniques.

(2) Acquiring scientific data and information. The student shall be provided opportunities to:

(A) observe properties and patterns of objects, organisms, models, phenomena, and events; and

(B) estimate and measure life, earth, and physical science processes and properties.

(3) Sequencing, ordering, and classifying scientific data and information. The student shall be provided opportunities to:

(A) arrange time, events, and activities in sequential order;

(B) classify matter, forces, energy, organisms, actions, and events according to similarities and differences; and

(C) design graphs, tables, maps, and other visuals.

(4) Communicating scientific data and information. The student shall be provided opportunities to:

(A) identify and describe objects, organisms, events, and processes;

(B) read data from graphs, tables, maps, and other visuals; and

(C) describe technological advances.

(5) Interpreting scientific data and information. The student shall be provided opportunities to:

(A) interpret data about models, objects, organisms, actions, events, and processes;

(B) interpret data from graphs, tables, maps, and other visuals;

(C) form operational definitions of objects, organisms, actions, events, and processes based on observations and information; and

(D) state relationships among objects, organisms, and events using operational definitions.

(6) Inferring, forming generalized statements, and making predictions using scientific data and information. The student shall be provided opportunities to:

(A) make inferences from data;

(B) form and state generalizations about objects, organisms, events, processes, and phenomena;

(C) predict outcomes based on scientific data and information; and

(D) predict outcomes from trends in scientific data.

(7) Identifying a problem and designing and conducting a scientific investigation. The student shall be provided opportunities to:

(A) use appropriate equipment and materials;

(B) collect and/or organize measured data;

(C) identify and manipulate the conditions of science investigations;

(D) recognize and describe changes in objects, organisms, events, processes, and phenomena over time; and

(E) recognize and describe changes in objects, organisms, events, processes, and phenomena over time.

(8) Drawing conclusions about the processes and outcomes of a scientific investigation. The student shall be provided opportunities to:

(A) use knowledge of principles, facts, and concepts to explain observations, processes, and outcomes in a science investigation; and

(B) recognize patterns that may form as a result of the collected and analyzed data.

(9) Relating and applying technology and scientific information to daily life. The student shall be provided opportunities to:

(A) relate objects, scientific principles, and activities to daily life;

(B) interpret consumer information obtained from tables, labels, and advertisements;

(C) assess the impact of science on society, technology, and the environment;

(D) recognize the limitations of science relating to technological advances;

(E) explain natural processes and phenomena; and

(F) solve problems and make decisions.

(10) The nature of science. The student shall be provided opportunities to:

(A) use scientific methods;

(B) discuss ethics in science;

(C) measure and experiment;

(D) solve problems;

(E) formulate, discuss, and review hypotheses, theories, laws, and principles; and

(F) practice safety.

(11) Scientific advances. The student shall be provided opportunities to:

(A) investigate scientists and their contributions;

(B) apply technological innovations; and

(C) evaluate science and technological career opportunities, including science teaching.

(e) Science II, grade eight (one unit). Essential elements for Science II as described in this subsection shall be effective September 1995. Science II shall be a developmentally appropriate laboratory/field-oriented course coordinating instruction in biology, chemistry, physics, and earth/space science, and shall include the following essential elements.

(1) Manipulating laboratory skills and equipment. The student shall be provided opportunities to:

(A) manipulate objects, organisms, and models;

(B) use materials and instruments;

(C) construct models; and

(D) practice safe use and proper disposal of chemicals.

(2) Acquiring scientific data and information through the senses. The student shall be provided opportunities to:

(A) observe properties and patterns of objects, organisms, models, phenomena, and events; and

(B) estimate and measure life, earth, and physical science processes and properties.

(3) Sequencing, ordering, and classifying scientific data and information. The student shall be provided opportunities to:

(A) arrange time, events, and activities in sequential order;

(B) classify matter, forces, energy, organisms, actions, and events according to similarities and differences; and

(C) design graphs, tables, maps, and other visuals.

(4) Communicating scientific data and information. The student shall be provided opportunities to:

(A) identify and describe objects, organisms, events, and processes;

(B) read data from graphs, tables, maps, and other visuals; and

(C) describe technological advances.

(5) Interpreting scientific data and information. The student shall be provided opportunities to:

(A) interpret data about models, objects, organisms, actions, events, and processes;

(B) interpret data from graphs, tables, maps, and other visuals;

(C) form operational definitions of objects, organisms, actions, events, and processes based on observations and information; and

(D) state relationships among objects, organisms, and events using operational definitions.

(6) Inferring, forming generalized statements, and making predictions using scientific data and information. The student shall be provided opportunities to:

(A) make inferences from data;

(B) form and state generalizations about objects, organisms, events, processes, and phenomena;

(C) predict outcomes based on scientific data and information; and

(D) predict outcomes from trends in scientific data.

(7) Identifying a problem and designing and conducting a scientific investigation. The student shall be provided opportunities to:

(A) use appropriate equipment and materials;

(B) collect and/or organize measured data;

(C) identify and manipulate the conditions of an investigation;

(D) recognize and describe changes in objects, organisms, events, processes, and phenomena over time; and

(E) recognize factors that govern changes in objects, organisms, events, processes, and phenomena over time.

(8) Drawing conclusions about the processes and outcomes of a scientific investigation. The student shall be provided opportunities to:

(A) use knowledge of theories, facts, and concepts to explain observations, processes, and outcomes in an investigation; and

(B) recognize patterns that may form as a result of the collected and analyzed data.

(9) Relating and applying technology and scientific information to daily life. The student shall be provided opportunities to:

(A) relate objects, scientific principles, and activities to daily life;

(B) interpret consumer information obtained from tables, labels, and advertisements;

(C) assess the impact of science on society, technology, and the environment;

(D) recognize the limitations of science relating to technological advances;

(E) explain natural processes and phenomena; and

(F) solve problems and make decisions.

(10) The nature of science. The student shall be provided opportunities to:

(A) use scientific methods;

(B) discuss ethics in science;

(C) measure and experiment;

(D) solve problems;

(E) formulate, discuss, and review theories, laws, and principles; and

(F) practice safety.

(11) Scientific advances. The student shall be provided opportunities to:

(A) investigate scientists and their contributions;

(B) apply technological innovations; and

(C) evaluate science and technological career opportunities, including science teaching.

(f) Earth science (one unit). Essential elements for earth science as described in this subsection shall be effective September 1995. Earth science shall be a laboratory/field-oriented course and shall include the following essential elements.

(1) Manipulating laboratory skills and equipment. The student shall be provided opportunities to:

(A) manipulate objects, organisms, and models;

(B) use materials and instruments;

(C) construct models; and

(D) practice safe use and proper disposal of chemicals.

(2) Acquiring scientific data and information through the senses. The student shall be provided opportunities to:

(A) observe properties and patterns of objects, organisms, models, phenomena, and events; and

(B) estimate and measure earth science processes and properties.

(3) Sequencing, ordering, and classifying scientific data and information. The student shall be provided opportunities to:

(A) arrange time, events, and activities in sequential order;

(B) classify matter, forces, energy, organisms, actions, and events according to similarities and differences; and

(C) design graphs, tables, maps, and other visuals.

(4) Communicating scientific data and information. The student shall be provided opportunities to:

(A) identify and describe objects, organisms, events, and processes;

(B) read data from graphs, tables, maps, and other visuals; and

(C) describe technological advances.

(5) Interpreting scientific data and information. The student shall be provided opportunities to:

(A) interpret data about models, objects, organisms, actions, events, and processes;

(B) interpret data from graphs, tables, maps, and other visuals;

(C) form operational definitions of objects, organisms, actions, events, and processes based on observations and information; and

(D) state relationships among objects, organisms, and events using operational definitions.

(6) Inferring, forming generalized statements, and making predictions using scientific data and information. The student shall be provided opportunities to:

(A) make inferences from data;

(B) form and state generalizations about objects, organisms, events, processes, and phenomena;

(C) predict outcomes based on scientific data and information; and

(D) predict outcomes from trends in scientific data.

(7) Identifying a problem and designing and conducting a scientific investigation. The student shall be provided opportunities to:

(A) use appropriate equipment and materials;

(B) collect and/or organize measured data;

(C) identify and manipulate the conditions of an earth science investigation;

(D) recognize and describe changes in objects, organisms, events, processes, and phenomena over time; and

(E) recognize factors that govern changes in objects, organisms, events, processes, and phenomena over time.

(8) Drawing conclusions about the processes and outcomes of a scientific investigation. The student shall be provided opportunities to:

(A) use knowledge of theories, facts, and concepts to explain observations, processes, and outcomes in an earth science investigation; and

(B) recognize patterns that may form as a result of the collected and analyzed data.

(9) Relating and applying technology and scientific information to daily life. The student shall be provided opportunities to:

(A) relate objects, scientific principles, and activities to daily life;

(B) interpret consumer information obtained from tables, labels, and advertisements;

(C) assess the impact of science on society, technology, and the environment;

(D) recognize the limitations of science relating to technological advances;

(E) explain natural processes and phenomena; and

(F) solve problems and make decisions.

#### *§75.47. Fine Arts.*

(a) (No change.)

(b) General music, grades seven-eight (one-half-two units). Essential elements described in this subsection for general music shall be superseded by the essential elements described in subsections (j) and (k) of this section effective

September 1995. (General music, grade eight, is a continuation and progression of general music, grade seven.) General music, grades seven-eight, shall include the following essential elements.

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

(c)-(i) (No change.)

(j) General music, grade seven (one-half-one unit). Essential elements for general music, grade seven, as described in this subsection shall be effective September 1995. General music, grade seven, shall include the following essential elements.

(1) Singing concepts and skills. The student shall be provided opportunities to:

(A) discuss and understand the healthy use and care of the voice, emphasizing appropriate volume, range, and placement of the voice;

(B) discuss and understand the occurrence of the changing voice;

(C) sing songs, including folk songs from diverse cultures, seasonal, and patriotic songs that are appropriate for the student's age and vocal range; and

(D) sing part songs of appropriate difficulty.

(2) Listening concepts and skills. The student shall be provided opportunities to:

(A) listen to contemporary music, including experimental, electronic, jazz, blues, and Broadway musicals;

(B) listen to and compare instrumental and vocal music of diverse cultures and styles, including use of musical elements;

(C) recognize orchestral, band, electronic, and folk instruments by sound and sight, categorize by families, and learn about their development;

(D) listen to and compare instrumental and vocal music from various periods of music history, including Renaissance, baroque, classical, romantic, impressionistic, and contemporary;

(E) listen to and compare the effects of performances of the same composition by different instrumental and vocal groups;

(F) attend performances and/or view videos or films of performances; and

(G) learn and practice appropriate concert etiquette as an actively involved listener.

(3) Moving and playing to respond to music and/or demonstrate concepts. The student shall be provided opportunities to:

(A) choreograph songs used in class;

(B) create and perform melodies and accompaniments using body percussion sounds and/or classroom instruments;

(C) show vocally, instrumentally, or by movement more complex musical forms;

(D) demonstrate understanding of a blues-style chord sequence;

(E) play instruments, including recorder, guitar, and keyboard; and

(F) perform in a small instrumental or vocal ensemble.

(4) Using notation. The student shall be provided opportunities to:

(A) read and write rhythmic patterns;

(B) read and write melodic patterns;

(C) read and write short melodies or songs in various meters;

(D) use music symbols and terms derived from materials used in class;

(E) use the treble and bass staff; and

(F) use key signatures and meters of increasing difficulty.

(k) General music, grade eight (one-half-one unit). Essential elements for general music, grade eight, as described in this subsection shall be effective September 1995. General music, grade eight, shall include the following essential elements.

(1) Singing concepts and skills. The student shall be provided opportunities to:

(A) discuss and understand the healthy use and care of the voice, emphasizing appropriate volume, range, and placement of the voice;

(B) discuss and understand the occurrence of the changing voice;

(C) sing songs, including folk songs from diverse cultures, seasonal, and patriotic songs that are appropriate for the student's age and vocal range; and

(D) sing part songs of appropriate difficulty.

(2) Listening concepts and skills. The student shall be provided opportunities to:

(A) listen to contemporary music, including experimental, electronic, jazz, blues, and Broadway musicals;

(B) listen to and compare instrumental and vocal music of diverse cultures and styles, including use of musical elements;

(C) recognize orchestral, band, electronic, and folk instruments by sound and sight, categorize by families, and learn about their development;

(D) identify and classify instrumental and vocal music according to different cultures and periods of music history, including Renaissance, baroque, classical, romantic, impressionistic, and contemporary;

(E) listen to and compare the effects of performances of the same composition by different instrumental and vocal groups;

(F) attend performances and/or view videos or films of performances; and

(G) learn and practice appropriate concert etiquette as an actively involved listener.

(3) Moving and playing to respond to music and/or demonstrate concepts. The student shall be provided opportunities to:

(A) choreograph songs used in class;

(B) perform and create melodies and accompaniments using

body percussion sounds and/or classroom instruments;

(C) show vocally, instrumentally, or by movement more complex musical forms;

(D) demonstrate understanding of a blues-style chord sequence;

(E) play instruments, including recorder, guitar, and keyboard; and

(F) perform in a small instrumental or vocal ensemble.

(4) Using notation. The student shall be provided opportunities to:

(A) read and write rhythmic patterns;

(B) read and write melodic patterns;

(C) read and write short melodies or songs in various meters;

(D) use music symbols and terms derived from materials used in class;

(E) use the treble and bass staff;

(F) use key signatures and meters of increasing difficulty; and

(G) identify and use different types of scales.

*§75.48. Social Studies, Texas and United States History.*

(a) Social studies attitudes, values, and skills for citizenship. Essential elements described in this subsection for social studies attitudes, values, and skills for citizenship shall be superseded by the essential elements described in subsection (d) of this section for United States history and citizenship (civics), grade eight, effective September 1992 and in subsection (e) of this section for Texas history and geography, grade seven, effective September 1993. The social studies courses in subsections (b) and (c) of this section shall include the following essential elements as appropriate to the courses:

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

(b) Texas history and geography, grade seven (one unit). Essential elements described in this subsection for Texas history and geography, grade seven, shall be superseded by the essential elements

described in subsection (e) of this section effective September 1993. Texas history and geography, grade seven, shall include the following essential elements.

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

(c) United States history and citizenship (civics), grade eight (early beginning through Reconstruction—one unit). Essential elements described in this subsection for United States history and citizenship (civics), grade eight, shall be superseded by the essential elements described in subsection (d) of this section effective September 1992. United States history and citizenship (civics), grade eight, shall include the following essential elements.

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

(d) (No change.)

(e) Texas history and geography, grade seven (one unit). Essential elements for Texas history and geography, grade seven, as described in this subsection shall be effective September 1993. Texas history and geography, grade seven, shall include the following essential elements.

(1) Exploration and colonization of Texas. The student shall be provided opportunities to:

(A) describe the location, history, and cultures of the early inhabitants of Texas;

(B) analyze the reasons for, locations of, and results of European exploration and colonization; and

(C) explain the roles of and contributions of notable individuals and groups representative of various racial, ethnic, religious, and cultural backgrounds in the exploration, colonization, and development of Texas.

(2) Achievement of Texas independence and statehood. The student shall be provided opportunities to:

(A) analyze reasons for and effects of Anglo American settlement in Texas;

(B) analyze reasons for conflict with Mexico;

(C) describe major events of the Texas Revolution (including the significance of the Texas Declaration of Independence, the Alamo, and the Battle of San Jacinto);

(D) analyze the problems and successes of the Republic of Texas;

(E) describe the developments and events leading to annexation and statehood;

(F) analyze the causes and results of the Mexican War;

(G) analyze reasons for and the involvement of Texas and Texans in the Civil War; and

(H) explain the roles of notable individuals of various ethnic, racial, and cultural backgrounds in Texas independence, statehood, and the Civil War.

(3) Political, economic, geographic/environmental, and social developments in Texas, post-Civil War to the 20th century. The student shall be provided opportunities to:

(A) analyze the political, economic, and social effects of the Civil War and Reconstruction on Texas;

(B) analyze the effects of the Constitution of 1876 on political developments;

(C) describe ethnic, racial, and cultural groups and individuals who settled in Texas (including reasons for immigration, patterns of settlement, and way of life);

(D) analyze the role of natural resources and major industries (e.g., agriculture, railroads, cattle) in the economic development of Texas;

(E) explain the extension of the frontier and its impact on settlers and native Americans; and

(F) identify the major political, economic, and social issues and leaders of the period.

(4) Economic, political, and social development of Texas in the 20th century. The student shall be provided opportunities to:

(A) analyze the changes in the Texas economy and its relationship to the United States and the world;

(B) analyze the reasons for and the effects of urbanization of the state;

(C) describe the involvement of Texans in foreign conflicts;

(D) analyze the problems and progress in the state's educational system;

(E) analyze the development and the economic, political, and social impact of a changing multicultural population;

(F) describe changes in the structures and functions of government at the municipal, county, and state levels;

(G) describe changes in the composition of political parties in Texas and their relationships to the national political scene;

(H) describe developments in culturally related fields, (e.g., art, music, drama, literature, etc.); and

(I) explain the roles of and contributions by notable individuals and groups representative of the various ethnic, social, and cultural backgrounds in state, national, and international settings.

(5) Geographic influences on the development of Texas. The student shall be provided opportunities to:

(A) describe the major physical and cultural features of the regions of the state;

(B) locate and explain the importance of selected places;

(C) analyze the interrelationships of physical features and distribution of natural resources on population movements, economic development, and patterns of settlement; and

(D) analyze impact of human activities on the natural environment of the state.

(6) Respect for self and others. The student shall be provided opportunities to:

(A) be aware of and respect differing values and beliefs among individuals and groups; and

(B) recognize how societal values affect individual beliefs and values.

(7) Democratic beliefs and personal responsibility. The student shall be provided opportunities to:

(A) accept the consequences of one's decisions and actions;

(B) understand the underlying principles of the Texas Declaration

of Independence and Constitution, including the Bill of Rights;

(C) identify personal responsibility in the use and preservation of the natural environment;

(D) value open-mindedness, tolerance of different opinions, civic participation, and compromise as important aspects of the political process;

(E) respect and support the laws of one's society and work responsibly to change laws one considers to be unjust;

(F) support the democratic processes of the republican form of government; and

(G) support the basic civic values of American society (e.g., justice, responsibility, political and religious freedom, private property, voluntary exchange, and respect for the law).

(8) Support for the American economic system. The student shall be provided opportunities to:

(A) recognize the role of profit and competition in the American economic system;

(B) acknowledge the role of government in regulating competition of both consumers and producers;

(C) acknowledge the right of individuals to acquire, responsibly use, and dispose of property; and

(D) recognize that citizens, through legal political activities, can influence economic decisions made by government.

(9) Application of social studies skills. The student shall be provided opportunities to:

(A) analyze, synthesize, and evaluate information;

(B) interpret visual materials (e.g., charts, graphs, pictures, maps);

(C) distinguish fact from opinion;

(D) sequence historical data;

(E) perceive cause/effect relationships;

(F) use problem-solving skills; and

(G) apply decision-making skills.

*§75.49. Business Education.*

(a) Typewriting (keyboarding), middle school (one-half-one unit). Essential elements described in this subsection for typewriting shall be superseded by the essential elements described in subsection (c) of this section effective September 1993. (The keyboarding course will replace the typing course.) Typewriting (keyboarding), middle school, shall include the essential elements in this subsection. Typewriting offered for one semester must include the elements in paragraphs (1)-(3) of this subsection. Typewriting offered for two semesters must include all of the elements in this subsection.

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

(b) Career investigation (one-half unit). Career investigation shall include the essential elements listed in §75.50(e)[(f)](1)-(4) of this title (relating to Vocational Education).

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

(c) Keyboarding, middle school (one-half-one unit). Essential elements for keyboarding as described in this subsection shall be effective September 1993. Keyboarding, middle school, shall include the essential elements in this subsection. Keyboarding offered for one semester must include the elements in paragraphs (1)-(3) of this subsection. Keyboarding offered for two semesters must include all of the elements in this subsection.

(1) Keyboard mastery techniques. The student shall be provided opportunities to:

(A) demonstrate correct body and hand position;

(B) learn the spatial arrangement of keyboard;

(C) use correct fingering for keystroking;

(D) operate various machine parts; and

(E) practice proper care of equipment.

(2) Speed and accuracy in keyboarding. The student shall be provided opportunities to:

(A) practice response patterns for keystroking;

(B) practice skill building drills and exercises;

(C) practice paced keystroking for accuracy;

(D) force pace of keystroking for higher speeds; and

(E) sustain keystroking speed for longer periods of time.

(3) Copy arrangement. The student shall be provided opportunities to:

(A) practice horizontal and vertical centering;

(B) practice columnar tabulation;

(C) understand and practice letter placement; and

(D) understand and practice correct composition formats.

(4) Communication skills. The student shall be provided opportunities to:

(A) practice proofreading, spelling, word division, and punctuation;

(B) understand and demonstrate skill in use of correction techniques; and

(C) compose at keyboard.

(5) Applications skills. The student shall be provided opportunities to:

(A) apply directions and instructions;

(B) fill in simple forms;

(C) prepare outlines and manuscripts; and

(D) type from rough drafts.

*§75.50. Vocational Education.*

[(a) The elements in this subsection are common to all vocational programs in this section offered at grades seven and eight and shall be included in each course at the appropriate level, unless otherwise indicated. They are described here to preclude



repetition in each course. Every school offering vocational education at grades seven and eight shall provide courses which include the following essential elements.

[(1) Leadership concepts and skills. The student shall be provided opportunities to:

[(A) demonstrate skills, characteristics, and responsibilities of leaders and effective group members;

[(B) demonstrate a knowledge of parliamentary procedure principles;

[(C) plan and conduct leadership activities; and

[(D) prepare for effective citizenship and for participation in our democratic society.

[(2) Concepts and skills related to successful employment and/or postsecondary training. The student shall be provided opportunities to:

[(A) identify employment opportunities and preparation requirements in the chosen field;

[(B) identify effective methods to secure and terminate employment;

[(C) demonstrate effective communication skills, both oral and written, and follow through on assigned tasks;

[(D) demonstrate dependability and punctuality;

[(E) demonstrate productive work habits and attitudes;

[(F) understand the importance of taking pride in the quality of work performed;

[(G) recognize the dignity in work;

[(H) develop skills in planning and organizing work;

[(I) apply required methods and sequences when performing tasks;

[(J) apply principles of time management and work simplification when performing assigned tasks;

[(K) identify ethical practices and responsibilities; and

[(L) understand the importance of the application of organizational policies and procedures.

[(3) Concepts and skills associated with entrepreneurship. The student shall be provided opportunities to:

[(A) identify opportunities for business ownership;

[(B) understand the risk and profit motive factor;

[(C) understand the elements and advantages of the free enterprise system; and

[(D) explain the role of small business in the free enterprise system.

[(4) Concepts and skills related to safety and safe working conditions. The student shall be provided opportunities to identify and apply safe working practices to all training situations.

[(5) Concepts and skills associated with human relations and personality development. The student shall be provided opportunities to:

[(A) understand the importance of maintaining good health and proper appearance for effective job performance;

[(B) understand oneself and others;

[(C) exercise self-control;

[(D) accept and use criticism;

[(E) recognize basic human relationships as they relate to business success; and

[(F) demonstrate characteristics for successful working relationships.

[(6) Concepts and skills related to personal and business management. The student shall be provided opportunities to:

[(A) explain how management assists in reaching personal and family goals;

[(B) explain the management process;

[(C) describe the role of management in controlling stress;

[(D) identify and understand personal checking accounts;

[(E) identify and understand personal loan application processes;

[(F) identify and understand different financial institutions;

[(G) identify the role and functions of business management;

[(H) understand the lines of authority; and

[(I) identify effective supervisory techniques.]

(a)[(b)] Life management skills (one-half unit) [shall include the common essential elements in subsection (a) of this section with the exception of subsection (a)(2), (3), and (6)(D)-(I) and] shall include the following essential elements.

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

(6) Concepts and skills related to safety and safe working conditions. The student shall be provided opportunities to identify and apply safe working practices.

(7) Concepts and skills related to youth leadership. The student shall be provided opportunities to identify and apply leadership concepts and skills.

(8)[(6)] Concepts and skills related to career options and adjustments. The student shall be provided opportunities to:

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

(b)[(c)] Introductory industrial technology shall include the common essential elements (grades seven-eight-one-half-two units). The elements in this subsection are common to Introductory Industrial Technology I and Introductory Industrial Technology II, grades seven-eight, and shall be included in each course. They are described here to preclude repetition. Every school offering these courses shall include the following common essential elements.

(1) Leadership concepts and skills. The student shall be provided opportunities to:

(A) identify skills, characteristics, and responsibilities of leaders and effective group members; and

(B) plan and conduct leadership activities using parliamentary procedures.

(2) Concepts and skills related to successful employment and/or postsecondary training. The student shall be provided opportunities to:

(A) identify employment opportunities and preparation requirements;

(B) identify effective methods to secure and terminate employment;

(C) demonstrate productive work habits and attitudes; and

(D) describe the importance of taking pride in the quality of work performed.

(3) Concepts and skills associated with entrepreneurship. The student shall be provided opportunities to:

(A) describe the risk and profit motive factor; and

(B) explain the role of small business in the free enterprise system.

(4)[(1)] Concepts and skills in the application of safety procedures. The student shall be provided opportunities to:

(A) demonstrate safe operation [and use] of selected tools, machines, and equipment [to avoid injury]; and

(B) maintain a safe and clean [conditions in the] laboratory environment.

(5)[(2)] Concepts and skills related to planning, designing, and problem solving. The student shall be provided opportunities to:

(A) (No change.)

(B) measure accurately using appropriate [metric or customary] units.

(6)[(3)] Concepts and skills related to the tools, materials, and processes of technology. The student shall be provided opportunities to:

(A) solve problems by utilizing a variety of materials, [and properly selected] tools, and equipment; [and]

(B) select the most suitable processes to complete a task;[.]

(C) identify conservation practices and methods in recycling materials of technology;

(D) investigate the interrelations of the systems of technology; and

(E) demonstrate the use of computers for simulation and application of technology.

(7)[(4)] Concepts and skills related to the past, present, and future of technology. The student shall be provided opportunities to:

(A) investigate [recognize] ideas and technological developments [inventions] of the past and present; and

(B) project how selected technological developments may impact future cultures and societies [relate technological change to the skills needed for the future].

(8)[(5)] Concepts and skills related to evaluating products and services of technology. The student shall be provided opportunities to:

(A) recognize good design and construction; and

(B) evaluate products based on given standards or applications.[: ]

[(C) use and maintain products and equipment; and

[(D) develop criteria for selecting, purchasing, and contracting services. ]

(c)[(d)] Essential elements described in this subsection for Introductory Industrial Technology I shall be superseded by the essential elements described in subsection (f) of this section effective September 1993. Every school offering Introductory Industrial Technology I (grades seven-eight-one-half-one unit) shall include the common essential elements in subsection (b)[(a)] of this section [and the common essential elements for introductory industrial technology, grades seven-eight.] plus the following essential elements.

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

(d)[(e)] Essential elements described in this subsection for Introductory Industrial Technology II shall be superseded by the essential elements described in subsection (g) of this section effective September 1993. Every school offering Introductory Industrial Technology II (grade eight-one-half-one unit) shall include the common essential elements in subsection (b)[(a)] of this section [and the common essential elements for introductory industrial technology, grades seven-eight.] plus the following essential elements.

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

(e)[(f)] Career investigation (one-half unit) shall include [all common essential elements in subsection (a) of this section with the exception of subsection (a)(1)(B), (2)(A), and (3)(D), and shall include] the following essential elements.

(1) (No change.)

(2) Concepts and skills related to career opportunities. The student shall be provided opportunities to:

(A) identify resources which provide pertinent information concerning career opportunities, including new and emerging occupations and priority occupations;

(B) use the United States Office of Employment 15 occupational cluster classifications to analyze career opportunities, including new and emerging occupations and priority occupations;

(C)-(H) (No change.)

(3) Concepts and skills associated with economic, societal, and technological factors related to career opportunities. The students shall be provided opportunities to:

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

(D) recognize opportunities and options for business ownership; [and]

(E) develop an understanding of the role of small business in the free enterprise system;[.]

(F) develop skills related to successful employment, such as dependability, punctuality, ethical practices, and responsibilities, team work, and effective communication skills both oral and written;

(G) recognize the dignity of work;

(H) understand the importance of taking pride in the quality of work performed; and

(I) identify effective methods to secure and terminate employment.

(4) (No change.)

(f) Essential elements for Introductory Industrial Technology I (grades seven-eight-one-half-one unit) as described in this subsection shall be effective in September 1993. Introductory Industrial Technology I is a laboratory-oriented course that includes the common essential elements for introductory industrial technology plus the concepts and skills related to communication, energy, and production technology. The student shall be provided opportunities to:

(1) apply sketching techniques to develop drawing format and graphic problem solving;

(2) describe objects accurately through the principles of shape and size descriptions;

(3) develop products using photographic materials and equipment;

(4) design and produce graphic arts materials;

(5) study the types and uses of communication systems;

(6) use computer software to design and make drawings;

(7) use computer software to solve problems in communication, energy, and production systems;

(8) use apparatus and devices that demonstrate the generation, conversion, and control of mechanical, electrical, and fluid power;

(9) construct models or use simulation devices that generate, convert, and control energy;

(10) participate in activities involving transportation systems that move people, materials, energy, and information;

(11) apply transmission systems that move energy by electrical, mechanical, and fluid technologies;

(12) read and interpret maps, charts, and schedules;

(13) apply organization and management techniques to planning, organizing, and controlling production processes in construction and manufacturing;

(14) apply primary processes in manufacturing a product;

(15) apply primary construction processes to building a structure;

(16) explore the conversion of raw materials into finished products;

(17) develop activities that involve research, design, production, and marketing of a product;

(18) demonstrate techniques and processes used in automated production systems, to include robotics and computer numerical control (CNC); and

(19) explore applications of communication, energy, and production technology in a space environment.

(g) Essential elements for Introductory Industrial Technology II (grade eight-one-half-one unit) as described in this subsection shall be effective September 1993. Introductory Industrial Technology II is a laboratory-oriented course that includes the common essential elements for introductory industrial technology plus the following essential elements.

(1) Concepts and skills related to production technology in the area of manufacturing. The student shall be provided opportunities to:

(A) participate in activities involving product research, design, and marketing;

(B) investigate resources needed in production;

(C) use appropriate processes to manufacture a market-ready product;

(D) apply organization and management systems by planning, organizing, and controlling production processes;

(E) demonstrate an awareness of automated systems used in manufacturing, including robotics and computer numerical control;

(F) recognize basic material standards and terminology used in industry;

(G) apply primary processes in manufacturing a product;

(H) use computers in planning, production, quality control, and management of production systems; and

(I) explore manufacturing systems in a space environment.

(2) Concepts and skills related to production technology in the area of construction. The student shall be provided opportunities to:

(A) apply organization and management techniques to planning, organizing, and controlling construction;

(B) use primary construction processes to build a structure;

(C) explore construction systems, to include containment, shelter, and support;

(D) explore primary construction techniques;

(E) explore construction subsystems;

(F) investigate production trends;

(G) explore alternative materials, processes, and energy sources in production systems;

(H) demonstrate techniques and processes used in automated systems, including robotics and computers; and

(I) explore construction systems in a space environment.

*§75.51. Computer Literacy [Other Courses].*

(a) Computer literacy (one-half unit). Essential elements in this subsection for computer literacy shall be superseded by the essential elements described in subsection (b) of this section effective September 1993. Computer literacy shall include the following essential elements.

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

(b) Computer literacy (one-half unit). Essential elements for computer literacy as described in this subsection shall be effective September 1993. Computer literacy shall include the following essential elements.

(1) Use of commercial word processing software. The student shall be provided opportunities to:

(A) define the related terminology;

(B) perform basic operating procedures and techniques;

(C) perform storage and retrieval of information;

(D) perform data entry;

(E) develop error checking techniques; and

(F) demonstrate the ability to select the appropriate tools for given tasks.

(2) Use of commercial database management software. The student shall be provided opportunities to:

(A) define the related terminology;

(B) perform basic operating procedures and techniques;

(C) perform storage and retrieval of information;

- (D) perform data entry;
- (E) develop error checking techniques; and
- (F) demonstrate the ability to select the appropriate tools for given tasks.

(3) Use of commercial spreadsheet software. The student shall be provided opportunities to:

- (A) define the related terminology;

- (B) perform basic operating procedures and techniques;

- (C) perform storage and retrieval of information;

- (D) perform data entry;

- (E) develop error checking techniques; and

- (F) demonstrate the ability to select the appropriate tools for given tasks.

(4) Use of related technology such as telecommunications, desktop publishing, page layout, and graphic design. The student shall be provided opportunities to:

- (A) define the related terminology;

- (B) perform basic operating procedures and techniques;

- (C) perform storage and retrieval of information;

- (D) perform data entry;

- (E) develop error checking techniques; and

- (F) demonstrate the ability to select the appropriate tools for given tasks.

(5) History and development of computers. The student shall be provided opportunities to:

- (A) identify and describe characteristics of each generation of computers including important pre-computer aids to calculation and contributions of specific individuals to the historic origins of the computer; and

- (B) discuss the current use and possible future uses of technology.

(6) Problems and issues of computer usage in society. The student shall be provided opportunities to:

- (A) identify computer-related careers, including training requirements;

- (B) describe the impact of technology on the job market;

- (C) identify the importance of ethics in accessing and manipulating data and technology; and

- (D) identify the legal issues and potential solutions pertaining to computer usage.

(7) Communication of instructions to the computer. The student shall be provided opportunities to:

- (A) use and develop pseudocode and/or modular top-down design as a means of expressing algorithms;

- (B) develop problem-solving skills using the computer (such as sequencing, Boolean evaluation, reasoning and strategies, transferring, and classifying according to hierarchy);

- (C) use the syntax of a high-level language (such as BASIC, Pascal, Logo or Hypermedia);

- (D) write structured programs;

- (E) develop effective debugging strategies (find, interpret, and correct program errors); and

- (F) predict output of given programs.

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

Issued in Austin, Texas, on September 23, 1991.

TRD-9112193      Cris Clout  
 Director, Planning  
 Coordination  
 Texas Education Agency

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 463-9701



## TITLE 22. EXAMINING BOARDS

### Part IV. Texas Cosmetology Commission

#### Chapter 83. Sanitary Rulings

- 22 TAC §§83.1-83.3, 83.5, 83.6, 83.13, 83.27, 83.30

The Texas Cosmetology Commission proposes amendments to §§83.1-83.3, 83.5, 83.6, 83.13, 83.27, and 83.30 concerning sanitation. The amendments are proposed to update the language of the sanitary rulings.

Ron Resech, executive director, 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. Resech 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 the language of the sections is updated in keeping with the times. 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 Alicia C. Ayers, Administrative Technician II, 5717 Balcones, P.O. Box 26700, Austin, Texas 78755-0700.

The amendments are proposed under Texas Civil Statutes, Article 8451a, which provides the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

#### §83.1. Enforcement.

(a) The holder or holders of an establishment [a salon or school] license and the person in charge of any establishment [school or salon] shall be liable for implementing and maintaining the sanitary rules in such establishment [salon or school, or] individually and jointly with all persons engaged in, or employed by, or working in or on the premises of such establishment [salon or school]. All licensees under this Act, and students attending school under this Act, shall be held liable individually and jointly for maintenance and implementation of the sanitary rules applicable to the performance of their profession as such licensees.

(b) To assure compliance with the statutes and regulations governing the operation of establishments [schools and salons], the Texas Cosmetology Commission, or its authorized representatives, shall have the right of access to any establishment [school or salon] at any time that the instruction or practice of cosmetology is be-

ing conducted for the purpose of inspecting the premises, and the equipment, supplies, licenses, and all books and records relating to the training or practice of cosmetology. A person who is in violation of the Cosmetology Act, general rules and regulations of the commission or the sanitary rulings of the commission may be enjoined and restrained by a district court from violating said Act or commission rules.

(c) (No change.)

(d) Every cosmetology establishment [school or salon], as defined by the Statutes to regulate the practice of cosmetology in the State of Texas, shall be given a sanitary rating covering the entire establishment according to the filed floor plan, and must meet the following requirements.

(1) The rating given said establishment [school or salon] shall be posted in the reception desk area in public view.

(2) An establishment [A salon or school] operating in violation of these rules and regulations, or which operates with a sanitary rating of less than 80% shall be issued a notice of violation. If the violation is not corrected in 10 days, an informal hearing may be initiated by the executive director.

(3) (No change.)

§83.2. Posting Sanitary Rules. Each establishment [school or salon] shall post a copy of these sanitary rules in a place visible to the public. The principal's office, hallway, or remote areas not frequented by patrons is prohibited.

#### §83.3. Proper Quarters.

(a) Interior. Each establishment [school and salon] shall be well lighted, well ventilated, and kept in a clean, orderly, sanitary condition at all times.

(b) (No change.)

(c) No cosmetology establishment [salon or school] 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 shaving.

(d) The use of a cosmetology [beauty] establishment as living, dining, or sleeping quarters shall be prohibited. Residential salons shall maintain a separate entrance which shall not open off from the living, dining, or sleeping quarters. If a door leads into the residence, it shall be a solid door that remains locked during business hours.

(e)-(i) (No change.)

#### §83.5. Waste and Refuse.

(a) No establishment [school or salon] shall permit the accumulation of waste or refuse, or cluttering of unnecessary books, papers, or magazines.

(b) At no time shall the selling of food or drink be permitted in schools or salons unless by vending machines. Students or salon personnel, or patrons using foodstuffs in any establishment must remove leftovers within one hour of usage. Establishments [Schools and salons] are directly responsible for the general compliance of this section. Dirty dishes from foods being served must not accumulate.

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

§83.6. Animals In Schools or Establishments. No person shall be allowed to bring an animal in, or to allow an animal to remain in an establishment [a school or salon]. This section does not apply to a sightless person accompanied by a trained seeing eye dog, or security dog. A security dog, however, may be allowed in the establishment [salon or school] only during the times the salon or school is closed to the public.

#### §83.13. Implements, Combs, Brushes, and Rollers.

(a) (No change.)

(b) Each cosmetology establishment [salon] is required to have sufficient combs, brushes, and implements to allow for adequate sanitizing practices.

(c)-(g) (No change.)

(h) All types of brushes, all types of rollers, clips, and other hair accessories which have become soiled in any manner shall not be used by any of the operators and shall be placed in a properly labeled receptacle provided for that purpose, and shall not be used on another patron until they have been properly cleaned and disinfected.

§83.27. Dispensary and Storage Area. Each establishment [salon or school] with dispensary or storage must at all times have these areas as clean and as sanitary as the remaining sections of the establishment.

