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TEXAS REGISTER

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MAR 25 1980

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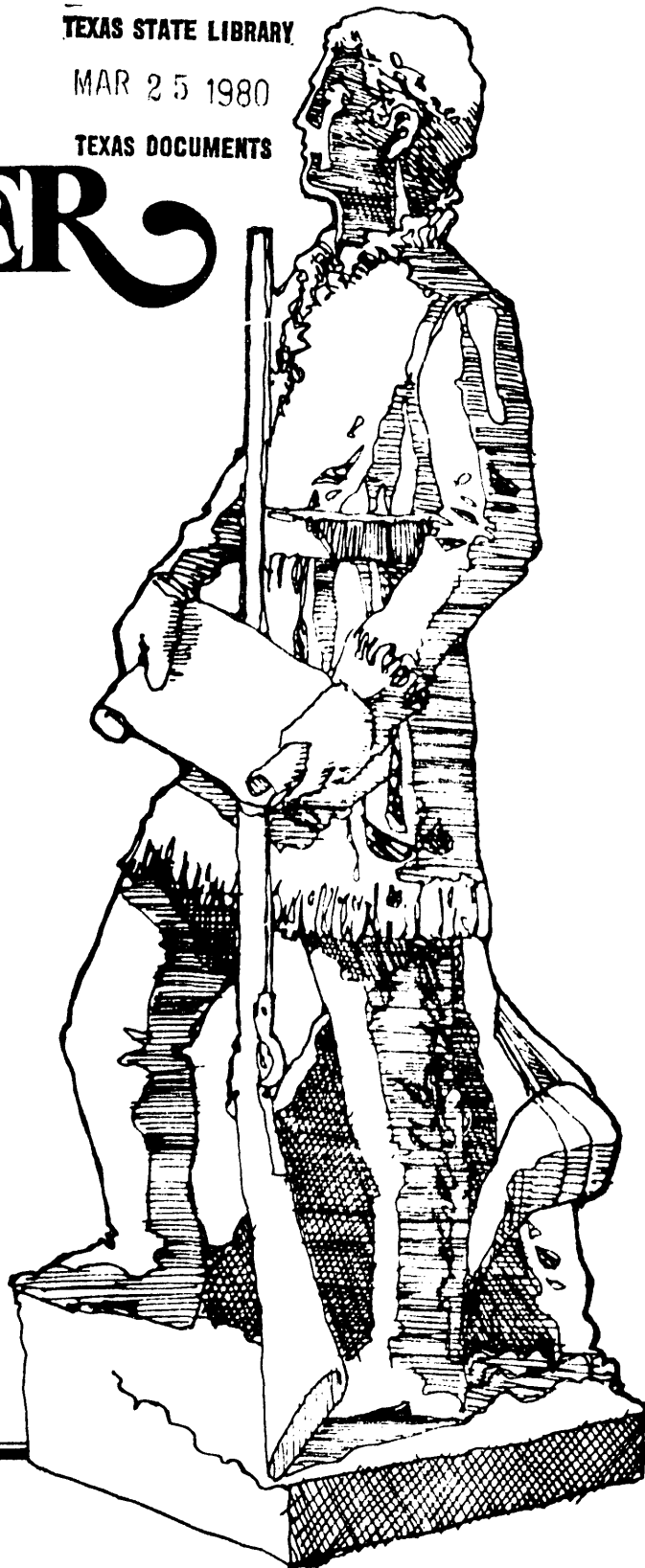
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Office of the Secretary of State

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 31, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

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

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 1, Oct. 79

HOW TO CITE: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.

TEXAS REGISTER



George W. Strake, Jr.
Secretary of State

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Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.

Opinions

Summary of Opinion MW-145

Request from Mike Atkins, Office of the County Attorney, Ector County, concerning whether a former district judge may purchase credit under the Judicial Retirement Act for prior military service even though he is not serving as a judge at the time of the purchase.

Summary of Opinion: A former district judge may not purchase credit for military service unless he is at such time serving as a district judge or as a special judge.

Doc. No. 802042

Summary of Opinion MW-146

Request from Joe Resweber, county attorney, Harris County, concerning a claim for over-65 homestead exemption Property Tax Code.

Summary of Opinion: Under the new Property Tax Code, the county tax assessor may accept a claim for an over-65 homestead exemption which is not filed before April 1 of the year for which the exemption is claimed. The deadline found in Section 11.43 of the Property Tax Code may not be applied to deny the homestead tax exemption granted by a county pursuant to Article VIII, Section 1-b, of the constitution.

Doc. No. 802043

Summary of Opinion MW-147

Request from Kenneth E. Graeber, executive director, School Tax Assessment Practices Board, Austin, concerning assessment and collection of state ad valorem tax after January 1, 1980.

Summary of Opinion: The State Property Tax Board may adopt a rule authorizing the county tax assessor-collector to defer assessing and collecting the state ad valorem tax until it amounts to \$5.00 per unit of property. The board may also authorize counties to advance to it annually the amount of uncollected state ad valorem tax for the county.

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802044

C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

For further information, please call (512) 475-5445.

An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules may be effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for the emergency adoption of rules.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

Symbology—Changes to existing material are indicated in **bold italics**. [Brackets] indicate deletion of existing material.

NONCODIFIED

Railroad Commission of Texas

Oil and Gas Division

Natural Gas Policy Act (NGPA) Determination Procedures 051.02.03

The Railroad Commission of Texas adopted an emergency amendment to Rule 051.02.03.003(e). The commission also proposes to adopt the amendment on a regular basis. This amendment is promulgated to clarify the Natural Gas Policy Act (NGPA) requirements for documents submitted with an application for stripper well status under Section 108 of the Natural Gas Policy Act of 1978. Under this amendment, two objectives are achieved. First, the deletion of the requirement for a 24-month lease inventory simplifies an application. Second, the explanation of methods of allocation of production on a multiple well lease where wells are not individually metered clarifies the types of documents which must be submitted. The amendment explains that the well test which Texas requires to be conducted on most wells is a reliable method on which to base allocation of production on a multiple well lease where wells are not individually metered. An applicant can continue to average total lease production equally among the nonmetered wells only by showing that the relevant W-10 is not reliable and that there is no other method of allocation. Alternative methods of allocation continue to be allowed when the applicant proves their reliability. The amendment consists of deleting certain language and adding new language to the subsection.

The amendment has been adopted on an emergency basis because of the need to expedite the NGPA review process. The commission finds that an imminent peril to the public welfare requires the adoption of the amendment.

This amendment is promulgated under the authority of Title III, Texas Natural Resources Code.

.003. Documents Supporting Application.

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

(e) Stripper wells under Section 108. Each application must include the F-1, the FERC Form 121, the oath prescribed by FERC regulations containing each of the elements therein, records from the commission's production ledger or the P-1 or P-2 of any natural gas production during the 12 months preceding the end of the 90-day production period, and crude oil production for oil wells for the three months preceding the end of the 90-day production period defined by the FERC. This information shall be summarized by month on a single table or chart accompanied by the statement required in Rule .003(a) and the P-1 or P-2 for the last month of the production period. Statements **required by the FERC** concerning the nonproduction days (and the 24-month lease inventory required by the FERC) and an identification of the production period shall be furnished. **For a multiple well lease where wells are not individually metered, oil and gas production may be allocated by averaging equally among the nonmetered wells only when there is no other reliable method of allocation. To justify averaging of production, the applicant must specifically state why the W-10 is not reliable as a basis for allocation and that there is no other reliable method of allocation. Where allocation is based on a W-10 well test conducted during the relevant 12-month period, the applicant must file a copy of the W-10 and a summary by month of production allocated to the subject well. An applicant may utilize an alternative well test or other method of allocation when the reliability of the method is supported by evidence in the application. The applicant shall submit a description of the method of allocation, sample calculations, and a summary by month of production allocated to the subject well.** [For casinghead production from multiple well leases, when an allocation of production based on a means other than a per well average is sought, the commission will determine the proper allocation.] If an increase in average daily production above 60 MCF occurs after a well has been qualified and is alleged to be due to an enhanced recovery technique, supporting evidence is required in a subsequent proceeding. If a well is alleged to be seasonally affected, such a determination may be sought in the original application.

Issued in Austin, Texas, on March 17, 1980.

Doc. No. 802080 John H. Poemer, Chairman
 James E. (Jim) Nugent &
 Mack Wallace, Commissioners
 Railroad Commission of Texas

Effective Date: March 18, 1980

Expiration Date: July 16, 1980

For further information, please call (512) 445-1278.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

Symbology—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

CODIFIED

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 81. Elections

Miscellaneous

The secretary of state proposes to adopt §81.11 (004.30.01.216), which adopts by reference the Application for an Absentee Ballot by Mail form. This newly revised form incorporates all information required to be contained on the application by House Bill 2025, 66th Legislature, Regular Session, 1979. This form may be used in applying for an absentee ballot to be voted by mail beginning with the April 5, 1980, elections.

The Elections Division of the Secretary of State's Office has determined that this proposed section will have a \$100 fiscal impact to the state and no fiscal implications to units of local government.