§83.30. Proper Labeling. Each cosmetology establishment [school and salon] shall properly label all products used in the conduct of their business.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112618

Ron Resech  
Executive Director  
Texas Cosmetology  
Commission

Earliest possible date of adoption: November 18, 1991

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

◆ ◆ ◆  
• 22 TAC §83.12

*(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 Cosmetology Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Cosmetology Commission proposes the repeal of §83.12, concerning neck brushes and dusters. Neck brushes and duster may be used.

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

Mr. Resech, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be the use of neck brushes and dusters will be allowed. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Alicia Ayers, Administrative Technician II, 5717 Balcones, P.O. Box 26700, Austin, Texas 78755-0700.

The repeal is proposed under Texas Civil Statutes, Article 8451a, which provides the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112619

Ron Resech  
Executive Director  
Texas Cosmetology  
Commission

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 454-4674  
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## Chapter 89. General Rules and Regulations

- 22 TAC §§89.2-89.4, 89.6, 89.10-89.11, 89.13, 89.15, 89.17, 89.19-89.22, 89.24, 89.26, 89.28-89.31, 89.39, 89.41, 89.44, 89.47, 89.49, 89.53, 89.54, 89.69-89.70, 89.72, 89.75-89.76

The Texas Cosmetology Commission proposes amendments to §§89.2-89.4, 89.6, 89.10-89.11, 89.13, 89.15, 89.17, 89.19-89.22, 89.24, 89.26, 89.28-89.31, 89.39, 89.41, 89.44, 89.47, 89.49, 89.53, 89.54, 89.69-89.70, 89.72, 89.75-89.76 and new §§89.19, 89.21, 89.26, 89.29, and 89.54 concerning general rules and regulations. The amendments and new sections are proposed to update the language of the rules and regulations and clarify existing language. New sections are the result of legislation passed in the 1991 regular session of the Texas Legislature.

Ron Resech, executive director, 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. Resech also has determined that for each year of the first five years the sections as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be that the language of the rules and regulations has been updated in keeping with the times and new rules mirror legislation passed in the 1991 regular session of the Texas Legislature. 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 Alicia C. Ayers, Administrative Technician II, 5717 Balcones-P.O. Box 26700, Austin, Texas 78755-0700.

The amendments and new sections are proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

**§89.2. Public School Cosmetology Programs.** Public school cosmetology programs include public high school, public junior college, or any other nonprofit tax-exempt institution conducting a cosmetology program. Public school students receiving cosmetology instruction in private in private cosmetology [beauty culture] schools under contract or agreement in accordance with Title 19, Part II, Texas Administrative Code, §78.21 of this title (relating to Occupational Education for Public School Students by Contract), are to be considered to be public high school students enrolled in a public school cosmetology program for the purposes of this title.

### §89.3. Expiration of Licenses and Certificates.

(a) (No change.)

(b) When a person or establishment whose license has expired engages in the instruction or practice of cosmetology, that person shall be cited for instruction or practicing without a license. Each compensated instruction or service shall constitute a separate offense as to both the individual operator and the cosmetology establishment.

(1) (No change.)

(2) Except for private cosmetology [beauty culture] school licenses:

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

(c) (No change.)

### §89.4. Instructor on Duty.

(a) (No change.)

(b) Private cosmetology [beauty culture] schools shall maintain on staff and on duty during normal business hours, not less than two full-time instructors to a maximum of 50 students in attendance. One instructor is sufficient whenever student enrollment drops below 15. One instructor will be required for each additional 25 students, or part thereof, in attendance over 50.

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

(e) Private cosmetology [beauty culture] school who contract with public schools for the purpose of providing opportunities for public school students to become licensed cosmetologists must comply with §89.2 of this title (relating to Public School Cosmetology Programs).

(f) Private cosmetology [beauty culture] schools that provide regularly scheduled instruction on Mondays, for public school contracted instruction students only, are required to meet the instructor-ratio prescribed in subsection (a) of this section on such days. If private cosmetology [beauty culture] students are in attendance, on such days, to make up hours they must be included in the student count to determine the appropriate instructor-student ratio.

(g) Public school contracted instruction students in attendance to make up hours on Saturdays shall be included in the student count to determine the appropriate instructor-student ratio in accordance with subsection (b) of this section.

### §89.6. New Location or Change in Floor Plan of School.

(a) To be approved for continued operation on a current license, facilities shall be inspected and approved. A private cosmetology [beauty school moving to a new location or altering floor plan will submit the following:

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

(b) (No change.)

**§89.10. Monthly Hour Report.** On a form prescribed by the commission, the school will display the monthly hour report showing a record of hours acquired by each student during the preceding month in a album or binder no later than the 10th day of each month. Each student must be given the opportunity to review, under supervision, his/her hours, and to sign or initial the report. [The school will mail one copy of the report to the Texas Cosmetology Commission postmarked no later than the 10th of the month following.] The report will be kept available for inspection by the student or a representative of the Texas Cosmetology Commission. One copy of the monthly hour report will be given to the commission inspector at each inspection visit. The copy must be signed by the school official. Students enrolled in a cosmetology or specialty course are prohibited from preparing hour reports or supporting documents. Student instructors may prepare hours reports.

**§89.11. Daily Attendance Register.**

(a) Each cosmetology school or program shall maintain a daily record of attendance with each student personally punching the time clock. Attendance records will be maintained in the school and available to authorized personnel of the Texas Cosmetology Commission, for a period of 48 [24] months after the student completes or terminates attendance. All schools will be required to use a time clock to track student hours. All schools shall be required to post a sign at the time clock which states:

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

(b) (No change.)

**§89.13. Reduction, Increasing or Withholding of Hours.**

(a) (No change.)

(b) When a student withdraws or graduates from a cosmetology [beauty culture] school, earned hours may not be withheld for any reason. The hours must be reported to the Cosmetology Commission within ten days of withdrawal or graduation.

(c) Any manipulation of student hours by adding, subtracting, or changing clock hours other than those actually clocked will lead to a hearing where civil penalties may be assessed.

**§89.15. Definitions of License Authorizations.**

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

(l) Exemption. Persons licensed in this state to practice medicine, surgery, den-

tistry, podiatry, osteopathy, chiropractic, or nursing who practiced any phase of cosmetology [prior to August 31, 1985.] as authorized in Texas Civil Statutes, Article 8451a, §39(2) of this title (relating to 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. [(Texas Civil Statutes, Article 8451a, §39(2), revised August 31, 1985).]

**§89.17. Instructor Applicants.** The student instructor must have a valid Texas operator's license before re-entering a cosmetology [beauty] school to complete [additional] 750 hours in cosmetology courses and methods of teaching, and must provide a high school diploma or a GED equivalent along with a [and] properly completed registration form prior to entering [re-entering beauty] school. [in order] To receive credit for hours for the instructor course, a person holding a current operator license from this state or any other state who can verify two years of operator experience in a licensed beauty salon may also qualify for the instructor exam provided they enroll in an instructor course and complete 250 hours of student instructor training in an approved school and [An operator licensed by the Texas Cosmetology Commission who can verify three years operator experience in Texas in a licensed beauty salon may also qualify for the instructor examination provided they] meet the other instructor requirements.

**§89.19. Other Service Performed In a Cosmetology or Speciality Salon.** Ear Piercing, permanent make-up, massage therapy, electrolysis, or sun tan booths are not services that come under the jurisdiction of the Texas Cosmetology Commission, therefore the commission shall not be responsible for their use in a salon. To prevent the spread of infectious disease however, proper sanitation methods must be performed after each use if these services are offered. Some of the above services require licensing from other agencies, therefore it would be appropriate to check with the proper licensing authority prior to implementation or purchase.

**§89.20. Length of Courses.**

(a) Instructor: An 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 [in not less than six months from date of enrollment].

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

(e) Facial specialist. A facial specialist course shall be for 750 [300] hours in an approved school [in not less than eight weeks from date of enrollment].

(f) (No change.)

(g) Manicurist. The manicuring course shall be for 250 [150 hours] in an approved school [in not less than four weeks from date of enrollment].

(h) Once hours are accrued they will be valid for 48 months after withdrawal or graduation.

**§89.21. Student Loan Defaults.** Licensees that are in default on a loan guaranteed by the Texas Guaranteed Student Loan Corporation, or any loan made solely for the purpose of paying tuition and fees, may not renew that license unless timely payments are being made on that loan prior to license renewal.

**§89.22. Transfer of Hours (Out-of-State-Students).** Any student of a private licensed or certified cosmetology [beauty culture] school may submit a request to the Texas Cosmetology Commission to transfer the completed hours of instruction to a Texas School. A transcript must be submitted on the prescribed form and certified by the school in which the instruction was given. Portions of the curriculum of the Texas Cosmetology Commission not taught in another state must be taken in an approved Texas School prior to taking the Texas Examination.

**§89.24. General Provisions Regarding Transfer of Hours.**

(a) (No change.)

(b) A student transferring to a school who desires to claim hours and practical applications earned [previously] must inform the school transferred to of his/her prior attendance and must furnish to that school and the executive director a record of hours claimed and practical applications completed. This record may be in the form of a transcript from the prior school or an extract from records of the commission.

(c) The commission, through the executive director, shall evaluate the transcript generated upon withdrawal from the prior school, and provided that the agreed tuition and fees have been tendered according to §21 of the Cosmetology Statutes [upon approval], shall certify in writing to the student and [to] the school that the stated hours and practical applications have been completed [and that the student is not required to repeat the instructions].

**§89.26. Tuition Refund Policy.** In addition to §21 of the Statutes, the following guidelines will apply.

(a) Under §21, subsection (h), (1) for withdrawal or termination during the first week, shall be defined as actual, normal, clock hours. If normal attendance is 40

hours per week, that would apply, if a student is only scheduled for part time, then the scheduled hours per week would apply.

(b) Extra costs which are not included in the cost of tuition, such as books, equipment, and extra fees must be clearly stated in the catalog and contract and any non-refundable items must be identified.

(c) If a school closes or ceases operation before the class hours are completed, the student shall be entitled to a pro-rata refund of tuition.

(d) Enrollment time is defined as the time elapsed between the actual starting date and the date of the student's last day of attendance.

(e) Schools are urged to adopt a policy wherein the refund to the student may exceed the refund policy in §21 in unusual or mitigating circumstances.

(f) A documented leave of absence may be for a minimum of five days and a maximum of 60 days. In compliance with §21(j) a refund must be made within 30 days after the student has dropped. If a student fails to return from a leave of absence, the student is considered to be withdrawn from school as of the first day of the leave of absence. A school has 30 days after the last day of an approved, documented leave of absence to calculate a refund and return refund. The Department of Education allows an extended leave of absence for medical reasons, however these would be taken on an individual basis subject to Cosmetology Commission approval and would require documentation from a licensed physician.

(g) In compliance with §21(1) a school is not required to record a grade of incomplete if the student withdraws for academic reasons, these include, but are not limited to, unsatisfactory progress or attendance, insubordination or non-compliance of school rules.

#### §89.28. *Withdrawal From School.*

(a) (No change.)

(b) Upon withdrawal, a student is entitled to an official transcript of hours taken and practical applications performed at the school withdrawn from, if in compliance with §89.24 of this title (relating to General Provisions Regarding Transfer of Hours). This transcript must be ready to be picked up in person by the student or his/her agent, or be post-marked, if mailed at the student's option, within 10 calendar days of receipt by the school of notice of withdrawal.

(c) Whenever a student withdraws from a school, a transcript must be prepared showing the number of hours and practical applications completed. This transcript must be sent to the commission within 10 days of receipt by the school of notice of withdrawal.

(d) (No change.)

#### §89.29. *Practical Applications of the Curriculum.*

(a) Each student in a school of cosmetology in the operator course must complete practical applications of the curriculum according to the school's published rules on minimum practical applications, or the following schedule, whichever is greater.

(1) Sanitation—\$175.

(2) Facials—\$30 (a minimum of five services in each category):

(A) skin analysis and care;

(B) manipulation, massage;

(C) skin care;

(D) removal of hair by the use of wax, tweezers, or depilatories;

(E) make-up and brow arch.

(3) Hairdressing—300 (minimum of 20 services in each category):

(A) arranging, cutting, dressing;

(B) shampooing, curling, pressing, fingerwaving.

(4) Scalp and hair treatments—30.

(5) Haircoloring—80 (a minimum of eight services in each category):

(A) temporary, semi-permanent;

(B) permanent, bleaching, and dimensional, coloring, color mixing.

(6) Chemical hair services—80 (a minimum of 15 services in each category):

(A) restructuring, permanent waving;

(B) straightening, and relaxing.

(7) Patron protection—10.

(8) Manicuring—30.

(b) The above practical applications may be performed on a mannequin, a student or a patron, and mock applications may be used where appropriate and necessary. It shall be the responsibility of the student to keep a record of the number of practical applications performed, but shall be verified by an instructor signature.

(c) The Cosmetology Commission inspector as part of their normal duties, will discontinue monitoring hours and hour reports, but will instead check a portion of the student's practical applications. The practical applications will be maintained as a part of the student's file after they graduate or withdraw.

(d) When a student graduates the school must certify that the student has completed the 1500 hour course and that all practical applications have been completed.

§89.30. *Examination Applications.* Application for examination must be filed and processed and the examinee will be notified 10 days prior to his/her examination date.

The examination application consists of the verification of the applicant's completion of the total hours and practical applications required, a statement that the agreed tuition and fees have been tendered, or arrangements made to tender the agreed tuition and fees, a current health certificate which includes a tuberculosis test, and a current photograph. A copy of the student permit and photograph must be posted in the school should the student continue to attend to accrue hours between the time of application and date scheduled for exam. The applicant will be required to furnish a valid Texas drivers license, a Texas Department of Public Safety identification card, a military identification card, a school identification card with a picture, or a resident alien card as proof of identification prior to admittance for examination. No other proof will be accepted. Students holding dates scheduled for exam who do not appear without a seven-day notice to the commission of cancellation may be denied scheduling for at least 60 days.

#### §89.31. *Examination.*

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

(e) The Cosmetology Commission may issue a temporary work permit to students who have completed the 1500 hour course or 1,000 hours of instruction in beauty culture courses and 500 hours of related academic subjects in a public high school vocational program. The work permit expires on the date the student is scheduled for examination. The permit will be on a form issued by the Commission with a clearly marked expiration date. Any student working in a licensed establishment must prominently display the work permit.

#### §89.39. *New Salon.*

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

(c) Additional requirements for all salons.

(1) Carpeting is not allowed in shampoo and working areas but is allowed in reception, dryer, manicuring, and facial



areas provided it is cleaned on a regular basis and kept in a sanitary condition [(effective September 1, 1987)].

(2)-(10) (No change.)

(d) Rules and regulations for all salons.

(1) (No change.)

(2) A person holding a beauty or speciality salon license shall be responsible for all the people working in that salon, unless they are independent contractors.

(e) Facial salon requirements.

(1) Required floor space shall be approximately [at least] 150 square feet of working space [booth area per facial] for the first operator, and 50 square feet of working, dispensary, and reception area for each additional operator, exclusive of rest room, utility, heating and/or cooling facilities and retail area.

(f) Manicurist salon requirements.

(1) Required floor space shall be approximately 150 square feet of working space for the first operator and 50 [100] feet of working, dispensary and reception area for each additional operator, exclusive of rest room, utility, heating and/or cooling facilities and retail area.

(2) Required equipment is as follows:

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

(D) one wet and one dry sterilizer at each table; and

(E) (No change.)

(g) Manicure facial speciality salon requirements.

(1) Required floor space shall be approximately 150 square feet of working space for the first operator and 50 square feet of working, dispensary and reception area for each additional operator, exclusive of rest room, utility, heating and/or cooling facilities and retail area.

(2) Required facial equipment is as follows:

(A) one facial couch and facial chair for each facialist;

(B) one wet sterilizer;

(C) one dry sterilizer; and

(D) one mirror, wall hung, or one hand mirror for each facialist.

(3) Required manicure equipment is as follows:

(A) one manicure table with light for each manicurist;

(B) one manicure stool for each manicurist;

(C) two professional type chairs for patrons;

(D) one wet and one dry sterilizer at each table; and

(E) a sufficient number of covered trash cans

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

**§89.41. Change of Location of a Salon or Independent Contractor.** A salon, [or] school, or independent contractor may move and continue to operate with the current license, but must be inspected and approved under the current requirements in the new location. The salon, [or] school, or independent contractor must notify the commission office in writing of the change of address as soon as the change of address becomes available.

**§89.44. Salon In Connection With Other Business.** A beauty salon, speciality salon, or cosmetology [beauty] school shall not prepare for selling and/or sell food and drink except by vending machine, and should be separated by a solid wall and have a separate entrance if located in the same building with a restaurant or lunch counter. This rule will not apply to a licensed establishment in a department store when the sale of food and drink is not immediately adjacent to the salon. Salons connected with another business that does not sell food and drink must have adequate working space for each operator actually engaged in their practice in order to be licensed.

**§89.47. Definition of a Facial Specialty Salon.**

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

(g) Any other services performed will lead to disciplinary action unless salon also meets the equipment requirements for a manicuring salon and has licensed manicurists on duty.

**§89.49. Definition of a Manicuring Speciality Salon.** A manicuring salon is defined as an establishment where only manicuring and pedicuring is practiced. Any other services performed in a manicuring salon will lead to disciplinary action unless salon also meets the equipment requirements for a facial salon and has licensed

facialists on duty [revocation of that salon license].

**§89.53. Minimum Requirements For Both Private and Public Cosmetology [Beauty Culture] Schools.**

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

(1) A building to house a cosmetology [beauty culture] school must be fireproof and of permanent type of construction, and contain a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students. The building must be divided into three separate areas: one for instruction of theory, one for practice work of seniors, and one for practice work of juniors.

(2)-(9) (No change.)

(10) The equipment in a cosmetology [beauty/culture] school shall not be changed after approval without notifying the Texas Cosmetology Commission.

(11) All equipment in a cosmetology [beauty culture] school shall be of professional type in good and sanitary condition.

(12)-(15) (No change.)

(b) (No change.)

**§89.54. Independent Contractor/Booth Rental License.**

(a) To qualify as an independent contractor an applicant must make application for a booth rental salon license and have an area clearly defined that is their responsibility as far as sanitation is concerned.

(b) To qualify as an independent contractor the following guidelines apply:

(1) independent contractor does not pay a percentage of his/her income to the lessor;

(2) the independent contractor has sufficient floor space and equipment within their jurisdiction to adequately carry out the duties of his/her license;

(3) independent contractors must have the freedom to retail products;

(4) independent contractors advertise only his/her own services, and/or has individual business cards;

(5) independent contractor has key to the salon, and controls his/her own business hours;

(6) telephone access listings are separate, however a number may be shared;

(7) independent contractors represent themselves to the public that they are independent contractors; and

(8) a written contract is in effect with the lessor and the lessor does not exercise any control over the independent contractor.

(c) Independent contractors may do any service in a licensed beauty salon, or specialties in a licensed speciality salon, provided they are properly licensed.

(d) Nothing in these rules is meant to supersede rules promulgated now, or later, by the Internal Revenue Service or the Texas Employment Commission.

(e) The original and renewal Booth Rental license fee shall be \$25 if a booth rental license is delinquent for less than 30 days—the delinquency fee shall be \$10, over 30 days the delinquency fee shall be \$25.

(f) Independent contractors practicing cosmetology in more than one location must obtain a booth rental license in each location. Independent contractors changing location must notify the Cosmetology Commission in writing in compliance with rule 89.41 of this title (relating to Change of Location of a Salon or Independent Contractor).

**§89.69. Corporate Ownership of Private Schools or Salons.** If an applicant for a speciality shop, salon, or private cosmetology [beauty culture] school license is a corporation, the applicant must supply the following information and documentation to the commission along with the relevant license application:

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

**§89.70. New Private Cosmetology [Beauty Culture] School.** An applicant for a private cosmetology [beauty culture] school must submit, at least 45 days prior to the tentative opening date, the following:

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

(6) a good and sufficient surety bond]

(6)[(7)] inspection report of fire marshal and electrical inspector available in or before the inspection; and

(7)[(8)] copy of the curriculum for each course offered.

(8)[(9)] proof of financial stability by providing a certified financial statement of the owner or owners.

(9) On January 1, of each year each private cosmetology school receiving financial aid will contribute \$200 into a special fund to protect the student if a school closes or ceases operation before the course is completed. Schools not receiving financial aid will participate \$100 into the tuition protection fund. When the tuition protection fund reaches \$200,000 the contributions will cease until a portion of the fund is used, then the contributions will again be implemented to bring the fund up to capacity.

**§89.72. Curriculum.** The curriculum listed has been established by the Texas Cosmetology Commission and must be followed by all cosmetology [beauty culture] schools. The curriculum shall be posted in a conspicuous place in the school. A current syllabus and lesson plans for each course shall be maintained by the school and be available for inspection.

(1) Operator Curriculum.

(A) Private Cosmetology [Beauty Culture] School:

(i)-(ix) (No change.)

(B) (No change.)

(2) Instructor Curriculum.

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

**§89.75. Field Trips.** Field trips are permitted under the following conditions for student enrollment in the operator course. The following guidelines are to be strictly adhered to.

(1) A maximum of 40 hours out of the 1,500 hours is permitted per student:

(A) a maximum of 8 hours for the manicure course;

(B) a maximum of 20 hours for the facial course;

(C) a maximum of 20 hours for students taking the 750 hour student instructor course; and

(D) a maximum of 8 hours for students taking the 250 hour student instructor course.

(2) Students must be under the supervision of a licensed [their own] instructor at all times during the field trip. The instructor-student ratio required in a school is required on a field trip.

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

**§89.76. Minimum Requirements For Cosmetology [Beauty Culture] School Separate Facility.**

(a) A separate facility is an extension of a licensed or certified cosmetology [beauty culture] school. It is a supplemental training space located within 500 feet of the main facility. Its purpose is to provide adequate space to train an overflow of students who cannot be accommodated at the main facility. It is located within close proximity to the main facility so as to assure immediate supervision by the main facility.

(b)-(m) (No change.)

(n) A cosmetology [beauty culture] school shall be responsible and accountable to the commission for its separate facility.

(o) (No change.)

(p) The separate facility shall bear the same name as the licensed or certified cosmetology [beauty culture] school.

(q) To be approved for continued operation on a current license or certificate, facilities shall be inspected and approved. A cosmetology [beauty] school adding a separate facility will submit, at least 45 days prior to the tentative opening date of the separate facility, the following:

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

(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 October 11, 1991.

TRD-9112617

Ron Resech  
Executive Director  
Texas Cosmetology  
Commission

Earliest possible date of adoption: November 18, 1991

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

◆ ◆ ◆  
• 22 TAC §89.19

*(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 Cosmetology Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Cosmetology Commission proposes the repeal of §89.19, concerning surety bond required. Legislation enacted in the 1991 regular session of the Texas Legislature did away with the surety bond requirements for schools.

Ron Resech, executive director, 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.

Mr. Resech 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 enforcing the section as proposed will be not applicable, as the public is relatively unaffected by this particular section. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Alicia Ayers, Administrative Technician II, 5717 Balcones, P.O. Box 26700, Austin, Texas 78755-0700.

The repeal is proposed under Texas Civil Statutes, Article 8451a, which provides the Texas Cosmetology Commission with the authority to issue rules and regulations consist-

tent with the Act that are needed to protect the public's health and welfare.

**§89.19. \$5,000 Surety Bond Required.**

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

Issued in Austin, Texas, on October 11, 1991.

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Ron Resech  
Executive Director  
Texas Cosmetology  
Commission

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

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**Part XI. Board of Nurse  
Examiners**

**Chapter 213. Practice and  
Procedure**

◆ ◆ ◆  
**• 22 TAC §§213.19, 213.20-213.22**

*(Editor's Note: The Board of Nurse Examiners proposes for permanent adoption the new and amended sections it adopts on an emergency basis in this issue. The text of the new and amended sections are in the Emergency Rules section of this issue.)*

The Board of Nurse Examiners proposes amendments to §213.19, and §213.20 and new §213.21 and §213.22, concerning licensure of persons with criminal convictions; licensure of persons who have been hospitalized or treated for mental illness or are chemical dependent; declaratory order of eligibility; and representation. The amendments to §213.19 and §213.20 further clarify procedures used in determining a candidate's eligibility to write the licensure examination; §213.21 outlines procedures for a candidate requesting eligibility status prior to or presently enrolled in a nursing program and §213.22, "Representation," was renumbered only.

Louise Waddill, Ph.D., R.N., executive director, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state or local government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the section are in effect will be an estimated increase in revenue \$6,250 for fiscal years 1991-1995. There will be no effect on local government.

Ms. Waddill also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide detailed procedures for a candidate and/or prospective candidate requesting verification of eligibility to write the licensure examination who has previously had a conviction or been hospitalized or treated for mental illness or a chemical dependence. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be \$25 per order of eligibility as provided for in Texas Civil Statutes, Article 4527.

Comments on the proposal may be submitted to Louise Waddill, R.N., Ph.D., Executive Director, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The amendments and new sections are proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112562

Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 835-8650

◆ ◆ ◆  
**• 22 TAC §213.21**

*(Editor's Note: The Board of Nurse Examiners proposes for permanent adoption the repealed section it adopts on an emergency basis in this issue. The text of the repealed section is in the Emergency Rules section of this issue.)*

The Board of Nurse Examiners proposes the repeal of §213.21, concerning representation. The section is being repealed in order to add a new section for declaratory order of eligibility to allow the rules to follow in sequential order. The representation section is being renumbered and proposed as §213.22 with no changes to the text.

Louise Waddill, R.N., Ph.D., executive director, 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. Waddill 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 enforcing the repeal will be to permit the addition of a new section regarding declaratory orders to follow the reasons for issuing a declaratory order. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Louise Waddill, R.N., Ph.D., Executive Director, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The repeal is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112560

Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 835-8650

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**Chapter 217. Licensure and  
Practice**

◆ ◆ ◆  
**• 22 TAC §§217.6-217.8**

*(Editor's Note: The Board of Nurse Examiners proposes for permanent adoption the amended sections it adopts on an emergency basis in this issue. The text of the amended sections is in the Emergency Rules section of this issue.)*

The Board of Nurse Examiners proposes amendments to §§217.6-217.8, concerning temporary permit, failure to renew certificate of reregistration, and reactivation from inactive status. These amendments are being proposed to include the provision for the issuance of a temporary permit for an RN who has been out of practice for four or more years; and §217.7 and §217.8 will also include the recently adopted continuing education requirements for registered nurses.

Louise Waddill, Ph.D., R.N., executive director, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect will be an estimated increase in revenue of \$2,790 for fiscal years 1991-1995. There will be no effect on local government.

Ms. Waddill 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 require an RN who has been out of the practice of professional nursing for a period of four or more years to work under the supervision of another RN for the purpose of an extensive orientation and/or refresher course, and by requiring continuing education (CE) for those nurses as well, thus better protecting the public. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be that the RN obtaining a permit will pay the \$15 permit fee; the cost for obtaining CE is not able to be determined at this time.

Comments on the proposal may be submitted to Louise Waddill, R.N., Ph.D., Executive Director, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The amendments are proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112564 Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 835-8650

◆ ◆ ◆  
• 22 TAC §217.13

The Board of Nurse Examiners proposes an amendment to §217.13, concerning unprofessional conduct. The Board of Nurse Examiners is amending the unprofessional conduct rule to include a provision for failure to repay a loan received through the Guaranteed Student Loan Corporation as mandated by the Texas Education Code, §57.491.

Louise Waddill, Ph.D., R.N., executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state government as a result of enforcing or administering the section. The effect on small government for the first five-year period the section is in effect will be an increase in the agency's workload, depending upon the number of RNs who have defaulted on their student loans. The cost cannot be determined at this time. There will be no effect on local government.

Ms. Waddill, also has determined that for each year of the first five years the section are in effect the public benefit anticipated as a result of enforcing the section will be not applicable as the public is relatively unaffected by this section as the RN negligent on repayment of the loan to the Guaranteed Student Loan Corporation would be affected. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section cannot be determined at this time.

Comments on the proposal may be submitted to Louise Waddill, R.N., Ph.D., Executive Director, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The amendment is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

**§217.13. Unprofessional Conduct.** The term "unprofessional conduct which, in the opinion of the board, is likely to deceive, defraud, or injure patients or the public," includes, but is not limited to, the conduct listed as follows:

(1)-(15) (No change.)

(16) failing to repay a guaranteed student loan, as provided in the Texas Education Code, §57.491.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112565

Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 835-8650

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Chapter 223. Fees

• 22 TAC §223.1

*(Editor's Note: The Board of Nurse Examiners proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)*

The Board of Nurse Examiners proposes an amendment to §223.1, concerning fees. During the 72nd Legislative Session, legislative action increased the renewal fee and provided for the Board of Nurse Examiners to charge for evaluating and issuing declaratory orders of eligibility for licensure for applicants who have had a criminal conviction and for an applicant who has been hospitalized and/or treated for mental illness or chemical dependency.

Louise Waddill, Ph.D., R.N. executive director, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated increase in revenue of \$464,000 for fiscal years (fy) 1991-1995 based on renewals; and for fy 1991-1995 based on declaratory orders. There will be no effect on local government.

Ms. Waddill also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by this particular section. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section will be an increase of \$8.00 per RN per biennial renewal; and \$25 fee per applicant requesting order of eligibility.

Comments on the proposal may be submitted to Louise Waddill, R.N., Ph.D., Executive Director, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The amendment is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112567

Louise Waddill, Ph.D., R.N.  
Executive Director  
Board of Nurse Examiners

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 835-8650

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Part XIV. Texas  
Optometry Board

Chapter 271. Examinations

• 22 TAC §§271.3-271.6

The Texas Optometry Board proposes amendments to §§271.3-271.6, concerning board examinations for licensure. This rule will provide information to candidates for licensure regarding the examination to be administered by the board for licensure to practice in Texas. The amendments are housekeeping changes as a result of the state written examination being phased out. Candidates have been informed of the phase-out through the rules which have been in effect and are now subject to change.

Lois Ewald, executive director, Texas Optometry Board, 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.

Ms. Ewald 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 that the public will be assured that only qualified optometrists are licensed to practice in the State of Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

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

The amendment is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

**§271.3. Examination Administration.**

(a) Examination for a license to practice optometry in this state shall be conducted in the English language in writing and by such other means as the board shall determine adequate to ascertain the qualifications of the applicant. [All applicants examined at the same time shall be given the same written examination.] Each applicant shall be given due notice of the date and place of examination.

(b) Prior to an examination, the executive director or a member of the board designed by the chairman shall prepare a tentative schedule showing the time allotted to each examination [subject] and the order in which each [they will be given, said schedule to meet the approval of a majority of the members of the board. The tentative schedule of examination, and any changes made therein as the examination proceeds,

shall be made known to the applicants during each day of the examination.

(c) The examination shall consist of three sections, one of which shall be the National Board Examination (in lieu of a state written examination), one shall be practical, and one shall be a written Jurisprudence examination [be divided into two sections, one of which shall be practical and one of which shall be written.] The passing grade for the practical shall be 70 and the [The] passing grade on the Jurisprudence [each] written test shall be 70. [If an individual has failed to pass any single written test, then such applicant must have an overall average of 75 on all written tests to pass. Those applicants failing only the practical examination will be required to retake only the practical examination. Those applicants failing the practical and not having an overall average of 75 on the written tests must retake the practical examination and all written tests they failed.]

(d) Applicants shall be permitted to bring [table books, glide rules, and] computer calculators to the examination room. Applicants shall not communicate any words or signs with another applicant while the examination is in progress without the permission of the presiding examiner, nor leave the examination room except when so permitted by the presiding examiner. Violations of this rule shall subject the offender to expulsion.

(e)-(g) (No change.)

#### §271.4. Re-examinations.

(a) Any applicant taking the board examination for the second time who has failed to pass one or more of the [written] tests [and does not have an overall average of 75] will be required to retake all [written] tests which were failed. [An applicant failing the practical examination on the initial board examination will be required to retake the practical examination.]

(b) Any applicant taking the board examination for the third time will be required to take all [written] tests that were not passed in the two previous examinations.

(c) Any applicant taking the board examination for the fourth time must take the practical examination and all [written] tests previously failed and must score at least 70 on each to qualify for licensure. If a candidate has not passed the board after a fourth examination, he will be required to retake the entire exam, as if it were the first, with all applicable rules applying, as if it were a first examination.

(d) (No change.)

#### §271.5. Endorsements.

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

(h) The examination fee for licensure by endorsement shall be \$55. [Any applicant who does not qualify for licensure by endorsement may request that the fee be applied toward the initial examination, provided the examination is taken within one year.] No fee for licensure by endorsement will be returned to any applicant after his application has been reviewed by the board.

(i) (No change.)

#### §271.6. National Board Examination.

(a) The board determines that the written examination by the National Board of Examiners in Optometry (NBEO) complies in all material respects with the requirement of the Act, §3.05 and §3.06. [Beginning June 1, 1986, an applicant for licensure shall have the option of taking and passing all parts of the NBEO written examination or taking and passing the written examination given by the Texas Optometry Board.] The passing score on each part of the national board is determined by a criterion-referenced standard setting approach, in which the passing score is set at a scaled score of 300. [An applicant may take either the written examination given by the NBEO or the written examination given by the board, or both, and passage of either shall be acceptable. Beginning January 1, 1992, all applicants shall take and pass all parts of the NBEO written examination and the written examination by the board shall no longer be administered. The last written examination to be administered by the board will be in June of 1991. As a phase-out of the board's written examination, an applicant sitting for the first time at the January 1990 examination will have three subsequent sittings to pass the examination; an applicant sitting for the June 1990 examination will have two subsequent sittings to pass the examination; an applicant sitting for the January 1991 examination will have one subsequent sitting to pass the examination, and an applicant sitting for the June 1991 examination will have no subsequent sittings to pass the examination. If the entire written examination given by the board is not passed by the June 1991 examination, an applicant will be required to take the NBEO written examination in its entirety.]

(b)-(h) (No change.)

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112855  
Lois Ewald  
Executive Director  
Texas Optometry Board

Earliest possible date of adoption: November 18, 1991

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

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## Chapter 273. General Rules

### • 22 TAC §273.4

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

The Texas Optometry Board proposes an amendment to §273.4, concerning the license renewal fee for optometrists. This rule will allow the board to increase its renewal fee as required by Rider Number 4 of the agency's appropriation pattern appearing in House Bill 1, 72nd Legislature, First Called Session, and to collect fees for therapeutic certification application and certificate, as required by Senate Bill 774, 72nd Legislature, 1991.

Lois Ewald, executive director, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated increase in revenue of \$42,800 for fiscal years 1992-1996. There will be no effect on local government.

Ms. Ewald also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that by increasing fees for relicensure, sufficient revenue is generated by the licensing agency to continue to conduct its state business to assure that the public is protected through examination, licensing, and enforcement processes. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be an individual cost of \$15 for each licensee; cost of \$80 per individual seeking therapeutic certification.

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

The amendment is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112852  
Lois Ewald  
Executive Director  
Texas Optometry Board

Earliest possible date of adoption: November 18, 1991

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

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## Chapter 279. Interpretations

### • 22 TAC §279.8

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

The Texas Optometry Board proposes the repeal of §279.8, concerning the interpretation of §1.02 as it relates to the definition of diagnosing within the scope of optometry. Senate Bill 774, 72nd Legislature, 1991, amended the Texas Optometry Act which allows for an optometrist to diagnose and use topical pharmaceutical agents for diagnostic procedures under the scope of practice of optometry. Section 279.8, therefore, serves no purpose and such interpretation is not longer required.

Lois Ewald, executive director, 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. Ewald, also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

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

The repeal is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

#### §279.8. Board Interpretation Number Eight.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112853  
Lois Ewald  
Executive Director  
Texas Optometry Board

Earliest possible date of adoption: November 18, 1991

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

## Chapter 280. Therapeutic Optometry

### • 22 TAC §280.5

The Texas Optometry Board proposes an amendment to §280.5, concerning the list of drugs that may be prescribed by an optometrist who has met all education and examination requirements as a therapeutic optometrist. The list of drugs is required to be identified under Senate Bill 774, 72nd Legislature, 1991, and published as a board rule, once an advisory committee had recommended such listing to the agency. The list will provide information to licensees regarding the drugs which may be prescribed as a therapeutic optometrist.

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

Ms. Ewald also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the public will be protected by optometrists prescribing those drugs which fall within prescriptive authority of a certified therapeutic optometrist. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

The amendment is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

#### §280.5. Prescriptions Written for Pharmaceutical Agents by the Therapeutic Optometrists.

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

(g) All drugs listed within the following classifications which are used for treatment of the eye and adnexa fall within the working optometric formulary. No drug falling within one of the following categories may be used for the treatment of glaucoma in a manner that was not permitted by law on August 31, 1991. Antiviral drugs falling within the anti-infective classification are not included in the formulary. All over-the-counter drugs are included in the formulary, as well as combinations of the drugs falling within the following classifications:

(1) anti-allergy:

(A) antihistamine;

(B) membrane stabilizer;

(2) anti-fungal:

(A) imidazoles;

(B) polyenes;

(3) anti-infective:

(A) aminoglycoside;

(B) anti cell membrane;

(C) anti cell wall synthesis;

(D) anti DNA synthesis;

(E) anti protein synthesis (excluding chloramphenicol);

(F) anti-ACHase;

(G) cephalosporin;

(H) intermediary metabolism;

(4) anti-inflammatory:

(A) nonsteroidal anti-inflammatory drug (NSAID);

(B) steroid;

(5) antiseptic;

(6) chelating agent;

(7) chemical cautery;

(8) cycloplegic; parasymphatholytic;

(9) hyperosmotic;

(10) miotic;

(A) anti-ACHase;

(B) parasymphathomimetic;

(11) mucolytic;

(12) mydriatic: sympathomimetic (Alpha 1 agonists only);

(13) vasoconstrictor: sympathomimetic (Alpha 1 agonist only).

(h) This formulary specifically list the types of drugs which may be prescribed by a therapeutic optometrist. A therapeutic optometrist may possess and administer any topical ocular pharmaceutical agent which has a legitimate diagnostic or therapeutic use.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112854  
Lois Ewald  
Executive Director  
Texas Optometry Board

Earliest possible date of adoption: November 18, 1991

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

## Part XX. Texas Board of Private Investigators and Private Security Agencies

### Chapter 460. Application Processing and Refunds

#### • 22 TAC §460.1

*(Editor's Note: The Texas Board of Private Investigators and Private Security Agencies proposes for permanent adoption the repealed section it adopts on an emergency basis in this issue. The text of the repealed section is in the Emergency Rules section of this issue.)*

The Texas Board of Private Investigators and Private Security Agencies proposes the repeal of §460.1, concerning application processing and refunds. The section sets out the time limitation of the board in issuing a license after application and the procedures to be followed by applicants for receiving a refund of the filing fee. The board has determined that repeal of this section is in the public interest and is necessary to comply with the Administrative Procedure and Texas Register Act, Article 6252-13b.1, §3, agency rules, which sets forth specific guidelines for the processing of applications.

Clema D. Sanders, executive director, 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. Sanders, also has determined that for each year of the first five years the repeal in effect the public benefit anticipated as a result of enforcing the repeal will be faster processing of applications, less time spent by agency personnel in dealing with deficient applications, faster resolution of disputes arising from violations of filing deadlines, and faster processing of criminal history checks. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

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

Issued in Austin, Texas, on October 7, 1991.

TRD-9112369

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 463-5545

*(Editor's Note: The Texas Board of Private Investigators and Private Security Agencies proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)*

The Texas Board of Private Investigators and Private Security Agencies proposes new §460.1, concerning acceptance for filing; defective applications. The new section sets forth guidelines for the acceptance of, processing of, and time limitations on applications. The board has determined that adoption of this section is in the public interest and is necessary to comply with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13b.1, §3, agency rules, which sets forth specific guidelines for the processing of applications.

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

Ms. Sanders, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be faster processing of applications, less time spent by agency personnel in dealing with deficient applications, faster resolution of disputes arising from violations of filing deadlines, and faster processing of criminal history checks. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

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

Issued in Austin, Texas, on October 7, 1991.

TRD-9112370

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 463-5545

## Part XXII. Texas State Board of Public Accountancy

### Chapter 515. Licensees

#### • 22 TAC §515.10

The Texas State Board of Public Accountancy proposes new §515.10, concerning licenses for certificate holders who default on student loans. The new rule does not allow certified public accountants to obtain licenses if they are in default with loans guaranteed by the Texas Guaranteed Student Loan Corporation unless certain statutory requirements are met.

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

Mr. Treacy also has determined that for each year of the first five years the is in effect the public benefit anticipated as a result of enforcing the section will be that certified public accountants will have additional incentive to remain current on payments for their guaranteed student loan. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to licensing, and is proposed pursuant to the Texas Education Code, §57.491.

#### *§515.10. Licenses for Certificate Holders With Defaulted Student Loans.*

(a) The board shall not renew the license of a licensee whose name appears on the list of persons who are in default of loans guaranteed by the Texas Guaranteed Student Loan Corporation (TGSLC) and in default of repayment agreements unless:

(1) the renewal is the first renewal following the board's receipt of the list including the licensee's name among those in default; or

(2) the licensee presents a certificate issued by TGSLC certifying that:

(A) the licensee has entered a repayment agreement on the defaulted loan; or

(B) the licensee is not in default on a loan guaranteed by TGSLC.

(b) The board may issue initial licenses to persons whose names appear on the list of persons who are in default of loans guaranteed by TGSLC if that person



meets the qualifications for licensure established by the board; provided, however, that the board shall not renew the license unless the person presents a certificate issued by TGSLC certifying that:

(1) the licensee has entered into a repayment agreement on the defaulted loan; or

(2) the licensee is not in default on a loan guaranteed by the TGSLC.

(c) The board shall provide licensees with the opportunity to have a public hearing pursuant to the board's rules prior to taking action concerning nonrenewal of licenses for default of student loans.

(d) The board's nonrenewal policy shall be printed on each license renewal notice and license application.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112457

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption: November 18, 1991

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

## TITLE 28. INSURANCE

### Part II. Texas Workers' Compensation Commission

#### Chapter 112. Scope of Liability for Compensation

#### Subchapter E. Professional Athletes Election of Coverage

##### • 28 TAC §112.401, §112.402

The Texas Workers' Compensation Commission proposes new §112.401 and §112.402, concerning the mandatory election of benefits to be made by certain professional athletes after work-related injuries. Proposed §112.401 requires a professional athlete, no later than 15 days after an injury, to make a written election to receive either workers' compensation insurance benefits or equivalent benefits provided by contract or collective bargaining agreement; requires the employer to provide the athlete with written notice of this mandatory election at the time the contract is executed; and establishes filing requirements for the written election. Section 112.402 defines when contractual benefits are equivalent to workers' compensation insurance benefits. The new sections are mandated by Texas Civil Statutes, Article 8308-3.075, enacted by the 72nd Legislature, Regular Session, 1991.

Andrew Thigpen, associate director, financial management, has determined that for each year of the first five-year period the new sections are in effect, there will be no fiscal implications for the state or local government as a result of enforcing or administering the new sections.

There is no anticipated impact on employment, locally or statewide, as a result of implementing these new sections.

Mr. Thigpen also has determined that for each of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be implementation of the Texas Workers' Compensation Act and a means by which an athlete may choose coverage offering higher benefits. There will be no effect on small businesses. There is anticipated economic cost to employers required to comply with §112.401 as proposed, if they choose to file the athlete's election by certified mail, return receipt requested. For such employers, the cost of compliance will be \$2.29 per letter. There are no anticipated economic costs for persons required to comply with §112.402 as proposed.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Articles 8308-2.09(a), which authorizes the commission to adopt rules necessary to implement and enforce the Texas Workers' Compensation Act, and Articles 8308-3.075, which requires adoption of rules to establish the procedures and requirements for the mandatory election.

##### §112.401. Election of Coverage by Certain Professional Athletes.

(a) A professional athlete employed by a franchise with workers' compensation insurance coverage and subject to the Texas Workers' Compensation Act (the Act), Article 8308-3.075, shall elect to receive either the benefits available under the Act or the equivalent benefits available under the athlete's contract or collective bargaining agreement. The election shall be made not later than the 15th day after the athlete sustains an injury in the course and scope of employment. If the athlete fails to make an election, the athlete will be presumed to have elected the option which provides the highest benefits.

(b) When a contract is signed by a professional athlete, the employer shall give the athlete a copy of the following statement: "[Name of employer] has workers' compensation coverage from [name of insurance carrier]. If the benefits available to you under your contract and any applicable collective bargaining agreement are equivalent to or greater than those available to you under the Texas Workers' Compensation Act. Article 8308-3.075 of that Act requires you to elect whether to receive the benefits available to you under the Act or the bene-

fits available to you under your contract and any applicable collective bargaining agreement. You must make this election no later than fifteen days after sustaining an injury. If you elect to receive the benefits available to you under your contract and any applicable collective bargaining agreement, you cannot obtain workers' compensation income or medical benefits if you are injured. You can get more information about your workers' compensation rights and the benefits available to you under the Act from any office of the Texas Workers' Compensation Commission, or by calling [the Commission's assigned toll free number]."

(c) The election shall be in writing and shall:

(1) indicate the date of the injury for which the election is being made;

(2) indicate whether the athlete elects to receive the benefits available under the Act or the benefits provided under the contract or agreement; and

(3) be signed by the athlete and the employer.

(d) If the athlete elects to receive the benefits available under the Act, the election shall be provided to the commission by personal delivery or registered or certified mail within 10 days of the date of execution. A copy shall also be provided to the franchise's workers' compensation insurance carrier within 10 days of the date of execution. Both the athlete and the franchise shall also keep a copy of the election.

(e) If the athlete elects to receive the benefits available under the contract and any agreement, the election shall be provided to the franchise's workers' compensation insurance carrier by personal delivery or registered or certified mail within 10 days of the date of execution. Both the athlete and the franchise shall keep a copy of the election.

(f) An election made under this section is irrevocable and binding on the athlete and the athlete's legal beneficiaries for a compensable injury incurred on the date specified in the election.

##### §112.402. Determination of Equivalent Benefits for Professional Athletes.

(a) Medical care available to a professional athlete subject to the Act, Article 8308-3.075, is equal to or greater than medical benefits under the Act if:

(1) the athlete is entitled to all health care reasonably required by the nature of the work-related injury as and when needed, including all health care that:

(A) cures or relieves the effects naturally resulting from the work-related injury;



(B) promotes recovery; or

(C) enhances the ability of the employee to return to or retain employment; and

(2) the employer's liability for health care is not limited or terminated in any way by the contract or collective bargaining agreement.

(b) When the athlete is not eligible for lifetime income benefits or when the athlete's legal beneficiaries are not eligible for death benefits under the Act, weekly benefits available to a professional athlete subject to the Act, Article 8308-3.075, are equal to or greater than the income benefits provided under the Act if the total amount of the payments provided for in the contract or collective bargaining agreement and made under subsection (b)(1) of this section is equal to or greater than the maximum weekly benefit available under the Act multiplied by 104.

(c) When the athlete is entitled to lifetime income benefits under the Act, weekly benefits available to a professional athlete subject to Article 8308-3.075 of the Act are equal to or greater than the income benefits provided under the Act if equal to or greater than the maximum weekly benefit available under the Act.

(d) When the athlete's legal beneficiaries are entitled to death benefits under the Act, weekly benefits available to the legal beneficiaries of a professional athlete subject to the Act, Article 8308-3.075 are equal to or greater than the death benefits provided under the Act if equal to or greater than the maximum weekly benefit available under the Act.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112514 Susan M. Kelley  
General Counsel  
Texas Workers'  
Compensation  
Commission

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 440-3972

## Chapter 120. Compensation Procedures-Employers

### • 28 TAC §120.3

The Texas Workers' Compensation Commission proposes new §120.3, concerning a new commission form, the *Employer's Supplemental Report of Injury*. The new section defines who must file; sets out procedures for filing; requires that the form be filed when an injured employee suffers eight days of disability, returns to work, is terminated or resigns,

or receives adjusted post-injury earnings; and establishes a penalty for noncompliance.

Andrew Thigpen, associate director, financial management, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for the state or local government as a result of enforcing or administering the section.

There is no anticipated impact on employment, locally or statewide, as a result of implementing the new section.

Mr. Thigpen also has determined that for each of the first five years the new section is in effect, the public benefit anticipated as a result of enforcing the new section will be implementation of the Texas Workers' Compensation Act, and improved monitoring and adjusting of worker's compensation claims. There will be no effect on small businesses except the economic costs of compliance stated below for persons required to comply with the new section. The cost of compliance for small businesses is proportionate to the cost of compliance for large businesses. The economic cost to persons who are required to comply with the section as proposed will be the minimal costs of reproducing the required form, and first class postage, if the form is filed by mail. First class postage is estimated to be \$.029 for a one ounce mailing, and \$.23 for each additional ounce. The number of forms mailed in a single mailing will determine the postage. Costs for reproducing the form are undeterminable, and will vary according to the method of reproduction used.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

### *§120.3. Employer's Supplemental Report of Injury.*

(a) As used in this section, the term "employer" means the employer for whom the employee was working when injured.

(b) The employer shall file form TWCC 6, Employer's Supplemental Report of Injury, when:

(1) the employer knows or should know that the injured employee has suffered or will suffer eight days of disability, as defined in §124.7 of this title (relating to Initial Payment of Temporary Income Benefits);

(2) the injured employee returns to work for the employer; or

(3) the injured employee resigns or is terminated.

(c) The report required by subsection (b) of this section shall be filed with the commission field office handling the claim and sent to the employer's carrier by first class mail or personal delivery no later

than the tenth day after one of the occurrences listed in subsection (b) of this section.

(d) As provided by §129.4(c) of this title (relating to Adjustment of Temporary Income Benefit Amount), the employer shall file form TWCC 6, Employer's Supplemental Report of Injury, when the post-injury earnings paid by the employer to an injured employee entitled to temporary income benefits increase or decrease for any reason, including layoff.

(e) The report required by subsection (d) of this section shall be sent to the employer's carrier by first class mail or personal delivery no later than the tenth day after the end of each pay period.

(f) Failure to comply with the requirements of this section, without good cause, is a Class D administrative violation, subject to a penalty not to exceed \$500.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112512 Susan M. Kelley  
General Counsel  
Texas Workers'  
Compensation  
Commission

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 440-3972

## Chapter 160. Worker's Health and Safety-General Provisions

### • 28 TAC §160.1

The Texas Workers' Compensation Commission proposes an amendment to §160.1, concerning requirements for notifying employees of the commission's toll-free safety "hotline". The proposed amendment is intended to prevent the word "language" from being misinterpreted as prohibiting posting of the notice in any language other than English and Spanish. As amended, the section still requires posting in English and Spanish, but expressly permits additional posting in any other language appropriate to the workplace.

Andrew Thigpen, associate director, financial management, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

There is no anticipated impact on employment, locally or statewide, as a result of implementing this section as amended.

Mr. Thigpen also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be implementation of the new Texas Workers' Compensation Act, improved understanding, and

compliance with the Act and this rule. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be taken for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to implement and enforce the Texas Workers' Compensation Act.

#### *§160.1. Employee Report of Safety Violations.*

(a) (No change.)

(b) The notice required by this section shall be:

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

(3) printed in at least 24-point bold type; [and]

(4) limited to the wording [language] required by this rule; and [.]

(5) posted in both English and Spanish, and may be translated into any other languages appropriate to the employer's workplace.

(c) (No change.)

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112513

Susan M. Kelley  
General Counsel  
Texas Workers'  
Compensation  
Commission

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 440-3972

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter O. State Sales and Use Tax

###### • 34 TAC §3.290

The Comptroller of Public Accounts proposes an amendment to §3.290, concerning automotive repair and maintenance shops. The amendment changes the section reference for persons repairing motor vehicles from §3.292, concerning repair, remodeling, maintenance, and restoration of tangible personal property to §3.359, concerning motor vehicles

and private aircraft. Other minor changes were made for clarity.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Dr. Plaut also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in providing new information regarding tax responsibilities. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

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

#### *§3.290. Automotive Repair and Maintenance Shops.*

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

(1) (No change.)

(2) Component—A part of a motor vehicle such as tires, batteries, shock absorbers, and mufflers or a motor vehicle system such as the suspension, electrical, or cooling systems necessary to the proper operation of a motor vehicle and including [includes] any part of the chassis or body.

(3) Equipment attachment—A part attached to a motor vehicle which is neither a component, nor an accessory, but which may be cargo that the vehicle transports, such as a welder, crane, compressor, or other type equipment.

(4) (No change.)

(b) Except when replacing a defective or inoperative component or accessory, a [A] person engaged in the sale and installation of motor vehicle component parts and accessories must collect sales tax on the price charged for the parts, accessories, and installation. The removal and replacement of defective, worn, or unsafe accessories or components is a repair and not a sale and installation.

(1) Except when replacing a defective or inoperative component or accessory, the [The] total charge for the sale and installation of an accessory or a component is subject to tax regardless of whether the charge is lump-sum or separated.

(2) The replacement of a defective or inoperative component or accessory is a repair of a motor vehicle. The tax responsibility of the persons repairing motor vehicles [repairman] is covered under §3.359 of this title (relating to Motor Vehicles and Private Aircraft) [§3.292(b) of this title (relating to Repairmen)]. The repair of a motor vehicle component or of an accessory is considered the repair of a motor vehicle.

(3) The repair of equipment attachments is considered the repair of tangible personal property and is taxed according to §3.292[(c)] of this title (relating to Repair Remodeling Maintenance and Restoration of Tangible Personal Property [Repairmen]).

(c) (No change.)

(d) A person may repair a motor vehicle component or accessory for the general repairman who is performing general repair work on a motor vehicle.

(1) (No change.)

(2) If the person repairing the component or accessory charges one lump-sum amount for the repair of the component or accessory, the person is a lump-sum repairman under §3.359 of this title relating to Motor Vehicles and Private Aircraft [§3.292(b) of this title (relating to Repairmen)].

(e)-(f) (No change.)

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112369

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Earliest possible date of adoption: November 18, 1991

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

## Subchapter P. Local Sales and Use Tax

### • 34 TAC §3.372

The Comptroller of Public Accounts proposes an amendment to §3.372, concerning adopting or abolishing city tax. The amendment adds information on local tax for industrial development and on the various tax rates authorized by legislation passed during the 72nd Legislature, 1991. The legislation authorizing the various tax rates is effective on or after August 24, 1991.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Dr. Plaut also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in providing new information regarding tax responsibilities. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

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

**§3.372. Adopting, Increasing, Decreasing, or Abolishing City Tax.**

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

(1) (No change.)

(2) [Metropolitan] Transit authority [Authority (MTA)]—Any rapid transit authority, regional transportation authority, or city transit department formed under Texas Civil Statutes, Articles 1118x, 1118y, or 1118z and designated as a taxing entity under the Tax Code, §322.002.

(b) General. Any city may, by a majority vote of the qualified voters of that city voting at an election held for that purpose, adopt or abolish a local sales and use tax in accordance with the provisions of the Local Sales and Use Tax Act and the Development Corporation Act of 1979.

(1) A tax rate of 1.0% may be imposed or abolished on the receipts from

the sale at retail of all taxable items. This tax is for the use and benefit of the city. No city may pledge anticipated revenue from this tax to secure the payment of bonds or other indebtedness.

(2) An additional tax rate of 1/8, 1/4, 3/8, or 1/2 of 1.0% [0.5%] may be imposed, increased, reduced, or repealed on the receipts from the sale at retail of all taxable items. This tax must be used to reduce the property tax rate if the city has imposed a property tax. This additional [0.5%] tax may not be imposed if the city:

(A) is within the boundaries of a [metropolitan] transit authority;

(B) is in a county that includes territory within the boundaries of a [metropolitan] transit authority created under Texas Civil Statutes, Article 1118y, by a principal city with a population of more than 800,000 unless:

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

(iii) the city is not and on January 1, 1991, was not included within the boundaries of an authority and the city had a population in excess of 67,000 as reported in the 1990 federal census.

(C) (No change.)

(3) Cities that qualify under the Development Corporation Act of 1979 may impose a tax rate of 1/8, 1/4, 3/8, or 1/2 of 1.0% to fund industrial development programs.

(4)[(3)] A city may not adopt or increase the tax if the resulting combined rate of all local sales and use taxes (city, county, transit, and other local taxes for special purposes [and MTA]) exceeds 2.0% at any location in the city. If a city and other local taxing entities with territory

in the city hold elections on the same day to adopt or increase local sales tax, and the results of the elections cause the combined tax rate to exceed 2.0%, the election held by the transit authority [MTA] would be without effect first. If the tax rate still exceeds 2.0%, the election held by the county would be without effect. The total combined local tax rate imposed by local taxing entities with territory in the city may never exceed 2.0%.

(c) Notification requirements. Where the majority votes are found to be in favor of [for] the proposition [voted on], the city secretary shall forward to the Comptroller of Public Accounts by United States registered mail or certified mail a certified copy of the ordinance or resolution of the governing body canvassing the returns and declaring the result of such election. Such ordinance or resolution shall reflect the date of the election in such city, the proposition voted on, the total number of votes cast for and against the proposition, and the number of votes by which the proposition was approved. For the purposes of the tax imposed under subsection (b)(1) of this section, the election results should be accompanied by a map of the city clearly showing the boundaries thereof.

(d) Effective date of adoption, reduction, increase, or abolition. Upon actual receipt by the comptroller of notification as set forth in subsection (c) of this section, there shall elapse one whole calendar quarter prior to such adoption, reduction, increase, or abolition becoming effective. Thereafter, the adoption, reduction increase, or abolition shall be effective as follows:

(1) beginning on the first day of the calendar quarter next succeeding the elapsed quarter for the taxes imposed under subsection (b)(1) of this section. The following illustrates the effective date of adoption, reduction, increase, or abolition:

Notice received between:

January 1 through March 31

April 1 through June 30

July 1 through September 30

October 1 through December 31

Effective date:

July 1

October 1

January 1

April 1

(2) (No change.)

(e)-(g) (No change.)

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112357

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Earliest possible date of adoption: November 18, 1991

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

## Subchapter R. Transit Sales and Use Tax

### • 34 TAC §3.422

The Comptroller of Public Accounts proposes an amendment to §3.422, concerning adopting or abolishing MTA tax. The amendment changes the definition of metropolitan transit authority to conform to amendments in other local tax rules and makes other minor changes for clarity.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the proposed section is in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Dr. Plaut also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in providing new information regarding tax responsibilities. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to person who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

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

#### §3.422. Adopting, Increasing, Decreasing, or Abolishing Transit (MTA) Tax.

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

(1) [Metropolitan] Transit authority [Authority (MTA)]—Any rapid tran-

sit authority [created under Texas Civil Statutes, Article 1118x], regional transportation authority [created under Texas Civil Statutes, Article 1118y], or city transit department formed [created] under Texas Civil Statutes, Articles [Article] 1118x, 1118y, or 1118z and designated as a taxing entity under the Tax Code, §322. 002.

(2) (No change.)

(b) Adopt or abolish.

(1) Any [metropolitan] transit authority may, by a majority vote of the qualified voters of the authority, adopt or abolish transit [an MTA] sales and use tax as provided in the statute authorizing the authority.

(2) A transit authority [An MTA] may not adopt or increase the tax if the resulting combined tax rate of all local sales and use taxes (city, county, transit, and other local taxes for special purposes [MTA]) imposed by local taxing entities with territory in the transit authority [MTA] would exceed 2.0%. If a transit authority [an MTA] and another local taxing entity within the transit authority [MTA] hold elections and approve a tax increase or adopt a tax on the same day and the resulting combined tax rate in any area of the transit authority [MTA] exceeds 2.0%, the election held by the transit authority [MTA] has no effect. The total combined local tax rate imposed by local taxing entities with territory in a transit authority [the MTA] may never exceed 2.0%.

(c) (No change.)

(d) Tax rate. Except for city transit departments, the transit [MTA] sales and use tax rate may be levied only as 1/4 of 1.0%, 1/2 of 1.0%, 3/4 of 1.0%, or 1.0%. The tax rate for city transit departments may be levied at 1/4 of 1.0% or 1/2 of 1.0%.

(e) Effective date for transit [MTA] sales and use tax. Following actual receipt by the Comptroller of Public Accounts of notification of adoption of an transit [MTA] sales and use tax containing the information required by subsection (c) of this section, one whole calendar quarter must elapse before the transit [MTA] sales and use tax is effective. The adoption is effective on the first day of the next calendar quarter following the elapsed calendar quarter.

(f) Tax rate change.

(1) Any election for approval of a tax increase must conform to the requirements prescribed in subsection (c) of this section for elections and notification. The transit authority may, by a board order, decrease the tax rate provided the presiding officer of the board files a certified copy of

the order with the State Department of Highways and Public Transportation and the Comptroller of Public Accounts.

(2) If there is an increase or decrease in the rate of an transit [MTA] sales and use tax already levied, the new rate becomes effective the first day of the next succeeding calendar quarter following actual notification to the Comptroller of Public Accounts. However, if the comptroller notifies the presiding officer of the board in writing within 10 days after receipt of the order that he requires more time, the comptroller is entitled to delay implementation one whole calendar quarter. The new tax rate is effective the first day of the next succeeding calendar quarter following the elapsed quarter.

(g) (No change.)

(h) Telecommunications services. [Telecommunications services are exempt from MTA sales tax until October 1, 1987. Thereafter, the MTA sales tax exemption may be repealed on certain telecommunications services.] See §3.344 of this title (relating to Telecommunications Services).

(1) The board of a [metropolitan] transit authority may adopt by a majority vote of the board an order repealing the exemption on telecommunications services. The board chairman or secretary must forward to the comptroller by United States registered or certified mail a copy of the ordinance. Upon receipt by the comptroller of notification, one whole calendar quarter shall elapse before transit [MTA] tax applies to telecommunications services. The adoption is effective on the first day of the next calendar quarter following the elapsed calendar quarter.

(2) The board of the authority may exempt telecommunications services from transit [MTA] tax in the same manner in which the exemption was repealed.

(3) The transit [MTA] sales tax exemption on interstate long-distance telecommunications services may not be repealed. Notwithstanding any action on the part of the board of an authority, charges for interstate long-distance telecommunications services will be exempt from transit [MTA] sales and use tax.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112805

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Earliest possible date of adoption: November 18, 1991

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

# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part III. Texas

### Commission on Alcohol and Drug Abuse

#### Chapter 150. Licensure of Chemical Dependency Counselors

##### Counselor Licensing Rules

- 40 TAC §§150.1-150.18, 150.20, 150.22

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

The Texas Commission on Alcohol and Drug Abuse proposes new §§150.1-150.18, 150.20, and 150.22, concerning chemical dependency counselor licensure rules. The rules establish procedures regarding licensure requirements, application process and fees, transition period, disciplinary action and ethical standards for chemical dependency counselors as a result of recent legislation which revised Texas Civil Statutes, Article 4512. Identical emergency action has been simultaneously filed.

John Hopkins, director fiscal and support services department, 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. Hopkins 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 that all chemical dependency counselors in the state will meet certain ethical standards and educational and experiential requirements to ensure quality services to clients. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be as follows: Chemical Dependency Counselor—\$215 in 1992, \$40 in 1994, \$40 in 1996; Counselor Intern Fee—\$25 in 1992; Late Fee-Renewal/90 days—\$75 in 1994, \$75 in 1996; Late Fee-Renewal/two years—\$150 in 1994, \$150 in 1996; Duplication Fee—\$10 (as needed).

Comments on the proposal may be submitted to Denise Mosel, Division Assistant, Administrative Services Division, Texas Commission on Alcohol and Drug Abuse, 720 Brazos, Suite 403, Austin, Texas 78701-2506.

The new sections are proposed under Texas Civil Statutes, Article 4512c, which provide the Texas Commission on alcohol and Drug Abuse with the authority to establish a procedure by which the commission is to license chemical dependency counselors. The commission prescribes the following rules and procedure by which a person who provides chemical dependency counseling must obtain a license issued under this Act.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112388

Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: November 18, 1991

For further information, please call: (512) 867-8720

# TITLE 43. TRANSPORTATION

## Part I. Texas Department of Transportation

### Chapter 9. Division of Construction and Contract Administration

#### Emergency Contract Procedures

- 43 TAC §§9.20-9.22

The Texas Department of Transportation proposes new §§9.20-9.22 concerning emergency contract procedures. The new sections authorize the department to implement procedures designed to expedite the award of highway improvement contracts to meet emergency conditions in which essential corrective or preventive action would be unreasonably hampered or delayed by compliance with other laws. Texas Civil Statutes, Article 6674h-2 authorizes the department to award a highway improvement contract in accordance with administrative rules promulgated by the Texas Transportation Commission. The new sections establish contract procedures relating to the certification of the emergency, contractor eligibility, notification of prospective bidders, bidding requirements, letting procedures, contract form and content, and reports to the commission. The department adopted on an emergency basis new §§9.20-9.22, effective August 30, 1991, which were published in the September 10, 1991, issue of the *Texas Register* (16 TexReg 4905).

Bob F. Templeton, P.E., director of construction and contract administration, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Templeton has certified that there will be no significant impact on overall employment as a result of enforcing or administering the section.

Mr. Templeton also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced through establishment of standard procedures to expedite the award of emergency contracts. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic

cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Bob F. Templeton, P.E., Director of Construction and Contract Administration, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483.

The new section is proposed under Texas Civil Statutes, Articles 6666 and 6674h-2, which provide the Texas Transportation Commission with the authority to establish rules and regulations for the conduct of the work of the Texas Department of Transportation; and specifically to establish rules for the expedited award of highway improvement contracts to meet emergency conditions in which essential corrective or preventive action would be unreasonably hampered or delayed by compliance with other laws.

**§9.20. Purpose.** In accordance with Texas Civil Statutes, Article 6674h-2, the Texas Department of Transportation is authorized under certain conditions to award highway improvement contracts in cases of emergency. The sections under this undesignated head provide for an alternate procedure for the expedited award of highway improvement contracts to meet emergency conditions in which essential corrective or preventive action would be unreasonably hampered or delayed by compliance with other laws, §§9.1-9.3, §11.31, or other sections of Part I of this title.

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

Commission—The Texas Transportation Commission.

Department—The Texas Department of Transportation.

Deputy executive director—The deputy executive director of the Texas Department of Transportation.

District engineer—The chief executive officer in each of the designated district offices of the department.

Emergency—Any situation or condition of a designated state highway, resulting from a natural or man-made cause, which poses an imminent threat to life or property of the travelling public or which substantially disrupts the orderly flow of traffic and commerce.

Executive director—The executive director of the Texas Department of Transportation.

Highway improvement contract—Any contract let by the Texas Department of Transportation for the construction, reconstruction, repair, or maintenance of a designated state highway or any part of such highway facility.

#### §9.22. Contract Procedures.

- (a) Certification of emergency.

(1) A district engineer who identifies an emergency situation in the geographic area under his jurisdiction and determines that expedited action is required shall immediately notify the executive director or his designee to describe the fact and nature of the emergency. Upon receiving authorization to proceed, the district engineer may initiate procedures for the award of an emergency contract. All such notification will be documented in writing.

(2) Examples of types of work which may qualify for emergency contracts include, but are not limited to, emergency repair or reconstruction of streets, roads, highways, and bridges; clearing debris or deposits from the roadway or in drainage courses within the right of way; removal of hazardous materials; restoration of stream channels outside the right of way in certain conditions; temporary traffic operations; and mowing to eliminate safety hazards; provided, however, that in each instance, the proposed work must satisfy the requisites of emergency as defined in §9.21 of this title (relating to Definitions).

(3) Before the contract is awarded, the executive director or his designee not below the level of deputy executive director must certify in writing the fact and nature of the emergency giving rise to the award.

(b) Contractor eligibility. To be eligible to bid on an emergency project, a contractor must be included in the department's list of prequalified bidders pursuant to §9.1 of this title (relating to Prequalification of Contractors) or must complete a bidder's questionnaire in a form prescribed by the department.

(c) Notification of prospective bidders.

(1) After an emergency is certified, the district engineer will review the department's file of eligible bidders and, if there is a sufficient number of firms, notify at least three of the proposed emergency contractors.

(2) Consistent with and contingent upon the nature of the emergency, the district engineer may contact prospective bidders by telephone, letter, telefacsimile, or other appropriate form of communication.

(3) The district engineer will inform each prospective bidder of the nature of the emergency and furnish specifications for the remedy, including time constraints, bonding and insurance requirements, and any additional information needed for the prospective bidder to prepare a work plan and calculate the cost.

(4) If no eligible contractor is able to provide the required type of service, the district engineer may take any measure necessary to identify and locate an available contractor who is able to provide the required service. If selected, the prospective contractor thus identified must complete the bidder's questionnaire prior to final approval of the award.

(d) Bidding requirements.

(1) A prospective bidder's response must be in writing and must include:

(A) a price for performing the work; and

(B) a response to each item in the district engineer's specifications if the price is based on other than unit price.

(2) If the district engineer so authorizes, the prospective bidder may submit an oral bid which must be confirmed in writing within 24 hours.

(e) Letting procedures.

(1) The district engineer will review the bids and, if awarded, shall award the contract to the best bidder and document the basis for the award. As used in this subsection, the best bidder is that firm best able to respond to the emergency in a timely manner and fulfill the state's priority needs as determined by the district engineer.

(2) Each bidder will be notified as soon as possible after the award is made, with written confirmation to follow.

(f) Contract.

(1) The department shall prescribe the form of the emergency contract and may include therein such matters and specifications as it deems advantageous to the state, including, but not limited to, provisions which address the specifications for completion of work, cost to perform the work, the basis for payment, time period needed to complete the work, control of work, insurance and bonding requirements, and any general or special conditions mutually agreed upon by the department and the contractor.

(2) Each such contract shall be made in the name of the State of Texas, signed by the executive director or his designee not below the level of district engineer on behalf of the department, and signed by the contracting party.

(3) The contractor must furnish satisfactory proof of insurance and bonds before any work is performed.

(4) The contract must be fully executed before any work is begun.

(5) The certification required in subsection (a) of this section must be attached to the contract.

(g) If the district engineer determines that the magnitude and extremity of the emergency require instantaneous action by the contractor in order to alleviate an immediate detrimental impact on public health and safety, and the executive director has so noted in the certification of the emergency, the following exceptions are permitted.

(1) The district engineer may authorize the contractor to begin work:

(A) without a signed contract, provided the contract is signed within 24 hours after work begins; and

(B) without bonds and proof of insurance, provided they are furnished not more than three days after work begins.

(2) The executive director or deputy executive director may authorize the waiving of bonds or insurance requirements if it is determined that such requirements cannot be met prior to completion of the work or would prevent the timely performance of work to the detriment of public health, safety, or welfare.

(h) Reports to the commission. Not later than 24 hours after the contract is awarded, the district engineer shall notify the executive director of the award of the emergency contract. Not later than the fifth working day following the date on which the contract is awarded, the executive director shall furnish each member of the commission written notification of the details of the emergency conditions and the award.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112396

Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: November 18, 1991

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

◆ ◆ ◆

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L.

*(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes, does not apply to board action under Articles 5.96 and 5.97.*

*The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.*

The State Board of Insurance, at a board meeting scheduled for 8:30 a.m., November 20, 1991, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider the adoption of the Texas Workers' Compensation Detailed Claim Information Statistical Plan (the plan).

The State Board of Insurance had approved a previous version of the plan on an emergency basis, in Board Order Number 58573, dated July 11, 1991, and published in the July 19, 1991, issue of the *Texas Register* (16 TexReg 3984). The adoption of the Plan is necessary in order to develop and maintain a database for the research and cost containment efforts of the Texas Workers' Compensation Research Center and the Texas Workers' Compensation Commission, in accordance with workers' compensation reform contained in Senate Bill 1 of the 71st Regular Session of the Legislature of Texas.

Copies of the full text of the proposed plan are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on October 7, 1991.

TRD-9112315      Angelia Johnson  
Assistant Chief Clerk  
Texas Department of  
Insurance

Filed: October 7, 1991

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



The State Board of Insurance, at a board meeting scheduled for 8:30 a.m., November 20, 1991, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider the adoption of the Texas Workers' Compensation and Employers' Liability Insurance Unit Statistical Plan.

The State Board of Insurance has approved new codes and definitions for the reporting of losses occurring on or after January 1, 1991, by companies writing workers' compensation and employers' liability insurance in the State of Texas. These amendments are revisions to Part IV, Injury Type Code and Benefit Code; Part V, Correction Reports and Classification Code; and Part VIII, Injury Code, Benefit Code and Definition of Benefit Type.

Copies of the full text of the proposed Plan are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on October 7, 1991.

TRD-9112316      Angelia Johnson  
Assistant Chief Clerk  
Texas Department of  
Insurance

Filed: October 7, 1991

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



The State Board of Insurance, at a board meeting scheduled for 8:30 a.m., November 20, 1991, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider the adoption on a permanent basis of amendments to the Workers' Compensation and Employers' Liability Insurance Texas Unit Statistical Plan. This notice amends the notice published this date concerning adoption of the "Texas Workers' Compensation and Employers' Liability Insurance Unit Statistical Plan."

The State Board of Insurance will consider approval on a permanent basis of new codes and definitions for the reporting of losses occurring prior to January 1, 1991 and occurring on or after January 1, 1991, by companies writing workers' compensation and employers' liability insurance in the State of Texas. These amendments are revisions to Part IV, Injury Type Code and Benefit Code; Part V, Correction Reports and Classification Code; Part VIII, Injury Code, Benefit Code and Definition of Benefit Type; and Part XI, Tables III, Tables for Other Than Surviving Spouses.

Copies of the full text of the proposed amendments to the plan are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

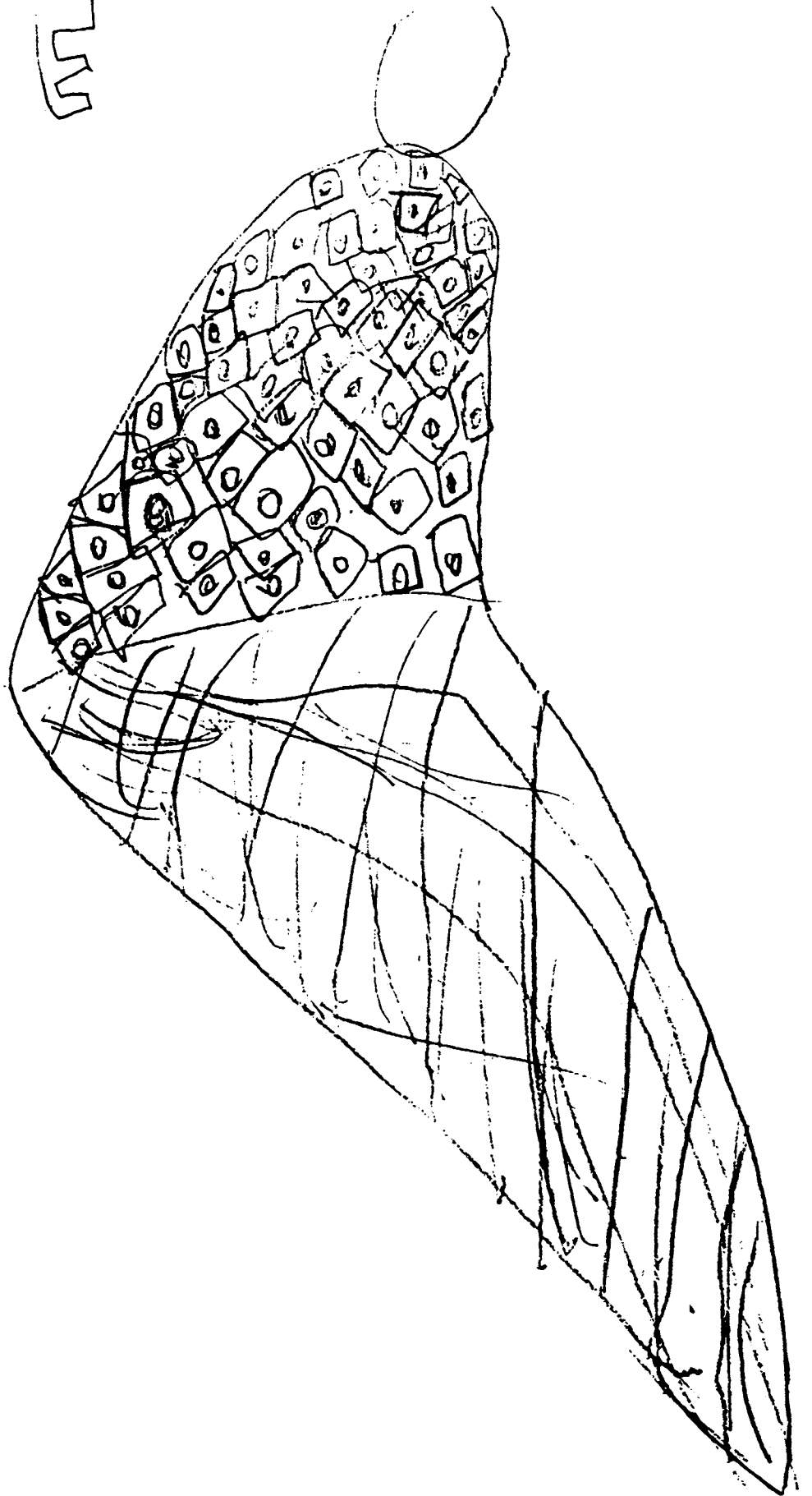
Issued in Austin, Texas, on October 14, 1991.

TRD-9112680      Linda K. von Quintus  
Chief Clerk  
Texas Department of  
Insurance

Filed: October 14, 1991

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





Name: Josie Archer

Grade: 1

School: Oak Hill Elementary, Austin ISD



# Withdrawn Sections

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

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## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive Rules

#### Customer Service and Protec- tion

##### • 16 TAC §23.57

The Public Utility Commission of Texas has withdrawn from consideration for permanent adoption a proposed new §23.57 which appeared in the April 12, 1991, issue of the *Texas Register* (16 TexReg 2084). The effective date of this withdrawal is October 11, 1991.