Public comment on the proposed section is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

This section is proposed under the authority of Articles 1.03 and 5.05, Subdivision 2(a), Vernon's Texas Election Code.

§81.11 (004.30.01.216). *Application for Absentee Ballot by Mail Form*. The application for Absentee Ballot by Mail form is adopted by reference. Copies may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12887, Austin, Texas 78711.

Doc. No. 802071

The secretary of state proposes to adopt §81.12 (004.30.01.217), which adopts by reference the Application for Absentee Ballot Voted by Personal Appearance form. This form has been revised to incorporate information required to be supplied by House Bill 2025, 66th Legislature, Regular Session, 1979. This form must be used beginning with the April 5, 1980, elections.

The Elections Division of the Secretary of State's Office has determined that this proposed section has no fiscal implications for the state or units of local government.

Public comment on the proposed section is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

This section is proposed under the authority of Articles 1.03 and 5.05, Subdivision 2(a), Vernon's Texas Election Code.

§81.12 (004.30.01.217). *Application for Absentee Ballot Voted by Personal Appearance Form*. The Application for Absentee Ballot Voted by Personal Appearance form is adopted by reference. Copies may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12887, Austin, Texas 78711.

Doc. No. 802072

The secretary of state proposes to adopt §81.13 (004.30.01.218), which would adopt by reference the textual material on the absentee ballot and carrier envelopes required to be prescribed by the secretary of state in Article 5.05, Subdivision 3b(a)(2), Vernon's Texas Election Code.

The Elections Division of the Secretary of State's Office has determined that this proposed section has no fiscal implications for the state or units of local government.

Public comment on the proposed section is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

This section is proposed under the authority of Articles 1.03 and 5.05, Subdivision 3b(a)(2), Vernon's Texas Election Code.

§81.13 (004.30.01.218). *Textual Material Required To Be Printed on the Absentee Ballot and Carrier Envelopes*. The secretary of state adopts by reference the textual material required to be printed on the absentee ballot and carrier envelopes. Copies may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12887, Austin, Texas 78711.

Doc. No. 802073

The secretary of state proposes to adopt §81.14 (004.30.01.219), which would adopt by reference the Poll List form prescribed by the secretary of state. This form has been revised so that newly required information on persons assisting a voter may be provided.

The Elections Division of the Secretary of State's Office has determined that this proposed section has no fiscal implications for the state or units of local government.

Public comment on the proposed section is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at Secretary of State, P.O. Box 12887, Austin, Texas 78711.

This section is proposed under the authority of Article 1.03, Vernon's Texas Election Code.

§81.14 (004.30.01.219). *Poll List Form.* The Poll List form is adopted by reference. Copies may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12887, Austin, Texas 78711.

Doc. No. 802074

(b) The paper ballot used for offices or propositions or both shall conform to all requirements for official ballots as provided elsewhere in the Texas Election Code, except that there shall be listed thereon only the offices or propositions or both for which the authority holding the election has determined to use paper ballots.

(c) Each voter voting by personal appearance or by mail, as applicable shall be furnished with a paper ballot containing these offices or propositions or both for which he is entitled to vote and which are not listed on the electronic voting device, and he shall cast his vote for offices or propositions or both listed on the paper ballot in accordance with the procedure for casting absentee ballots voted by personal appearance as provided in Articles 5.05 and 5.06, Vernon's Texas Election Code.

(d) A special canvassing board which shall be appointed and compensated as provided in Article 5.05, Subdivision 6, Vernon's Texas Election Code, shall count and make return of the paper ballots cast under this rule, in the manner prescribed in Article 5.05, Subdivision 6, Vernon's Texas Election Code.

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802075 George W. Strake, Jr.
Secretary of State

Proposed Date of Adoption: April 25, 1980

For further information, please call (512) 475-3091.

Suffrage

The secretary of state proposes to adopt §81.84 (004.30.05.504), which allows authorities conducting an election with punch card devices to use paper ballots to conduct absentee voting by personal appearance or by mail or both. The Election Code currently provides such an exception when an authority is using voting machines to conduct an election.

The Elections Division of the Secretary of State's Office has determined that this proposed section has no fiscal implications for the state or units of local government.

Public comment on the proposed section is invited. Comments may be submitted by telephoning the Elections Division of the Office of the Secretary of State at (512) 475-3091 or 1-800-252-9602, or by writing the Elections Division at Secretary of State, Post Office Box 12887, Capitol Station, Austin, Texas 78711.

This section is proposed under the authority of Article 1.03, Vernon's Texas Election Code.

§81.84 (004.30.05.504). *Absentee Voting by Paper Ballots and Punch Cards.*

(a) Whenever, at any election where offices are to be voted on, the authority charged with holding the election determines to use punch cards for conducting absentee voting by personal appearance or by mail or both and the number of separate offices or propositions or both makes it impossible to place the entire ballot on one voting device, the authority charged with holding the election may in its discretion determine by proper resolution or order to use paper ballots for absentee voting by personal appearance or by mail or both for any or all of the offices or propositions to be voted on, and to use a voting device or devices for all other offices or propositions or both to be voted on at the election.

TITLE 13. CULTURAL RESOURCES

Part II. Texas Historical Commission

Chapter 13. Historical Marker Policies

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Historical Commission, 1511 Colorado, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Historical Commission proposes the repeal of §13.19 (352.02.00.019). This historical marker policy was previously promulgated under the authority of Article 6145, Vernon's Texas Civil Statutes, and the Texas Historical Commission proposes this repeal because it duplicates §13.22 (.022) that allows privately installed markers to receive approval of the Texas Historical Commission.

The Texas Historical Commission has established that there are no fiscal implications.

Public comment is invited and may be sent to Anice Read, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, within 30 days of publication of this *Register*.

The repeal is proposed under the authority of Article 6145, Vernon's Texas Civil Statutes.

§13.19 (352.02.00.019). *Recognition of Privately Installed Historical Markers.*

Doc. No. 801986

Section 13.22 (352.02.00.022) is proposed for amendment by the Texas Historical Commission under the authority of Article 6145, Vernon's Texas Civil Statutes. The commission would like to correct the wording of §13.22 (.022).

The commission has established that there are no fiscal implications to this correction.

Public comment is invited and may be sent to Anice Read, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, within 30 days of publication of this *Register*.

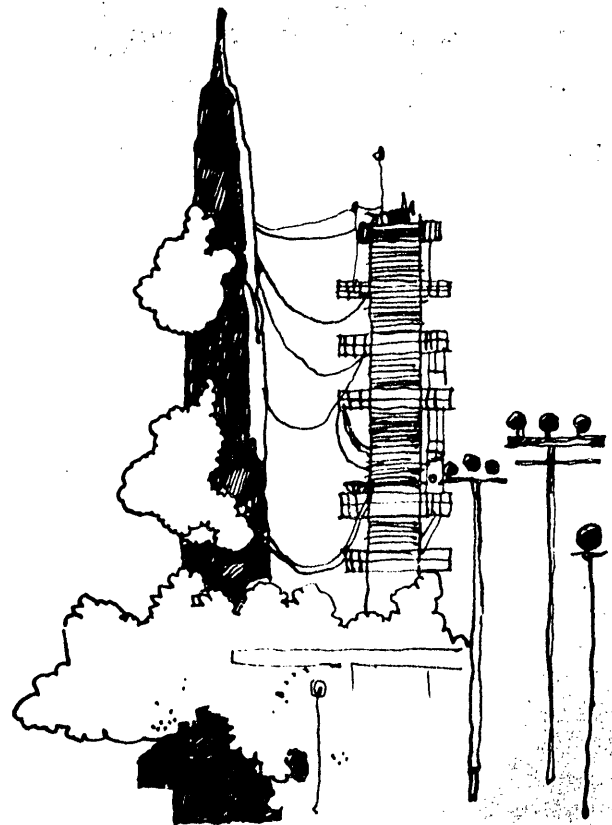
This amendment is proposed under the authority of Article 6145, Vernon's Texas Civil Statutes.

§13.22 (352.02.00.022). *Approval of Private Markers.* Privately installed markers may receive approval from the Texas Historical Commission and be listed in the Marker Guide of the said commission, but only when prescribed steps of application and compliance with [above-] stated policies of the commission are deemed acceptable by the commission.

Issued in Austin, Texas, on March 11, 1980.

Doc. No. 801987 Truett Latimer
 Executive Director
 Texas Historical Commission

Proposed Date of Adoption: April 25, 1980
 For further information, please call (512) 475-3092.



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

(Editor's note: Lengthy new sections and amendments and repeals to existing sections recently proposed by the Texas Air Control Board in its chapters of rules and regulations entitled General, Procedural, Particulates, Volatile Organic Compounds, and Permits are being published serially beginning in this issue. Listed below are the subchapter titles and section numbers within each of the above chapters affected by this action. The proposed date of adoption for the serialized proposals is after public hearing by the Texas Air Control Board. The two chapters concerning general and procedural regulations appear in this issue.)

General

§101.1 (131.01.00.001, .002)

Procedural

General

§§103.2, 103.6 (131.02.01.002, .006)

Rulemaking Hearings

§103.22 (131.02.03.002)

Initiation of Other Than Rulemaking Hearings

§103.34 (131.02.04.004)

Adjudicative Hearings

§§103.42-.49, 103.53, 103.54, 103.63-.65
 (131.02.05.002-.009, 013, .014, .023-.025)

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§111.21 (131.03.03.001)

Volatile Organic Compounds

Storage of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.101-.105 (131.07.51.101-.105)

Facilities for Loading and Unloading of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§115.111 (131.07.52.101)

Gasoline Bulk Plants in Harris County

§115.121 (131.07.53.101)

Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Bexar, Brazoria, Dallas, Galveston, Harris, and Tarrant Counties

§115.132 (131.07.54.102)

Specified Solvent-Using Processes in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.172-.176 (131.07.59.102-.106)

Surface Coating Processes in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.191, .192, .194 (131.07.60.101, .102, .104)

Alternate Means of Control in Ozone Nonattainment Areas

§115.201 (131.07.61.101)

Graphic Arts by Rotogravure and Flexographic Processes in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.201-.203

Volatile Organic Compound Exemption Status in Ozone Nonattainment Areas

§§115.211-.213 (131.07.62.101-.103)

Pneumatic Rubber Tire Manufacturing Facilities in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.211-.213

Compliance in Ozone Nonattainment Areas

§§115.221-.224 (131.07.63.101-.104)

Perchloroethylene Dry Cleaning Systems in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.221-.223

Pharmaceutical Manufacturing Facilities in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.231-.237

Fugitive Emission Control in Petroleum Refineries in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.251-.255

Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.261-.265

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§115.401

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§§115.411-.413

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§§115.421-.424

Permits

§116.3 (131.08.00.003)

Chapter 101. General

The Texas Air Control Board proposes to amend §101.1 (131.01.00.001, .002) of the general rules by adding and changing definitions in response to the U.S. Environmental Protection Agency's requirements for an approvable state implementation plan (SIP), as published in the *Federal Register* on August 1, 1979.

The proposal adds and modifies certain definitions to support the proposed new control requirements in Chapter 115. While five additional revisions and two deletions are minor clarifications, two revisions substantively affect the permit requirements of Regulation VI. These are proposed revisions to the definitions of "major source" and "major modification."

These proposed section changes involve no fiscal impact on either state or local agencies (source: agency staff).

The board has scheduled public hearings on this amendment (as well as on other rule and SIP changes published elsewhere) at the following times and places:

April 22, 1980, 7 p.m.
Jefferson County Courthouse
Criminal Courtroom, second floor
1149 Pearl Street
Beaumont

April 22, 1980, 7 p.m.
City Council Chambers
New City Hall
2 Civic Center Plaza
El Paso

April 23, 1980, 7 p.m.
Albert Pick Motor Inn
Ballroom
3301 S.W. Freeway
Houston

April 23, 1980, 6-8:45 p.m.
Arlington Public Library
101 East Abram
Arlington

April 24, 1980, 7 p.m.
Brownsville City Hall
Market Square
Brownsville

April 24, 1980, 7 p.m.
Corpus Christi-Nueces County Health Department
1702 Horne Road
Corpus Christi

Copies of the proposed changes are available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and all TACB regional offices.

Public comments on the proposed changes are invited at the hearings, both oral and written. Written testimony submitted by May 2, 1980, will be included in the hearing record. The Texas Air Control Board would appreciate receiving 15 copies of testimony prior to the hearings where possible. Written comments should be sent to the hearing examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

These section changes are proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§101.1 (131.01.00.001, .002). Definitions.

(a) In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following terms shall have the meanings given herein:

[Bulk] Gasoline *bulk* plant. A gasoline loading and/or unloading facility having a gasoline throughput less than 20,000 gallons (75,700 liters) per day, averaged over any consecutive 30-day period.

Control system. Any number of control devices, including condensers, designed and operated to reduce the quantity of VOC emitted to the atmosphere.

Critical impact. A ground level concentration of an air contaminant (other than volatile organic compounds), for which a national ambient air quality standard has been issued and which is predicted to occur at any point at which such standard is exceeded or may be expected to be exceeded as a result of the operation of any new major stationary source or of the operation of any existing source which has undergone a major modification, which exceeds one or more of the following amounts:

<u>AIR CONTAMINANT</u>	<u>ANNUAL</u>	<u>24-HOUR</u>	<u>8-HOUR</u>	<u>3-HOUR</u>	<u>1-HOUR</u>
TOTAL SUSPENDED PARTICULATE	<u>1.0 $\mu\text{g}/\text{m}^3$</u>	<u>5 $\mu\text{g}/\text{m}^3$</u>			
SULFUR DIOXIDE	<u>1.0 $\mu\text{g}/\text{m}^3$</u>	<u>5 $\mu\text{g}/\text{m}^3$</u>		<u>25 $\mu\text{g}/\text{m}^3$</u>	
NITROGEN DIOXIDE	<u>1.0 $\mu\text{g}/\text{m}^3$</u>				
CARBON MONOXIDE			<u>0.5 mg/m^3</u>		<u>2 mg/m^3</u>

Crude oil. A naturally occurring principally hydrocarbon mixture which is a liquid in the reservoirs and at standard conditions it may contain sulfur, nitrogen, and/or oxygen or other naturally occurring constituents.

Dry cleaning facility. A facility engaged in the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves.

Graphic arts (printing). The formation of words, designs, and pictures, usually by a series of application rolls each with only partial coverage.

(A) **Flexographic printing.** The application of words, designs, and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(B) **Packaging rotogravure printing.** Rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates that are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(C) **Publication rotogravure printing.** Rotogravure printing upon paper that is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(D) **Roll printing.** The application of words, designs, and pictures to a substrate, usually by means of a series of hard rubber or steel rolls, each application having only partial coverage.

(E) **Rotogravure printing.** The application of words, designs, and pictures to a substrate by means of a roll printing technique which involves an intaglio or recessed image areas in the form of cells.

Internal floating cover [roof]. A cover or floating roof in a fixed roof tank which rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover [roof] edge and tank shell.

Liquid-mounted seal. A primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof around the circumference of the tank.

[Liquefied petroleum gas. Propane or butane, or any combination thereof, in the liquid state.]

Major modification. Any modification to an existing stationary source which increases [(1) potential emissions by 100 tons per year, 2,000 pounds per day, 200 pounds per hour or more; and (2) actual or allowable emissions (including, for nonattainment areas, emissions accumulated from permit applications and exemption requests received on or after December 21, 1976) by 100 [50] tons per year, 1,000 pounds per day, or 100 pounds per hour] or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Major stationary source. Any stationary source which [(1) emits, or has the potential to emit, 100 tons per year, 2,000 pounds per day, 200 pounds per hour or more; and (2) which has, or will have, actual or allowable emissions (in-

cluding, for nonattainment areas, emissions accumulated from permit applications and exemption requests received on or after December 21, 1976) of 100 [50] tons per year, 1,000 pounds per day, or 100 pounds per hour] or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Petroleum refinery. Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of crude oil, or through the redistillation, cracking, extraction, [or] reforming, or other processing of unfinished petroleum derivatives.

Pneumatic rubber tire manufacturing terms.

(A) **Bead dipping.** The dipping of an assembled tire bead into a solvent-based cement.

(B) **Green-tire spraying.** The spraying of a green tire, both inside and outside, with release compounds which help remove air from the tire during molding and prevent it from sticking to the mold after curing.

(C) **Green tires.** Assembled tires before molding and curing have occurred.

(D) **Pneumatic rubber tire.** An air-inflated rubber, passenger-type tire for agricultural, airplane, industrial, mobile home, light- and medium-duty truck, and passenger vehicles with a bead diameter up to 20 inches and cross-section dimension up to 12.8 inches.

(E) **Tread-end cementing.** The application of a solvent-based cement to the ends of tire treads.

(F) **Undertread cementing.** The application of a solvent-based cement to the underside of a tire tread.

(G) **Water-based sprays.** Release compounds, sprayed on the inside and outside of green tires, in which solids, water, and emulsifiers have been substituted for organic solvents.

[Potential to emit. The capability at maximum capacity to emit a contaminant in the absence of air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control requirements, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.]

Property. All contiguous land under common control or ownership [on which any source or combination of sources is located], coupled with all improvements on such land, and all fixed or moveable objects on such land, or any vessel on the waters of this state [which may constitute a source].

Reactor. A vat or vessel, which may be jacketed to permit temperature control, designed to contain chemical reactions.

Separation operation. A process that separates a mixture of compounds and solvents into two or more components. Specific mechanisms for such separation include extraction, centrifugation, filtration, and crystallization.

[Significant contribution. A ground level concentration of an air contaminant (other than volatile organic compounds), for which a national ambient air quality standard has been issued and which is predicted to occur at any point at which such standard is exceeded or may be expected to be

exceeded as a result of the operation of any new major stationary source or of the operation of any existing source

which has undergone a major modification, which exceeds one or more of the following amounts:

<u>Air Contaminant</u>	<u>ANNUAL</u>	<u>24-HOUR</u>	<u>8-HOUR</u>	<u>3-HOUR</u>	<u>1-HOUR</u>
Total Suspended Particulate	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$			
Sulfur Dioxide	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$		25 $\mu\text{g}/\text{m}^3$	
Nitrogen Dioxide	1.0 $\mu\text{g}/\text{m}^3$				
Carbon Monoxide			0.5 mg/m^3		2 mg/m^3

Surface coating processes. Continuous or assembly-line surface coating operation using solvent-containing liquids.