Issued in Austin, Texas, on October 11, 1991.

TRD-9112842

Mary Ross McDonald  
Secretary of the  
Commission  
Public Utility Commission  
of Texas

Effective date: October 11, 1991

For further information, please call: (512)  
458-0100



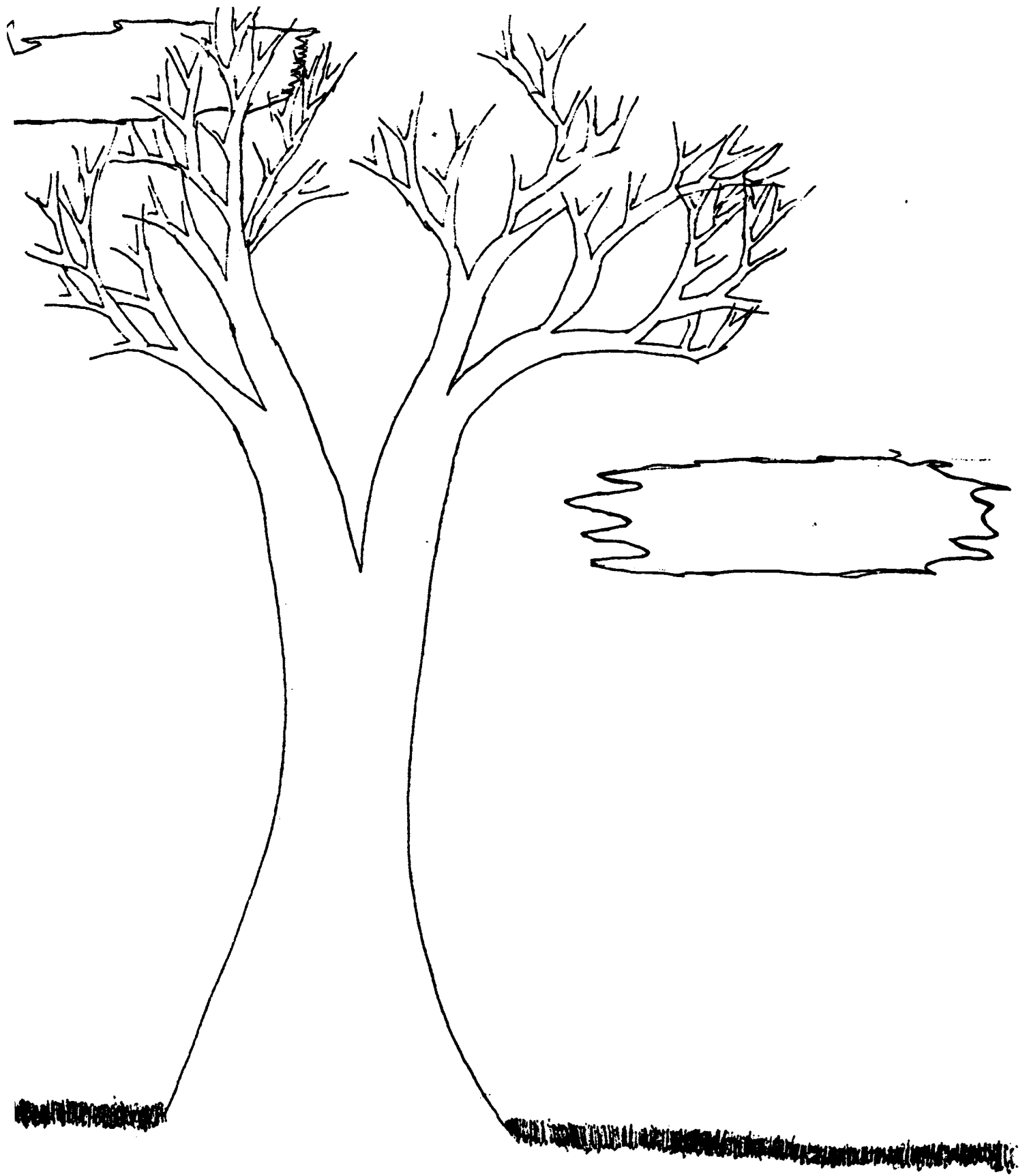
#### Qualify of Service

##### • 16 TAC §23.61

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §23.61, submitted by the Public Utility Commission of Texas has been automatically withdrawn, effective October 3, 1991. The amendment as proposed appeared in the April 2, 1991, issue of the *Texas Register* (16 TexReg 1925).

TRD-9112158





Name: Darien Clary

Grade: 6

School: O. Henry Junior High School, Austin ISD

# Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 11. Surface Mining and Reclamation Division

##### Subchapter D. Coal Mining

###### • 16 TAC §11.221

The Railroad Commission of Texas adopts an amendment to §11.221, concerning coal mining, with changes to the proposed text as published in the July 2, 1991, issue of the *Texas Register* (16 TexReg 3675).

The date specified in the proposal has been changed to correspond to the date of the Railroad Commission's adoption of the revised self-bonding regulations.

The revised date identifies by reference amendments to the self-bonding requirements for surface coal mining operations. These amendments will allow improved procedures and reduced costs for coal permittees who are authorized to be self-bonded.

The comments generally recommended adoption of the rules. One commenter recommended several modifications to provide more specificity in the data that would be used.

Commenters in favor of adopting the amendment as proposed were: Texas Utilities Mining Company; and U.S.D.I., Office of Surface Mining Reclamation and Enforcement.

The Railroad Commission disagrees with the comment which would attempt to require uniform fiscal years for all electric utilities because this is not within its jurisdiction. The Railroad Commission disagrees with the commenter recommending a separate definition for "data identified by SIC Code" because it is adequately addressed by another term.

The amendment is adopted under Texas Civil Statutes, Article 5920-11, which provide the Railroad Commission of Texas with the authority to promulgate rules pertaining to surface coal mining operations.

###### §11.221. State Program Regulations.

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

(c) The Railroad Commission of Texas has published the state program regulations, as amended October 7, 1991 in booklet form titled "Coal Mining Regulations." Copies may be obtained from the Surface Mining and Reclamation Division,

P.O. Drawer 12967, Austin, Texas 78711-2967.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112415

Martha V. Swanger  
Hearings Examiner, Gas  
Utilities/LP-Gas Section,  
Legal Division  
Railroad Commission of  
Texas

Effective date: October 30, 1991

Proposal publication date: July 2, 1991

For further information, please call: (512) 463-6841

## Part IV. Texas Department of Licensing and Regulation

### Chapter 68. Elimination of Architectural Barriers

#### • 16 TAC §§68.1, 68.10, 68.62, 68.80

The Texas Department of Licensing and Regulation adopts new §§68.1, 68.10, 68.62, and 68.80, without changes to the proposed text as published in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5029).

The sections were adopted to comply with the transfer of architectural barriers to the Texas Department of Licensing and Regulation as authorized under Texas Civil Statutes, Articles 9102 and 9100. Fees will be set by the department.

Architectural barriers will be regulated by the Texas Department of Licensing and Regulation. An advisory board will review and comment on rules that are proposed to implement this statute for the benefit of persons as defined in the Americans With Disabilities Act.

No comments were received regarding adoption of the new sections.

The new section are adopted under Texas Civil Statutes, Articles 9101 and 9100, which provide the Texas Department of Licensing and Regulation with the authority to adopt rules of requirements for statutes that we regulate.

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

Issued in Austin, Texas, on October 10, 1991.

TRD-9112800

Larry E. Kosta  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Effective date: November 1, 1991

Proposal publication date: September 13, 1991

For further information, please call: (512) 463-3127

## TITLE 22. EXAMINING BOARDS

### Part XXII. Texas State Board of Public Accountancy

#### Chapter 501. Professional Conduct

##### Other Responsibilities and Practices

###### • 22 TAC §501.44

The Texas State Board of Public Accountancy adopts an amendment to §501.44 and new §501.49, concerning other responsibilities and practices, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4127).

The amendment is necessary in order to ensure that the public will be protected from uninvited solicitations from certified public accountants. The new section is required in order to ensure that the public will have information regarding filing complaints as required by the Public Accountancy Act of 1991, §5(e).

The amendment will clarify the Board's policies regarding uninvited solicitations. The new section will provide information to the public regarding procedures for filing complaints.

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

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

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112418

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §501.49

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to other responsibilities and practices of licensees and registrants.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112419

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
The Texas State Board of Public Accountancy adopts amendments to §505.2 and §505.9, concerning the board, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4128).

The amendments are necessary in order to conform the board's rules regarding the chairman to the requirements of the Public Accountancy Act of 1991 and to ensure that the public has the opportunity to address the board as required by the Public Accountancy Act of 1991, §5.

The rules will now reflect the fact that the chairman of the board will be appointed by the governor and will provide a procedure for allowing the public to address the board.

No comments were received regarding adoption of the amendments.

• 22 TAC §505.2

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules concerning organization of the board.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112420

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §505.9

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules concerning the order of business of board meetings.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112421

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
Chapter 507. Employees of the Board

• 22 TAC §507.2

The Texas State Board of Public Accountancy adopts an amendment to §507.2, concerning the staff, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4128).

The amendment is necessary in order to ensure that applicants seeking employment shall have equal opportunity as required by the Public Accountancy Act of 1991, §5A.

The rule provides that hiring decisions will be made on an equal opportunity basis.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to employees of the board.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112422

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

Chapter 511. Certification as CPA

Certification by Examination

• 22 TAC §§511.21, 511.26-511.28

The Texas State Board of Public Accountancy adopts amendments to §§511.21 and 511.26-511.28, concerning certification by examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4129).

The amendments are necessary in order to ensure that application procedures are simplified and to simplify and clarify the board's procedures for certifying qualified applicants.

The amendments change the board's requirements for applicants seeking to become certified public accountants by reducing the number of references required and by increasing the kinds of references that may be submitted, delete references to experience requirements for applicants, and refer to fees established by other rules.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to application for certification by examination; application under the 1945 Act; application under the prior 1979 Act; and regarding the examination fee.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112423

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
Educational Requirements

• 22 TAC §§511.51, 511.55, 511.56, 511.58

The Texas State Board of Public Accountancy adopts amendments to §§511.51, 511.55, and 511.58; and new §511.56, concerning educational requirements, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4130).

The amendments and new section are necessary in order to ensure that: all future certified public accountants have met the educational standards established by the board; certified public accountants are well-educated in their field; and examination applicants meet certain standards of educational achievement.

The amendments do not permit individuals to be exempt from educational requirements; establish educational requirements for per-

sons who filed their initial applications between September 1, 1979 and August 31, 1989; and specifically require that course work in business subjects be taken in residence at recognized educational institutions. The new section establishes educational requirements for applicants filing their initial applications under the 1991 act.

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

The amendments and new section are adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to education and experience requirements.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112427

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §§511.60-511.62

The Texas State Board of Public Accountancy adopts the repeal of §§511.60-511.62, concerning educational requirements, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4132).

The repeals are necessary in order to simplify and clarify the board's rules regarding the qualifications of examination applicants.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to educational requirements.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112431

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.70

The Texas State Board of Public Accountancy adopts an amendment to §511.70,

concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4132).

The amendment is required in order to ensure that the rules refer to the statute currently in effect.

The amendment updates the citation to the Public Accountancy Act from 1979 to 1991.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112434

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.73

The Texas State Board of Public Accountancy adopts the repeal of §511.73, concerning CPA examination without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4132).

The repeal is necessary in order to ensure that attorneys take the business law section of the examination.

No comments were received regarding adoption of the repeal.

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

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112435

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.76

The Texas State Board of Public Accountancy adopts an amendment to §511.76, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4133).

The amendment is necessary in order to ensure that examination applicants actually intend to sit for the examination.

The amendment makes filing fees for examination applications nonrefundable. It also establishes that refunds will be one-half part of the examination instead of \$10.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112436

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.77

The Texas State Board of Public Accountancy adopts an amendment to §511.77, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4133).

The amendment is necessary in order to ensure that the board has the opportunity to adequately review candidates whose credentials may be questionable.

The amendment allows the board to withhold grades while board action is pending.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112437

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991  
For further information, please call: (512) 450-7066

◆ ◆ ◆  
• 22 TAC §511.78

The Texas State Board of Public Accountancy adopts an amendment to §511. 78, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4133).

The amendment is necessary in order to restrict access to copies of the examination while preserving the candidate's privilege to review the examination.

The amendment allows persons who failed the examination to request an analysis of their performance and removes the 100-day deadline for inspection. Further, the rule now requires that inspections be made at board offices, but states that copies of the examination may no longer be obtained.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112438 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.79

The Texas State Board of Public Accountancy adopts an amendment to §511. 79, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4133).

The amendment is necessary in order to protect the integrity of the examination.

The rule allows candidates to inspect examinations but does not allow them to obtain copies.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112439 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
CPA Examination

• 22 TAC §511.80

The Texas State Board of Public Accountancy adopts an amendment to §511. 80, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4134).

The amendment is necessary in order to protect the integrity of the examination process.

The amendment requires that the candidate sit for all portions of the examination that the candidates is eligible for and sets standards for passing the examination. The amendment also provides for transferring credit to other jurisdictions.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112440 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.81

The Texas State Board of Public Accountancy adopts an amendment to §511. 81, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4134).

The amendment is necessary in order to ensure that candidates prepare for the examination.

The amendment sets a limit on the number of attempts that each exam candidate may make at passing the examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil

Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112441 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.82

The Texas State Board of Public Accountancy adopts an amendment to §511. 82, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4134).

The amendment is necessary in order to ensure that persons seeking to transfer credit from other jurisdictions meet certain standards.

The amendment strengthens the requirements for persons seeking to transfer credit from other jurisdictions.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112442 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.83

The Texas State Board of Public Accountancy adopts an amendment to §511.83, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4134).

The amendment is necessary in order to ensure that candidates seeking certification in Texas meet or exceed the standards set for Texans seeking certification.

The amendment sets the same standards for

granting credit to examination candidates seeking to transfer their credit to Texas as those set for Texas examination candidates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112443 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.84

The Texas State Board of Public Accountancy adopts an amendment to §511. 84, concerning CPA examination, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4135).

The amendment is necessary in order to ensure that the rules cite the current version of the Public Accountancy Act.

The amendment deletes the reference to the effective date of the 1989 amendments and replaces it with the more specific reference to August 31, 1989.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112444 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.85

The Texas State Board of Public Accountancy adopts an amendment to §511. 85, concerning CPA examination, without

changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4135).

The amendment is necessary in order to clarify the board's processing fee.

The amendment changes the processing fees for the transfer of credits.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the CPA examination.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112445 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
Experience Requirements

• 22 TAC §511.121

The Texas State Board of Public Accountancy adopts an amendment to §511. 121, concerning experience requirements, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4136).

The amendment is necessary in order to clarify the experience requirement for applicants.

The amendment will conform the board's rules regarding experience to the Public Accountancy Act of 1991, §12.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to promulgate rules relating to experience requirements.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112448 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

Certification

• 22 TAC §511.161

The Texas State Board of Public Accountancy adopts an amendment to §511. 161, concerning certification, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4136).

The amendment is necessary in order to ensure that qualified applicants may become certified without unnecessary restrictions.

The amendment deletes the age, citizenship, and residency requirements for certification.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to promulgate rules relating to certification.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112447 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §511.162

The Texas State Board of Public Accountancy adopts an amendment to §511. 162, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4136).

The amendment is necessary in order to clarify the fee requirement.

The amendment refers to application fee requirements set forth in another rule.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to certification.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112448 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

## Chapter 513. Registration

The Texas State Board of Public Accountancy adopts amendments to §§513.2, 513.41, and 513.47, concerning registration, without changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4136).

The amendments are necessary in order to ensure: that the requirements for applicants seeking board approval will be simplified; that the rules refer to the statute currently in effect; and that the board will have sufficient information to evaluate litigation.

The amendments: delete the age requirement and the requirement that the board adopt rules to ensure that foreign certificate and registration holders continue to hold their certificates and registrations in other jurisdictions; update the citation to the Public Accountancy Act from 1979 to 1991; and delineate the information which may be requested and specifically exclude complaints that are no longer pending before the board.

No comments were received regarding adoption of the amendments.

### Registration of CPAs of Other States and Persons Holding Similar Titles in Foreign Countries

#### • 22 TAC §513.2

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to registration of CPAs.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112449 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

## Registration of Corporations

#### • 22 TAC §513.41

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to registration of corporations.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112450 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

#### • 22 TAC §513.47

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to registration of corporations.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112451 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

## Chapter 515. Licenses

The Texas State Board of Public Accountancy adopts an amendment to §§515.1-515.4 and 515.8, concerning licenses. Section 515.1 and §515.3 are adopted with changes to the proposed text as published in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4138). Sections 515.2, 515.4, and 515.8 are adopted without changes and will not be republished.

The amendments are necessary to simplify and clarify licensing procedures and to ensure that the rules are consistent with the Public Accountancy Act of 1991, §9.

The amendments require that licenses be issued biennially instead of annually, establish guidelines for providing licenses on a biennial basis, and set forth biennial licensing procedures for retired and disabled persons.

No comments were received regarding adoption of the amendments.

#### • 22 TAC §515.1

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to biennial licenses.

**§515.1. Biennial License.** With the exception of an individual who is practicing public accountancy in Texas on a temporary basis incident to his regular practice outside the state, all individuals certified by this

board, and all individuals and practice units registered with the board must obtain a license to practice public accountancy and must renew that license biennially on or before December 31 of each calendar year.

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

Issued in Austin, Texas, on September 30, 1991.

TRD-9112452 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

#### • 22 TAC §515.2

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to licenses.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112453 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

#### • 22 TAC §515.3

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to licenses.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112454 William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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



• 22 TAC §515.4

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to licenses.

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

Issued in Austin, Texas, on September 26, 1991.

TRD-9112455

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
• 22 TAC §515.8

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to licenses.

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

Issued in Austin, Texas, on September 30, 1991.

TRD-9112456

William Treacy  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 30, 1991

Proposal publication date: July 30, 1991

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

◆ ◆ ◆  
**TITLE 25. HEALTH SERVICES**

**Part V. Center for Rural Health Initiatives**

**Chapter 500. Executive Committee for the Center for Rural Health Initiatives**

**Subchapter B. Texas Outstanding Rural Scholar Recognition Program**

• 25 TAC §§500.21-500.42

The Executive Committee of the Center for Rural Health Initiatives adopts new §§500.21-500.42. Sections 500.21, 500.22, 500.29, 500.30, 500.31, 500.33, and 500.42 are adopted with changes to the proposed text as published in the July 2, 1991, issue of the *Texas Register* (16 TexReg 3675). Sections 500.23-500.28, 500.32, and 500.34-500.41, are adopted without changes and will not be republished.

The new subchapter concerns the Texas Outstanding Rural Scholar Recognition Program and is necessary to implement the provisions of Senate Bill 445, 72nd Legislature, 1991, which transferred the program to the Center for Rural Health Initiatives from the Texas Higher Education Coordinating Board.

The rules define terms, establish program eligibility requirements for students, institutions and communities, set out the duties and terms of the Outstanding Rural Scholar Advisory Committee, clarify the terms and conditions on forgiveness loans and establish repayment provisions for students found in noncompliance with loan conditions.

The center received no public comment on the proposed rules; however the Outstanding Rural Scholar Advisory Committee did make some recommendations to the proposed rules which have been incorporated as follows:

Consistent with the statutory language in Senate Bill 445, the program is referred to throughout the sections as the "Outstanding Rural Scholar Recognition Program."

Section 500.29 regarding the role of the advisory committee has been changed to add four new responsibilities. Three of these responsibilities, in which the committee recommends to the executive committee guidelines for the awarding of forgiveness loans, advises the executive committee on the amount of loans to be awarded, and recommends to the executive committee, as appropriate, cases in which an exception may be made regarding the community in which a rural scholar may fulfill his or her service obligation under the program," are described in Senate Bill 445. The fourth new role under which the committee annually adopts a schedule for administration of the program, including deadlines for submission of nominations, portfolios and loan applications, is established to provide some flexibility from year to year for the program.

Specific dates and deadlines are deleted from §§500.30, 500.31, and 500.33 and replaced by the phrase "the date specified in the annual timetable adopted by the advisory committee."

Section 500.42 is expanded to reflect the statutory responsibilities of higher education institutions and community sponsors in monitoring and tracking students.

The new sections are adopted under Texas Civil Statutes, Article 4414b-1, §4(d), which authorizes the Center for Rural Health Initiatives to administer the Outstanding Rural Scholar Recognition Program and Texas Civil Statutes, Article 4414b-1.1, §9, which authorizes the executive committee of the Center for Rural Health Initiatives to adopt rules as necessary to implement the program.

*§500.21. Purpose, Administration, Delegation of Powers and Duties.*

(a) The purpose of the Texas Outstanding Rural Scholar Recognition Program is to recognize, encourage, and financially support Outstanding Rural Scholars in health professions studies at institutions of higher education and to lead them to provide health care in rural areas and communities of Texas.

(b) The Executive Committee of the Center for Rural Health Initiatives, as the governing body of the center, or its successor or successors, shall administer the Texas Outstanding Rural Scholar Recognition Program.

(c) The executive committee delegates to the executive director of the center the powers, duties, and functions authorized by Texas Civil Statutes, Article 4414b-1 and Article 4414b-1:1, Title 71, Revised Statutes, as provided in this subchapter.

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

*Advisory committee*—The Outstanding Rural Scholar Advisory Committee.

*Center*—The Center for Rural Health Initiatives.

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

*Executive Committee*—The executive committee of the Center for Rural Health Initiatives.

*Executive director*—The executive director of the Center for Rural Health Initiatives.

*Forgiveness loan(s)*—For the purposes of this subchapter, loans made through the Texas Outstanding Rural Scholar Recognition Program, which can be canceled by providing health care services to the community.

*Full-time student*—As defined by the institution of higher education or health professions program in which the Outstanding Rural Scholar is enrolled.

*Fund*—The Texas Outstanding Rural Scholar Loan Fund administered by the executive committee as the governing body of the Center for Rural Health Initiatives from which forgiveness loans are made.

*Half-time student*—As defined by the institution of higher education or health professions program in which the Outstanding Rural Scholar is enrolled.

*Health care professional*—Any provider of health care or health related services in the fields of medicine, dentistry, optometry, pharmacy, chiropractic, psychology, nursing, and allied health.

*Health professions*—The fields of medicine, dentistry, optometry, pharmacy, chiropractic, psychology, nursing, and allied health.

Program officer—The Texas Outstanding Rural Scholar Recognition Program officer designated by the institution of higher education to represent the program on that campus.

Resident of Texas—A resident of Texas as described in Education Code, Chapter 54, Subchapter B. Nonresidents eligible to pay Texas resident tuition at institutions of higher education are excluded.

Rural area—Any nonmetropolitan county as defined by the United States Census Bureau in its most recent census.

Rural community—Any incorporated or unincorporated municipality in a rural area.

*§500.29. Outstanding Rural Scholar Advisory Committee.*

(a) Role. The Outstanding Rural Scholar Advisory Committee serves as an advisory committee to the executive committee and:

(1) recommends guidelines to the executive committee for use by community agents in nominating and sponsoring rural scholars;

(2) selects and ranks outstanding rural scholars for the executive committee;

(3) recommends to the executive committee guidelines for the awarding of forgiveness loans;

(4) advises the executive committee on the amount of loans to be awarded;

(5) recommends to the executive committee, as appropriate, cases in which an exception may be made regarding the community in which a rural scholar may fulfill his or her service obligation under the program;

(6) assists the executive committee in building community support for the Outstanding Rural Scholar Recognition Program;

(7) assists the executive committee in dispensing the information prepared by the executive committee on the Outstanding Rural Scholar Recognition Program; and

(8) advises the executive committee on the progress of the Outstanding Rural Scholar Recognition Program;

(9) annually adopts a schedule for administration of the program, including deadlines for submission of nominations, portfolios, and loan applications.

(b) Composition. The composition of the advisory committee is as follows:

(1) one rural practicing family practice physician;

(2) one rural hospital administrator;

(3) one rural practicing registered professional nurse;

(4) one rural practicing allied health professional;

(5) one dean of a medical school;

(6) one dean of a nursing school;

(7) one dean of a school of allied health science;

(8) one head of a vocational/technical institution;

(9) one community college administrator;

(10) one individual knowledgeable in student financial assistance programs;

(11) one rural public school superintendent; and

(12) one rural resident.

(c) Appointments. Appointments to the advisory committee by the executive committee shall be made with consideration to geographical areas of the state.

(d) Vacancies. Vacancies on the advisory committee shall be filled by the executive committee in the same manner as indicated in subsections (b) and (c) of this section.

(e) Terms. The committee members serve terms of six years with the terms of one-third of the members expiring on August 31 of each odd-numbered year. All committee members are eligible for reappointment to consecutive terms.

*§500.30. Outstanding Rural Scholar Recognition Program.*

(a) The community agent, in cooperation with high schools and post-secondary institutions, is responsible for initiating and developing the local nominee selection process and support mechanism for a rural area or rural community for the Outstanding Rural Scholar Recognition Program.

(b) The community agent and high schools and post-secondary institutions are responsible for providing information about the program to interested persons.

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

(1) the rural scholars name, birth date, and social security number;

(2) evidence that the student is an eligible scholar;

(3) evidence that the rural scholar intends to enroll in a post-secondary institution for the purpose of pursuing an education in a health professions field and return to the rural area or rural community to provide health care upon graduation, cer-

tification, licensure, and/or registry, as required to practice in the State of Texas. This evidence must consist of the following:

(A) the results of an interview with the rural scholar. The interview must include, but is not limited to, responses to questions provided by the advisory committee;

(B) a typed essay of no more than 500 words composed by the rural scholar stating the following:

(i) the reasons for entering the competition;

(ii) the reasons for entering a health professions field;

(iii) the reasons for wanting to provide health care services to rural Texans; and

(iv) the health profession he or she plans to pursue and the anticipated time required to complete the program of study;

(4) results of any standardized tests taken by the rural scholar;

(5) evidence of academic honors and awards bestowed upon or received by the rural scholar;

(6) evidence of service awards received by the rural scholar;

(7) a list of extracurricular activities in which the rural scholar has participated or is participating;

(8) no more than three recommendations from the professional staff of the high school, college, or university or from employers, and/or community leaders;

(9) a statement from the community agent of why the rural scholar was selected and a statement of the community agent's satisfaction that the rural scholars intentions are genuine;

(10) credentials of the community agent including the following:

(A) proof that the community agent meets the criteria of a community agent as described in these rules;

(B) a brief description of the local selection process; and

(C) a statement from the community agent of its commitment to support and encourage the rural scholar in ways other than through financial support including a description of how this support will be provided;

(11) a statement from the community agent of the projected need for a health care provider in the rural area or

rural community in the health profession for which the nominee will be trained to provide services; and

(12) a statement that the community agent is willing to provide funds to the rural scholar, and if the scholar is selected for a forgiveness loan, that it believes it will be able to provide at least 50% of the cost of education at the eligible institution in which the rural scholar enrolls.

(d) The advisory committee may request additional information and/or interviews from the community agent and the rural scholar as needed.

(e) The portfolio described in subsection (c) of this section must arrive at the center no later than the date adopted annually by the advisory committee under §500.29(9) of this title (relating to Outstanding Rural Scholar Advisory Committee).

(f) The advisory committee will rank scholars based on the information in the student portfolios.

### §500.31. Designation of Outstanding Rural Scholars.

(a) The advisory committee shall select and rank the outstanding rural scholars and inform the executive committee of their selections. The executive committee shall notify the community agents of the outstanding rural scholars selected for each year and provide the community agents with a certificate of award signed by the executive director for each outstanding rural scholar on or before the date specified in the annual timetable adopted by the advisory committee.

(b) By the date specified in the annual timetable adopted by the advisory committee, the community agent shall send the center proof of the public recognition provided each outstanding rural scholar. Such recognition must include an announcement in local newspapers of the outstanding rural scholar's selection and may include public recognition of the outstanding rural scholar at civic gatherings and school assemblies.

(c) In addition to subsection (b) of this section, the community agent of each top ranked outstanding rural scholar who may be eligible for a forgiveness loan will be asked to provide the executive committee by the date specified in the annual timetable adopted by the advisory committee:

(1) the name of the eligible institution the scholar will attend;

(2) the one-year cost of education for the scholar; and

(3) a certified statement of the community agent's commitment to provide 50% of the cost of education if their nominee receives a forgiveness loan.

(d) By the date specified in the annual timetable adopted by the advisory

committee, the executive committee shall provide institutions of higher education with lists of Outstanding Rural Scholars.

§500.33. *Priorities for Application Processing.* Applications received by the executive committee on or before the date specified in the annual timetable adopted by the advisory committee will be processed in order based upon the rank assigned the outstanding rural scholar by the advisory committee. Applications received after all appropriated funds are committed and/or after the date specified in the annual timetable adopted by the advisory committee shall be processed only if funds from loan cancellations and repayments become available during the period for which the loan is needed. Renewal applications have priority over new applications.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112518

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Center for Rural Health  
Initiatives

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For further information, please call: (512) 479-8893

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part III. Texas Air Control Board

#### Chapter 111. Control of Air Pollution from Visible Emissions and Particulate Matter

##### Abrasive Blasting of Water Storage Tanks Performed by Portable Operations

###### • 31 TAC §§111.131, 111.133, 11.135, 111.137, 111.139

The Texas Air Control Board (TACB) adopts amendments to §§111.131, 111.133, 111.135, 111.137, and 111.139, with changes to the proposed text as published in the April 16, 1991, issue of the *Texas Register* (16 TexReg 2214), concerning Abrasive Blasting of Water Storage Tanks Performed by Portable Operations.

The adopted new §111.131, concerning definitions, defines eight terms as they are used in regard to abrasive blasting. The adopted new §111.133, concerning testing requirements, outlines the test methods required before abrasive blasting is performed on any water storage tank. The adopted new §111.135, concerning control requirements for sur-

faces with coatings containing lead, describes the notification procedures and allowable methods that must be used during abrasive blasting operations if the coating contains 1.0% or more of lead. The adopted new §111.137, concerning control requirements for surfaces with coatings containing less than 1.0% lead, lists allowable methods that may be used during abrasive blasting operations on unleaded surfaces. The adopted new §111.139, concerning exemptions, lists the abrasive operations that are exempt from testing and control requirements.

Public hearings were held in Austin on May 21, 1991, and in Arlington on June 6, 1991. Testimony was received from 41 commenters during the comment period which ended June 7, 1991.

The following discussion initially addresses the more general comments, and then addresses the comments which deal with specific provisions of the regulation.

Two commenters, Landmark Structures Inc. (Landmark), and Neptune-Wilkinson Associates, Inc. questioned whether the intent of the rules was to limit the exposure to lead or to limit the exposure to nuisance conditions. They noted that a distinction needs to be made between the serious problem of lead exposure and the less serious problem of short-term exposure to dust which should fall under nuisance controls. A private citizen suggested that TACB is overreacting to the Cedar Park incident.

The concern about lead contamination resulting from abrasive blasting of water storage tanks was brought to the public's attention when TACB responded to a nuisance complaint, which occurred in Cedar Park, Texas in June of 1990, about an abrasive blasting job being performed on the town's water tank. Samples taken from the base of the tank confirmed that the paint contained lead. Additional samples taken in the vicinity of the tank, including adjacent residences, indicated lead levels from six pounds per million (ppm) to 11,000 ppm. The highest levels were 22 times the alert level used by United States Environmental Protection Agency (EPA) to dictate when cleanup is required. The cost of the clean up of the residential area exceeded \$1 million. In addition, lawsuits were filed in the courts due to the potential health risks resulting from lead contamination. TACB has been contacted by several municipalities requesting regulations controlling abrasive blasting. The adopted regulations limit the exposure to lead and inhalable particulate matter produced from abrasive blasting.

The Texas Water Commission (TWC) and an individual felt that the cutoff limit of 1.0% (10,000 ppm) was too high. TWC suggested a limit of 200 ppm and the private citizen suggested 0.5%. Exxon was interested in how the limit of 1.0% was derived.

Based upon the data received from the Cedar Park incident, the staff performed extensive modeling tests and determined that a limit of 1.0% would produce an average level of soil contamination equal to 420 ppm which is just under the 500 ppm EPA alert level. Additionally, there are very few leaded paints with levels below 1.0%. Since the 1.0% cutoff results in a limit which is below the EPA alert level and since leaded paints seldom contain less than 1.0% lead, the staff did not believe

that reducing the cutoff limit further would serve a useful purpose.

Several commenters indicated that the TACB staff did not research all aspects of the issue well enough. One commenter, (Tank Sandblasting & Painting, Inc.), suggested that the TACB staff obtain the advice of personnel who actually perform the blasting before writing any of the regulations. Several commenters (Archaie, Inc., Texas Rural Water Association (TRWA), Allied Tank Services (Allied), and an individual) requested that the Texas Department of Health (TDH) and TWC be contacted and consulted prior to implementing the new regulations. Another commenter, Travis Industrial Painters (Travis), commented that the staff did not show an interest in viewing demonstrations of different techniques, and an individual claimed that arrangements had been made for the staff to view wet blasting and hydroblasting operations, and that the staff did not take the time to observe these demonstrations. The individual stated TACB should spend more time studying the learning experiences of other states before implementing new regulations. Vickers Industrial Coatings (Vickers) suggested that there are other, more reasonable, methods of abrasive blasting being employed by other states, and that the staff should have considered some of those.

The TACB staff that were involved in investigating this problem included members from Health Effects, Permits, Modeling, Sampling and Analysis, Legal, and Regulation Development. Because of the complexity of the issue, the staff performed extensive research and discussed in detail a wide range of issues with engineers, contractors, health officials, and other experts from the industry, and relied heavily upon their judgments. TWC also supplied formal comments during the hearing process. As part of the staff's research, they did observe demonstrations of hydro-blasting and dry abrasive blasting. The research of the staff indicates that the adoptions are consistent with most states that have adopted abrasive blasting rules. Particularly noteworthy was the February 1991 issue of *Journal of Protective Coatings & Linings* (JPCL), which reviewed the abrasive blasting regulations of all 50 states and the District of Columbia. While many states were shown not to have any regulations specifically governing abrasive blasting, existing rules were examined in considerable detail. The methods included in the adopted regulations were chosen from those most commonly used by other states and considered the most environmentally sound.

The City of Wichita Falls (Wichita Falls) raised the concern that other types of paint removal had not been considered and, therefore, the cities did not have all of the options available to them to make the most cost-effective decision regarding abrasive blasting. Pentek, Inc. (Pentek) requested that their technology of vacuum assisted power tool cleaning be specifically listed as an approved method.

The regulation has been designed to allow alternative methods that are used infrequently or have not yet been developed. The staff is aware of nonabrasive methods of paint removal, but the adopted rules only address abrasive blasting which is more likely to result

in particulate air pollution. Pentek's technology is a nonabrasive blasting method that is not excluded by the adopted regulations.

Several commenters asserted that the rules should contain additional requirements. TWC and an individual requested that the regulations specify that waste be disposed of in accordance with all applicable regulations or include provisions on how to dispose of the waste generated by the operation. TWC also recommended that the rules include requirements for the use of a ground cover. An individual stated that §111.135(c) and §111.137(b) should specify that all blasting projects be regulated for nuisance dust. Several commenters, Coating Society of Houston Area (Coating Society), Vickers and an individual, expressed concern over the absence of rule language concerning the need to collect contaminated water which would accumulate as a result of wet blasting or hydroblasting. The individual stated that the regulation should prohibit any blasting that could cause a violation of the federal lead standard at the property line. The Harris County Pollution Control Department and the Galveston County Health Department suggested that the notification requirement in §111.135(b) should include notifying affected local governments concerning blasting activities. The Galveston County Health Department suggested adding similar language for unleaded surfaces in §111.137.

The use of ground covers, the disposal of the waste generated during the blasting, and the control of the water resulting from wet blasting or hydroblasting do not fall under the TACB's jurisdiction, and regulating another agency's rules is not possible.

Language regarding the control of nuisance dust and the necessity of complying with all other applicable laws, ordinances, and regulations is already contained in §111.135(a) and §111.137(a). The staff also believes that the adopted rules will prevent the violation of standards because the techniques specified in the regulation are proven methods of minimizing the release of lead and inhalable particulates. The staff believes that the comment regarding notification of affected local authorities concerning blasting activities has merit in cases where lead is involved, and added the appropriate language to §111.135(b). However, in cases covered under §111.137, where the lead content is less than 1.0%, the staff believes the requirement for local notification should be handled by a local ordinance or similar means.

One commenter, (Travis), was not convinced that shrouding could contain the emissions as effectively as many experts claim.

As stated earlier the staff has performed extensive research and discussed in detail the complexities of this issue, including the use and effectiveness of a shroud. The staff relies heavily upon the judgments of these experts. Therefore, the staff is convinced that the adopted requirements concerning the use of a shroud provide the best means of protection available and are far more effective than not requiring a shroud at all.

An individual requested that the new regulations allow for partial shrouding downwind of the blasting instead of requiring total enclosure.

The staff believed that this suggestion would not provide adequate protection of the envi-

ronment from lead particulate, because it does not account for wind shifts or the swirling effects of wind caused by towers.

An individual expressed concern over the economic burden the new regulations would impose if TDH were to require painting of municipal water towers for purely aesthetic reasons.

Although the staff thinks it is highly unlikely that TDH would impose such requirements, TACB cannot be responsible for the TDH's actions. Moreover, painting can be done as often as desired as long as no abrasive blasting is performed.

A commenter representing Exxon expressed concern that not enough factors were being considered regarding the exposure of the worker. Specifically, he was concerned about the working environment which would be created by the shroud.

The safety of the worker falls under the jurisdiction of TDH and Occupational Safety and Health Administration. Furthermore, the language in §111.135(a) and §111.137(a) will alert the operators to the fact that other regulations exist.

The City of Denton (Denton) had several comments concerning alternative ways to minimize, or avoid dealing with, the financial aspects of the adopted regulations. Specifically mentioned were: they are more willing to pay the \$5,000-\$10,000 in clean-up costs than the \$60,000 estimated for shrouding, they are willing to pay for heating/cooling bills to keep houses closed up during blasting and they are willing to pay for the cleaning of cars in affected communities. They also suggested that most citizens would be more willing to pay for the cost of clean-up than face higher water bills. The city also expressed concern that the use of unleaded paints would require repainting to be done every 7-10 years instead of the once every 20 years, which is now the average with leaded paints. They indicated that this would be difficult to finance with the current capital finance plans. Denton also insisted there are enough controls in place on the local level that the involvement of the state in this issue is not warranted.