(A)-(I) (No change.)

(J) *Miscellaneous metal parts and products coating.* The coating of miscellaneous metal parts and products in the following categories:

(i) *large farm machinery (harvesting, fertilizing, and planting machines, tractors, combines, etc.);*

(ii) *small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);*

(iii) *small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);*

(iv) *commercial machinery (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);*

(v) *industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);*

(vi) *fabricated metal products (metal covered doors, frames, etc.); and*

(vii) *any other category of industrial sources except the specified list in subparagraphs (A)-(I) of this section which coats metal parts or products under the standard industrial classification code of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (nonelectrical machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries).*

(K) *Factory surface coating of flat-wood paneling.* The coating of flat-wood paneling products, involving any of the following:

(i) *Class II hardboard paneling finish.* A finish which meets the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.

(ii) *Hardboard.* A panel manufactured primarily from ligno-cellulosic fibers consolidated under heat and pressure in a hot press.

(iii) *Hardwood plywood.* Plywood with a surface veneer of hardwood.

(iv) *Natural-finish hardwood plywood panels.* Hardwood plywood panels with the original grain pattern enhanced by essentially transparent finishes, frequently supplemented by fillers and toners.

(v) *Particleboard.* Manufactured board made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure. Thin particleboard means sheets 1/4 inch (0.64 cm) or less in thickness.

(vi) *Printed interior panels.* Panels with the grain or natural surface obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(vii) *Tileboard.* Paneling that has a colored, waterproof surface coating.

Surface coating terms.

(A) *Air dried coating.* A coating which is dried by the use of air or a forced-air drier.

(B) *Clear coat.* A coating which is transparent or lacks color and opacity.

(C) *Coating application system.* All operations and equipment which applies, conveys, and dries a surface coating, including but not limited to spray booths, flow coaters, flashoff areas, air dryers, and ovens.

(D) *Extreme performance coating.* A coating designed for harsh exposure of extreme environmental conditions including exposure to any one of the following: continuous weather, temperatures consistently above 203°F (95°C), detergents, abrasive and scouring agents, solvents, corrosive atmospheres, or similar environmental conditions.

(E) *Prime coat.* The first of two or more films of coating applied to a metal surface.

(F) *Single coat.* One film coating applied to metal surface.

(G) *Topcoat.* The final film or series of films of coating applied in a two-coat (or more) operation.

Synthesized pharmaceutical manufacturing.

Manufacture of pharmaceutical products by chemical synthesis.

Vapor-mounted seal. A primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof or cover.

Vapor tight. Not capable of allowing the passage of gases at the pressures encountered *except where specific procedures are referenced or described within Regulation V (Chapter 115) for acceptable leak-tight conditions.*

Volatile organic compound (VOC). Any compound of carbon or mixture of carbon compounds excluding methane, ethane, [methyl chloroform,] Freon 113, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

Waxy, high pour point crude oil. A crude oil with a pour point of 50°F (10°C) or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) (No change.)

Doc. No. 802120

Chapter 103. Procedural

The Texas Air Control Board proposes to adopt three new sections and to amend certain existing procedural sections to facilitate the just administration and enforcement of the air laws of the state and the rules of the agency. The changes are proposed primarily to incorporate the 1977 amendments to the Administrative Procedure and Texas Register Act.

The proposed amendments and new sections, if adopted, would add no new enforcement costs, according to staff estimates. No additional funding, therefore, would be required for the Texas Air Control Board or other state and local agencies.

The Texas Air Control Board has scheduled public hearings on these proposed sections and amendments to be held at the following times and places:

April 22, 1980, 7 p.m.
City Council Chambers
New City Hall
2 Civic Center Plaza
El Paso 79901

April 22, 1980, 7 p.m.
Jefferson County Courthouse
Criminal Courtroom, second floor
1149 Pearl Street
Beaumont 77701

April 23, 1980, 6 p.m.
Arlington Public Library
101 East Abram
Arlington 76010

April 23, 1980, 7 p.m.
Albert Pick Motor Inn
Ballroom
3301 Southwest Freeway
Houston 77098

April 24, 1980, 7 p.m.
Corpus Christi-Nueces County Health Department

1702 Horne Road
Corpus Christi 78405

April 24, 1980, 7 p.m.
Brownsville City Hall
Market Square
Brownsville 78520

Copies of the proposed changes are available at the Central Office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and all regional offices. Public comments on these proposed changes are invited, both oral and written. Written testimony submitted by May 2, 1980, will be included in the hearing record. The Texas Air Control Board would appreciate receiving 15 copies of testimony prior to the hearings where possible. Written comments should be sent to the hearing examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

General

This amendment and new section are proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§103.2 (131.02.01.002). Filing with Agency. Wherever these sections require the filing of any document with the board, the executive director, the hearing examiner, or other employee of the board, such document is to be addressed to the appropriate person and mailed or delivered to the Central Office of the Texas Air Control Board located at **6330 Highway 290 East** [8520 Shoal Creek Boulevard], Austin, Texas **78723** [78758]. Documents required to be filed with the hearing examiner may be delivered personally. **Documents shall be deemed timely filed in the following two instances:**

(1) *when actually received by the designated hearing examiner, executive director, board, or other employee of the board on or prior to the deadline for filing the documents; or*

(2) *if sent by U.S. mail, certified or registered, postage prepaid, properly addressed and a postmark or other evidence satisfactorily demonstrates that the documents were mailed at least one day prior to the deadline for filing the documents and the documents were actually received within 72 hours after the deadline for filing. Except as to the time for filing of a motion for rehearing relating to a decision by the Texas Air Control Board, the executive director of the hearing examiner shall have the right to waive the compliance with filing deadlines for good cause.*

§103.6 (131.02.01.006). Consolidated Hearing. Consistent with notices required by law, the executive director or the board may consolidate related matters or contested case hearings if no party objects and the consolidation will not injure any party and may save time and expense or benefit the public interest or welfare.

Doc. No. 802121

Rulemaking Hearings

This amendment is proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§103.22 (131.02.03.002). Petition for Adoption of Rules. Any interested person may petition the Texas Air Control Board requesting the adoption of a section. Such requests shall be made by a petition filed with the executive director. The petition shall be considered to be in proper form if it identifies the person seeking the adoption of a section, states a text of the proposed section, and contains a justification of the proposed section in narrative form with sufficient particularity to inform the board and any interested party of the facts upon which the applicant relies. Within 15 days of the filing of the petition, the executive director shall notify the petitioner in writing of his disposition of the petition. If the petition is denied, a copy of the petition and a statement of the reasons for denial shall be furnished to all members of the board at the time they are mailed to the petitioner. Unless the board acts within 45 days of the date of the denial, the decision of the executive director shall become final. If the executive director determines to grant the petition, the matter shall be referred to the Regulation Development Committee and then placed on the agenda of the board pursuant to §103.72 (131.02.06.002) for board action. If the petition is granted, the executive director shall initiate rulemaking procedures within 60 days after submission of the petition. If the board agrees with the executive director's decision, rulemaking procedures shall be initiated within 60 days after submission of the petition. If the board does not agree that the petition should be granted, then the petition is denied and the decision of the board is final.

Doc. No. 802122

Initiation of Other Than Rulemaking Hearings

This amendment is proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§103.34 (131.02.04.004). Docket of Hearings. As each hearing is called, the *Hearings Section* [executive director] shall designate it by consecutive numbers, called a hearing number, and shall keep a record which will show in convenient form the number of the hearing, the place and time of the hearing, the names of attorneys, the names of all parties to the hearing, the nature of the hearing, and all subsequent proceedings in the matter with the dates thereof.

Doc. No. 802123

Adjudicative Hearings

These sections and amendments to existing sections are proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§103.42 (131.02.05.002). Hearing Examiner.

(a) *Examiners shall be designated to preside at hearings and to report to the board on such hearing in the manner provided by law. In any adjudicative hearing, the examiner shall have no other duties concerning the hearing and shall be considered to be assisting the board in its decision-making function. The examiners shall have no prosecuting duties with the agency and shall act independently of the staff in an impartial manner. A hearing examiner assigned to a particular proceeding or case shall have the authority to:*

- (1) convene the hearing;
 - (2) administer oaths to all persons presenting testimony;
 - (3) rule on motions;
 - (4) rule on the admissibility of evidence;
 - (5) designate and align parties and establish the order for presentation of evidence;
 - (6) examine witnesses;
 - (7) set hearing dates;
 - (8) set prehearing conferences;
 - (9) issue subpoenas when required to compel the attendance of witnesses, or the production of papers and documents related to the hearing;
 - (10) commission and require the taking of depositions;
 - (11) define the jurisdiction of the board concerning the matter under consideration;
 - (12) limit testimony to matters under the board's jurisdiction;
 - (13) ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing any rights of parties to the proceeding;
 - (14) recess or continue any hearing over which he is presiding from time to time and from place to place; and
 - (15) exercise any other appropriate powers necessary or convenient to carry out his responsibilities.
- (b) *If a hearing examiner fails to complete an assigned case before a final order is rendered, the director of hearings may appoint another examiner on the hearings staff to complete the assigned case without the necessity of duplicating any duty or function performed by the previous examiner.*

[A member of the staff of the Texas Air Control Board may be designated by the executive director as hearing examiner. In any adjudicative hearing, the examiner shall have no other duties concerning the hearing and shall be considered to be assisting the board in its decision-making function. The examiner must be one who has no duties with the agency of a prosecutorial nature and shall act independently of the staff in an impartial manner.]