As mentioned previously, the cost to clean up Cedar Park after the incident was well over \$1 million, not including the pending civil lawsuits filed by area residents. The Cedar Park incident demonstrated that clean up of the smaller particles was exceedingly difficult to accomplish. Furthermore, due to the data supporting the adverse health effects of lead, many of the city's ideas were not viable alternatives if protecting the health, safety, and general welfare of the community is a priority. Another problem of these alternatives is the ability of TACB to enforce them. In response to the comment concerning the increased requirement for painting using unleaded paints, in light of the overwhelming evidence concerning the adverse health effects due to the toxicity of lead, it is more environmentally sound and in the best interests of the population of Texas to use unleaded paint. As for the comment regarding the necessity of the state's involvement, TACB is reacting in direct response to requests from municipalities to regulate abrasive blasting to prevent the recurrence of a similar incident.

Denton believed that the cost to implement and enforce these regulations will cost TACB

an extra \$12,000, which could only be recovered through increased taxes or fees.

The staff intentionally kept the regulations simple so as to be able to use current TACB resources to implement and enforce them. In concert with that thought, enforcement costs will be considerably lower, if industry complies with the new regulations, because there will be less pollutants released and, therefore, less citizen complaints to investigate.

Two commenters, Tank Sandblasting & Painting, Inc. and Travis, raised concerns regarding liability insurance involved with abrasive blasting, where shrouding and the release of pollutants are involved.

TACB is charged with protecting air quality and believes that blasting lead in an uncontrolled manner will result in even higher liability rates due to the increased number of lawsuits which would result. So, in actuality, the regulation will reduce the liability by reducing the amount of pollutants released.

One commenter, representing the TRWA and Allied, questioned whether or not TACB knew what background levels of lead existed prior to Cedar Park or in other cases, since no testing was done in the area prior to the blasting. And if TACB was able to positively determine that lead levels increased, how would they be able to say it was due to the abrasive blasting and not to some other past event?

Reference literature detailing expected background levels and laboratory results from samples taken at Cedar Park gave TACB a very good indication of what lead levels to expect. Furthermore, the high lead levels found at Cedar Park were found in the presence of paint chips and spent abrasive material.

The Coating Society commented that the monitoring of emissions outside of a containment would be easier with dry blasting than it would be with wet blasting.

The adopted regulations do not require monitoring outside of a containment area.

Several commenters (Wichita Falls, Travis, and an individual) expressed concern over the safety factors involved with hanging a shroud. One commenter stated that hanging a shroud on an empty, elevated tank might create a wind load, which could cause the tank to topple. Another mentioned the fact that older tanks may not be designed to withstand the weight of a shroud. There was one general comment expressing concern with the safety hazards of hanging a shroud from a 150-foot water tower.

The wind load is a factor of wind speed and of the shroud's area, and contractors should know at what wind speed the shroud be lowered to prevent exceeding the wind load. If the wind load is unknown, an engineering study should be conducted. In general, the concern of the weight of the shroud was slight since the tanks are designed to withstand the weight of the water they hold.

An individual expressed concern that requiring a shroud would prevent the contractor from working inside the tank at the same time he is working on the outside, resulting in an extended job time and, therefore, increased costs.

The TACB staff observed a demonstration of shrouded blasting at a job site in Lakeway. During the demonstration, they observed that the contractor had adequate access to the inside of the tank while the shroud was up and, in fact, was able to perform work on the inside as work on the outside progressed. Other sources also indicate that shrouding does not hinder access to the tank, outside or inside.

Several commenters (Coating Society, Travis, Vickers, and an individual) expressed concern over the technique of vacuum blasting. The comments concerned the efficiency of capturing high velocity particles once they hit the tower, and the concern that a high-efficiency particulate filter should be required for the vacuum blasting device.

Once the particles hit the tank's surface, they are no longer high velocity particles and the staff has a great deal of information from marketers and contractors who have used vacuum blasting to ensure the efficiency of capturing these particles. The staff does agree that the vacuum blasting machine should be equipped with a high-efficiency particulate filter and changed the definition of vacuum blasting to accommodate this clarification.

Several commenters from both the regulated community and the general public (Neptune-Wilkinson Associates, Inc., Landmark, Vickers, TRWA, Allied, and Denton) expressed a great deal of concern that the adopted amendments do not regulate the abrasive blasting of the exterior of all metal structures. Several stated that singling out the water tank industry is discriminatory and will produce an economical burden on that part of the industry which will not be experienced by other parts.

The staff wholeheartedly agrees with the need to regulate other types of abrasive blasting activities. TACB is in the process of obtaining soil samples in residential and industrial areas surrounding facilities where abrasive blasting has occurred. TACB is also soliciting the oil and gas industry for additional data concerning the abrasive blasting of their structures. Depending on the results of the sampling and the additional data which TACB will receive, it is the intention of TACB to return to hearing with more inclusive language in the near future.

An individual suggested that the definition of private residence in §111.131 be clarified.

The definition used is language that has been used historically in the TACB's standard exemption list.

Several commenters (Exxon, OxyChem, Landmark, and an individual) expressed some confusion over the definition of a shroud. One commenter requested that the definition specify that leakage of spent material between the ground and the shroud be prohibited. Another commenter requested the change from "amount of area" to "percent of area..." One commenter requested clarification on how impermeable the shroud should be, what size particles are we shrouding for, and by what test method should impermeability be checked. A commenter requested clarification on how high up the shroud should be, and one commenter stated that, as written, the definition would preclude the use of clear plastic sheeting.

The staff feels that the definition, as written, is clear enough concerning the requirements of containing spent material. They did agree that the word "amount" be changed to "percent" to remain consistent with the rest of the definition. The intent of the staff was not to preclude the use of clear plastic sheeting, so the staff changed the words "impermeable to particles and sunlight" to "impermeable to particles or sunlight" To clarify the comment concerning the height of the shroud, the staff added to the language "the shroud shall have overlapping seams to prevent leakage of particles, shall extend a minimum of 15 feet above the area being blasted, and shall have a shade factor of 95%." The staff decided that setting a control factor of 95% of particles of 100 gnt or greater would clarify the comments concerning impermeability, size of particles, and test methods since this would standardize the shroud.

An individual felt that the definition of public area was vague and needed to read "public would" instead of "public could." His argument was that mere access to an area is insufficient to classify the area as a public area.

The staff disagreed with this argument and felt that mere access is sufficient to warrant the controls suggested by the recommended regulation. The staff feels that the definition is sufficiently clear as worded.

Several commenters from the regulated community (OxyChem, Texas Chemical Council, Ethyl Corporation, Texas Eastman Company, DuPont, Exxon, and Houston Lighting & Power) commented that the rule language is ambiguous and that the definition of water storage tank should refer to those tanks specifically storing water for public or municipal water supplies.

The staff agreed that since the intent of this regulation is to control abrasive blasting of municipal water tanks and has changed the regulation to specify "potable" water tanks is desirable.

One commenter (Houston Lighting & Power) suggested the definition of water storage tank should specify a minimum height of 50 feet above the ground. They commented that structures which are not elevated would not likely cause an impact on surrounding areas during abrasive blasting operations.

The staff disagreed with this comment and feels the adopted changes to the definition are sufficient to achieve the desired controls.

A representative of Exxon questioned the methods used in §11.333 to accurately determine if 1.0% of lead exists and if this sampling takes into account that some areas of a tank's surface may contain less lead by weight than other areas.

The EPA test procedures specified in §11.133(a) require that samples be collected in accordance with a detailed sampling plan explained in Chapter 9 of the Environmental Protection Agency SW-846, Test Methods for Evaluating Solid Waste. This testing plan ensures a representative sample and an accurate and precise result.

Concerning §11.135, Denton believes that there is not enough evidence documented, concerning the adverse health effects of lead, to justify the controls imposed by these regulations.

It is well documented, in scientific literature, that lead is a known toxic and is especially hazardous to children (causing learning disabilities) and to pregnant women (causing damage to the central nervous system of the fetus). Furthermore, lead is detrimental to all animals and is very persistent in the environment. Once deposited, it does not break down to harmless components but maintains its toxicity in the soil for decades.

An individual commented that other heavy metal-based paints should be controlled as well.

The staff agrees that other heavy metals may also need to be controlled, however, lead is by far the largest constituent by weight in paint and the toxic effects of lead are well known and documented. Consequently, lead is the main concern at this time. The staff, nevertheless, does intend to revisit this issue at a later date.

Several commenters (Lakeway MUD, Landmark, Archaie, Vickers, Trinity, Coating Society, Houston Lighting & Power, and several individuals) stated that dry abrasive blasting of surfaces containing leaded paints should be allowed. Lakeway MUD submitted evidence of samples taken after shrouded dry blasting was performed, which, they contend, is absolute proof of the effectiveness of a shroud. Another commenter stated that TACB did not have enough evidence to conclusively state that use of a shroud is not safe or effective.

The 500-foot distance requirement was chosen for two reasons it is consistent with the distance requirement in TACB's Standard Exemption 102, concerning abrasive blasting from a permanent facility; and modeling of the proposed dry abrasive blasting within a shroud verified this distance to be an accurate estimate. Therefore, based on this data and the sampling results submitted by Lakeway MUD (collected from a dry abrasive blasting job where a shroud was used), the staff has added to the rule that shrouded dry abrasive blasting be allowed, provided there are no private residences or public areas within a distance of 500 feet of the water storage tank.

Several commenters (Neptune-Wilkinson Associates, Inc., Coating Society, Archaie, and Travis) commented that wet abrasive blasting would create more problems than dry abrasive blasting. They specifically mentioned the following concerns: wet abrasive blasting leads to a greater risk of water runoff and infiltration into the ground; wet waste is more difficult to control than dry waste; wet blasting would cause the tanks to rust quicker, requiring the use of inhibitors to prevent this which would compromise the adhering capabilities of the tanks' surface; and hydroblasting does not provide a surface adequate for coating adherence.

The staff investigation showed that the use of wet abrasive blasting and hydroblasting are being performed effectively throughout the industry. Wet abrasive blasting and hydroblasting minimize airborne particulate matter resulting from paint removal operations and are necessary to control lead contamination of surrounding properties. Because of the added problems inherent in wet blasting methods, the staff recommends that shrouded dry abrasive blasting be al-

lowed, provided there are no private residences or public areas within a distance of 500 feet of the water storage tank.

Several commenters (Landmark, Archaie, City of San Antonio Water Board, Vickers, TRWA, Allied, Travis, Exxon, Texas Sandblasting and Painting, Inc., and several individuals) expressed concern over the staff's estimates of cost and questioned the actual economic effects. One commenter stated that the costs would be so high that many tank owners would postpone necessary painting, and another stated that the costs were so high that no one would be able to economically comply with the adopted regulations. Another commenter stated that the requirement for wet blasting or hydroblasting would produce rust, and the staff's cost estimates did not include removal of the rust. One commenter claimed that the cost of the new regulations would result in only the insides of tanks being repainted and not the outside. Another commenter stated that the higher costs would force many companies out of business.

The staff believes that by allowing dry abrasive blasting within a shroud many of these arguments are no longer valid. Costs are likely to be higher when using a shroud; however, the use of a shroud should prevent the costs of clean up and litigation brought on by citizen suits. Shrouding is, therefore, believed to be an ultimate cost savings, as well as an environmentally responsible practice.

An individual expressed concern that the platform where the workers stand would become unsafe to stand on with the added weight of wet abrasive debris.

The adoption to allow dry blasting in a shroud eliminates this point as an issue.

Concerning §111.137, several commenters (Wichita Falls, Archaie, Neptune-Wilkinson, and Landmark) stated that the requirements for unleaded storage tanks are too stringent. Neptune-Wilkinson felt that tanks having paint which contained no lead should be excluded from the adopted regulations. Landmark felt that if the paint on the tank's surface contained less than 1.0% lead by weight, it should be exempt from regulation.

The staff has received a number of complaints regarding blasting in residential areas and concluded that the regulations adopted for paints containing less than 1.0% lead are the best way to minimize nuisance situations which could arise if no controls were imposed. It is also important to note that control of particulate matter as well as control of lead particulate emission is required to protect the health of the citizens in the case of abrasive blasting. Furthermore, staff research indicated that this is a common regulation in many other states.

Concerning §111.139, two commenters (Harris County Pollution Control Department, and an individual), opposed allowing any exemptions, or, in the case where an exemption is required, that the operator should maintain a daily record of abrasive usage.

The adopted exemption is designed for small activities, which experience has shown, would be unlikely to create nuisance conditions or adverse health effects. Research also indicates that most blasting operations propel at least 500 pounds per hour. Thus, relatively

few operations would qualify for the exemption.

A representative from Vickers stated that there should be an allowance for a waiver if the residents within the area of control are few and have given their consent for the work to continue. Specifically mentioned was a case involving one residence, upwind of the job.

The staff has grave concerns over allowing a blanket waiver for such instances. This would not protect future landowners from inheriting the residual lead left on the property. In addition, the scenario does not account for wind shifts or the swirling effect of the wind around the tank. Nevertheless, TACB has a standard procedure for requesting a variance from any of its regulations, through an appeal process directly to TACB.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purpose of the TCAA.

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

**Abrasive blasting**—The operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

**Hydroblasting**—Any abrasive blasting using high pressure liquid as the propelling force or as the active cleaning agent.

**Private residence**—A residence not occupied or used solely by the owner of the property upon which the water storage tank to be blasted is located.

**Public area**—An outdoor area where it may be reasonably anticipated that the public could congregate for more than short-term periods, including, but not limited to, schools, day care centers, convalescent centers, parks, and recreation areas.

**Shroud**—A device which is designed to enclose or surround the area being blasted to minimize the atmospheric entrainment of fine particulates and direct that material to a confined area for disposal. The shroud shall have overlapping seams to prevent leakage of particulates, shall extend a minimum of 15 feet above the area being blasted, and shall have a shade factor of 95% or a control factor of 95% of particles 100 grit or greater. A shade factor is defined as the percent of area impermeable to particles or sunlight.

**Vacuum blasting**—Any abrasive blasting in which the spent abrasive, surface material, and dust resulting from blasting are immediately collected by a vacuum device, equipped with a high efficiency particulate filter.

**Water storage tank**—Any above-ground vessel designed and constructed for the purpose of storing potable water.

**Wet abrasive blasting**—Any abrasive blasting using compressed air as the propel-



ling force, which mixes with water to minimize emissions.

#### §111.133. Testing Requirements.

(a) Before abrasive blasting is performed on any previously-coated water storage tank, the owner or operator of the tank must determine if lead is present in the existing protective coating by applying the following test methods from the United States Environmental Protection Agency SW-846, Test Methods for Evaluating Solid Waste:

(1) Method 3050, Acid Digestion of Sediments, Sludges, and soils; and

(2) Method 6010, Inductively Coupled Plasma Atomic Emission Spectroscopy, or Method 7000, Atomic Absorption Methods. Lead concentrations should be reported in micrograms per gram (ug/gm); or

(3) An alternate method approved in advance by the Executive Director or a designated representative of the Texas Air Control Board (TACB).

(b) Results of the test(s) required in subsection (a) of this section must be available to the TACB staff or staff from governmental entities having jurisdiction at the site for the duration of the abrasive blasting project. The results must include the name of the testing facility and a person responsible for the accuracy of the test results.

(c) Successive coatings need not be retested following initial testing, provided the owner or operator of the water storage tank can furnish verifiable documentation that the lead level of the post-testing coatings is less than 1.0% (10,000 ug/gm) lead by weight.

#### §111.135. Control Requirements For Surfaces with Coatings Containing Lead.

(a) The authority to conduct abrasive blasting activities under this section does not exempt or excuse any person from responsibility for the consequences, damages, or injuries resulting from the abrasive cleaning. The authority to conduct such activities under this regulation also does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the abrasive blasting is otherwise conducted in compliance with this regulation. The owner or operator of the water storage tank being blasted must control emissions from abrasive blasting in a manner that does not cause nuisance conditions, as defined in §101.4 of this title (relating to Nuisance).

(b) For water storage tanks with lead concentrations of 1.0% (10,000 ug/gm) or greater in the coating, the owner or operator of the tank shall notify the appropriate TACB regional office and any local authorities having jurisdiction over abrasive blast-

ing activities of the blasting in writing at least 10, but not more than 30, working days prior to the date scheduled for the beginning of blasting operations. The notification must include:

- (1) the location of the tank;
- (2) the name of the abrasive blasting company;
- (3) the weight percent of lead in the coating;
- (4) the control methods to be used;
- (5) the expected hours of operation and scheduled start and finish dates.

(c) Emissions from abrasive blasting of water storage tanks which have lead in concentrations of 1.0% (10,000 ug/gm) or greater by weight in the coating must be controlled by one of the following methods:

- (1) vacuum blasting;
- (2) shrouded wet abrasive blasting;
- (3) shrouded dry abrasive blasting, provided there are no private residences or public areas within 500 feet of the water storage tank;
- (4) shrouded hydroblasting; or
- (5) equivalent method approved in advance by the executive director or a designated representative of TACB.

#### §111.137. Control Requirements For Surfaces with Coatings Containing Less Than One Percent Lead.

(a) The authority to conduct abrasive blasting activities under this section does not exempt or excuse any person from responsibility for the consequences, damages, or injuries resulting from the abrasive cleaning. The authority to conduct such activities under this regulation also does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the abrasive blasting is otherwise conducted in compliance with this regulation. The owner or operator of the water storage tank being blasted must control emissions from abrasive blasting in a manner that does not cause nuisance conditions, as defined in §101.4 of this title (relating to Nuisance).

(b) When there are private residences or public areas within a distance of 500 feet of the water storage tank or 10 times the height of the tank, whichever is greater, the owner or operator of the tank must control emissions from abrasive blasting by one of the following methods:

- (1) vacuum blasting;
- (2) shrouded wet abrasive blast-

- (3) shrouded dry blasting;
- (4) shrouded hydroblasting; or

(5) equivalent method approved in advance by the executive director or a designated representative of TACB.

(c) When there are no private residences or public areas within a distance of 500 feet of the water storage tank or 10 times the height of the tank, whichever is greater, no additional controls are required beyond those stipulated in subsection (a) of this section.

#### §111.139. Exemptions.

(a) Interior abrasive blasting of water storage tanks is exempt from §111.133 of this title (relating to Testing Requirements); §111.135 of this title (relating to Control Requirements For Surfaces with Coatings Containing Lead); and §111.137 of this title (relating to Control Requirements For Surfaces with Coatings Containing Less Than One Percent Lead), if no visible emissions to the atmosphere result from such cleaning.

(b) Any abrasive blasting process which propels abrasives at a rate of less than 500 pounds per day is exempt from §§111.133, 111.135, and 111.137.

(c) Any alternate control method approved in advance by the executive director or a designated representative of the TACB may be exempted from §111.135 and §111.137. An exemption may be revoked by TACB at any time if the blasting project is causing nuisance conditions or a violation of any air quality standard.

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

Issued in Austin, Texas, on October 11, 1991.

TRD-9112827 Lane Hartssock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

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Proposal publication date: April 16, 1991

For further information, please call: (512) 908-1451

## Chapter 115. Control of Air Pollution from Volatile Organic Compounds

### Subchapter A. Definitions Definitions

#### • 31 TAC §115.10

The Texas Air Control Board (TACB) adopts an amendment to §115.10, concerning definitions, without changes to the proposed text as published in the July 2, 1991, issue of the *Texas Register* (16 TexReg 3676). The amendment satisfies a requirement by the

United States Environmental Protection Agency (EPA) to correct certain regulation deficiencies and inconsistencies to ensure compliance with applicable requirements for control and collection systems of volatile organic compounds.

The amendment to §115.10 adds definitions for capture efficiency, capture system, carbon adsorber, carbon adsorption system, control device, and control system. These new definitions will ensure consistency with terminology now used by EPA.

A public hearing was held on July 22, 1991, in Austin. No oral testimony was presented. Written testimony was received from two commenters during the comment period which was extended from July 23 until July 30, 1991.

EPA approved the proposed definitions and suggested that additional definitions may be needed for clarification. The staff is unable to add definitions at this time without conducting an additional public hearing; however, such definitions do not appear to be critical to understanding the concepts at issue in the proposal.

One individual wished to see the definition of capture efficiency changed to read that capture efficiency would be the difference between the percentage of volatile organic compounds entering both the capture system and control device and that leaving the exit vent. Since the proposed definition was made in response to an EPA requirement and contains the exact wording used by EPA, revising the definition could jeopardize EPA approval.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provides TACB 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.

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TRD-9112621 Lane Hartsock  
Deputy Director, Air Quality  
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Texas Air Control Board

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Proposal publication date: July 2, 1991

For further information, please call: (512) 908-1451

## Subchapter B. General Volatile Organic Compound Sources

### Vent Gas Control

#### • 31 TAC §115.126, §115.129

The Texas Air Control Board (TACB) adopts amendments to §115.126, concerning recordkeeping requirements and §115.129, concerning counties and compliance schedules, without changes to the proposed text as published in the July 2, 1991, issue of the *Texas Register* (16 TexReg 3676). The amendments satisfy a requirement by the United States Environmental Protection

Agency to correct certain regulation deficiencies and inconsistencies to ensure compliance with applicable requirements for control and collection systems of volatile organic compounds.

The amendment to §115.126 adds an additional reference to provide consistency in maintaining temperature, maintenance, and testing records for facilities required to comply with §115.121(a)(3). The amendment to §115.129 identifies a compliance date for the additional recordkeeping requirements.

A public hearing was held on July 22, 1991, in Austin. No oral testimony was received. One written comment was received during the comment period which was extended from July 23 until July 30, 1991.

The individual remarked that company records should be available for public review, analysis, and assessment and that the records should be kept at some public place for public inspection. Much of the required recordkeeping may involve confidential company information. TACB rules are developed to prevent the misuse of proprietary information while allowing access to data which can be used to determine actual operating parameters. This individual also commented that §115.126(1) could allow a company to use fraudulent data instead of actual inspection data to determine whether control equipment was functioning properly. The staff can not discount that a possibility exists for fraudulent or incorrect data being recorded. However, the staff believes the majority of recordkeeping to be accurate because it is in the facility's best interest to ensure proper operation of control devices for numerous safety, economic, and environmental reasons. TACB also conducts periodic unannounced inspections as well as scheduled formal inspections to ensure company compliance with applicable rules and regulations.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provides TACB 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.

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TRD-9112600 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
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For further information, please call: (512) 908-1451

### Water Separation

#### • 31 TAC §115.136, §115.139

The Texas Air Control Board (TACB) adopts amendments to §115.136, concerning recordkeeping requirements and §115.139, concerning counties and compliance schedules, without changes to the proposed text as published in the July 2, 1991, issue of the

*Texas Register* (16 TexReg 3676). The amendments satisfy a requirement by the United States Environmental Protection Agency to correct certain regulation deficiencies and inconsistencies to ensure compliance with applicable requirements for control and collection systems of volatile organic compounds.

The amendment to §115.136 adds a requirement to continuously monitor the exhaust gas temperature immediately downstream of a direct-flame incinerator. The amendment to §115.139 identifies a compliance date for the additional monitoring requirement.

A public hearing was held on July 22, 1991, in Austin. No oral or written testimony was received on this undesignated head during the comment period which was extended from July 23 until July 30, 1991.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provides TACB 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 October 10, 1991.

TRD-9112623 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

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Proposal publication date: July 2, 1991

For further information, please call: (512) 908-1451

## Subchapter C. Volatile Organic Compound Marketing Operations

### Filling of Gasoline Storage Vessels (State I) For Motor Vehicle Fuel Dispensing Facilities

#### • 31 TAC §115.224, §115.229

The Texas Air Control Board (TACB) adopts amendments to §115.224, concerning inspection requirements and §115.229, concerning counties and compliance schedules, without changes to the proposed text as published in the July 2, 1991, issue of the *Texas Register* (16 TexReg 3676). The amendments satisfy a requirement by the United States Environmental Protection Agency to correct certain regulation deficiencies and inconsistencies to ensure compliance with applicable requirements for control and collection systems of volatile organic compounds.

The amendment to §115.224 adds Brazoria and Galveston Counties to the requirement that gasoline tank-trucks be annually inspected for leaks as evidenced by a prominently displayed certification. The amendment to §115.229 identifies a compliance date for the additional inspection requirement.



A public hearing was held on July 22, 1991, in Austin. No oral or written testimony was received on this undesignated head during the comment period which was extended from July 23 until July 30, 1991.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provides TACB 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.

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TRD-9112624 Lane Hartsock  
Deputy Director, Air Quality  
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Texas Air Control Board

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Proposal publication date: July 2, 1991

For further information, please call: (512) 908-1451

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Subchapter E. Solvent-Using  
Processes

Surface Coating Processes

- 31 TAC §§115.422, 115.423, 115.425, 115.426, 115.429

The Texas Air Control Board (TACB) adopts amendments to §115.422, concerning control requirements; §115.423, concerning alternate control requirements; §115.425, concerning testing requirements; §115.426, concerning recordkeeping requirements; and §115.429, concerning counties and compliance schedules. Sections 115.422, 115.425, and 115.426 are adopted with changes to the proposed text as published in the July 2, 1991, issue of the *Texas Register* (16 TexReg 3676). Section 115.423 and §115.429 are adopted without changes and will not be republished. The amendments sat-

isfy a requirement by the United States Environmental Protection Agency (EPA) to correct certain regulation deficiencies and inconsistencies to ensure compliance with applicable requirements for control and collection systems of volatile organic compounds.

The amendment to §115.422 changes the wording to clarify the intent of the "once in, always in" philosophy adopted during the last change and clarify the reference to counties and compliance schedules. The amendment to §115.423 changes the reference paragraph for capture efficiency testing protocol. The amendment to §115.425 adds additional requirements for capture efficiency compliance testing to be consistent with EPA guidance. The amendment to §115.426 adds a paragraph to explain the additional recordkeeping required by new capture efficiency testing. The amendment to §115.429 adds a new compliance date for new requirements.

A public hearing was held on July 22, 1991, in Austin. No oral testimony was received. Only EPA submitted written testimony during the comment period which was extended from July 23 until July 30, 1991.

In general, EPA stated that additional provisions were necessary for consistency with EPA's model capture efficiency rule. EPA's interpretation of the proposed rules is that they are more stringent than EPA requirements and need additional clarification to determine capture efficiency testing. Specifically, the following three comments were submitted:

Section 115.422 references counties listed in §115.429(2)(A), but no counties are listed in this section. The staff agreed with EPA and changed the reference to reflect §115.429 only.

Section 115.425 does not include any exemptions which are available for sources which install an EPA-approved permanent total enclosure and for sources which use a carbon absorber provided certain restrictions are met. Additionally, the four protocols used to measure capture efficiency should be specifically identified. The staff agreed with EPA

and revised this section to reflect these comments.

Section 115.426(3) does not clearly give a deadline for submittal of capture efficiency test results required by §115.425(4). The staff concurred and added a sentence to clarify that the test results shall be submitted within 60 days after the actual test date. Another sentence was added to clarify that capture efficiency operating parameter records shall be maintained at the facility for a minimum of one year.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

**§115.422. Control Requirements.** For the counties referenced in §115.429 of this title (relating to Counties and Compliance Schedules).

(1) (No change.)

(2) Any surface coating operation that becomes subject to the provisions of §115.421 of this title (relating to Emission Specifications) by exceeding the provisions of §115.427 of this title (relating to Exemptions) shall remain subject to the provisions in §115.421, even if throughput or emissions later fall below exemption limits.

**§115.425. Testing Requirements.** For the counties referenced in §115.429 of this title (relating to Counties and Compliance Schedules), the following testing requirements shall apply.

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

(4) The capture efficiency shall be measured using applicable procedures outlined in 40 Code of Federal Regulations (CFR), Part 52.741, Subpart O, Appendix B. These procedures are:

- Procedure T - Criteria for and Verification of a  
Permanent or Temporary Total Enclosure
- Procedure L - Volatile Organic Compounds (VOC) Input
- Procedure G.2 - Captured VOC Emissions (Dilution  
Technique)
- Procedure F.1 - Fugitive VOC Emissions from Temporary  
Enclosures
- Procedure F.2 - Fugitive VOC Emissions from Building  
Enclosures

(A) The following are exemptions to capture efficiency testing requirements.

(i) If a source installs a permanent total enclosure (PTE) which meets the specifications of Procedure T and which directs all VOC to a control device, then the capture efficiency is assumed to be 100%, and the source is exempted from capture efficiency testing requirements. This does not exempt the source from performance of any control device efficiency testing that may be required. In addition, a source must demonstrate all criteria for a PTE are met during testing for control efficiency.

(ii) If a source uses a control device designed to collect and recover VOC (e.g., carbon absorber), an explicit measurement of capture efficiency is not

necessary if the following conditions are met. The overall control of the system can be determined by directly comparing the input liquid VOC to the recovered liquid VOC. The general procedure for use in this situation is given in 40 CFR, §60.433 with the following additional restrictions.

(I) The source must be able to equate solvent usage with solvent recovery on a 24-hour (daily) basis, rather than a 30-day weighted average. This must be done within 72 hours following each 24-hour period.

(II) The solvent recovery system (i.e., capture and control system) must be dedicated to a single process line (e.g., one process line venting to a carbon absorber system); or if the solvent recovery system controls multiple process lines, the source must be able to demonstrate that the

overall control (i.e., the total recovered solvent VOC divided by the sum of liquid VOC input to all process lines venting to the control system) meets or exceeds the most stringent standard applicable for any process line venting to the control system.

(B) The capture efficiency shall be calculated using one of the following four protocols referenced. Any affected source must use one of these protocols, unless a suitable alternative protocol is approved by the executive director and the United States Environmental Protection Agency (EPA).

(i) Gas/gas method using Temporary Total Enclosure (TTE). EPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T. The capture efficiency equation to be used for this protocol is:

The capture efficiency equation to be used for this protocol is:

$$CE = Gw / (Gw + Fw)$$

where: CE = capture efficiency, decimal fraction

Gw = mass of VOC captured and delivered to control device using a TTE (use Procedure G.2)

Fw = mass of fugitive VOC that escapes from a TTE (use Procedure F.1)

(ii) Liquid/gas method using TTE. EPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T. The capture efficiency equation to be used for this protocol is:

$$CE = (L - F) / L$$

where: CE = capture efficiency, decimal fraction

L = mass of liquid VOC input to process (use Procedure L)

F = mass of fugitive VOC that escapes from a TTE (use Procedure F.1)

(iii) Gas/gas method using the building or room in which the affected source is located as the enclosure

(BE) and in which G and F are measured while operating only the affected facility. All fans and blowers in the BE must be operating as they would under normal pro-

duction. The capture efficiency equation to be used for this protocol is:

$$CE = G / (G + Fb)$$

where: CE = capture efficiency, decimal fraction

G = mass of VOC captured and delivered to a control device (use Procedure G.2)

Fb = mass of fugitive VOC that escapes from building enclosure (use Procedure F.2)

(iv) Liquid/gas method using a BE in which L and F are measured while operating only the affected facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = (L - Fb) / L$$

where: CE = capture efficiency, decimal fraction

L = mass of liquid VOC input to process (use Procedure L)

Fb = mass of fugitive VOC that escapes from BE (use Procedure F.2)

must be met in measuring capture efficiency.

sociated with a test protocol may not be incorporated into the results of a capture efficiency test.

(C) The following conditions

(i) Any error margin as-

(ii) All affected facilities shall accomplish the initial capture efficiency testing by the schedule in §115.429.

(iii) During an initial pre-test meeting, the Texas Air Control Board (TACB) and the source owner or operator shall identify those operating parameters which shall be monitored to ensure that capture efficiency does not change significantly over time. These parameters shall be monitored and recorded initially during the capture efficiency testing and thereafter during facility operation. TACB may require a new capture efficiency test if the operating parameter values change significantly from those recorded during the initial capture efficiency test.

**§115.426. Recordkeeping Requirements.** For the counties referenced in §115.429 of this title (relating to Counties and Compliance Schedules), the following recordkeeping requirements shall apply.

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

(3) The owner or operator shall maintain, on file, the capture efficiency protocol submitted under §115.425(4) of this title (relating to Testing Requirements). The owner or operator shall submit all results of the test methods and capture efficiency protocols to TACB within 60 days of the actual test date. The source owner or operator shall maintain records of the capture efficiency operating parameter values on site for a minimum of one year. If any changes are made to capture or control equipment, the owner or operator is required to notify the executive director in writing within 30 days of these changes and a new capture efficiency and/or control device destruction or removal efficiency test may be required.

(4) In accordance with the schedule referenced in §115.429(1), records shall be maintained sufficient to document the applicability of the conditions for exemptions referenced in §115.427 of this title (relating to Exemptions).

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

Issued in Austin, Texas, on October 10, 1991.

TRD-9112628

Lane Hartscock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

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For further information, please call: (512) 908-1451

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**Subchapter E. Solvent-Using Processes**

**Graphic Arts (Printing) By Rotogravure and Flexographic Processes**

• **31 TAC §§115.435, 115.436, 115.439**

The Texas Air Control Board (TACB) adopts amendments to §115.435, concerning testing requirements; §115.436, concerning recordkeeping requirements; and §115.439, concerning counties and compliance schedules. Sections 115.435 and 115.436 are adopted with changes to the proposed text as published in the July 2, 1991, issue of the *Texas Register* (16 TexReg 3676). Section 115.439 is adopted without changes and will not be republished. The amendment satisfies a requirement by the United States Environmental Protection Agency (EPA) to correct certain regulation deficiencies and inconsistencies to ensure compliance with applicable requirements for control and collection systems of volatile organic compounds.

The amendment to §115.435 adds additional requirements for capture efficiency compliance testing to be consistent with EPA guidance. The amendment to §115.436 adds a paragraph to explain the additional recordkeeping requirements required by new capture efficiency testing. The amendment to §115.439 adds a new compliance date for new requirements.

A public hearing was held on July 22, 1991, in Austin. No oral testimony was presented. Written testimony was received from two commenters during the comment period which was extended from July 23 until July 30, 1991.

EPA comments concerning clarification, exemptions, and alternative protocols (covered in detail under §115.425) were also incorporated into the final rule language of §115.435.

Flexible Packaging Association (FPA) was concerned with the lack of demonstrable improvement in accuracy, cost effectiveness, length of test, and lack of universal applicability of the capture efficiency testing in §115.435. EPA has determined that a liquid/gas mass balance can not normally be used to satisfy the capture efficiency testing requirements, because of the high probability error associated with the procedure. The staff can appreciate the investments of FPA members to develop alternative ink and coating formulations, enhancements in application techniques, and the installation of add-on collection devices, and additional volatile organic compounds (VOC) destruction devices in order to reduce emissions. Even though improvements have been made, the overall process efficiency can only be determined by testing both capture (collection) efficiency and control device efficiency. The cost of performing capture efficiency testing could possibly be high; however, if a permanent total enclosure or a building or room enclosure exists, then the facility may meet an exemption or need only to perform a one-time capture efficiency test, thereby minimizing expenses. The staff incorporated certain exemptions and alternative method approval procedures in the final rule language which will provide for a determination on a case-by-case basis.

The staff adopted EPA's comment that test results required by §115.436 should be submitted within 60 days of the actual test date and that capture efficiency operating parameter records shall be maintained at the facility for a minimum of one year.

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

**§115.435. Testing Requirements.** For the counties referenced in §115.439 of this title (relating to Counties and Compliance Schedules), compliance shall be determined by applying the following test methods, as appropriate:

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

(7) the capture efficiency which shall be measured using applicable procedures outlined in 40 Code of Federal Regulations (CFR), Part 52.741, Subpart O, Appendix B. These procedures are:

- Procedure T - Criteria for and Verification of a  
Permanent or Temporary Total Enclosure
- Procedure L - Volatile Organic Compounds (VOC) Input
- Procedure G.2 - Captured VOC Emissions (Dilution  
Technique)
- Procedure F.1 - Fugitive VOC Emissions from Temporary  
Enclosures
- Procedure F.2 - Fugitive VOC Emissions from Building  
Enclosures

(A) The following are exemptions to capture efficiency testing requirements.

(i) If a source installs a permanent total enclosure (PTE) which meets the specifications of Procedure T and which directs all VOC to a control device, then the capture efficiency is assumed to be 100%, and the source is exempted from capture efficiency testing requirements. This does not exempt the source from performance of any control device efficiency testing that may be required. In addition, a source must demonstrate all criteria for a PTE are met during testing for control efficiency.

(ii) If a source uses a control device designed to collect and recover VOC (e.g., carbon absorber), an explicit

measurement of capture efficiency is not necessary if the following conditions are met. The overall control of the system can be determined by directly comparing the input liquid VOC to the recovered liquid VOC. The general procedure for use in this situation is given in 40 Code of Federal Regulation (CFR), §60.433 with the following additional restrictions.

(I) The source must be able to equate solvent usage with solvent recovery on a 24-hour (daily) basis, rather than a 30-day weighted average. This must be done within 72 hours following each 24-hour period.

(II) The solvent recovery system (i.e., capture and control system) must be dedicated to a single process line (e.g., one process line venting to a carbon absorber system); or if the solvent recovery

system controls multiple process lines, the source must be able to demonstrate that the overall control (i.e., the total recovered solvent VOC divided by the sum of liquid VOC input to all process lines venting to the control system) meets or exceeds the most stringent standard applicable for any process line venting to the control system.

(B) The capture efficiency shall be calculated using one of the following four protocols referenced. Any affected source must use one of these protocols, unless a suitable alternative protocol is approved by the executive director and EPA.

(i) Gas/gas method using temporary total enclosure (TTE). EPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T. The capture efficiency equation to be used for this protocol is:

$$CE = Gw / (Gw + Fw)$$

where: CE = capture efficiency, decimal fraction

Gw = mass of VOC captured and delivered to control device using a TTE (use Procedure G.2)

Fw = mass of fugitive VOC that escapes from a TTE (use Procedure F.1)

(ii) Liquid/gas method using TTE. EPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T. The capture efficiency equation to be used for this protocol is:

$$CE = (L - F) / L$$

where: CE = capture efficiency, decimal fraction

L = mass of liquid VOC input to process (use Procedure L)

F = mass of fugitive VOC that escapes from a TTE (use Procedure F.1)

(iii) Gas/gas method using the building or room in which the affected source is located as the enclosure

(BE) and in which G and F are measured while operating only the affected facility. All fans and blowers in the BE must be operating as they would under normal pro-

duction. The capture efficiency equation to be used for this protocol is:

$$CE = G / (G + Fb)$$

where: CE = capture efficiency, decimal fraction

G = mass of VOC captured and delivered to a control device (use Procedure G.2)

Fb = mass of fugitive VOC that escapes from building enclosure (use Procedure F.2)

(iv) Liquid/gas method using a BE in which L and F are measured while operating only the affected facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = (L - Fb) / L$$

where: CE = capture efficiency, decimal fraction

L = mass of liquid VOC input to process  
(use Procedure L)

Fb = mass of fugitive VOC that escapes from BE (use Procedure F.2)

(C) The following conditions must be met in measuring capture efficiency.