§103.43 (131.02.05.003). Parties to the Hearing. The staff of the Texas Air Control Board and all persons named in the hearing notice are parties to the hearing. In any adjudicative hearing the notice shall set a time limit [not less than 10 days from the date the notice is issued by the executive director or the board] within which any other interested persons may apply in writing to the hearing examiner to be admitted as a party to the hearing. *Except for good cause*, no person shall be admitted as a party unless the written request is received in the office of the Texas Air Control Board in Austin, Texas, by the time set in the notice. The hearing examiner shall admit all interested persons who make timely application and shall so notify in writing or by telephone if necessary the persons admitted. At the hearing only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. The executive director shall determine by who and in what manner the staff will be represented at a hearing.

§103.44 (131.02.05.004). Appearances by Party (Announcements).

(a) All persons who have qualified as parties pursuant to §103.43 (131.02.05.003) of this title who have appeared at the prehearing conference(s), if any, under §103.46 (131.02.05.006) of this title and who desire to participate in a hearing as a party shall announce their presence orally to the hearing examiner at the commencement of the hearing.

(b) *Except for good cause, the applicant or petitioner or representative thereof shall appear at the public hearing. Failure to so appear may be grounds for withholding consideration of a matter or for dismissal with prejudice.*

§103.45 (131.02.05.005). Rights of Parties.

(a) All parties to a hearing may appear in person or may be represented by an attorney or other individual. Any party shall have the right to request the issuance of a subpoena and to take depositions in conformance with Section 14 of the Administrative Procedure and Texas Register Act. Any costs incident to such prehearing discovery shall be paid by the party requesting the subpoenas or taking the depositions. The *hearing examiner* [executive director] shall have the authority to issue subpoenas and commissions necessary to effectuate the purposes of the Administrative Procedure and Texas Register Act. *The executive director shall have the authority to permit entry upon designated land pursuant to Section 14(a) of the Administrative Procedure and Texas Register Act.* Hearings will be conducted in a manner the hearing examiner deems most suitable to the particular proceeding and the examiner shall determine the order of presentation by the parties. Where practicable, the examiner may align the parties as proponents and opponents and limit participation in a manner designed to allow equal representation of the position of both the proponents and opponents. Parties or their representatives will be given the opportunity to present evidence, examine and cross-examine witnesses, and present oral argument.

(b) *Every party, witness, attorney, or other representative shall comport himself in all proceedings with proper dignity, courtesy, and respect for the examiner and the other participants. Disorderly conduct will not be tolerated. Attorneys must conform to the standards of ethical behavior required by the Code of Professional Responsibility of the State Bar of Texas. Violation of this rule shall be sufficient cause for the presiding examiner to recess the hearing, and deny the offending person the right to participate further in the proceeding for a period of time, prescribe conditions for his participation, or take such other action as may be necessary for the hearing to proceed.*

§103.46 (131.02.05.006). Prehearing Conference.

(a) The hearing examiner *may* [shall] hold a prehearing conference prior to any adjudicative hearing. [The conference may be held at any time prior to the hearing.] The examiner shall set the time and location of the conference and give reasonable notice thereof to all parties. At the discretion of the examiner, persons other than parties may attend prehearing conferences. At the discretion of the examiner, additional prehearing conferences may be scheduled.

(b) *The hearing examiner may direct that one or more of the following be transmitted by each party to all other parties or their representatives and to the hearing examiner by a date established by the hearing examiner*

[At the prehearing conference, all parties shall submit the following]:

(1) a list of witnesses the party desires to testify *with* [and] a brief *narrative* summary of their *expected* [prospective] testimony;

(2) a written statement of the disputed issues for consideration at the hearing;

(3) *a copy of any written statements to be offered at the hearing* [if written statements are to be offered, a copy of each such statement]; and

(4) *a copy of any other written testimony or evidence the party intends to use at the hearing.*

(c) Witnesses and proposed written evidence may be added and narrative summaries of expected testimony amended at the hearing only upon a finding of the hearing examiner that good cause existed for failure to *exchange* [introduce] the additional or amended material *by the established date* [at the prehearing conference].

(d) At any prehearing conference, *or in the prehearing conference summary*, the hearing examiner:

(1) may obtain stipulations and admissions, and otherwise identify matters on which there is agreement;

(2) shall identify disputed issues for consideration at the hearing;

(3) may consider and rule upon objections to the introduction into evidence at the hearing of any written testimony, documents, papers, exhibits, or other materials;

(4) may identify matters of which official notice may be taken;

(5) may strike issues not material or not relevant; and

(6) may consider any other matter that may expedite the hearing or aid in the disposition of the matter.

(e) The results of any prehearing conference shall be summarized in writing by the hearing examiner and made part of the record.

§103.47 (131.02.05.007). Continuance of Hearing [at Prehearing Conference]. [At the prehearing conference,] On his own motion or on the motion of any party on good cause shown, the hearing examiner may postpone *a* [the] hearing for a later time. If the time and place for the hearing *are* [is] not announced at *a prehearing* [the] conference, notice of *the new* [any further] setting shall be mailed to the parties at a reasonable time prior to the new setting. In that event, a member of the staff of the agency *or any other person designated by the hearing examiner* shall appear at the time and place set out in the original notice of hearing and announce publicly the postponement of the hearing and the new setting if known. If the new setting is unknown, he shall so announce and request the names and mailing addresses of any persons who desire to have written notice of the new setting. The list of any persons desiring notice of the new setting will be transmitted to the examiner who will so notify the persons at the time he notifies the parties. The examiner may schedule an additional prehearing conference prior to the new setting on reasonable notice to all parties *or their representatives*.

§103.48 (131.02.05.008). Continuance at Hearing. [Unless the hearing is postponed at the prehearing conference, the hearing examiner shall conduct the hearing at the time and place stated in the notice.] *During the hearing*, the examiner may continue the hearing from time to time and from place to place without the necessity of publishing, serving,

mailing, or otherwise issuing new notice. If the continuance of a hearing or the time and place therefor are not publicly announced by the examiner at the hearing before it is recessed, a notice of any further setting of the hearing shall be mailed to the parties and persons present who request such notice at a reasonable time prior to the new setting, but it is not necessary to publish a newspaper notice of the new setting.

§103.49 (131.02.05.009). Testimony.

(a) The testimony presented at a hearing shall be confined to the subject matter designated in the notice. In contested cases, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by prudent men in the conduct of their affairs. The examiner shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, if a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(b) *Testimony will be received only from witnesses called by a party or his representative or the examiner. Any person whose position is not adequately represented by any party, but who wishes to offer his own testimony may become a witness for the hearing examiner, subject to cross-examination by all parties or their representatives, by filing with the examiner a written request to be called as the examiner's witness together with a short summary of the testimony to be offered. Such testimony may be allowed at the hearing examiner's discretion; provided, however, that the failure of a witness to file such request and summary of testimony with the hearing examiner and the parties or their representatives by a reasonable time prior to the hearing shall authorize, but not require, exclusion of his testimony.*

§103.53 (131.02.05.013). Proposal for Decision [Hearing Examiner's Report] in Contested Cases.

(a) *After closing the hearing for receipt of evidence, the hearing examiner shall prepare a written report of the hearing summarizing the evidence adduced at the hearing, setting forth a proposed decision and the reasons therefor, and making findings of fact and conclusions of law necessary to the proposed decision as provided by Section 15 of the Administrative Procedure and Texas Register Act. A copy of such report and proposed decisions shall be served by the hearing examiner on each party or his representative. Copies shall be served on members of the board at the time of service on the parties. The examiner's proposal for decision may be amended pursuant to the exceptions and/or briefs submitted by the parties or their representatives without again being served on the parties or their representatives.*

(b) *The hearing examiner may request that any party or his representative draft and submit a proposed order which shall include proposed findings of fact and conclusions of law separately stated. In making such a request, the hearing examiner will indicate to all parties the general nature of the intended proposal or final decision*

to be drafted. The proposed order shall be circulated among the parties or their representatives.

§103.54 (131.02.05.014). Exceptions and Briefs.

(a) Any party may, within 20 days after the date of mailing of a proposed decision, file with the board and the hearing examiner exceptions to the proposed decision and relevant briefs by delivering or mailing 15 copies to the central office of the Texas Air Control Board, located at **6330 Highway 290 East** [8520 Shoal Creek Boulevard], Austin, Texas **78723** [78758]. *Any replies to exceptions or briefs shall be filed in the same manner within 30 days after the date of mailing of a proposed decision.* The points presented in all exceptions and briefs shall be concisely stated. The evidence in support of each point shall be summarized and any proposed findings of fact must be submitted at the time of filing exceptions and briefs. Complete citations to the page number of the record or exhibit shall be given. Briefs shall contain tables of contents and authorities. Prior to the issuance of a proposed decision, briefs may be filed only when requested or permitted by the hearing examiner. *Copies of exceptions and/or briefs filed shall be served promptly on all other parties or their representatives with notation of service furnished to the hearing examiner. Failure to provide copies may be grounds for withholding consideration of the exceptions or briefs.*

(b) *Prior to the issuance of a proposal for decision, the hearing examiner may allow each party the opportunity to submit written briefs or other arguments on specified issues of fact or law. The hearing examiner shall notify each party of the particular issues for which the arguments shall be submitted and the time limits for submission. A party submitting a brief or other argument shall be required to furnish a copy to all other parties or their representatives so as to afford all parties reasonable opportunity to submit cross-briefs or other arguments in support or opposition. Notation of service on all parties or their representatives is required to be furnished to the examiner. Failure to provide copies may be grounds for withholding consideration of the briefs. If necessary, the hearing examiner may extend the time limit for submission upon a showing of good cause.*

§103.63 (131.02.05.023). Ex Parte Consultations. Unless required for the disposition of ex parte matters authorized by law, members of the board or employees of the board assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of fact or law with any **agency, person,** party or its representative, except on notice and opportunity for all parties to participate. *However, pursuant to the authority provided in Section 14(q) of the Administrative Procedure and Texas Register Act, the board members or employees of the board assigned to render a decision or to make findings of fact and conclusions of law in a contested case may communicate ex parte with employees of the board who have not participated in any hearing in the case for the purpose of utilizing the special skills of the agency and its staff in evaluating the evidence.*

§103.64 (131.02.05.024). Official Notice. Official notice may be taken of all facts judicially cognizable. In addition, official notice may be taken of generally recognizable facts within special knowledge of the agency. All parties shall be notified either before or during the hearing, or by reference in

preliminary reports, drafts of orders or otherwise, of any material officially noticed, including any staff memoranda or data; all parties must be afforded an opportunity to contest the material so noticed.

§103.65 (131.02.05.025). *Agreements to be in Writing.* Evidence may be stipulated by written agreement of all parties; however, the presiding hearing examiner or the board, consistent with Rule 131.02.05.018, may require full proof of any facts. No stipulation or agreement between the parties, their attorneys or representatives, with regard to any matter involved in any proceeding before the agency shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representative, or unless it shall have been dictated into the record by them during the course of a hearing or incorporated in an order bearing their written approval.

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802124 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Proposed Date of Adoption: After public hearing
For further information, please call (512) 451-5711, ext. 354.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 15. Drivers License

Application Requirements—Original, Renewal, Duplicate, Identification Certificates

The Texas Department of Public Safety proposes to amend §§15.34 and 15.36 (201.08.02.014 and .016) relating to renewal period prior to expiration and applications for duplicates and corrections of Texas driver's license. Amendment 1 would delete the statement of legal authority from the sections as it appears immediately preceding the text of the sections. Amendment 2 adds and deletes language of §15.34 (.014) which removes the waiting period for the public in renewing a provisional license and an instruction permit. Amendment 3 changes the 10-day requirement for reporting change of licensee name or address to 30 days. This amendment is based on statutory amendments to Vernon's Civil Statutes.

The staff of the Texas Department of Public Safety has determined that there are no fiscal implications for the state or units of local government as the amendments apply to renewal periods prior to expiration and reporting of change of name or address.

Comments on the proposed amendments of §§15.34 and 15.36 (.014 and .016) are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 465-2000. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments to §15.34 (.014) are proposed pursuant to Vernon's Civil Statutes, 6687b, Section 18. Amendments to §15.36 (.016) are proposed pursuant to Vernon's Civil Statutes, 6687b, Section 14.

§15.34 (201.08.02.014). *Renewal Period Prior to Expiration.* [The following rule is promulgated under Vernon's Civil Statutes, 6687b, Section 18.]

(a) Provisional licenses normally are not renewed more than 30 days before expiration; all others may normally be renewed 90 days before expiration.

(b) Any type license, except as otherwise noted, may be renewed 90 days before expiration date. Earlier renewals will be accepted for good cause.

(1) An application for the renewal of a provisional license will not be accepted more than 30 days in advance of the expiration date, the 18th birthday, **unless the licensee has received the renewal notice.**

(2) An instruction permit may be renewed anytime [after receipt of the permit from License Issuance and Driver Records] for the appropriate photo-type license. If renewed, an instruction permit must be renewed for the appropriate type photograph license at the time the learner's restriction is removed or upon its expiration. It will not be renewed for another instruction permit, but may be renewed as a learner's license with the appropriate restriction.

§15.36 (201.08.02.016). *Applications for Duplicates and Corrections.* [The following rule is promulgated under Vernon's Civil Statutes, 6687b, Section 14.]

(a) A licensee is required to notify the department of any change of name or address within ~~30~~ 10 days and apply for a duplicate license when such change occurs.

(b) (No change.)

Doc. No. 802002

Examination Requirements

The Texas Department of Public Safety proposes to amend §§15.53, 15.54, and 15.58 (201.08.03.003, .004, and .008) relating to Texas drivers license examination requirements. Amendment 1 would delete the statement of legal authority from the sections as it appears immediately preceding the text of the sections. Amendment 2 adds and deletes language of §15.53 (.003) which clarifies classification of vehicles used in a road test for an unrestricted commercial operator's or unrestricted chauffeur's license which is Restriction Code F. Amendment 3 updates and removes language of §15.54 (.004) regarding states that have a vehicle inspection law similar to that of the State of Texas and are accepted in lieu of by reciprocal agreement. Amendments to §15.58 (.008) remove and add language making certain physical and mental condition referrals to the Medical Advisory Board to be less restrictive as they apply to within the past three years in lieu of these conditions that ever existed.

The staff of the Texas Department of Public Safety has determined that there are no fiscal implications for the state or units of local government as the amendments apply to examination requirements.

Comments on the proposed amendments of §§15.53, 15.54, and 15.58 (.003, .004, and .008) are invited. Comments may

be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 465-2000. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments to §15.53 (.003) are proposed pursuant to Vernon's Civil Statutes 6687b, Section 3, paragraph 5, and Section 10. Amendments to §15.54 (.004) are proposed pursuant to Vernon's Civil Statutes 6701d, Article XV, Section 141. Amendments to §15.58 (.008) are proposed pursuant to Vernon's Civil Statutes 6687b, Section 10 and Section 18(c) and (d).

§15.53 (201.08.03.003). Types of Vehicles for Road Test. [The following rule is promulgated under Vernon's Civil Statutes, 6687b, Section 10 and Section 3, paragraph 5.] The department classifies vehicles for road testing to determine the applicant's ability to operate that type vehicle.

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

(3) The road test for an unrestricted commercial operator's or unrestricted chauffeur's license must be conducted in any motor vehicle, except motorcycle, which has a manufacturer's rated carrying capacity exceeding 2,000 pounds [or a motor vehicle with an original seating space exceeding 12 passengers and manufacturer's rated carrying capacity over one ton]. If a person applies for a chauffeur's license and wants to take the test in something smaller than a vehicle with a manufacturer's rated carrying capacity of [over] one ton or *less* [a bus with a seating space of 12 passengers or less], the license *will* [would] be restricted to "**vehicles not exceeding MRCC of 2,000 pounds**" ["motor vehicles not exceeding original seating for 12 passengers and manufacturer's rated carrying capacity of one ton"]. This will cover school bus drivers driving buses *with a* [under one ton] manufacturer's rated carrying capacity *of one ton or less* [having a capacity of 12 passengers or less], as well as taxi and ambulance drivers.

§15.54 (201.08.03.004). Vehicle Inspection. [The following rule is promulgated under Vernon's Civil Statutes, 6701d, Article XV, Section 141.] The department inspects vehicles prior to road testing to determine if such vehicle meets the requirements of law and is safe to operate on a public street or highway.

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

(3) Vehicle inspection.

(A) Inspection certificate.

(i) Current Texas vehicle inspection certificate properly affixed for all motor vehicles registered in Texas; or

(ii) A valid out-of-state inspection certificate from one of the following states: Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, [Idaho,] Indiana, Iowa, [Kentucky,] Louisiana, Maine, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, [New Mexico,] New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, [South Dakota,] Utah, Vermont, Virginia, West Virginia, [Wyoming]. [Inspection certificates from these jurisdictions are approved by reciprocal agreement.]

(iii) No inspection certificate is required for a Texas registered vehicle which was out of the State of Texas during an inspection period during the first trip to the home station or destination in Texas and for three days thereafter.

(B)-(G) (No change.)