(i) Any error margin associated with a test protocol may not be incorporated into the results of a capture efficiency test.

(ii) All affected facilities shall accomplish the initial capture efficiency testing by the schedule in §115.439 of this title (relating to Counties and Compliance Schedules).

(iii) During an initial pre-test meeting, the Texas Air Control Board (TACB), and the source owner or operator shall identify those operating parameters which shall be monitored to ensure that capture efficiency does not change significantly over time. These parameters shall be monitored and recorded initially during the capture efficiency testing and thereafter during facility operation. TACB may require a new capture efficiency test if the operating parameter values change significantly from those recorded during the initial capture efficiency test.

(8) minor modifications to these test methods and procedures approved by the executive director.

§115.436. *Recordkeeping Requirements.* For the counties referenced in §115.439 of this title (relating to Counties and Compliance Schedules), the owner or operator of any graphic arts facility subject to the control requirements of §115.432 of this title (relating to Control Requirements) shall:

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



(6) maintain on file the capture efficiency protocol submitted under §115.435(7) of this title (relating to Testing Requirements). The owner or operator shall submit all results of the test methods and capture efficiency protocols to the Texas Air Control Board (TACB) within 60 days of the actual test date. The source owner or operator shall maintain records of the capture efficiency operating parameter values on-site for a minimum of one year. If any changes are made to capture or control equipment, the owner or operator is required to notify the executive director in writing within 30 days of these changes and a new capture efficiency and/or control device destruction or removal efficiency test may be required.

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

Issued in Austin, Texas, on October 10, 1991.

TRD-9112625 Lane Hartsock, Deputy  
Director  
Air Quality Planning  
Texas Air Control Board

Effective date: November 1, 1991

Proposal publication date: July 2, 1991

For further information, please call: (512) 908-1451

## TITLE 34. PUBLIC FI- NANCE

### Part IV. Employees Retirement System of Texas

#### • 34 TAC §71.9

The Employees Retirement System of Texas adopts the repeal of §71.9, concerning military service credit-eligible periods, without changes to the proposed text as published in the August 13, 1991, issue of the *Texas Register* (16 TexReg 60).

The rule is being repealed to comply with legislation adopted by the 72nd Legislature.

State employees will be able to purchase service credit for any active duty military service without regard to whether it was during a time of war or armed conflict.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, §815.102, which provides the Employees Retirement System of Texas with the authority to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112341 Charles D. Travis  
Executive Director  
Employees Retirement  
System of Texas

Effective date: October 29, 1991

Proposal publication date: August 13, 1991

For further information, please call: (512) 867-3336

#### • 34 TAC §71.17

The Employees Retirement System of Texas adopts an amendment to §71.17, concerning credit for unused accumulated sick leave, without changes to the proposed text as published in the August 13, 1991, issue of the *Texas Register* (16 TexReg 60).

The rule is being amended to correspond with legislation passed by the 72nd Legislative Session.

The rule is amended so as to comply with legislation passed by the 72nd Legislature, and members with over 40 years' service will be entitled to additional credit for retirement purposes.

No comments were received regarding adoption of the amendment.

The amendment is adopted under §815.102, Texas Government Code, which provides Employees Retirement System of Texas with the authority to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112338 Charles D. Travis  
Executive Director  
Employees Retirement  
System of Texas

Effective date: October 29, 1991

Proposal publication date: August 13, 1991

For further information, please call: (512) 867-3336

### Chapter 73. Benefits.

#### • 34 TAC §73.19

The Employees Retirement System of Texas adopts the repeal of §73.19, concerning disability retiree-continuation of benefits, without changes to the proposed text as published in the August 13, 1991, issue of the *Texas Register* (16 TexReg 60).

The rule is being repealed to comply with legislation adopted by the 72nd Legislature.

The repeal will allow disability retirees to earn additional income without their disability annuity being reduced.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, §815.102, which provide the Employees Retirement System of Texas with the authority to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112340 Charles D. Travis  
Executive Director  
Employees Retirement  
System of Texas

Effective date: October 29, 1991

Proposal publication date: August 13, 1991

For further information, please call: (512) 867-3336

### Chapter 77. Judicial Retirement

#### • 34 TAC §77.5

The Employees Retirement System of Texas adopts the repeal of §77.5, concerning military service credit-eligible periods, without changes to the proposed text as published in the August 13, 1991, issue of the *Texas Register* (16 TexReg 60).

The rule is being repealed to comply with legislation adopted by the 72nd Legislature.

Members of Judicial Retirement Systems I and II will be able to purchase service credit for any active duty military service without regard to whether it was during a time of war or conflict.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, §835.002 and §840.002, which provides the Employees Retirement System of Texas with the authority to adopt rules for the administration of the funds of the retirement system.

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112339 Charles D. Travis  
Executive Director  
Employees Retirement  
System of Texas

Effective date: October 29, 1991

Proposal publication date: August 13, 1991

For further information, please call: (512) 867-3336

### Chapter 81. Insurance

#### • 34 TAC §81.7

The Employees Retirement System of Texas adopts an amendment to §81.7, concerning enrollment and participation, with changes to the proposed text as published in the August 13, 1991, issue of the *Texas Register* (16 TexReg 60).

Trustee rules are modified in compliance with legislation to allow state employees and retirees who do not reside in any HMO service area an annual opportunity to enroll eligible dependents without evidence of insurability. Rules will also be modified to clarify the effective date of coverage changes and to allow a state employee to reinstate canceled coverage without evidence of insurability when he/she returns to work from

leave without pay due to a certified work-related injury.

The amendment will clarify and make consistent with other sections of the trustee rules the effective date of a decrease or cancellation of coverage; clarify the effective date of coverage for a state employee who terminates employment and returns to work within the same contract year; and correct an inequity in benefits pertaining to a state employee whose coverages are canceled while on leave without pay due to a certified work-related disability.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, §Article 3.50-2, §4, which provides the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of the Texas Employees Group Insurance Benefits Act.

### §81.7. Enrollment and Participation.

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

(f) Changes in coverages beyond the first 31 days of eligibility.

(1) (No change.)

(2) The evidence of insurability provision applies only to those employees, retirees, or eligible dependents who:

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

(C) enrolled in any coverage under the insured plan and later dropped or were canceled from such coverage, except as provided in Subsection (h)(2) and (3) of this section.

(3)-(7) (No change.)

(8) Participants who do not reside in any HMO service area will be provided an annual opportunity to enroll eligible dependents in dependent coverages without evidence of insurability. Such opportunity will be scheduled at times to be announced by the Employees Retirement System. Coverages applied for during this period will be effective on a date determined by the Trustees.

(9) An employee or retiree who wishes to decrease or cancel coverage may do so at any time. Coverage will continue through the last day of the month following the date of application.

(10) An eligible dependent spouse or child who is insured as an employee for health coverage under the Uniform Group Insurance Program becomes eligible for coverage as a dependent on the day following termination of State employment. Eligible dependent children who are insured as dependents for health coverage under the Uniform Group Insurance Program by an employee who terminates State

employment also become eligible for coverage on the day following termination of employment. In order to be eligible for coverage, dependents must meet the definition of dependent contained in §81.1 of this title (relating to Definitions) and be enrolled for coverage by the State employee of whom they are the eligible dependent and who is enrolled for health coverage under the program. The effective date of coverage will be the first day of the month following termination of employment if an application is submitted on or within 30 days following the date the dependent(s) become eligible under this rule.

(11) Notwithstanding the effective dates of coverages, as defined in §81.7(f)(1)-(9) of this title (relating to Enrollment), an employee, retiree, or other eligible participant in the Uniform Group Insurance Program may complete an application or applications during the annual limited enrollment period to make coverage changes, as determined by the Trustee, to be effective September 1.

(g) (No change.)

(h) Reinstatement in the program.

(1) Unless specifically prohibited by these sections or contractual provisions, an employee who terminates employment and returns to active duty within the same contract year may reinstate health coverage for himself and his dependents identical to, and optional coverages no greater than, those that were in effect when the employee terminated by submitting an application for the coverages. The application must be submitted on the first day the employee returns to active duty, and, unless the employee completes the application indicating coverages are to be effective on the first day of the month following the date the employee returns to active duty, the coverages will be effective on the day the employee returns to active duty. Dependents acquired during the break in employment may be added on the application. A returning employee who has selected coverages less than those for which the employee is eligible may reinstate any waived coverages by submitting the appropriate application during the 30 days following the date the employee returns to active duty. The change in coverage will become effective on the first day of the month following the date of application except that an application completed on the first day of the month shall be effective on the first day of the month.

(2) (No change.)

(3) Employees whose coverages were canceled during a period of leave without pay due to a certified work-related disability may, upon return to active duty status, reinstate all coverages that were in effect on the day immediately prior to entering the leave without pay status, except as provided in §81.11(c)(4) of this title (relating to Termination of Coverage), and

provided application to reinstate such coverages is made within 30 days of the return to active duty. Evidence of insurability shall not apply. Coverages applied for on the first day of return to active duty will be effective on that day unless the employee completes the application indicating coverages are to be effective on the first day of the month following the date the employee returns to active duty. Coverages applied for after the first day of return to active duty and within 30 days after that day will be effective on the first day of the month following the date of application; however, coverages applied for on the first day of the month will be effective on that day.

(i) (No change.)

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112337

Charles D. Travis  
Executive Director  
Employees Retirement  
System of Texas

Effective date: October 29, 1991

Proposal publication date: August 13, 1991

For further information, please call: (512) 867-3336

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 29. Purchased Health Services

##### Subchapter G. Hospital Services

###### • 40 TAC §29.609

The Texas Department of Human Services (DHS) adopts an amendment to §29.609, concerning hospital services, without changes to the proposed text as published in the September 3, 1991, issue of the *Texas Register* (16 TexReg 4829).

The justification for amending §29.609 is to establish a third disproportionate share program, which will provide additional reimbursement to significant disproportionate share providers. This program is being established to comply with Senate Bill 82 which was passed during this last special legislative session. Qualifying hospitals are limited to hospitals and hospital districts, not including state-owned teaching hospitals, with Medicaid patient days greater than one standard deviation above the mean number of Medicaid days for all hospitals participating in the state, and with Medicaid patient days greater than or equal to 12% of all patient census days of the hospital.

The section as amended will function by providing significant disproportionate share providers with additional reimbursement.

No comments were received regarding adoption of the amendment. However, implementation is contingent upon approval of the Title XIX State Plan amendment by the Health Care Financing Administration.

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

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

Issued in Austin, Texas, on October 8, 1991.

TRD-9112363      Nancy Murphy  
                                 Agency liaison, Policy and  
                                 Document Support  
                                 Texas Department of  
                                 Human Services

Effective date: November 1, 1991

Proposal publication date: September 3, 1991

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



• 40 TAC §29.610

The Texas Department of Human Services (DHS) adopts new §29.610, concerning hospital services, without changes to the proposed text as published in the July 26, 1991, issue of the *Texas Register* (16 TexReg 4070).

The new rule is justified because certain hospitals will now be eligible to receive outlier payment adjustments for extended or expensive stays of hospitalization, therefore providing additional revenues to those facilities.

The new rule will function by defining certain hospitals to be disproportionate share hospitals for the purpose of receiving outlier payment adjustments. Hospitals currently affected are those hospitals that would have qualified for disproportionate share payments during state fiscal year 1990 if more recent data had been available from the Texas Department of Health regarding the total annual number of patient days in each hospital.

No comments were received regarding adoption of the new section. However, implementation is contingent upon approval of the Title

XIX State Plan amendment by the Health Care Financing Administration.

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

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

Issued in Austin, Texas, on October 8, 1991.

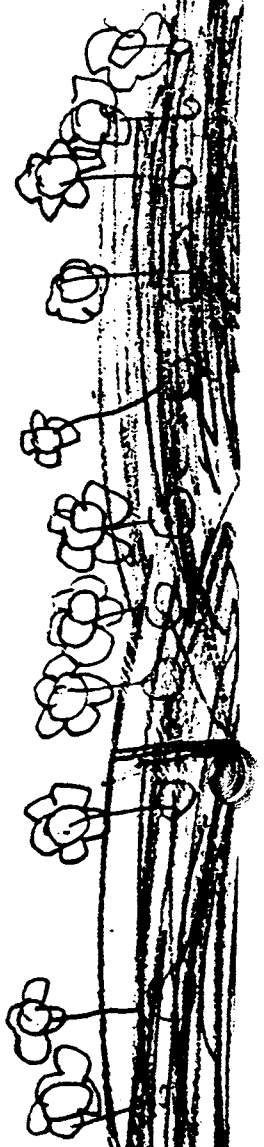
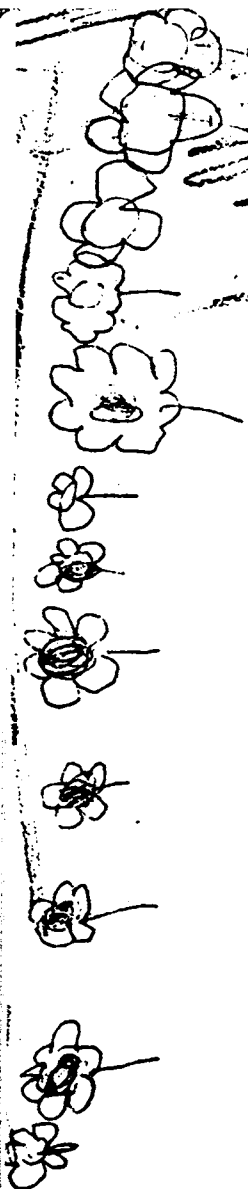
TRD-9112364      Nancy Murphy  
                                 Agency liaison, Policy and  
                                 Document Support  
                                 Texas Department of  
                                 Human Services

Effective date: October 29, 1991

Proposal publication date: July 26, 1991

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





Lauryn  
Rendon

Name: Lauryn Rendon  
Grade: 1  
School: Oak Hill Elementary, Austin ISD

# Open Meetings

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

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

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

## Texas Department on Aging

**Friday, October 18, 1991, 10 a.m.** The Business Advisory Council of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the council will call the meeting to order; investigate establishing relationships and linkages with business and corporate organizations; and adjourn.

Contact: Polly Sowell, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: October 9, 1991, 4:16 p.m.

TRD-9112549

## Texas Department of Agriculture

**Monday, October 21, 1991, 10 a.m.** The State Seed and Plant Board of the Texas Department of Agriculture will meet at the Wyndham Greenspoint, 12400 Greenspoint Drive, Houston. According to the agenda summary, the board will consider minutes; review applications for license as certified seed growers; and consider request for certification eligibility of new varieties under the Texas Certification Program.

Contact: Dolores Alvarado Hibbs, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: October 8, 1991, 2:22 p.m.

TRD-9112371

**Wednesday, October 30, 1991, 10 a.m.** The Texas Department of Agriculture will meet at the Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon) by Paradise Produce, Inc. as petitioned by Pete Alaniz.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78701, (512) 463-7583.

Filed: October 10, 1991, 2:09 p.m.

TRD-9112583

**Wednesday, November 6, 1991, 9 a.m.** The Texas Department of Agriculture will meet at the Stephen F. Austin Building, Texas Department of Agriculture, 1700 North Congress Avenue, Room 933, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(1) (Vernon 1991), and 4 TAC §7.22 by Laurie Russell.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: October 8, 1991, 2:23 p.m.

TRD-9112372

**Wednesday, November 6, 1991, 1:30 p.m.** The Texas Department of Agriculture will meet at the Stephen F. Austin Building, Texas Department of Agriculture, 1700 North Congress Avenue, Room 933, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §§6.1-6.4, by Futuro Farms, et al.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: October 8, 1991, 2:23 p.m.

TRD-9112373

## Texas Air Control Board

**Thursday, October 24, 1991, 2 p.m.** The Mobile Source Emissions Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Room 143E, Austin. According to the complete agenda, the committee will discuss and consider for a public hearing on proposed revisions to Regulation IV, regarding methanol as an acceptable alternative fuel for fleet vehicles; and discussion of the transportation conformity determinations prepared by the metropolitan planning organizations in accordance with

Environmental Protection Agency interim conformity guidelines.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: October 15, 1991, 10 a.m.

TRD-9112717

**Thursday, October 24, 1991, 2:30 p.m.** The Fee Review Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Room 143E, Austin. According to the complete agenda, the committee will review and consider adopting proposed revisions to the General Rules regarding emissions fees.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: October 15, 1991, 10 a.m.

TRD-9112716

**Thursday, October 24, 1991, 3 p.m.** The Regulation Development Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Room 143E, Austin. According to the complete agenda, the committee will review and consider adopting proposed revisions to the General Rules, regarding emissions fees; review and consideration: to adopt proposed revisions to Regulation I and the Inhalable Particulate Matter Control Strategy, regarding the State Implementation Plan for El Paso; to adopt proposed revisions to Regulation II and the General Rules, regarding the lowering of the allowable sulfur content of fuels combusted in Harris and Jefferson Counties; discussion and consideration for a public hearing on proposed revisions to Regulation IV, regarding methanol as an acceptable alternative fuel for fleet vehicles; public hearing on proposed revisions to Regulations VI and X, regarding the definition of residence for purposes of measuring distance requirements.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: October 15, 1991, 9:59 a.m.

TRD-9112715

Friday, October 25, 1991, 9 a.m. The Budget and Finance Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Room 143E, Austin. According to the complete agenda, the committee will discuss the FY 1992 operating budget; local program funding; and give an update on future building space.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: October 15, 1991, 10:02 a.m.

TRD-9112719

Friday, October 25, 1991, 10:30 a.m. The Texas Air Control Board will meet at 12124 Park 35 Circle, TACB Auditorium, Austin. According to the agenda summary, the board will call the meeting to order; approve minutes of the September 20, 1991 board meeting; hear public testimony; consider and act on proposed rules; discuss enforcement report, consideration of agreed enforcement orders and briefing on enforcement matters; consideration and action on resolutions regarding board members; hear reports: staff reports; discuss new business; and adjourn.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: October 15, 1991, 10:01 a.m.

TRD-9112718

### Texas Animal Health Commission

Friday, October 25, 1991, 8 a.m. The Committee to Supervise Duties of Internal Auditor of the Texas Animal Health Commission will meet at 210 Barton Springs Road, First Floor Conference Room, Austin. According to the complete agenda, the committee will hear reports and recommendations of the Internal Auditor concerning travel, purchasing and the TAHC transportation officers; and discuss evaluation procedures for the internal auditor and the internal auditor's budget.

Contact: Jo Anne Connor, 210 Barton Springs Road, Austin, Texas 78711, (512) 479-6697.

Filed: October 14, 1991, 1:22 p.m.

TRD-9112685

Friday, October 25, 1991, 9 a.m. The Texas Animal Health Commission will meet at 210 Barton Springs Road, First Floor Conference Room, Austin. According to the agenda summary, the commission will approve minutes of previous meeting and actions of the executive director; presentation of awards to employees; post hearing review and final decision of commission; allow waiver or exception for adult vaccination of cattle entering Texas; approve expenditures of TAHC funds by

agency personnel; report of the committee that supervises the duties of the internal auditor and report of the finance committee; request permission to conduct field studies to modify dipping requirements; consideration for adopting amendments to regulations-Brucellosis, Swine General Practice and Procedures; consideration for proposing amendments to regulations; brucellosis and general practice and procedures; requirements for entry of swine moving inter/state into shows, fairs and exhibitions; report on TB testing in El Paso; and meet in executive session concerning pending litigation.

Contact: Jo Anne Connor, 210 Barton Springs Road, Austin, Texas 78711, (512) 479-6697.

Filed: October 14, 1991, 1:26 p.m.

TRD-9112686

### State Banking Board

Wednesday, October 16, 1991, 8:30 a.m. The State Banking Board met at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board may have approved previous minutes; considered proposed rule relating to substitute member of the board; considered emergency rule relating to substitute members of the board; trust company charter application for Security Trust and Financial Corporation, San Antonio; considered conversion application for South Plains National Bank, Levelland; interim charter application for New Flatonia State Bank; Flatonia; change of domicile application for Community Bank, Wellington; reviewed other pending applications; and the board may have convened into executive session for consideration of matters pertaining to applications as required by Article 342-115(6)(a) of TBC.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Filed: October 8, 1991, 10:12 a.m.

TRD-9112352

### State Board of Barber Examiners

Monday, October 21, 1991, 8 a.m. (rescheduled from October 7, 1991). The State Board of Barber Examiners will meet at 9101 Burnet Road, Suite 103, Austin. According to the complete agenda, the board will approve minutes of the previous meeting; sign teacher and school certificates; hear reports by the executive director; read letters to the board; sign 1992-1993 inter-agency contract with the Texas Cosmetology Commission; approve national written exams; consider proposed rule changes; consider request by Mr. Stewart Smith, school owner, of combining the bar-

ber technician and manicurist courses; meet in executive session; and adjourn.

Contact: Jo King McCrorey, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040.

Filed: October 14, 1991, 2:05 p.m.

TRD-9112689

### Texas Commission for the Blind, Texas Rehabilitation Commission

Monday-Tuesday, October 28-29, 1991, 8 a.m. and 9 a.m. respectively. The State Independent Living Council of the Texas Commission for the Blind, Texas Rehabilitation Commission will meet at the Wyndham Southpark Hotel, IH-35 South at U.S. Highway 71, Austin. According to the agenda summary, on Monday, the council will call the meeting to order; discussion of 1992 budget; hear public comments on independent living issues; reports from Texas Commission for the Blind and Texas Rehabilitation Commission; development of State Independent Living Council position on reauthorization of Rehabilitation Act. On Tuesday, the council will discuss old and new business; and adjourn.

Contact: (TCB) Robert Packard, P.O. Box 12866, Austin, Texas 78711, (512) 459-2588, and (TRC) Mel Fajkus, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4133.

Filed: October 14, 1991, 11:11 a.m.

TRD-9112684

### Texas Bond Review Board

Thursday, October 17, 1991, 10 a.m. The Texas Bond Review Board met at the State Capitol, Sergeant's Committee Room, Austin. According to the agenda summary, the board called the meeting to order; may have approved minutes; considered proposed issues; discussed other business; and adjourned.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: October 9, 1991, 4:59 p.m.

TRD-9112552

### Texas Department of Criminal Justice

Friday, October 18, 1991, 10 a.m. The Community Justice Assistance Division Judicial Advisory Council of the Texas Department of Criminal Justice will meet at 8100 Cameron Road, Suite 600, Building B, Austin. According to the agenda summary, the council will call the meeting to order;

administer oath of office, Arthur "Cappy" Eads, Bell County, recognition for Don Buckmaster on his retirement, and appreciation to Judge Yeager and other judges on the Intermediate Sanctions Bench Manual Project; introduce guests; approve minutes; probation advisory committee report; standards revisions and strategies for House Bill 93 implementation; batterers intervention and prevention program guidelines; community corrections program guidelines; definitions relevant to community correction; review and discuss grant applications; program evaluation goals for FY 1992; information items: monthly statistical report; community corrections program allocation; photo session for annual report; discuss other administrative business; set date of next meeting; and adjourn.

Contact: Jackee Cox, First City Centre, Suite 500, 816 Congress Avenue, Austin, Texas 78701, (512) 459-2736.

Filed: October 8, 1991, 10:03 a.m.

TRD-9112351

**Tuesday-Friday, October 22-25, 1991, 10 a.m.** The Board of Pardons and Pardons of the Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite #9, Huntsville. According to the agenda summary, a panel (composed of 3 board members) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2744.

Filed: October 14, 1991, 11:08 a.m.

TRD-9112682

## Texas Education Agency

**Monday-Tuesday, October 21-22, 1991, (Monday) 10 a.m. and 3 p.m., and Tuesday, 8:30 a.m.** The Software Advisory Committee of the Texas Education Agency will meet (Monday at 10 a.m.) at the Department of Information Resources (DIR), 15th and Lavaca Street, (Monday, 3 p.m.) at the ESC Region XIII, 5701 Springdale Road, and (Tuesday 8:30 a.m.) at 15th and Lavaca Streets, Austin. According to the agenda summary, the committee will review and discuss status of membership into the States Consortium for improving software selection and the Educational Products Information Exchange (EPIE) Institute products; evaluation of EPIE Institute software selection database-computer versions and printed copies; discussion of the dissemination of the EPIE products throughout Texas during the 1991-1992 school year; continuation of the discussion of issues facing software development, selection, and evaluation; and discussion of long-range plans,

future milestones, and the next meeting agenda.

Contact: Karen Kahan, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9087.

Filed: October 11, 1991, 4:52 p.m.

TRD-9112669

## Texas Employment Commission

**Tuesday, October 22, 1991, 8:30 a.m.** The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will approve prior meeting notes; discuss internal procedures of commission appeals; consideration and possible approval of bid for interior and exterior painting at Harlingen agency-owned building; consideration and action on higher level appeals in unemployment compensation cases listed on Commission Docket 43; and set date of next meeting.

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

Filed: October 14, 1991, 4:18 p.m.

TRD-9112710

## Texas State Board of Registration for Professional Engineers

**Wednesday-Thursday, October 23-24, 1991, 8:30 a.m.** The Texas State Board of Registration for Professional Engineers will meet at the University of Texas at San Antonio, John Peace Library Building, Room 4.03.08, San Antonio. According to the agenda summary, the board will receive reports from board members and staff; interview applicants; take action on applications for registration; reading of communications; and other related business.

Contact: Charles E. Nemir, P.E., 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: October 11, 1991, 11:14 a.m.

TRD-9112608

## The Finance Commission of Texas

**Friday, October 18, 1991, 9:30 a.m.** The Finance Commission of Texas will meet at the Finance Commission Building, 2601 North Lamar Boulevard, Third Floor Hearing Room, Austin. According to the agenda summary, the commission will consider committee and staff reports; individual departmental status and operational reports from the banking, savings and loan and

consumer credit departments; and an executive session will be held in regard to supervisory, litigation and personnel matters.

Contact: Mark H. Holland, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 475-1350.

Filed: October 10, 1991, 1:58 p.m.

TRD-9112581

## Texas Department of Health

**Thursday, October 10, 1991, 8:30 a.m.** The Maternal and Child Health Advisory Committee of the Texas Department of Health held an emergency meeting at the Texas Department of Health, 1100 West 49th Street, Room T-607, Tower Building, Austin. According to the complete agenda, the committee may have approved the minutes of July 11, 1991, meeting; heard report of legislative activities during the 72nd regular and special sessions; considered and possibly acted on: early periodic screening and dental treatment (EPSDT) changes; 185% federal poverty level for infants and pregnant women; elimination of assets tests; physician reimbursement; integrated eligibility report; case management report; implementation of case management report for high risk pregnant women and high risk infants; update of maternal and child health medicaid initiatives; continuous eligibility for newborn infants; reimbursement for newborn screening and immunizations; election of chair and vice-chair; and heard public comments. The emergency status was necessary due to unforeseeable circumstances.

Contact: Walter Peter, Jr., M.D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: October 8, 1991, 4:06 p.m.

TRD-9112401

**Tuesday, October 22, 1991, 1:30 p.m.** The Hospital Data Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the committee will approve minutes of previous meeting; consider and possibly act on: report of chief, Bureau of State Health Data and Policy Analysis; 1991 Cooperative Annual Survey of Hospitals by the department, the American Health Association, and the Texas Health Association; medicare outpatient claims study, Texas, 1989; medicaid hospital discharge report, Texas 1990; committee appointments; and set next meeting date.

Contact: Carol Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: October 8, 1991, 4:07 p.m.

TRD-9112402

## Texas Higher Education Coordinating Board

**Thursday, October 23, 1991, 9:30 a.m.**  
The Research Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the complete agenda, the committee will consider awards to be made under the Advanced Research Program and the Advanced Technology Program.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 1:59 p.m.

TRD-9112523

**Thursday, October 23, 1991, 9:45 a.m.**  
The Universities Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the agenda summary, the committee will discuss matters related to universities.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 2 p.m.

TRD-9112524

**Thursday, October 23, 1991, 10:45 a.m.**  
The Health Affairs Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the agenda summary, the committee will discuss matters related to health affairs.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 1:59 p.m.

TRD-9112525

**Thursday, October 23, 1991, 11 a.m.**  
The Community and Technical Colleges Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the agenda summary, the committee will discuss matters relating to community and technical colleges.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 2 p.m.

TRD-9112526

**Thursday, October 23, 1991, 11:45 a.m.**  
The Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to

the complete agenda, the board will discuss matters relating to the Joint Liaison Committee, and Coordinating Board/State Board of Education.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 2 p.m.

TRD-9112527

**Thursday, October 23, 1991, noon.**  
The Committee of the Whole of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the complete agenda, the committee will meet in executive session to hear a report on the status of the South Texas lawsuit.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 2 p.m.

TRD-9112528

**Thursday, October 23, 1991, 1 p.m.**  
The Educational Opportunity Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the complete agenda, the committee will hear a progress report on the Texas Educational Opportunity Plan for Public Higher Education.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 2:01 p.m.

TRD-9112529

**Thursday, October 23, 1991, 1:15 p.m.**  
The Campus Planning Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the agenda summary, the committee will discuss matters relating to campus planning.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 1:59 p.m.

TRD-9112522

**Thursday, October 23, 1991, 2:30 p.m.**  
The Student Services Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the agenda summary, the committee will discuss matters relating to student services.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 1:59 p.m.

TRD-9112521

**Thursday, October 23, 1991, 3 p.m.**  
The Administration and Financial Planning Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the agenda summary, the committee will discuss matters relating to administration and financial planning.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 2:01 p.m.

TRD-9112530

**Friday, October 24, 1991, 9 a.m.**  
The Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the agenda summary, the board will consider matters relating to the Committee on Research; Committee on Universities; Committee on Health Affairs; Committee on Community and Technical Colleges; the Joint Liaison Committee; Committee on Educational Opportunity; Committee on Campus Planning; Committee on Student Services; Committee on Administration and Financial Planning; and reports to the Coordinating Board.

**Contact:** Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

**Filed:** October 9, 1991, 1:59 p.m.

TRD-9112520

## Texas Historical Commission

**Thursday, October 24, 1991, 3 p.m.**  
The Texas Preservation Trust Fund, Guardians of the Texas Historical Commission will meet at the La Mansion Del Rio, Veramendi Room, 112 College Street, San Antonio. According to the complete agenda, the commission will give a history of the Texas Preservation Trust Fund; organization of the guardians; update on recent sessions of the 72nd Legislature; and discuss future activities.

**Contact:** Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

**Filed:** October 11, 1991, 3:32 p.m.

TRD-9112647

**Friday, October 25, 1991, 8 a.m.**  
The Architecture Committee of the Texas Historical Commission will meet at the La Mansion del Rio Coffee Shop, 112 College Street, San Antonio. According to the complete agenda, the committee will discuss quarterly report of activities; update on significant projects; update of Texas Historic Preservation Grants (FY 1992); and update on Texas Preservation Trust Fund.



Contact: Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: October 11, 1991, 3:32 p.m.

TRD-9112646

Friday, October 25, 1991, 8:30 a.m. The National Register and Publications Committees of the Texas Historical Commission will meet at the Coffee Shop of the La Mansion Hotel, 112 College, San Antonio. According to the complete agenda, the committees will make announcements: staff update; fourth annual certified local government conference; state board of review quarterly meeting; approval of proposed rule changes; annual meeting; and quarterly report of activities.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: October 11, 1991, 3:33 p.m.

TRD-9112648

### Texas Department of Human Services

Friday, October 18, 1991, 10 a.m. The Texas Board of Human Services of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the board will consider action on approval of September 20, 1991 minutes; hear comments and announcements by the chairman; NHIC presentation on current balances in the reserve fund; FY 1992 operating plan; disproportionate share for significant rural disproportionate share providers; emergency rules on sanctions against nursing facilities for contract violations; reduction in the time limit allowed for refugee cash assistance and medical assistance benefits; policies for services to runaways and at-risk youth program; debarment procedures regarding contractors; delegation of signature approval on vouchers; hear commissioner's report; board will recess into an executive session to consider the position of internal auditor; the board will reconvene in open session to take action, if necessary, resulting from discussion in executive session.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030.

Filed: October 10, 1991, 9:52 a.m.

TRD-9112556

Wednesday, October 23, 1991, 10:30 a.m. The Texas Commission on Human Rights will meet at the John H. Reagan Building, 105 West 15th Street, Room 103, Austin. According to the agenda summary, the commission will discuss and vote on item(s) covered in executive session as necessary or required; welcoming of guests; approval of minutes; administrative reports (executive director's report, complaint mon-

itoring report, operations report-employment and housing, finance report); report on NAHRW Annual Conference; discussion of conferences with state agencies and institutions of higher education for implementation of Article V, Section 105; discussion of personnel issues; discussion of executive director's annual management plan; status of EEO compliance training; commissioner issues; and discuss unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: October 14, 1991, 11:10 a.m.

TRD-9112683

Thursday, October 24, 1991, 1 p.m. The State Advisory Committee on Child Care Programs of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will have orientation; hear staff reports; committee action items on proposed rule revisions to extend child care services for families whose income exceeds 150% of the federal poverty income guidelines; proposed rule revisions to provide child care services funded by Job Opportunities and Basic Skills (JOBS) funding in non-JOBS counties; proposed rule revision related to the definition of age limits for childcare; proposed rule revision related to Title XX child care funding; and scheduling of next meeting.

Contact: Mary Beth O'Hanlon, P.O. Box 149030, Austin, Texas 78714-9030, (512) 459-4169.

Filed: October 14, 1991, 3:56 p.m.

TRD-9112708

Friday, October 25, 1991, 9 a.m. The EPSDT Dental Professional Advisory and Review Subcommittee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, West Tower, Room 103-W, Austin. According to the complete agenda, the subcommittee will call the meeting to order; approve the July 26, 1991 minutes; hear commissioner's report; dental and medical program expansion/changes; FY 1991 utilization/expenditure report and FY 92 operating plan; midwest stream migrant health conference; health department reimbursement; baby bottle tooth decay; sealants; ambulatory/surgical center; telephone appeals-NHIC; NHIC report/issues; meet in executive session; and adjournment.

Contact: Richard Wilson, P.O. Box 149030, Austin, Texas 78714-9030, (512) 338-6944.

Filed: October 14, 1991, 3:55 p.m.

TRD-9112707

### Department of Information Resources

Thursday, October 17, 1991, 9 a.m. The Board of the Department of Information Resources met at One Capitol Square, Suite 1300, 300 West 15th Street, Austin. According to the complete agenda, the board called the meeting to order; took roll call and witnessed registration; adopted board meeting minutes; heard executive director's report; discussed and adopted the state strategic plan; discussed other business; heard public testimony; and adjourned.

Contact: Lisa Carter, 300 West 15th Street, Suite 1300, Austin, Texas 78701, (512) 475-4729.

Filed: October 8, 1991, 7:24 p.m.

TRD-9112407

### Texas Department of Insurance

Wednesday, October 9, 1991, 3 p.m. The State Board of Insurance of the Texas Department of Insurance held an emergency meeting at 333 Guadalupe Street, 12th Floor Commissioner's Conference Room, Austin. According to the complete agenda, the board met in executive session to hear briefing by the Attorney General's Office to designate deposition witnesses and compile documentation in response to Notice of Intention to take oral deposition with subpoena duces tecum, in Cause Number 91-14-131, filed by the National Association of Independent Insurers, et al. The emergency status was necessary for the protection of public welfare concerning TRO proceedings relating to automobile liability emergency rule in which the board was required to respond by October 11, 1991.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: October 9, 1991, 12:24 p.m.

TRD-9112519

Wednesday, October 16, 1991, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance met at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board considered final action on amendment to 28 TAC §9.401; extended emergency effectiveness of Texas Workers' Compensation detailed claim information statistical plan; extended emergency effect of Workers' Compensation and Employers' Liability Insurance Texas Unit Statistical Plan; considered proposed new 28 TAC §7.76, concerning annual and quarterly statement diskette filing; considered proposed new 28 TAC §7.61, concerning annual and quarterly statement blanks; proposed amendments to 28 TAC §3.3(d) concerning requirements for filing of policy

forms, riders, amendments and endorsements for life, accident and health insurance annuities.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: October 8, 1991, 5:07 p.m.

TRD-9112404

Thursday, October 17, 1991, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance met at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board considered adoption of Exclusion 2.e under Section II exclusions of the Texas Homeowner's Policy; considered proposed new 28 TAC §1.602 concerning notice of insurer's toll-free telephone; considered proposed new 28 TAC §19.8701 and §19.802, concerning license fee requirements for various types of agents; considered proposed amendments to 28 TAC §§19.202, 19.302, 19.601, 19.706, and 19.1311 which replaces specific dollar amounts in new §19.802; amendments to 28 TAC §15.3 to remove specific dollar amounts in new §19.802; amendments to 28 TAC §§15.2, 15.7, 15.8, 15.11-15.15, 15.19, 15.21, 15.25-15.27, and 15.101 of Chapter 15; considered proposal for decision in the matter of Hall, et al, for review of action of the Texas Catastrophe Property Insurance Association; briefing from internal audit on the FY 1991 annual report and FY 1992 internal audit plan; and discuss personnel matters.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: October 9, 1991, 4:26 p.m.

TRD-9112550

Tuesday, October 22, 1991, 1:30 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing to consider the appeal and motion for stay by Podiatry Insurance Company from Order Number 91-1249 of the Commissioner of Insurance and regarding the denial of the motion for rehearing by Commissioner Order Number 91-1422.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: October 11, 1991, 4:51 p.m.

TRD-9112668

Tuesday, October 22, 1991, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the approval of amendment to the Articles of Agreement of Transamerica

Lloyds Insurance Company, Dallas, changing the attorney-in-fact and substituting the underwriters.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983. Docket Number 11320.

Filed: October 14, 1991, 2:33 p.m.

TRD-9112697

Tuesday, October 22, 1991, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Rita Torres, Laredo, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number 11304.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: October 14, 1991, 2:33 p.m.

TRD-9112696

Wednesday, October 23, 1991, 9 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Dennis Owen Robinson, Midland, who holds a Group II, Insurance Agent's license. Docket Number 11289.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: October 14, 1991, 2:33 p.m.

TRD-9112695

Wednesday, October 23, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Arturo R. Garcia of Laredo, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II Insurance agent's license issued by the State Board of Insurance. Docket Number 11290.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: October 14, 1991, 2:33 p.m.

TRD-9112694

Thursday, October 24, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider why Commissioner's Cease and

Desist Order Number 91-1344, dated September 11, 1991, as it pertains to Southwest Professional Indemnity Corporation, should not be affirmed. Docket Number 11313.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: October 14, 1991, 2:32 p.m.

TRD-9112693

Monday, October 28, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Palo Pinto County Abstract Company, Mineral Wells, who holds a Title Insurance Agent's license issued by the Texas Department of Insurance. Docket Number 11315.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: October 14, 1991, 2:32 p.m.

TRD-9112692

Monday, October 28, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be brought against Jimmy Earl Jones of Austin, who holds a Group I, Legal Reserve Life Insurance Agent's license issued by the Texas Department of Insurance. Docket Number 11319.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: October 14, 1991, 2:31 p.m.