§15.58 (201.08.03.008). Medical Advisory Board Referrals. Persons applying for or holding a Texas drivers license and having a physical or mental condition, the extent of which cannot be determined by the department, are referred to the Medical Advisory Board for further evaluation.

(1) Guidelines for referral for physical conditions are:

(A) (No change.)

(B) Cardiovascular diseases.

(i) Heart diseases:

(I) if applicant for commercial operator's or chauffeur's license (unless restricted to single unit vehicle not to exceed 24,000 pounds gross or combination of vehicles of which the towing vehicle does not exceed 24,000 pounds gross; lower risk local areas, private chauffeur, or similar restrictions which do not permit regular cargo or passenger transport driving) has [ever] had a heart attack *within the past three years*;

(II) if applicant for operator's license, or commercial operator's or chauffeur's license with restrictions noted in subclass (I) of this clause has had a heart attack during the past year or is under the care of a physician.

(ii) Cerebral vascular diseases—strokes, cerebral hemorrhage, or clots:

(I) if applicant for commercial operator's or chauffeur's license with restrictions noted in subclass (I) of this clause has [ever] had an episode of loss of consciousness with or without convulsions *within the past three years*, has [ever] "blacked out" for any reason *within the past three years*, or is under the care of a physician;

(II) if applicant for operator's license, or commercial operator's or chauffeur's license with restrictions noted in subclass (I) of this clause has had a single episode, or recurrent episodes, of loss of consciousness with or without convulsions in the past year, has "blacked out" for any reason in the past year, or is under the care of a physician.

(iii)-(iv) (No change.)

(C) Diabetes mellitus:

(i) if applicant for commercial operator's or chauffeur's license with restrictions noted in subparagraph (B)(i)(I) of this paragraph is taking insulin injections, has [ever] "blacked out" or lost consciousness *within the past three years*, or is under the care of a physician;

(ii) if applicant for operator's license, commercial operator's, or chauffeur's license with restrictions noted in subparagraph (B)(i)(I) of this paragraph has had an insulin or hypoglycemic reaction (insulin shock) in the past year, has "blacked out" or lost consciousness in the past year, or is under the care of a physician.

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

(2) Guidelines for referral for mental or emotional disorders are:

(A) Neurological disorders. All applicants who have *had an epileptic seizure within the past three years* [epilepsy] or are under the care of a physician for any other seizure, dizzy spell, or similar disorder.

(B) Mental patients. All applicants, as follows:

(i) involuntary mental patient committed for indefinite hospitalization;

(ii) involuntary mental patient with a guardian appointed;

(iii) all other mental patients *if treated for mental, nervous, or emotional conditions within the past three years*.

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

Doc. No. 802003

Chapter 23. Vehicle Inspection

Vehicle Inspection Station Licensing

The Texas Department of Public Safety is proposing to amend §§23.5, 23.7, and 23.14 (201.12.01.005, .007, and .014) relating to specific equipment requirements and licensing of vehicle inspection stations. Proposed amendment 1 will delete the requirement for a stand to hold two-wheeled vehicles stated in §23.5 (.005). Proposed amendment 2 will add additional measurements on a measuring device required in vehicle inspection stations stated in §23.7 (.007). Proposed amendment 3 will delete the requirement for submission of Form VI-3 stated in §23.14 (.014) for renewal of vehicle inspection station license.

The staff of the Texas Department of Public Safety has determined there are no fiscal implications involved in the proposed amendments relating to licensing of vehicle inspection stations.

Comments on the proposed amendments are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, 6701d, Article XV, Section 141.

§23.5 (201.12.01.005). Specific Requirements for Motorcycle Vehicle Inspection Stations. Motorcycle inspection area. The inspection area shall be at least eight feet by 10 feet if a headlamp tester is used, or at least eight feet by 35 feet if a screen is used for inspecting headlamps.

(1) Each area shall have a stand to hold two-wheeled vehicles perpendicular to the plane of the floor, so that the headlamp can be correctly inspected.

(2) A motorcycle vehicle inspection station shall have a 1/4-inch round paper punch for punching trailer-motorcycle inspection certificates.

§23.7 (201.12.01.007). Equipment Requirements for All Classes of Vehicle Inspection Stations.

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

(f) Each vehicle inspection station is required to own and maintain, as a minimum, the equipment listed below:

(1) tools for making tests, repairs, and adjustments ordinarily encountered on those types of vehicles to be inspected;

(2) a measured and marked brake test area which has been approved by the department, or an approved brake inspecting device;

(3) a measuring device clearly indicating measurements of **12 inches**, 15 inches, 20 inches, 24 inches, **54 inches**, 60 inches, 72 inches, and 80 inches to measure reflector height, clearance lamps, side marker lamps, and turn signal lamps on all vehicles; motorcycle vehicle inspection stations are not required to have an 80-inch measure;

(4) a laundry marking pen for completing the reverse side of the windshield inspection certificate;

(5) a squeegee for properly applying inspection certificate;

(6) a scraping device for removing the old inspection certificate;

(7) a gauge for measuring tire tread depth;

(8) a 1/4-inch round hole punch if motorcycle-trailer certificates are issued; and

(9) a brake pedal reserve checker with one-inch and two-inch clearances.

§23.14 (201.12.01.014). Vehicle Inspection Station License Renewal.

(a) Forms required. To obtain renewal of the vehicle inspection station license, the following shall be submitted to the department:

(1) the application for renewal, Form VI-3;

(2) the signature card, Form VI-13; and

(3) the statutory licensing fee of \$30.

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

Doc. No. 802004

General Inspection Requirements

The Texas Department of Public Safety is proposing to amend §23.25 (201.12.02.005) relating to safeguarding of inspection certificates. Proposed amendments delete the word "inspection" when used with certificates. Language is added to subsection (c) clarifying certificates that are removed from the vehicle. The language of the section will apply to safeguarding certificates at vehicle inspection stations.

The staff of the Texas Department of Public Safety has determined there are no fiscal implications involved in the proposed amendments relating to safeguarding certificates.

Comments on the proposed amendments are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, 6701d, Article XV, Section 142.

§23.25 (201.12.02.005). Safeguarding [Inspection] Certificates.

(a) Vehicle inspection station owners and operators are responsible for all [inspection] certificates issued to them. Adequate facilities shall be provided for safeguarding all [inspection] certificates. The inspection certificates shall be kept under lock and key at all times in a metal box or a secure container with a locking device.

(b) Vehicle inspection stations may not furnish, give, loan, or sell [inspection] certificates to any other vehicle inspection station. A vehicle inspection station's failure to have an adequate supply of [inspection] certificates on hand at all times during the inspection year shall be cause for suspension or revocation of the vehicle inspection station's certificate of appointment.

(c) When an old [inspection] certificate is removed from the vehicle, it shall be destroyed so that it cannot be reused. [Inspection] Certificates shall not be transferred to another windshield or reissued.

Doc. No. 802005

Vehicle Inspection Records

The Texas Department of Public Safety is proposing to amend §§23.51 and 23.52 (201.12.04.001 and .002) relating to security of records and vehicle inspection forms. Proposed amendment 1 will delete the word "inspection" as stated in §23.51 (.001). Proposed amendment 2 removes the words "inspection" and "number inserts" as stated in §23.52 (.002), subsection (c)(1) and (2). Proposed amendment 3 creates subsection (g) to §23.52 (.002) promulgating the department to furnish VI-30-A identification certificates to vehicle inspection stations.

The staff of the Texas Department of Public Safety has determined there are no fiscal implications involved in the proposed amendments relating to vehicle inspection records.

Comments on the proposed amendments are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, 6701d, Article XV, Sections 140, 141, and 142.

§23.51 (201.12.04.001). Retention of Records.

(a) Records must be kept in a safe place within the vehicle inspection station.

(b) Records will be available to authorized officers of the department.

(c) Records shall be filed in a manner to insure ready availability.

(d) Duplicate copies of vehicle inspection station reports, rejection receipts, and requisitions shall be kept by the vehicle inspection station for at least one year from the date of completion.

(e) All reports, requisitions, and other correspondence relative to vehicle inspection shall be sent to the Texas Department of Public Safety, Vehicle Inspection Records, Austin, Texas.

(f) [Inspection] Certificates and number inserts shall be kept locked at all times to prevent theft.

§23.52 (201.12.04.002). Vehicle Inspection Forms.

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

(c) Requisition for [inspection] certificates [and number inserts], Form VI-18.

(1) The initial order for [inspection] certificates [and number inserts] is supplied by the department representative when the vehicle inspection station is placed into operation.

(2) Any subsequent order for [inspection] certificates [and number inserts] shall be submitted by the vehicle inspection station and directed to the Texas Department of Public Safety, Vehicle Inspection Records, Austin, Texas.

(3) Requisition, Form VI-18, shall be accompanied by a cashier's check or money order made payable to the Texas Department of Public Safety.

(4) All information required on the requisition, VI-18, shall be completed. The signature on the requisition shall be a signature that has been authorized on the signature card, VI-13, on file with the department.

(5) The original and one copy of the requisition, Form VI-18, shall be submitted by the vehicle inspection station.