TRD-9112691

Monday, October 28, 1991, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Robert Thomas Horne, of Irving, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license issued by the Texas Department of Insurance. Docket Number 11321.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: October 14, 1991, 2:31 p.m.

TRD-9112690

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## Texas Department of Licensing and Regulation

Tuesday, October 22, 1991, 9 a.m. The Business and Occupational Programs, Vehicle Storage Facility of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Austin. 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 Harnett's Wrecker Service for violation of Statutes, Articles 6687-9a and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: October 11, 1991, 8:24 a.m.

TRD-9112598

Wednesday, November 6, 1991, 9 a.m. The Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Room 1012, Austin. According to the complete agenda, the department will hear comments on the rules concerning regulation of the Temporary Common Workers Act. The proposed rules are published in the October 18, 1991 issue of the *Texas Register*.

Contact: Larry E. Kosta, 920 Colorado Street, Austin, Texas 78701, (512) 463-3173.

Filed: October 11, 1991, 8:25 a.m.

TRD-9112599

## Board of Nurse Examiners

Thursday, October 17, 1991, 9 a.m. The Board of Nurse Examiners met at the Hyatt Regency-DFW, International Parkway, Room 3001, DFW Airport. According to the complete agenda, the board called the meeting to order; took roll call; reviewed last year's planning session for content and compared with accomplishments; discussed Sunset; strengths and weaknesses of organization; discussed office problems, staff turnover; employee input into board meeting; succession; signatures on vouchers; and strategic planning.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: October 8, 1991, 11:50 a.m.

TRD-9112360

## Polygraph Examiners Board

Friday-Saturday, October 18-19, 1991, 9 a.m. and 8 a.m. respectively. The Polygraph Examiners Board will meet at the Inn

of the Hills, 1001 Junction Highway, Kerrville. According to the complete agenda, on Friday the board will approve the July and August 1991 board meeting minutes; consider applications for licensure; establish meeting dates for 1992 calendar year; establish fees for 1992 calendar year and 1992 renewal procedure; consider adoption of amendments to board regulations §395.13, §393.7, §395.2; agency update; consider existing regulations and new regulations regarding competent polygraph procedure. Meeting may continue on Saturday if needed to complete board business.

Contact: Bryan M. Perot, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: October 8, 1991, 4:30 p.m.

TRD-9112403

## State Preservation Board

Friday, October 18, 1991, 10 a.m. The State Preservation Board will meet at the Capitol Building, Speaker's Committee Room, Austin. According to the agenda summary, the board will call the meeting to order; approve minutes; review and discuss old or unfinished business: report and actions on issues for Capitol Interior Preservation Project; new business: SPB rule additions and modifications; approval of signatures for agency coordination expenses; approval of FY 1992 operating budget; authorization of additional move coordination expenses; approval of the Capitol collections annual report; approval of moratorium for events and exhibits during the Capitol Interior Restoration Project; listing of consulting, professional or interagency contracts; listing of change requests; change orders and contingency status; Capitol Preservation Project; General Land Office Project; and adjourn.

Contact: Cynthia Alexander, 201 East 14th Street, Room 503, Austin, Texas 78701, (512) 463-5495.

Filed: October 10, 1991, 3:27 p.m.

TRD-9112590

## Public Utility Commission of Texas

Tuesday, October 15, 1991, 9 a.m. The Hearings Division of the Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete emergency revised agenda, the commissioners also considered Appeal of Examiner's Order Number 6, ruling on motion to dismiss, on Docket Number 9655-Southwestern Electric Power Company petition for declaratory order and for revision of avoided cost rates. The emergency status was necessary as prompt commission action was necessary to preserve jurisdiction over the subject matter of the appeal.

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

Filed: October 14, 1991, 3:22 p.m.

TRD-9112704

Wednesday, October 16, 1991, 9 a.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will set the assessment rate under PURA §78; and will consider publication of a rule setting forth the Commission's procedure and methodology for setting the assessment rate under PURA §78.

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

Filed: October 8, 1991, 3:21 p.m.

TRD-9112394

Wednesday, October 16, 1991, 9:05 a.m. The Administrative Committee of the Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the committee will discuss: reports, discussion and action on outstanding employee awards; budget and fiscal matters; PUC Audit Plan; CES contract for FY 92; State Auditor's report; PUC Policy Number Four concerning ex parte communication and number running; utility gross receipts assessment; adjournment for executive session to consider: litigation matters; discussion and decision regarding pending or threatened litigation; personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and adjourn.

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

Filed: October 8, 1991, 3:22 p.m.

TRD-9112395

Friday, October 18, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10465-application of Southwestern Bell Telephone Company to revise Section 5 of the general exchange tariff to add additional optional features to Plexar-II service offering.

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

Filed: October 8, 1991, 3:20 p.m.

TRD-9112390

Thursday, October 24, 1991, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin.

According to the complete agenda, the division will hold a prehearing conference in Docket Number 10645-application of Southwestern Bell, on behalf on the Texas Local Exchange Carrier (LEC) Industry for approval of a new service offering, Optional Calling Plan (OCP).

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

Filed: October 8, 1991, 3:20 p.m.

TRD-9112391

Thursday, October 24, 1991, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will conduct a prehearing conference in Docket Number 10212-petition of GTE Corporation and Contel Corporation and Contel Corporation for declaratory relief.

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

Filed: October 14, 1991, 3:21 p.m.

TRD-9112702

Friday, October 25, 1991, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a joint prehearing conference in Docket Numbers 10642 and 10414; Docket Number 10642-petition of the general counsel to inquire into the reasonableness of the rates and services of Industry Telephone Company; and Docket Number 10414-application of Industry Telephone Company to revise tariff.

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

Filed: October 8, 1991, 3:21 p.m.

TRD-9112392

Thursday, October 31, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10461-application of Southwestern Bell Telephone Company to introduce a new optional service, digital loop service, as part of the new integrated services tariff.

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

Filed: October 8, 1991, 3:21 p.m.

TRD-9112393

Monday, November 18, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin.

According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10534-petition of Corcom for declaratory relief in billing dispute with GTE Southwest, Inc.

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

Filed: October 9, 1991, 2:30 p.m.

TRD-9112543

Monday, December 16, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10602-petition of Southwestern Public Service Company for permanent authorization of periodic opportunity sales margin credits.

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

Filed: October 8, 1991, 3:20 p.m.

TRD-9112389

## Texas Racing Commission

Monday, October 21, 1991, 10:30 a.m. The Texas Racing Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call; approval of minutes of September 11, 1991 meeting; consideration of and votes on: Horse and Greyhound Rulemaking; Texas Thoroughbred Breeders, Association and Texas Quarter Horse Association amended rules regarding the Texas Bred Incentive Program; resolution delegating certain approval authority to the executive secretary regarding Simulcasting; Number 91-R3-23, request by Valley Greyhound Association for an exemption to \$309,312 relating to Turnout Pens; presentations by: Valley Greyhound Association and Corpus Christi Greyhound Racing Associates regarding: Adopt-a-Greyhound Programs and Plans for anniversary celebrations; reconsideration of and votes on kernel contract forms used by Valley Greyhound Association and Corpus Christi Greyhound Associates; meet in executive session pursuant to §6.03(b), Texas Racing Act (Vernon's Texas Civil Statutes, Article 179e) to consider Management Contract of Gulf Greyhound Partners, Ltd. and concession contract of Bandera Downs, Inc.; consideration of and votes on the following matters: Request for live race dates in 1992 for: Number 91-R2-19 by Manor Downs, Inc., Number 91-R2-13, Trinity Meadows Raceway, Inc., Number 91-R2-16, Bandera Downs, Inc., Gillespie County Fair and Festivals Association; request by Trinity Meadows Raceway, Inc., for approval of agreement

with Texas Horsemen's Benevolent and Protection Association; request by Bandera Downs, Inc., to approve ownership transfer; review of and votes on rulings by stewards and racing judges; proposal for decision in: Number 91-O1-04, in the matter of the denial of the occupational license of Mackey L. Keeton; Number 91-O2-11, in regards to the appeal by Joey C. Ethridge of steward's ruling suspending occupational license and original revocation action; Number 91-O2-14; in regards to the appeal of Ricky Brown from steward's decision on race 10 at Bandera Downs on April 21, 1991; consideration of and votes on the recommendation of staff regarding review of ruling Bandera 412 against Toby Keeton; discuss old and new business; and adjourn.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Filed: October 11, 1991, 2:55 p.m.

TRD-9112643

## Railroad Commission of Texas

Monday, October 21, 1991, 9 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor, Room 126, Austin. Agendas follow.

The commission will consider category determination under §§102(c)(1)(B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Box 12967, Austin, Texas 78711, (512) 463-6755.

Filed: October 11, 1991, 11:15 a.m.

TRD-9112610

The commission will consider the capacity of persons signing documents to legally bind commission-regulated entities.

Contact: Cue Boykin, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: October 11, 1991, 11:11 a.m.

TRD-9112606

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711, (512) 463-7257.

Filed: October 11, 1991, 11:12 a.m.

TRD-9112607

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget and personnel matters.

Contact: Mary Anne Wiley, P.O. Box 12967, Austin, Texas 78711, (512) 463-6828.

Filed: October 11, 1991, 11:15 a.m.

TRD-9112609

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. Consideration of appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711, (512) 463-7274.

Filed: October 11, 1991, 11:15 a.m.

TRD-9112611

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711, (512) 463-7251.

Filed: October 11, 1991, 11:15 a.m.

TRD-9112612

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78711, (512) 463-6710.

Filed: October 11, 1991, 11:16 a.m.

TRD-9112613

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-7187.

Filed: October 11, 1991, 11:16 a.m.

TRD-9112614

The commission will consider various matters within the jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various action, including, but not limited to,

scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act, including, to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue Boykin, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: October 11, 1991, 11:16 a.m.

TRD-9112615

### Texas Real Estate Commission

Monday, October 21, 1991, 9:30 a.m. The Texas Real Estate Commission will meet at 8201 North Stemmons Freeway, Greater Dallas Board of Realtors, Directors Room, Dallas. According to the agenda summary, the commission will adopt proposed amendments to 22 TAC Chapter 537 concerning standard contract forms, and new §535.123 concerning inactive broker status; emergency adoption of new 22 §§535.206-535.226, concerning real estate inspectors, and repeal of §§535.202-535.204; action to propose adoption of new sections and repeal of existing sections on a permanent basis; emergency adoption of amendments to §535.92, concerning renewal applications; possible action to propose amendments to §535.51 concerning application forms; authorization of commission employees to approve vouchers; approval of MCE providers and courses or accredited schools or courses; meet in executive session to discuss pending litigation; and authorization of payments from recovery funds.

Contact: Camilla Shannon, P.O. Box 12188, Austin, Texas 78711-2188, (512) 365-3900.

Filed: October 10, 1991, 4:39 p.m.

TRD-9112595

### Texas National Research Laboratory Commission

Wednesday, October 16, 1991, 9 a.m. The Full Commission and Committee of the Texas National Research Laboratory Commission met at the InfoMart Exhibition Hall, Room 3021, Oak Lawn Avenue at Stemmons Freeway, Dallas. According to the agenda summary, the committee met in executive session; reconvened in open meeting; heard chairman's welcome; public comment; approved the September 18, 1991, minutes; heard administrative reports; recess for standing committee meetings and committee reports: government affairs; fi-

nance and audit; personnel, et al; discussed site acquisition in executive session; reconvened as a full commission; met in executive session; reconvened in open meeting to discuss action items from executive session; heard public comment; and adjourned.

Contact: Karen L. Chrestay, 1801 North Hampton Road, #400, DeSoto, Texas 75775, (214) 709-3800.

Filed: October 8, 1991, 5:03 p.m.

TRD-9112405

### State Securities Board

Thursday, October 17, 1991, 9:15 a.m. The State Securities Board met at the Employees Retirement System Auditorium, 1800 San Jacinto Street, Austin. According to the agenda summary, the board will approve the July 11, 1991 meeting minutes; review Alan D. Feld resolution; review and discuss published proposals to: amend §105.10; create new §109.5 regarding §5(C)(1); sales; amend §109.14 to create oil and gas industry participants' exemption; new rule proposals to: amend §101.4; create new §101.5 regarding cost of copies; amend §133.1; repeal §133.2; repeal §133.3; amend §115.1(c); amend §115.4(e); amend §115.4(f); amend §133.15; amend §133.19; amend §133.20; amend §133.24; create new §133.17 regarding multiple registration; create new §133.23 regarding franchise tax certification; voucher approvals; internal auditor; dealer fee; subsequent meeting items; and hear division directors and commissioner's reports.

Contact: Richard D. Latham, 1800 San Jacinto Street, Austin, Texas 78711, (512) 474-2233.

Filed: October 9, 1991, 3:30 p.m.

TRD-9112547

### Stephen F. Austin State University

Monday, October 21, 1991, 10:30 a.m. The Board of Regents Committees of the Stephen F. Austin State University will meet at the Stephen F. Austin State University Campus, Room 307, Austin Building, Nacogdoches. According to the agenda summary, the committees will approve the minutes of the July 9, 1991, with corrections; called meeting of August 29, 1991; discuss personnel: faculty and staff appointments for summer 1991; change of status summer 1991; faculty and staff appointments for 1991-1992; change of status for 1991-1992; promotion and tenure; leaves of absence; retirements; academic and student affairs-underenrolled class report, summer II, 1991; underenrolled class report, fall, 1991; faculty workload report; curriculum; drop fee/telephone registration; B.S. in Geology with environmental emphasis; policy

on use of tobacco products; financial affairs-final budget positions for FY 1991; annual budget for FY 1992; general use fee increase; resolution regarding establishment of clearing account for VISA/Mastercard; public relations firm; designation for quasi-endowment funds; bids for long distance telephone service (one Plus) for students; building and grounds-Steen Library addition project completion; completion on Boynton Building renovation; naming of university buildings; reports-president of student government association; chairman of faculty senate; president (deferred maintenance program, renovation of president's residence, procedure for evaluation of president); and meet in executive session to discuss personnel matters.

Contact: Dr. Donald E. Bowen, P.O. Box 6078 SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: October 10, 1991, 2:30 p.m.

TRD-9112587

Tuesday, October 22, 1991, 9 a.m. The Board of Regents of Stephen F. Austin State University will meet at the Stephen F. Austin State University Campus, Austin Building, Room 307, Nacogdoches. According to the agenda summary, the board will approve the minutes of the July 9, 1991, with corrections; called meeting of August 29, 1991; discuss personnel: faculty and staff appointments for summer 1991; change of status faculty and staff appointments for summer 1991; change of status summer 1991; faculty and staff appointments for 1991-1992; change of status for 1991-1992; promotion and tenure; leaves of absence; retirements; academic and student affairs-underenrolled class report, summer II, 1991; underenrolled class report, fall, 1991; faculty workload report; curriculum; drop fee/telephone registration; B.S. in Geology with environmental emphasis; policy on use of tobacco products; financial affairs-final budget positions for FY 1991; annual budget for FY 1992; general use fee increase; resolution regarding establishment of clearing account for VISA/Mastercard; public relations firm; designation for quasi-endowment funds; bids for long distance telephone service (one Plus) for students; building and grounds-Steen Library addition project completion; completion on Boynton Building renovation; naming of university buildings; reports-president of student government association; chairman of faculty senate; president (deferred maintenance program, renovation of president's residence, procedure for evaluation of president); and meet in executive session to discuss personnel matters.

Contact: Dr. Donald E. Bowen, P.O. Box 6078 SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: October 10, 1991, 2:31 p.m.

TRD-9112588

### Texas Guaranteed Student Loan Corporation

Friday, October 18, 1991, 10:30 a.m. The Executive Committee of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle; Colomade Building, Suite 300, Austin. According to the complete agenda, the committee will approve minutes; discuss HEAF transfer; legal issues; legislative matters; CEO evaluation; senior management salaries; loan servicing update; subrogation; and internal auditor status.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78758, (512) 835-1900.

Filed: October 10, 1991, 1:40 p.m.

TRD-9112577

### Texas Surplus Property Agency

Thursday, October 17, 1991, noon. The Governing Board of the Texas Surplus Property Agency met at the Texas Surplus Property Agency District Office, 714 West 34th Street, Lubbock. According to the complete agenda, the board may have approved the minutes of the August 27, 1991, board meeting; elected vice chairman; general public presentations; plan of operation revisions; and discussed agency's financial status.

Contact: Marvin J. Titzman, P.O. Box 8120, San Antonio, Texas 78208, (512) 661-2381.

Filed: October 8, 1991, 1:25 p.m.

TRD-9112362

### Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association

Friday, October 18, 1991, 9 a.m. The Board of Directors will meet at the Hobby Building, Tower One, 333 Guadalupe Street, 12th Floor Commissioner's Conference Room, Austin. According to the agenda summary, the board will consider new board orientation; review plan of operation, House Bill 62 and transition; election of officers and committees; approval of minutes; assessments of members of the association; hear financial reports; executive life report; meet in executive session regarding matters relating to the solvency of insurers; and set date for January 1992, meeting.

Contact: Russell R. Oliver, 333 Guadalupe Street, Austin, Texas 78701, (512) 475-1982.

Filed: October 10, 1991, 4:26 p.m.

TRD-9112594

### Texas Department of Transportation

Friday, October 18, 1991, 9:30 a.m. The Texas Transportation Commission of the Texas Department of Transportation will meet at the Dewitt C. Greer Building, 125 East 11th Street, Rooms 101 and 101-A, First Floor, Austin. According to the agenda summary, the commission will hold public hearings on highway matters in Farmin, Grayson, Denton and Tarrant Counties; public hearing to reduce maximum speed limits on sections of non-Interstate freeways; approve minutes; execute contract awards, rejections, defaults and/or assignments; routine minute orders; authorize: eminent domain proceedings; contract claim funds; project advancement; application and funds pertaining to public transportation; right-of-way lease agreements; consider: traffic light synchronization program; amending speed limits on selected non-Interstate freeways; receive/discuss staff reports, including Fort Worth district; meet in executive session with legal counsel on litigation; real property transactions; and staff conference to receive information; and rulemaking: 43 TAC Chapters 1, 17, and 21.

Contact: Myrna Klipple, 125 East 11th Street, Austin, Texas 78701, (512) 463-8576.

Filed: October 10, 1991, 1:24 p.m.

TRD-9112575

### University Interscholastic League

Wednesday, October 16, 1991, 10:30 a.m. (revised agenda). The Waiver Review Board of the University Interscholastic League will meet at the Radisson Plaza Hotel, Eighth and San Jacinto Streets, Austin. According to the agenda summary, the board will consider the appeal of Wynona Fitzgerald, Tidehaven High School of parent resident rule; and the appeal of Anna Moore, Sam Houston High of parent resident rule.

Contact: B. J. Stamps, 2622 Wichita Street, Austin, Texas 78713-8028, (512) 471-5883.

Filed: October 14, 1991, 4:32 p.m.

TRD-9112711

### University of North Texas/Texas College of Osteopathic Medicine

Wednesday, October 16, 1991, 9 a.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at the University of North Texas, 201 Administration Building, Denton. According to the complete agenda, the board

met in executive session (UNT); TCOM: discussed benefits for senior staff; UNT/TCOM: implications of UNT/TCOM budget; award of honorary degree; review and discuss 1991-1992 budget recommendation; and TCOM: 1991-1992 budget recommendation.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: October 10, 1991, 1:55 p.m.

TRD-9112578

## University of Texas System

Friday, October 11, 1991, 10 a.m. The Board of Regents and Standing Committees of the University of Texas System met at U. T. Arlington, 703 Monroe Street, Conference Room Four, Third Floor, E. E. Davis Hall, Arlington. According to the complete emergency revised agenda, the committees met in executive session to consider a negotiated agreement for the acceptance of a permanent endowment grant for research for and on behalf of the U. T. Southwestern Medical Center, Dallas. The emergency status was necessary as information received since the original posting of the agenda required that the board consider this matter at this meeting.

Contact: Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: October 9, 1991, 4:40 p.m.

TRD-9112551

## University of Texas System, M. D. Anderson Cancer Center

Tuesday, October 15, 1991, 9 a.m. The Institutional Animal Care and Use Committee, M. D. Anderson Cancer Center, of the University of Texas System held an emergency meeting at the M. D. Anderson Cancer Center, Conference Room AW 7.707, Seventh Floor, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee reviewed protocols for animal care and use and modification thereof. The emergency status was necessary as the certifying signature authority was not available.

Contact: Anthony Mastromarino, Ph.D., Associate V.P. for Research, U.T., M. D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3991.

Filed: October 14, 1991, 8:30 a.m.

TRD-9112671

## Texas Water Commission

Wednesday, October 9, 1991, 9 a.m. The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission considered various matters within the regulatory jurisdiction of the commission. In addition, the commission considered items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission took various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time. The emergency status was necessary due to reasonably unforeseeable circumstances.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: October 8, 1991, 7:24 p.m.

TRD-9112406

Wednesday, October 23, 1991, 9 a.m. (revised agenda). The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: October 11, 1991, 4:08 p.m.

TRD-9112662

Wednesday, October 23, 1991, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: October 11, 1991, 4:04 p.m.

TRD-9112656

Wednesday, October 30, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North

Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: October 11, 1991, 4:05 p.m.

TRD-9112657

Wednesday, October 30, 1991, 3 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the office will consider whether to affirm, modify or set aside Emergency Order Number 91-15E issued October 9, 1991 in the matter involving Live Oak Water Supply Company, Inc. and Southwestern Water. The Order authorizes Southwestern Water to provide an emergency interconnection with Live Oak Water Supply Company, Inc. to provide continuous and adequate water service.

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

Filed: October 11, 1991, 4:07 p.m.

TRD-9112661

Wednesday, October 23, 1991, 9 a.m. (revised agenda). The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: October 14, 1991, 5:37 p.m.

TRD-9112712

Monday, November 4, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will hold a hearing before a hearings examiner on H. B. Armstrong doing business as A & P Water Company's application for a Certificate of Convenience and Necessity to allow it to provide water utility service to Southfork Subdivision in Rusk



County. The applicant also proposes decertification of a portion of Minden-Brachfield Water Supply Corporation's CCN Number 12471. The proposed service area is approximately six miles southeast of downtown Henderson. Docket Number 9175-C.

Contact: William C. Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 11, 1991, 4:07 p.m.

TRD-9112659

**Monday, November 4, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149B, Austin. According to the agenda summary, the commission will conduct a hearing on an application filed by Jack C. Cannata, Jr. doing business as Kingsland Hills Water System to authorize discontinuance of water utility service to the Kingsland Hills Subdivision, located approximately 14 miles southwest of Burnet, Burnet County. Docket Number 9136-q.

Contact: Leslie A. Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 9, 1991, 11:33 a.m.

TRD-9112503

**Friday, November 8, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will conduct a hearing on an appeal by ratepayers concerning a rate increase by West Leonard Water Supply Corporation. Docket Number 9205-W.

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

Filed: October 9, 1991, 11:34 a.m.

TRD-9112504

**Friday, November 8, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 119, Austin. According to the agenda summary, the commission will conduct a hearing on an application for water and sewer certificates of convenience and necessity by El Paso County Lower Valley Water District Authority. The applicant is also requesting decertification of portions of the City of El Paso's CCN Number 10211 and Valley Domestic Water Corporation's CCN Number 11861. The service area is in El Paso County, located approximately 15 miles east of downtown El Paso. The total area being requested includes approximately 225 square miles and 2,886 current customers. Docket Numbers 9166-C (water) and 9167-C (sewer).

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

Filed: October 9, 1991, 11:34 a.m.

TRD-9112505

**Tuesday, November 12, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149B, Austin. According to the agenda summary, the commission will hold a hearing on an appeal by Payne Springs Water Supply Corporation concerning East Cedar Creek Fresh Water Supply District's water rate increase. Docket Number 9209-A.

Contact: Joseph W. O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 11, 1991, 4:07 p.m.

TRD-9112660

**Thursday, November 14, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 543, Austin. According to the agenda summary, the commission will hold a public hearing concerning the levy of impact fees for Travis County Water Control and Improvement District Number 17.

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

Filed: October 9, 1991, 11:33 a.m.

TRD-9112502

**Thursday, November 14, 1991, 10 a.m.** The Texas Water Commission will meet at the John H. Reagan Building, 105 West 15th Street, Room 103, Austin. According to the agenda summary, the commission will conduct a hearing on a rate increase application by Garden Valley Water Supply Corporation, Travis County. Docket Number 9190-G.

Contact: William C. Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 9, 1991, 11:34 a.m.

TRD-9112506

**Thursday, November 14, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1030, Austin. According to the agenda summary, the commission will conduct a hearing on Walker Water Works, Inc.'s application for a water rate increase for its service area located in Brazoria County. Docket Number 9153-R.

Contact: Mary K. Saha, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 9, 1991, 11:35 a.m.

TRD-9112507

**Thursday, November 14, 1991, 10 a.m.** The Texas Water Commission will meet at the John H. Reagan Building, 105 West 15th Street, Room 104, Austin. According to the agenda summary, the commission will hold a hearing on Scenic Oaks Water Supply Inc.'s application for a certificate of Convenience and Necessity Number 11581

in Bexar County, to address the commission staff concerns regarding the utility's current rates and the quality of service being provided to customers of the water system. Docket Number 9187-I.

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

Filed: October 11, 1991, 4:07 p.m.

TRD-9112658

**Monday, November 18, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will conduct a hearing on applications filed by the City of Three Rivers for certificates of convenience and necessity to provide water and sewer utility service in Live Oak County, and to decertify a portion of the certificated service area of El Oso Water Supply Corporation's CCN Number 10570. Docket Numbers 8581-C and 8582-C.

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

Filed: October 9, 1991, 11:35 a.m.

TRD-9112509

**Friday, November 22, 1991, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will conduct a hearing on North Belt Forest Utility District's application to discontinue water and sewer utility service and cancel its certificates of convenience and necessity Numbers 11965 and 20646 for its service area which is located in the North Belt Forest Subdivision on Wilson Road, inside the City of Humble, Harris County. Docket Numbers 9103-Q and 9104-Q.

Contact: Leslie A. Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 9, 1991, 11:35 a.m.

TRD-9112508

**Thursday, December 5, 1991, 10 a.m.** The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 119, Austin. According to the agenda summary, the office will hold a public hearing concerning the assessment of administrative penalties against E & L Lumber Company for violation of Chapter 26 of the Texas Water Code.

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

Filed: October 9, 1991, 11:36 a.m.

TRD-9112510

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## Texas Water Development Board

Wednesday, October 16, 1991, 3 p.m. The Audit Committee of the Texas Water Development Board met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 513-F, Austin. According to the complete agenda, the committee considered approval of the minutes of the September 19, 1991 audit committee meeting; committee was briefed on the FYE August 31, 1991 annual audit and findings of the State Auditor; committee was briefed on current internal auditor projects: agency review of its mission statement, "mission-critical" goals and objectives, organizational structure, and performance measurement; investments-procedures, controls, and transaction analysis; SRF administration costs; and annual report-compliance with Senate Bill 3, Section 9.02, due November 1, 1991.

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: October 8, 1991, 2:37 p.m.

TRD-9112383

Wednesday, October 16, 1991, 4 p.m. The Finance Committee of the Texas Water Development Board met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 513-F, Austin. According to the complete agenda, the committee may have considered approval of the minutes of the August 14, 1991 committee meeting; discussed items on the agenda of the October 17, 1991 board meeting; and may have considered items relating to any pending or prospective application for funding. (Additional non-committee board members may have been present to deliberate but would not vote in the meeting).

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: October 8, 1991, 2:37 p.m.

TRD-9112384

Thursday, October 17, 1991, 9 a.m. The Texas Water Development Board met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the board may have considered minutes; development fund manager's report; extension to commitments for Cities of Glen Rose and Little Elm; financial assistance for Diana WSC, El Paso County, Lower Valley Water District Authority, Grand Prairie Metropolitan Utility and Reclamation District and Cities of Houston, Longview and Brownsville; change in scope to commitment for Dallas County Utility and Reclamation District, contracts with United States Geological Survey and Texas Water Commission, amendments to research and planning rules; recognition of High Plains Underground Water Conservation District; award from American Planning Association for state water plan; selection of municipal bond in-

surance company; long-term state revolving fund bond issuance; financing for SRF program; appointments to Lower Neches Valley Authority Board of Directors; and financial assistance to Roman Forest PUD #3.

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: October 9, 1991, 2:05 p.m.

TRD-9112542

## Texas Water Well Drillers Board

Friday, October 18, 1991, 9:30 a.m. The Texas Water Well Drillers Board will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the board will discuss new pump installers rules and regulations; and consider staff reports.

Contact: Larry Persky, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-8069.

Filed: October 9, 1991, 9:02 a.m.

TRD-9112414

## Texas Workers' Compensation Commission

Friday, October 18, 1991, 9 a.m. The Medical Advisory Committee of the Texas Workers' Compensation Commission will meet at the Southfield Building, 4000 South IH-35, Rooms 910-911, Austin. According to the agenda summary, the committee will call the meeting to order; review and approve the September 27, 1991 minutes; discuss problems and solutions regarding TWCC forms; discussion of drug utilization review plan (Mr. Beck); discussion of peer review criteria; discussion of proposed by-law; review, discussion and consideration of former committees to recommend for re-enactment; review and presentation of U.R. work group members; establish next meeting date; draft agenda; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: October 14, 1991, 4:01 p.m.

TRD-9112709

## Regional Meetings

Meetings Filed October 8, 1991

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, October 14, 1991, at 6:30 p.m. Information may be obtained from Linda Meeks, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9112399.

The Canyon Regional Water Authority Board met at the Marion I.S.D. Central Offices, FM 465 and FM 78, Marion, October 14, 1991, at 7:30 p.m. Information may be obtained from David Davenport, P.O. Box 118, Marion, Texas 78124, (512) 420-2323. TRD-9112354.

The Central Counties Center For Mental Health and Mental Retardation Services Board of Trustees met at the Sheraton Hotel, Highway 190 West, Killeen, October 15, 1991, at 7:45 p.m. (revised agenda). Information may be obtained from Robert E. Luckey, Ph.D., 304 South 22nd Street, Temple, Texas 778-4841. TRD-9112400.

The Central Texas Council of Governments Executive Committee will meet at the Killeen Sheraton, Killeen, October 24, 1991, at 10 a.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9112381.

The Jack County Appraisal District Board of Directors met at 210 North Church Street, JCAD Conference Room, Jacksboro, October 15, 1991, at 7 p.m. Information may be obtained from J. D. Garcia or Donna Hartzell, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9112398.

The Jones County Appraisal District Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, October 17, 1991, at 8:30 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9112386.

The Kendall County Education District Board of Trustees held an emergency meeting at 207 East San Antonio Street, Boerne, October 8, 1991, at 7:30 p.m. The emergency status was necessary due to CED tax roll and needed to be approved. Information may be obtained from Alton Pfeiffer, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9112382.

The Nueces-Jim Wells-Kenedy-Kleberg Soil and Water Conservation District Board of Directors will meet at 710 East Main Street, Robstown, October 15, 1991, at 2 p.m. Information may be obtained from Denise Lawhorn, 710 East Main Street, Robstown, Texas 78380, (512) 387-4116. TRD-9112385.

The Region IX Education Service Center Board of Directors will meet at the Region IX Education Service Center, 301 Loop 11, Wichita Falls, October 18, 1991, at 12:30 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9112353.

The Trinity River Authority of Texas Resources Development Committee met at 5300 South Collins, Arlington, October 14, 1991, at 10:30 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60,

Arlington, Texas 76004, (817) 467-4343. TRD-9112361.

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Meetings Filed October 9,  
1991

The Ark-Tex Council of Governments Private Industry Council met at the Region VIII Service Center, Mt. Pleasant, October 17, 1991, at 5 p.m. Information may be obtained from Gloria Norwood, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9112532.

The Cass County Appraisal District Board of Directors met at the Cass County Appraisal District Office, 502 North Main Street, Linden, October 14, 1991, at 7 p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9112538.

The Deep East Texas Council of Governments Grants Application Review Committee met at the Iris and Anne Howard Civic Center, Loop 505, Newton, October 17, 1991, at 11 a.m. Information may be obtained from Rusty Phillips, DETCOG, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9112531.

The Deep East Texas Council of Governments Board of Directors met at the Iris and Anne Howard Civic Center, Loop 505, Newton, October 17, 1991, at 1 p.m. Information may be obtained from Joan Draper, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9112537.

The Education Service Center, Region VI Board of Directors met at the Briarcrest Country Club, Bryan, October 17, 1991, at 5 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161. TRD-9112539.

The Education Service Center, Region XIII Board of Directors met at the ESC, Region XIII, Room #201, 5701 Springdale Road, Austin, October 14, 1991, at 12:45 p.m. Information may be obtained from Dr. Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300. TRD-9112540.

Golden Crescent Service Delivery Area Private Industry Council, Inc. met at the Holiday Inn, 2705 Houston Highway, Victoria, October 14, 1991, at 11:30 a.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9112534.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2705 Houston Highway, Victoria, October 14, 1991, at 11:30 a.m. (revised agenda). Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9112517.

Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2705 Houston Highway, Victoria, October 14, 1991, at 5 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9112535.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2705 Houston Highway, Victoria, October 14, 1991, at 5 p.m. (revised agenda). Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9112516.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2705 Houston Highway, Victoria, October 16, 1991, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9112533.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2705 Houston Highway, Victoria, October 16, 1991, at 6:30 p.m. (revised agenda). Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9112515.

The Guadalupe-Blanco River Authority Board of Directors met at the Authority's Offices, 933 East Court Street, Seguin, October 17, 1991, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822. TRD-9112411.

The Heart of Texas Council of Governments Private Industry Council met at 300 Franklin Avenue, HOTCOG Board Room, Waco, October 17, 1991, at 5:30 p.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9112408.

The Heart of Texas Council of Governments Executive Committee will meet at the Waco Convention Center, Bosque Theater, Waco, October 19, 1991, at 4:30 p.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9112410.

The Heart of Texas Council of Governments Board of Directors will meet at the Waco Convention Center, Bosque Theater, Waco, October 19, 1991, at 5:30 p.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9112409.

The Lamb County Appraisal District Board of Directors met at 330 Phelps Avenue, Littlefield, October 17, 1991, at 6 p.m. Information may be obtained from Vaughn E. McKee, RPA, P.O. Box 552, Littlefield, Texas 79339-0552, (806) 385-6474. TRD-9112536.

The Region 12 Education Service Center Administrative Committee met at 401 Franklin Street, Waco, October 17, 1991, at 1:30 p.m. Information may be obtained from Dr. Harry J. Beavers, P.O. Box 1249, Waco, Texas 76703-1249, (817) 756-7494. TRD-9112546.

The Trinity River Authority of Texas Ten Mile Creek Regional Wastewater System Right-of-Way Committee met at 5300 South Collins, Arlington, October 15, 1991, at 11 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9112501.

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Meetings Filed October 10,  
1991

The Burnet County Appraisal District Appraisal Review Board met at 223 South Pierce Street, Burnet, October 17, 1991, at 1:30 p.m. Information may be obtained from Barbara Ratfiff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9112592.

The Burnet County Appraisal District Board of Directors met at 223 South Pierce Street, Burnet, October 17, 1991, at 6:30 p.m. Information may be obtained from Barbara Ratfiff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9112593.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, October 31, 1991, at 10 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9112554.

The East Texas Council of Governments Private Industry Council met at the ETCOG Offices, Kilgore, October 17, 1991, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9112555.

The Education Service Center, Region XVI Board of Directors will meet at the Texas Empire Room, Amarillo Club, Seventh and Tyler, Amarillo, October 18, 1991, at 1 p.m. Information may be obtained from Jim Holmes, 1601 South Cleveland Street, Amarillo, Texas 79102, (806) 376-5521. TRD-9112580.

The Guadalupe-Blanco River Authority Board of Directors met at the Authority's Offices, 933 East Court Street, Seguin, October 17, 1991, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822. TRD-9112584.

The Hickory Underground Water Conservation District Number One Board and Advisors met at 2023 South Bridge Street, Brady, October 17, 1991, at 7 p.m. Information may be obtained from Lorna Moorhead.

P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9112576.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, October 17, 1991, at 6:30 p.m. Information may be obtained from Melda Hart or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510. TRD-9112586.

The Lamar County Appraisal District Board will meet at the Lamar County Appraisal District Office, 521 Bonham Street, Paris, October 22, 1991, at 5 p.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (214) 785-7822. TRD-9112582.

The Limestone County Appraisal District Board of Directors met at the Limestone County Courthouse, Board Room, Second Floor, Groesbeck, October 16, 1991, at 5:10 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9112579.

The Lower Neches Valley Authority Board of Directors met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, October 15, 1991, at 10:30 a.m. (revised agenda). Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9112574.

The Middle Rio Grande Development Council Private Industry Council met at the Housing Authority Meeting Room, Crystal City, October 16, 1991, at 1 p.m. Information may be obtained from Ramon S. Johnston, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9112585.

The Region One Education Service Center Board of Directors met at the Best Western Palm Aire Motor Inn, Topaz Room, 415 South International Boulevard, Weslaco, October 15, 1991, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611. TRD-9112596.

The South Texas Private Industry Council, Inc. met at Highway 83 and 10th Street, Zapata, October 17, 1991, at 4 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9112557.

The Trinity River Authority of Texas Utility Services Committee met at 5300 South Collins, Arlington, October 16, 1991, at 10:30 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9112569.

The Wood County Appraisal District Board of Directors met at 217 North Main Street, Conference Room, Wood County

Appraisal District, Quitman, October 17, 1991, at 7 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783-0951, (903) 763-4891. TRD-9112591.

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Meetings Filed October 11,  
1991

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, October 17, 1991, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065-0139, (512) 742-3591. TRD-9112628.

The Austin-Travis County Mental Health and Mental Retardation Center Operations and Planning Committee will meet at 1430 Collier Street, Austin, October 18, 1991, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9112620.

The Bastrop Central Appraisal District Board of Directors met at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, October 17, 1991, at 7:30 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9112644.

The Dallas Area Rapid Transit Minority Affairs Committee met at the DART Office, Board Conference Room, 601 Pacific Avenue, Dallas, October 15, 1991, at 11 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9112666.

The Dallas Area Rapid Transit Budget and Finance Committee met at the DART Office, Board Conference Room, 601 Pacific Avenue, Dallas, October 15, 1991, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9112664.

The Dallas Area Rapid Transit Planning and Development Committee met at the DART Office, Board Conference Room, 601 Pacific Avenue, Dallas, October 15, 1991, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9112667.

The Dallas Area Rapid Transit Corporate Location Ad Hoc Committee met at the DART Office, Board Conference Room, 601 Pacific Avenue, Dallas, October 15, 1991, at 5 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9112665.

The Education Service Center, Region 20 Board of Directors will meet at 1314 Hines Avenue, San Antonio, October 23, 1991, at

2 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 299-2400. TRD-9112634.

The Harris County Appraisal District Board of Directors met at 2800 North Loop West, Eighth Floor, Houston, October 16, 1991, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77092-0975, (713) 975-5291. TRD-9112602.

The Hockley County Appraisal District Board of Directors met at 1103-C Houston Street, Levelland, October 14, 1991, at 7 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9112630.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth Street, Lampasas, October 17, 1991, at 7 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9112633.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, October 21, 1991, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9112637.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, October 24, 1991, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9112645.

The Lower Colorado River Authority Retirement Benefits Committee met at 3700 Lake Austin Boulevard, Austin, October 15, 1991, at 1 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-4043. TRD-9112670.

The Lower Neches Valley Authority Board of Directors met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, October 15, 1991, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9112631.

The Middle Rio Grande Development Council Private Industry Council met at the Housing Authority Meeting Room, Crystal City, October 16, 1991, at 1 p.m. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9112629.

The North Central Texas Council of Governments Executive Board met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, October 17, 1991, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888,

Arlington, Texas 76005-5888, (817) 640-3300. TRD-9112650.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, October 24, 1991, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas 75098, (214) 442-5405. TRD-9112632.

The Region VII Education Service Center Board of Directors met at the Golden Corral Restaurant, Highway 79 South, Henderson, October 17, 1991, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9112603.

The Rio Grande Council of Governments Board of Directors will meet at 1014 North

Stanton Street, El Paso, October 18, 1991, at 10 a.m. (MST). Information may be obtained from Cecile C. Garnez, 1014 North Stanton Street, Suite 100, El Paso, Texas 79902, (915) 533-0998. TRD-9112649.

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**Meetings Filed October 14,  
1991**

The Brazos Valley Development Council Regional Review Committee will meet at the Council Offices, 3006 East 29th Street, #2, Bryan, October 25, 1991, at 9 a.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805-4128. TRD-9112676.

The Hockley County Appraisal District Appraisal Review Board met at 1103-C

Houston Street, Levelland, October 17, 1991, at 7 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9112681.

The Hood County Appraisal District Board of Directors will meet at 1902 West Pearl, District Office, Granbury, October 22, 1991, at 7:30 p.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9112706.

The San Jacinto River Authority Board of Directors will meet at the Lake Conroe Office Building, Highway 105 West, Conroe, October 23, 1991, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9112688.

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# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Air Control Board

### Correction of Error

The Texas Air Control Board submitted adopted amendments to 31 TAC §101.1, §116.3, and §120.12 for publication in the October 8, 1991, *Texas Register* (16 TexReg 5596).

Due to an editorial error by the *Texas Register* the effective date as published was incorrect. The correct effective date is October 22, 1991.



## Texas Department of Banking

### Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On October 10, 1991, the banking commissioner received an application to acquire control of Ameritex Bancshares, Inc., Fort Worth, thereby acquiring American Bank of Haltom City, Haltom City, and American Bank, Grapevine, by Gad Zeevi of London, England.

Additional information may be obtained from: William F. Aldridge, 2601 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Issued in Austin, Texas, on October 10, 1991.

TRD-9112636 William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: October 11, 1991

For further information, please call: (512) 475-1317.



## Texas Department of Commerce

### Bond Counsel Request for Proposal

**Purpose and Scope.** The Texas Department of Commerce (Commerce) invites submission of proposals to provide bond counsel services on a negotiated basis for the proposed bond financing plan as described in this request for proposal (RFP).

Commerce anticipates an initial issuance of up to \$26 million of State of Texas bonds for the purpose of providing financial assistance to small businesses through loans, loan guarantees, equity and royalty investments, and debt instruments. Bond proceeds will be used to provide financial assistance for small business startups and expansions in rural areas, exporting, product commercialization, small business incubators, and to capitalize a statewide loan pool.

Commerce desires to have RFP respondents carefully study the Texas Government Code, Chapter 481 (the Commerce Act), and considering approximately \$1 million of available state funds, discuss the requisite legal and tax issues associated with Commerce's bond authority therein. Respondents should also consider any legal and tax issues with the use of federal funds, such as SBA, used in conjunction with Commerce's bond authority. It is intended that respondents consider other states' programs where bonds have been used to generate capital for small business development transactions.

Responses should describe the bond counsel's experience and fee structure.

**Term of Engagement.** Commerce anticipates that the engagement, when awarded, will continue at the option of Commerce.

**Evaluation Process.** Responses to this proposal will be evaluated and ranked. Selection for an oral presentation will be based on the depth of experience with legal and tax issues associated with business development transactions. The selection is subject to approval by the Texas attorney general.

**Response Date.** Responses to this request for proposal are due by 5 p. m. on October 23, 1991. Six copies of the proposal must be submitted to Dan McNeil, Director of Business Finance, State of Texas Department of Commerce, 816 North Congress Avenue, Austin, Texas 78701. PROPOSALS SHOULD BE CLEARLY MARKED FOR IDENTIFICATION ON THE OUTSIDE WITH THE PROPOSER'S NAME AND "PROPOSAL FOR BOND COUNSEL SERVICES."

**Scope of Services.** The bond counsel will be expected to assist Commerce in developing the program and perform normal duties of Bond Counsel, including, but not limited to: issuing bond counsel opinion (including the enforceability provisions); issuing opinion regarding an exemption from registration with the Securities and Exchange Commission; issuing opinion regarding the Trust Indenture Act; assist underwriter in the preparation of the official statement; assisting issuer in the preparation of loan documents and other required bond documentation; reviewing the bond purchase agreement; assist Commerce with bond review board presentation.

**Minority and Women Business Enterprise Participation ("M/WBE").** Please include a statement acknowledging your intentions with respect to the inclusion of M/WBE participation in the bond counsel process. M/WBE(s) who wish to be considered for this portion of the assignment must identify any M/WBE certifications (or equivalent designations) or provide ownership information, in addition to any other information the M/WBE may wish to submit.

**Other.** Commerce will consider any other creative ideas or concepts brought forth by respondents for the desired legal services referred to in this RFP. Such ideas may be submitted as part or in addition to the proposal requested previously.

Commerce reserves the exclusive right to review proposals and make an appropriate selection. Commerce is not bound to accept any proposal by virtue of this RFP.

Issued in Austin, Texas, on October 9, 1991.

TRD-9112412

Cathy Bonner  
Interim Executive Director  
Texas Department of Commerce

Filed: October 9, 1991

For further information, please call: (512) 320-9666



## Request for Proposal

**Purpose and Scope.** The Texas Department of Commerce (Commerce) invites you to submit a proposal to provide underwriting services on a negotiated basis for the proposed bond financing plan as described in this request for proposal (RFP).

Commerce anticipates an initial issuance of up to \$26 million of State of Texas bonds for the purpose of providing financial assistance to small businesses through loans, loan guarantees, equity and royalty investments, and debt instruments. Bond proceeds will be used to provide financial assistance for small business startups and expansions in rural areas, exporting, product commercialization, small business incubators, and to capitalize a statewide loan pool.

Commerce desires to have RFP respondents carefully study the Texas Government Code, Chapter 481 (the Commerce Act), and considering approximately \$1 million of available state funds, propose ideas which will optimize Commerce's revenue and general obligation bond authority therein. It is intended that the general obligation bonds will not require the use of any state general revenue. Respondents should also consider how federal funds, such as SBA, can be used to further expand capital availability. It is intended that respondents consider other states' programs where bonds have been used successfully to generate capital for small business development transactions.

Responses should recommend the form of such issue and the underwriter's experience.

**Term of Engagement.** Commerce anticipates that the engagement, when awarded, will continue at the option of Commerce.

**Evaluation Process.** Responses to this proposal will be evaluated and ranked. Selection for an oral presentation will be based on ideas which can be implemented immediately and will provide capital for small business startups and expansions.

**Underwriter's Counsel.** Underwriter's counsel will be selected by the underwriter. However, underwriter's counsel should be a Texas-based law firm.

**Response Date.** Responses to this request for proposal are due by 5 p. m. on October 23, 1991. Six copies of the proposal must be submitted to Dan McNeil, Director of

Business Finance, State of Texas Department of Commerce, 816 North Congress Avenue, Austin, Texas 78701. PROPOSALS SHOULD BE CLEARLY MARKED FOR IDENTIFICATION ON THE OUTSIDE WITH THE PROPOSER'S NAME AND "PROPOSAL FOR UNDERWRITING SERVICES."

**Financing Structure.** Please present your proposed financing structure for consideration based upon the needs described previously. Your discussion should include, but not be limited to, the following points: a brief narrative description of the proposed financing structure; an identification, if applicable, of where and under what circumstances you have previously implemented this structure together with names and phone numbers of officials of those issuers that Commerce may contact for references; the type of credit or liquidity support needed for this structure, if any, together with your estimate of the cost of this support; the amount of time reasonably expected to put the structure in place; an estimate of your underwriting fees and any of your expenses expected to be borne by Commerce.

**Minority and Women Business Enterprise Participation (M/WBE).** Please include a statement acknowledging your intentions with respect to the inclusion of M/WBE participation in the financing process, including underwriter's counsel.

M/WBE(s) who wish to be considered must identify any M/WBE certifications (or equivalent designations) or provide ownership information, in addition to any other information the M/WBE may wish to submit.

**Other.** Commerce will consider any other creative ideas or concepts brought forth by respondents for the desired financing referred to in this RFP. Such ideas may be submitted as part or in addition to the proposal requested previously.

Commerce reserves the exclusive right to review proposals and make an appropriate selection. Commerce is not bound to accept any proposal by virtue of this RFP.

Issued in Austin, Texas, on October 9, 1991.

TRD-9112413

Cathy Bonner  
Interim Executive Director  
Texas Department of Commerce

Filed: October 9, 1991

For further information, please call: (512) 320-9666



## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Types of Rate Ceilings

Effective Period  
(Dates are Inclusive)

Consumer (1)/Agricultural/  
Commercial (2) thru \$250,000

Commercial(2)  
over \$250,000

Indicated (Weekly) Rate - Art. 1.04(a)(1)

10/14/91-10/20/91

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 October 7, 1991.

TRD-9112500 Al Endsley  
Consumer Credit Commissioner

Filed: October 9, 1991

For further information, please call: (512) 479-1280

◆ ◆ ◆  
**Employees Retirement System of Texas**  
**Employees Retirement System of Texas**  
**Contract for Consulting Services**  
**Federal Actions Affecting Public**  
**Pension Plans**

This award for consulting services for the report of federal actions affecting public pension plans is being filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11(c), §2 and §6. Receipt in a timely fashion of significant actions by the executive and legislative branches of the federal government is necessary to assist the Employees Retirement System of Texas in discharging its fiduciary responsibilities and maintaining a qualified pension plan.

The consultant is Don Kennard, Route 3, Box 229, Charles Town, West Virginia 25142. The term of the contract is from September 1, 1991-August 31, 1992; and the total cost for the contract is \$19,800. All reporting under this contract is on an as needed or as requested basis.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112342 Charles D. Travis  
Executive Director  
Employees Retirement System of Texas

Filed: October 8, 1991

For further information, please call: (512) 867-3336

◆ ◆ ◆  
**Office of the Governor**  
**Correction of Error**

The Office of the Governor submitted an executive order establishing the Ethics Commission Transition Task Force for publication October 11, 1991, (16 TexReg 5625).

Due to an editorial error by the Register the executive order number had the initials "WPC". The correct order number should read "AWR 91-10".

**Texas Department of Health**  
**Announcement of Grant Funds for**  
**Municipal Solid Waste Information**  
**Exchange(Peer Match) Program**

The Texas Department of Health (TDH) announces the availability of funding for the TDH's Bureau of Solid Waste Management's (BSWM) Information Exchange (Peer Match) Program. Applications for utilization of program monies will be accepted throughout the 1992 state fiscal year (September 1, 1991, through August 31, 1992).

The program is funded by municipal solid waste disposal fees and is designed to facilitate the direct and timely exchange of current municipal solid waste management information. The program provides information recipients supplementary/matching travel-related expense monies. Recipients are limited to eligible local governments, public agencies, and public and private primary and secondary schools.

Generally, under the program, the recipient organization will send an individual or a group of individuals to an informational provider (advisor) so that a specific operational or educational technology or process, appropriate to the needs of the recipient organization, may be reviewed. However, to maximize the information exchanged, the recipient may wish to have an advisor or advisors travel to the recipient's location.

Under the program, the BSWM will pay the lesser of 50% of the approved travel-related expenses or an amount not to exceed \$500. Applications under this program will not be accepted for projects where the statetravel-related support contribution is projected as being less than \$100. Tuition, salaries, and fees are not allowable reimbursable expenses, whether for the information recipient or the advisor.

Total funding available for information exchange grant projects, during the 1992 fiscal year is \$25,000.

For more information on the program and the application procedures and/or application forms, contact Don Smith, Texas Department of Health, Bureau of Solid Waste Management, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 406-7722, or toll free at 1-800-458-9796.

Issued in Austin, Texas, on October 14, 1991.

TRD-9112675 Robert A. MacLean, M.D.  
Deputy Commissioner of Health  
Texas Department of Health

Filed: October 14, 1991

For further information, please call: (512) 835-7271

## Correction of Error

The Texas Department of Health submitted emergency and proposed amendments to 25 TAC §325.5, concerning solid waste management, for publication September 10, 1991, *Texas Register* (16 TexReg 4894).

Due to typographical errors by the *Texas Register*, words were misspelled in the definitions for "Battery" and for "storage battery".

The second sentence for "Battery" should read as follows:

"Its essential components are positive and negative electrodes made of more or less electrically conductive materials, a separate medium, and an electrolyte."

For "storage battery" the last sentence has language omitted and should be two sentences that read as follows:

"The electrolyte used is sulfuric acid. Other types of storage batteries contain lithium, sodium-liquid sulfur or chlorine-zinc using titanium electrodes."



The Texas Department of Health submitted the adoption of new 25 TAC §1.181, for publication October 8, 1991, *Texas Register* (16 TexReg 5594).

Due to an error by the *Texas Register*, the word "or" should read "for" in subsection (a), as follows:

(a) Purpose. The purpose of this section is to define the professional services for which the Department of Health...

Due to a proofreading error by the *Texas Register* the effective date of the adoption is October 21, 1991 instead of November 21, 1991 as published.



## 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 complaints against the following registrants: Dessau Vet Clinic, Austin, R15339; Etcetera, Dallas, Z00397; Heritage Family Dental Group, Waco, R15294; Edward R. Jordan, D.D.S., Houston, R06515; Eugene H. Judd, Jr., D.D.S., Dallas, R10719; M. Lawrence Naumann, D.D.S., Austin, R06005; Rio Grande Radiation Oncology Center, McAllen, R14830; J.L. Silagi, D.D.S., M.S.D., El Paso, R10723; Briscoe County Clinic, Silvertown, R12803; J.L. Collier, Jr., D. D.S., Naples, R00629; Coopervision Laser Division, Dallas, Z00457; Georgia W. Hitchcock, D.D.S., Houston, R07925; John W. Reynolds, D.D.S., El Paso, R12856; Ross G. Sinclair, M.D., Houston, R15925; Carl Zeiss, Inc., Dallas, Z00460.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants 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 fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates 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 David K. Lacker, 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 fee is not paid, the certificates 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, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on October 10, 1991.

TRD-9112571 Robert A. MacLean, M.D.  
Deputy Commissioner of Health

Filed: October 10, 1991

For further information, please call: (512) 835-7000



## Orders Amending Controlled Substances Schedules

The Texas Controlled Substances Act (Act), Health and Safety Code (Code), Chapter 481, contains schedules of controlled substances, i.e., lists of drugs and chemical entities which have potential for addiction or abuse. The Act authorizes the Texas commissioner of health to modify the schedules by adding or deleting substances. In August 1991, the acting commissioner of health issued orders concerning anabolic steroids which modified §481.034, Schedule III, and §481.035, Schedule IV, of the Code. The Department of Health filed copies of the orders with the secretary of state (attention: Statutory Filings Division) as required by the Act. Details concerning the actual changes may be obtained from the Food and Drugs Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756

Issued in Austin, Texas, on October 7, 1991.

TRD-9112307 Robert A. MacLean, M.D.  
Deputy Commissioner of Health

Filed: October 7, 1991

For further information, please call: (512) 458-7236



## Request for Proposal

The Texas Interagency Council on Early Childhood Intervention (ECI) announces a request for proposal (RFP) for funding additional comprehensive services for children with developmental delays or who are at risk of developmental delay, ages birth to three in existing or current ECI programs.

The funding available for this proposal will be approximately \$2,500,000. Additional awards will be determined on a competitive basis. The RFP will be mailed to all current providers and is also available upon request from the Early Childhood Intervention Program, 1100 West 49th Street, Austin, Texas 78756, or by calling (512) 458-7673. All applications to be considered for funding must be received by the Early Childhood Intervention Program by 5 p.m. on November 15, 1991, or postmarked by November 14, 1991. Questions should be directed to the Early Childhood Intervention Administrative Office at (512) 458-7673. For more information contact: Mary Elder, ECI Executive Director, (512) 458-7673.



Issued in Austin, Texas, on October 10, 1991.

TRD-9112570 Robert A. MacLean, M.D.  
Deputy Commissioner of Health

Filed: October 10, 1991

For further information, please call: (512) 458-7673

◆ ◆ ◆  
**Texas Higher Education Coordinating Board**  
**Notice of Meeting**

The Texas Academic Skills Council will meet on Friday, November 8, 1991. The meeting is scheduled to begin at 10 a.m. and end at 4 p.m. and will be located at 7745 Chevy Chase Drive, Building V, Room V.139 in Austin. For further information please contact Dr. Ronald G. Swanson at (512) 483-6330.

Issued in Austin, Texas, on October 10, 1991.

TRD-9112835 Sharon Jahaman  
Administrative Secretary  
Texas Higher Education Coordinating Board

Filed: October 11, 1991

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

◆ ◆ ◆  
**Texas Department of Human Services**  
**Correction of Error**

The Texas Department of Human Services submitted proposed amendments to 40 TAC §19.1702 for publication in the October 8, 1991 *Texas Register* (16 TexReg 5582).

In §19.1702 (a)(5)(B) the "@" symbol was omitted. The subparagraphs should read as follows:

"(B) When the facility charges the recipient for oxygen received via an oxygen concentrator or any other means, documentation must be maintained that accurately reflects actual recipient usage (such as: 2 hours, 35 minutes @ 2 liters per minute = 310 liters. Then 310 liters @ \$.08 (equal to or less than the charge per liter to fill a large tank) = \$24.80)."

◆ ◆ ◆  
The Texas Department of Human Services submitted 40 TAC §47.1903, concerning staffing requirements, for publication September 20, 1991 (16 TexReg 5204).

Due to a typographical error by the *Texas Register*, text in (2)(B) (III).

The clause should read as follows: "(III) be listed as a nurses aide on the Texas Department of Health nurse aide registry."

◆ ◆ ◆  
**Public Notices**

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration, to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-38, Amendment Number 290. The amendment establishes a reimbursement methodology

for costs of Hepatitis B inoculations for nursing facility personnel. The amendment is effective September 1, 1990. If additional information is needed, please contact Kathy E. Hall, (512) 450-3702.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112365 Nancy Murphy  
Agency Liaison, Policy and Document Support  
Texas Department of Human Services

Filed: October 8, 1991

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

◆ ◆ ◆  
The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration, to amend the Title XIX Medical Assistance Plan by Transmittal Number 91-10, Amendment Number 313. The amendment revises the reimbursement methodology for institutional care facilities/mentally retarded (ICFs/MR) by establishing income taxes and related expenses as unallowable costs. The amendment is effective January 1, 1991. If additional information is needed, please contact Kathy E. Hall, (512) 450-3702.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112366 Nancy Murphy  
Agency Liaison, Policy and Document Support  
Texas Department of Human Services

Filed: October 8, 1991

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

◆ ◆ ◆  
**Company Licensing**

The following applications have been filed with the Texas Department of Insurance and are under consideration:

1. Application for name change of Texas Health Network, Inc., a domestic health maintenance organization. The home office is in Houston, Texas. The proposed new name is Aetna Health Plans of Texas, Inc.
2. Application for incorporation in Texas for Desert Sun & Associates, Inc., a domestic third party administrator. The home office is in Dallas, Texas.
3. Application for incorporation in Texas for M/G Group Administrators (assumed name for MGIS Group Services, Inc.), a domestic third party administrator. The home office is in Abilene, Texas.
4. Application for name change for Western States Life Insurance Company, a foreign life insurance company. The home office is in Fargo, North Dakota. The proposed new name is TMG Life Insurance Company.
5. Application for admission to do business in Texas for Traid, Inc., a foreign third party administrator. The home office is in Naugatuck, Connecticut.

Issued in Austin, Texas, on October 7, 1991.

TRD-9112317 Angella Johnson  
Assistant Chief Clerk  
Texas Department of Insurance

Filed: October 7, 1991

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

## Texas State Library and Archives Commission

### Appointments to Local Government Records Committee

Notice is hereby given, pursuant to the Texas Government Code, Chapter 441, Subchapter J, for the purpose of making appointments to the Local Government Records Committee.

The following persons have been appointed to serve on the committee for terms to expire February 1, 1993.

Jerry Bigham, Personnel Director and Records Management Officer, Canyon ISD.

Thomas D. Ferguson, City Secretary and Finance Director, City of Big Spring.

Glenda Gundermann, City Secretary, City of Sugar Land.

They are appointed to fill the vacancies arising from the resignations of Audrey Nichols, Don Rogers, and Jorge Cruz Aedo.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112558      Raymond Hitt  
Assistant State Librarian  
Texas State Library and Archives  
Commission

Filed: October 10, 1991

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

## Texas State Board of Examiners of Psychologists

### Correction of Error

The Texas State Board of Examiners of Psychologists submitted proposed amendments to 22 TAC §463.6, §465.25, and new §465.27, for publication October 1, 1991, (16 TexReg 5377).

Due to editorial error by the *Texas Register*, in paragraph (12) of §463.6 the reference to §465.18 as "relating to Time Period for Appealing a Decision" is incorrect. Section 465.18 relates to Supervision Guidelines.

In §465.25, the word "complaint" is misspelled twice.

In §465.27, the names of two types of psychological techniques need to be capitalized. "Thematic Apperception Text" and "Sentence Completion tests".

## 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 of an application on September 9, 1991, an application 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 Contel of Texas, Inc. to amend Certificate of convenience and necessity within Parmer County, Docket Number 10589, before the Public Utility Commission of Texas.

**The Application.** In Docket Number 10589, Contel of Texas, Inc. seeks approval of its application to amend the exchange area boundary between its Dimmitt exchange and Texas Rural Telephone Cooperative, Inc.'s Hub exchange in order to provide telephone service to a business customer.

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 Public Information Office within 15 days of this notice at (512) 458-0256. The telecommunications device for the deaf (TDD) number for the Public Information Office is (512) 458-0221.

Issued in Austin, Texas, on October 9, 1991.

TRD-9112544      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 9, 1991

For further information, please call: (512) 458-0100.

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Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 20, 1991, an application 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 Alenco Communications, Inc. to amend certificate of convenience and necessity within Maverick, Dimmitt, La Salle, McMullen, and Duval Counties, Docket Number 10614, before the Public Utility Commission of Texas.

**The Application.** In Docket Number 10614, Alenco Communications, Inc. seeks approval of its application for certification of currently uncertified territory in the above-referenced counties bordering Webb County. Alenco seeks to provide potential applicants with basic telecommunications service.

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 Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before December 9, 1991.

Issued in Austin, Texas, on October 11, 1991.

TRD-9112830      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 11, 1991

For further information, please call: (512) 458-0100.

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### Notice of Intent To File Pursuant to PUC Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for the University of Texas at Houston, Houston.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for the University of Texas at Houston Pursuant to

Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 10658.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for the University of Texas at Houston. The geographic service market for this specific service is the Houston, area.

Persons who wish to comment upon the 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 Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on October 9, 1991.

TRD-9112545 Mary Ross McDonald  
Secretary to the Commission  
Public Utility Commission of Texas

Filed: October 9, 1991

For further information, please call: (512) 458-0100



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Valero Transmissions, L. P., Seguin.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Valero Transmissions, L.P. Pursuant to PUC Substantive Rule 23.27(k). Tariff Control Number 10666.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Valero Transmissions, L.P.. The geographic service market for this specific service is the Seguin area.

Persons who wish to comment upon the 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 Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on October 11, 1991.

TRD-9112538 Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 11, 1991

For further information, please call: (512) 458-0100.



## Texas Department of Transportation Request for Proposals

The following request for proposals for providing professional engineering services is filed under the provision of Texas Civil Statutes, Article 664-4.

The Division of Aviation will solicit and receive proposals for professional engineering services for the design and construction administration phases at Gaines County Airport, Seminole, TDA Project Number 92/39/4-3, for improving runways, taxiways, and aprons, installing medium intensity runway lights (MIRL); and constructing associated appurtenances including marking and striping, and taxiway reflectors.

Those interested consulting engineers should submit four copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Transportation, Division of Aviation, Attention: John Greer, TDA Project Number 92/39-4-3; Mailing Address: P.O. Box 12067, Austin, Texas 78711, (512) 476-9262; Delivery Address: Anson Jones State Building, 410 East Fifth Street, Austin, Texas 78701.

Proposals must be received by 4 p.m., October 30, 1991.

Procedures for award-Procedure for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The estimated project cost is \$317,500.

The County of Gaines reserves the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposal shall include: firm name, address, phone number, and person to contact regarding the proposal; proposed project management structure identifying key personnel and subconsultants (if any); qualifications and recent experience of the firm, key personnel and subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; proposed project schedule, including major tasks and target completion dates; technical approach-a brief discussion of the tasks or steps to accomplish the project; list of in-state references including the name, address and phone number of the person most closely associated with the firm's prior project performance; statement regarding an Affirmative Action Program; for projects with an estimated cost of \$250,000 or more, plans to utilize Disadvantaged Business Enterprises (DBEs) in contracting, subcontracting and procurement efforts associated with this project including: the names and addresses of DBE firms that will participate in the contract; a description of the work each named DBE firm will perform; and percentage of the contract amount to be contracted by each named DBE; certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be review by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made following completion of interviews.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112418 Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: October 9, 1991

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



The following request for proposals for providing professional engineering services is filed under the provision of Texas Civil Statutes, Article 664-4.

The Division of Aviation will solicit and receive proposals for professional engineering services for the design and construction administration phases at Houston County Airport, Crockett, TDA Project Number 93/18-5-1, to extend, widen and rehabilitate runway; construct turnaround, access road, and taxiway; reconstruct apron; relocate road; extend runway lighting; replace rotating beacon; install fencing; and associated appurtenances such as grading, drainage, marking and reflectors.

Those interested consulting engineers should submit four copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to:

Texas Department of Transportation, Division of Aviation, Attention: Ronnie Moore, TDA Project Number 93/18-5-1; Mailing Address: P.O. Box 12067, Austin, Texas 78711, (512) 476-9262; Delivery Address: Anson Jones State Building, 410 East Fifth Street, Austin, Texas 78701.

Proposals must be received by 4 p.m., October 30, 1991.

Procedures for award-Procedure for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The total estimated project cost is approximately \$346,300.

The total County of Houston reserves the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposal shall include: firm name, address, phone number, and person to contact regarding the proposal; proposed project management structure identifying key personnel and subconsultants (if any); qualifications and recent experience of the firm, key personnel and subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; proposed project schedule, including major tasks and target completion dates; technical approach-a brief discussion of the tasks or steps to accomplish the project; list of in-state references including the name, address and phone number of the person most closely associated with the firm's prior project performance; statement regarding an Affirmative Action Program; for projects with an estimated cost of \$250,000 or more, plans to utilize Disadvantaged Business Enterprises (DBEs) in contracting, subcontracting and procurement efforts associated with this project including: the names and addresses of DBE firms that will participate in the contract; a description of the work named DBE firm will perform; and percentage of the contract amount to be contracted by each named DBE; certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be review by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made following completion of interviews.

Issued in Austin, Texas, on October 8, 1991.

TRD-9112417 Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: October 9, 1991

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

## Texas State Treasury Department Legal Banking Holidays

Senate Bill 3, §4.03, 72nd Legislature (1991), requires that, before January 1 of each year, the state treasurer publish a list of the legal banking holidays to be observed by commercial banks in the following calendar year. The legal banking holidays for calendar year 1992 are as follows: Wednesday, January 1, New Year's Day; Monday, January 20, Martin Luther King, Jr. Day; Monday, February 17, Presidents Day; Monday, May 25, Memorial Day; Monday, September 7, Labor Day; Monday, October 12, Columbus Day; Wednesday, November 11, Veterans Day; Thursday, November 26, Thanksgiving Day; Friday, December 25, Christmas Day.

Issued in Austin, Texas, on October 3, 1991.

TRD-9112597 Anne L. Schwartz  
General Counsel  
Texas State Treasury Department

Filed: October 11, 1991

For further information, please call: (512) 463-5971

## Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Johnny Mallory doing business as Dogwood Estates Water System on September 18, 1991, assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on October 9, 1991.

TRD-9112568 Mamie M. Black  
Notices Coordinator  
Texas Water Commission

Filed: October 10, 1991

For further information, please call: (512) 463-8537.

## Texas Water Development Board Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board.

Diana Water Supply Corporation, P.O. Box 74, Diana, Texas, 75640, received September 18, 1991, application for financial assistance in the amount of \$570, 000; \$260,000 from the Water Supply Account and \$310,000 from the Water Quality Enhancement Account, both of the Texas Water Development Fund.

City of Houston, P.O. Box 1562, Houston, Texas, 77251-1562, received September 19, 1991, application for financial assistance in the amount of \$52, 025,000 from the State Water Pollution Control Revolving Fund.

City of Longview, P.O. Box 1952, Longview, Texas, 75606-1952, received September 19, 1991, application for financial assistance in the amount of \$11, 030,000 from the State Water Pollution Control Revolving Fund.

Dallas County Utility and Reclamation District, P.O. Box 160035, Irving, Texas, 75061, received September 10, 1991, application for change in scope to existing \$2,225,000 commitment from the Water Supply Account of the Texas Water Development Fund.

Grand Prairie Metropolitan Utility and Reclamation District, 3928 Centenary, Dallas, Texas, 75225, received September 19, 1991, application for financial assistance in the amount of \$19,560,000 from the Flood Control Account of the Texas Water Development Fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on October 9, 1991.

TRD-9112541      Craig D. Pedersen  
Executive Administrator  
Texas Water Development Board

Filed: October 9, 1991

For further information, please call: (512) 463-7855



## **Texas Workers' Compensation Commission**

### **Notice of Public Hearing on Proposed Amendment to Rule 42.105**

The Texas Workers' Compensation Commission has scheduled a public hearing to solicit public comment on a proposed amendment to the "old law" rule concerning Official Medical Fee Guideline for Services Rendered Under the Texas Workers' Compensation Act, (Rule 42.105). The public hearing will be held on Wednesday,

October 16 and will continue until oral testimony is completed. The public hearing will begin at 3 p.m. and will take place in the Tippy Foster Meeting Room 910, in the Southfield Building at 4000 South IH 35, Austin, Texas 78704.

The text of the proposed amendment to the rule was published in the July 16, 1991, issue of the *Texas Register* (16 TexReg 3933).

Depending upon attendance, a time limitation may be imposed and participants may be asked to limit their oral testimony by giving a summary. Written testimony will be accepted and is encouraged.

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

Issued in Austin, Texas, on October 9, 1991.

TRD-9112511      Susan M. Kelley  
General Counsel  
Texas Workers' Compensation Commission

Filed: October 9, 1991

For further information, please call: (512) 440-3972



## 1991 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1991 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Tuesday, January 1	Friday, December 21	Thursday, December 27
Friday, January 4	NO ISSUE PUBLISHED	
2 Tuesday, January 8	Wednesday, January 2	Thursday, January 3
3 Friday, January 11	Monday, January 7	Tuesday, January
4 Tuesday, January 15	Wednesday, January 9	Thursday, January 10
5 Friday, January 18	Monday, January 14	Tuesday, January 15
6 Tuesday, January 22	Wednesday, January 16	Thursday, January 17
Friday, January 25	1990 ANNUAL INDEX	
7 Tuesday, January 29	Wednesday, January 23	Thursday, January 24
8 Friday, February 1	Monday, January 28	Tuesday, January 29
9 Tuesday, February 5	Wednesday, January 30	Thursday, January 31
10 Friday, February 8	Monday, February 4	Tuesday, February 5
11 Tuesday, February 12	Wednesday, February 6	Thursday, February 7
12 Friday, February 15	Monday, February 11	Tuesday, February 12
13 Tuesday, February 19	Wednesday, February 13	Thursday, February 14
14 *Friday, February 22	Friday, February 15	Tuesday, February 19
15 Tuesday, February 26	Wednesday, February 20	Thursday, February 21
16 Friday, March 1	Monday, February 25	Tuesday, February 26
17 Tuesday, March 5	Wednesday, February 27	Thursday, February 28
18 Friday, March 8	Monday, March 4	Tuesday, March 5
19 Tuesday, March 12	Wednesday, March 6	Thursday, March 7
20 Friday, March 15	Monday, March 11	Tuesday, March 12
21 Tuesday, March 19	Wednesday, March 13	Thursday, March 14
22 Friday, March 22	Monday, March 18	Tuesday, March 19
23 Tuesday, March 26	Wednesday, March 20	Thursday, March 21
24 Friday, March 29	Monday, March 25	Tuesday, March 26
25 Tuesday, April 2	Wednesday, March 27	Thursday, March 28
26 Friday, April 5	Monday, April 1	Tuesday, April 2
27 Tuesday, April 9	Wednesday, April 3	Thursday, April 4
28 Friday, April 12	Monday, April 8	Tuesday, April 9
29 Tuesday, April 16	Wednesday, April 10	Thursday, April 11
*Friday, April 19	FIRST QUARTERLY INDEX	

30 Tuesday, April 23	Wednesday, April 17	Thursday, April 18
31 Friday, April 26	Monday, April 22	Tuesday, April 23
32 Tuesday, April 30	Wednesday, April 24	Thursday, April 25
33 Friday, May 3	Monday, April 29	Tuesday, April 30
34 Tuesday, May 7	Wednesday, May 1	Thursday, May 2
35 Friday, May 10	Monday, May 6	Tuesday, May 7
36 Tuesday, May 14	Wednesday, May 8	Thursday, May 9
37 Friday, May 17	Monday, May 13	Tuesday, May 14
38 Tuesday, May 21	Wednesday, May 15	Thursday, May 16
39 Friday, May 24	Monday, May 20	Tuesday, May 21
40 Tuesday, May 28	Wednesday, May 22	Thursday, May 23
41 *Friday, May 31	Friday, May 24	Tuesday, May 28
42 Tuesday, June 4	Wednesday, May 29	Thursday, May 30
43 Friday, June 7	Monday, June 3	Tuesday, June 4
44 Tuesday, June 11	Wednesday, June 5	Thursday, June 6
45 Friday, June 14	Monday, June 10	Tuesday, June 11
46 Tuesday, June 18	Wednesday, June 12	Thursday, June 13
47 Friday, June 21	Monday, June 17	Tuesday, June 18
48 Tuesday, June 25	Wednesday, June 19	Thursday, June 20
49 Friday, June 28	Monday, June 24	Tuesday, June 25
50 Tuesday, July 2	Wednesday, June 26	Thursday, June 27
51 Friday, July 5	Monday, July 1	Tuesday, July 2
Tuesday, July 9	NO ISSUE PUBLISHED	
52 Friday, July 12	Monday, July 8	Tuesday, July 9
53 Tuesday, July 16	Wednesday, July 10	Thursday, July 11
54 Friday, July 19	Monday, July 15	Tuesday, July 16
Tuesday, July 23	SECOND QUARTERLY INDEX	
55 Friday, July 26	Monday, July 22	Tuesday, July 23
56 Tuesday, July 30	Wednesday, July 24	Thursday, July 25
57 Friday, August 2	Monday, July 29	Tuesday, July 30
58 Tuesday, August 6	Wednesday, July 31	Thursday, August 1
59 Friday, August 9	Monday, August 5	Tuesday, August 6
60 Tuesday, August 13	Wednesday, August 7	Thursday, August 8
61 Friday, August 16	Monday, August 12	Tuesday, August 13
62 Tuesday, August 20	Wednesday, August 14	Thursday, August 15
63 Friday, August 23	Monday, August 19	Tuesday, August 20
64 Tuesday, August 27	Wednesday, August 21	Thursday, August 22
65 Friday, August 30	Monday, August 26	Tuesday, August 27
66 Tuesday, September 3	Wednesday, August 28	Thursday, August 29
Friday, September 6	NO ISSUE PUBLISHED	

67 Tuesday, September 10	Wednesday, September 4	Thursday, September 5
68 Friday, September 13	Monday, September 9	Tuesday, September 10
69 Tuesday, September 17	Wednesday, September 11	Thursday, September 12
70 Friday, September 20	Monday, September 16	Tuesday, September 17
71 Tuesday, September 24	Wednesday, September 18	Thursday, September 19
72 Friday, September 27	Monday, September 23	Tuesday, September 24
73 Tuesday, October 1	Wednesday, September 25	Thursday, September 26
74 Friday, October 4	Monday, September 30	Tuesday, October 1
75 Tuesday, October 8	Wednesday, October 2	Thursday, October 3
76 Friday, October 11	Monday, October 7	Tuesday, October 8
Tuesday, October 15	THIRD QUARTERLY INDEX	
77 Friday, October 18	Monday, October 14	Tuesday, October 15
78 Tuesday, October 22	Wednesday, October 16	Thursday, October 17
79 Friday, October 25	Monday, October 21	Tuesday, October 22
80 Tuesday, October 29	Wednesday, October 23	Thursday, October 24
81 Friday, November 1	Monday, October 28	Tuesday, October 29
82 Tuesday, November 5	Wednesday, October 30	Thursday, October 31
83 Friday, November 8	Monday, November 4	Tuesday, November 5
84 Tuesday, November 12	Wednesday, November 6	Thursday, November 7
85 *Friday, November 15	Friday, November 8	Tuesday, November 12
86 Tuesday, November 19	Wednesday, November 13	Thursday, November 14
87 Friday, November 22	Monday, November 18	Tuesday, November 19
88 Tuesday, November 26	Wednesday, November 20	Thursday, November 21
89 Friday, November 29	Monday, November 25	Tuesday, November 26
Tuesday, December 3	NO ISSUE PUBLISHED	
90 Friday, December 6	Monday, December 2	Tuesday, December 3
91 Tuesday, December 10	Wednesday, December 4	Thursday, December 5
92 Friday, December 13	Monday, December 9	Tuesday, December 10
93 Tuesday, December 17	Wednesday, December 11	Thursday, December 12
94 Friday, December 20	Monday, December 16	Tuesday, December 17
95 Tuesday, December 24	Wednesday, December 18	Thursday, December 19
96 *Friday, December 27	Friday, December 20	Monday, December 23
Tuesday, December 31	NO ISSUE PUBLISHED	
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14



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