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

(g) *The department shall furnish serially numbered identification certificates, Form VI-30-A, to all vehicle inspection stations for the purpose of verifying the vehicle identification number on vehicles coming into Texas from another state or country.*

Doc. No. 802006

Vehicle Inspection Station Operation

The Texas Department of Public Safety is proposing to amend §§23.73 and 23.74 (201.12.06.003 and .004) relating to inspection fees and refunds of certificates. Proposed amendment 1 will amend the inspection fee of \$4.00 to \$5.00 as stated in §23.73 (.003). Proposed amendment 2 adds language to include properly issued VI-30-A certificates to refunds as stated in §23.74 (.004).

The staff of the Texas Department of Public Safety has determined there are no fiscal implications for the state or any unit of local government.

Comments on the proposed amendments are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, 6701d, Article XV, Section 141.

§23.73 (201.12.06.003). Inspection Fees.

(a) The inspection fee charged for a motor-assisted bicycle is \$2.00; for all other inspections, the fee is **\$5.00** [\$4.00]. All required inspection items shall be examined for one single fee and will constitute an official inspection.

(b) (No change.)

§23.74 (201.12.06.004). Refunds of Unused Inspection Certificates.

(a) (No change.)

(b) All unused inspection certificates **and all properly issued VI-30-A certificates** shall be accounted for to the department. Refunds will be made covering all unused inspection certificates and **all properly issued VI-30-A certificates** at the end of each inspection year by the department. When a vehicle inspection station goes out of business or its vehicle inspection privileges are revoked, refund for the unused certificates **and properly issued VI-30-A certificates** will be issued as soon as is practicable. The count of the department for returned certificates is final. Refunds will be reported by utilizing Refund Voucher, VI-40, and Requisition for Inspection Certificates, VI-18.

Doc. No. 802007

Chapter 29. General Rules of Practice and Procedure

The Texas Department of Public Safety is proposing to amend §29.5 (201.15.00.005) relating to computation of time. Amendment 1 will correct a typographical error in subsection (a) changing holiday to day which is the intended definition.

The last statement would read, "in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday."

The staff of the Texas Department of Public Safety has determined that there are no fiscal implications for the state or units of local government as the amendment applies to definition of a computed time period.

Comments on the proposed amendment of §29.5 (.005) are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments are proposed pursuant to the authority of Vernon's Civil Statutes, 6252-13a, Section 4.

§29.5 (201.15.00.005). Computation of Time.

(a) Computing time. In computing any period of time prescribed or allowed by these sections, by order, rule, or regulation of the agency or commission, or by any applicable statute, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next *day* [holiday] which is neither a Saturday, Sunday, nor a legal holiday.

(b) (No change.)

Issued in Austin, Texas, on March 10, 1980.

Doc. No. 802008 James B. Adams
Director
Texas Department of Public Safety

Proposed Date of Adoption: April 25, 1980
For further information, please call (512) 452-0331.

NONCODIFIED

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—024, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The following rule is proposed under the authority of the Human Resources Code, Chapter 32.

.004. Third-Party Resources (TPR).

(a) Title XIX (Medicaid) funds are to be utilized for the payment of medical services only after all available third-party resources have been utilized. A third-party resource is a source of payment other than the recipient or DHR. These resources include payments from both private and public health insurance and from other liable third parties that can be applied toward Medicaid recipients medical and health benefits expenses.

(b) The authority and requirement to pursue third-party resources is included in the Social Security Act, in Title 42 of the Code of Federal Regulations and the state law. Under state law, when a person applies for or receives Medicaid, he or she automatically assigns to DHR his or her right of recovery from personal insurance or other sources and the right of recovery from personal injuries occasioned by the negligence or wrongdoing of another, to the extent of the cost of medical care services paid for by the Texas Medical Assistance Program. State law also requires Medicaid recipients to report to DHR any such insurance coverage or personal injuries involving a liable third party at the time of application and subsequently, within 60 days of learning of such coverage or liability.

(c) An applicant/recipient is responsible by state law for informing the department of:

- (1) any insurance coverage that may cover the recipient's medical needs;
- (2) any unsettled civil or criminal court claim which may include payment for medical needs;
- (3) any injury requiring medical attention for which insurance or another third party may be legally liable.

(d) A recipient is responsible for reimbursing the department when he or she receives a payment from insurance/settlement for medical services paid by Medicaid. If a recipient refuses to make this reimbursement or cannot because he or she has spent the payment, a fraud referral is made if the Medicaid expenditure was \$100 or more.

Doc. No. 802102

Texas Department of Human Resources

Medicaid Eligibility

Medicare Benefits and Buy-In 326.25.23

The Department of Human Resources proposes Rule 326.25.23.004 about third-party resources in its Medicaid eligibility rules. Both federal and state law require that available third-party resources (individual health insurance, group health, liability/casualty insurance, etc.) be used to pay medical claims for eligible recipients prior to utilization of Medicaid benefits.

The department has determined that the proposed rule will have no fiscal implications for the state or units of local government.

Child Welfare Services

(Editor's note: Lengthy new rules and amendments and repeals of existing rules recently proposed by the Texas Department of Human Resources in its chapter of rules entitled Child Welfare Services are being published serially beginning in this issue. Listed below are the subchapter titles and rule numbers affected by this action. The proposed date of adoption for the serialized proposals is April 25, 1980. The subchapters entitled Legal Base for Child Welfare Services and Protective Services for Children appear in this issue.)

Legal Base for Child Welfare Services
326.50.71.012, .021-.025

Protective Services for Children
326.50.72.030-.033, .042-.047, .049-.058, .060,
.064-.098

Removal and Court-Related Services
326.50.73.027-.072

Foster Care Placement Services
326.50.74.005-.069; .071-.171

Adoption Services
326.50.75.071, .079

Child Welfare Services and the Community
326.50.78.015-.032

Standards
326.50.80.001

The Department of Human Resources proposes to amend, repeal, and add to its rules regarding its Child Welfare Services Program. These changes are made to incorporate recent statutory changes, update child welfare earned funds policies, and to expand and clarify existing policy on removal of children from their own homes and court-related and foster placement services. In addition to bringing services into compliance with recent legislative statute changes, these new rules, amendments, and rule repeals will increase the quality of services offered by the department.

New Rules 326.50.72.066 and .070-.072 do not represent new policy. However, they are being proposed in addition to the others to comply with Texas Register Division format requirements.

The department has determined that all new rules in Subchapters .71-.73 and .75 and .78 as well as the amendment to Rule 326.50.80.001 will have no fiscal implications for the state or for units of government. These changes represent no increase in the number of staff or clients, and therefore additional funds will not be needed. In addition, some of these rules represent a reorganization of material for clarification purposes.

However, the policy and procedures covered in new Rules 326.50.74.115-.117 will have fiscal implications for local units of government, though none for the state. These rules result from the implementation of Senate Bill 270, Periodic Court Hearings on Foster Care Cases. Indirect costs must be borne by county and district courts. The total estimated cost for periodic court hearings on children placed in foster care by DHR for county and district courts for fiscal year 1980 is \$1,322,100. The amount estimated for each of the four following fiscal years, 1981-1984, is \$1,414,647.

The policy and procedures contained in new Rules 326.50.74.155-.165 will also have fiscal implications, though these will be for the state and not for local units of government. These rules integrate state paid foster care policy into existing rules regarding eligibility and payment procedures for foster care. In addition, Medicaid coverage is expanded to children in nonboard counties and in "free" foster care placements. They also bring AFDC foster care policy into compliance with HEW interpretations regarding responsibility for placement and care and establishing continuing depriva-

tion at redeterminations. By August 31, 1980, 900 (non-AFDC-eligible) children will have been certified in the State Paid Foster Care Program. Approximately 100 previously ineligible children in nonboard counties and in "free" foster care will be eligible for Program 09 Medicaid coverage. A reduction of 200 to 250 individuals in the AFDC foster care caseload is predicted. The fiscal implications for the state are as follows: expenditures for fiscal year 1980 will be \$1,835,821; for fiscal year 1981, \$2,908,402; and for each of fiscal years 1981-1984, \$8,408,420.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—443, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

Legal Base for Child Welfare Services 326.50.71.012

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Department of Human Resources, John H. Reagan Building, Austin, or the offices of the Texas Register Division, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Chapter 41.

.012. Title IV-B Projects.

Doc. No. 802103

326.50.71.021-.025

The following new rules are proposed under the authority of the Human Resources Code, Chapter 41.

.021. Child Welfare Earned Funds Contracts.

(a) Child welfare earned funds (CWEF) are used to contract for needed services in addition to those in the local community. CWEF are also used to assist communities to provide new or expanded services to children when local funding for needed services is insufficient. CWEF may not diminish the county's financial commitment to provide services, replace foster care assistance funds, or be used for match money for Title XX purchase of services contracts.

(b) A contract must be developed with each CWEF program provider. The contract must specify the respective responsibilities of DHR and the provider. The contents which must be included in the contract are given under the specific program items. The contract must be consistent with the program's policies. In addition, each contract must contain the following statement: "The provider agrees to report to DHR within 24 hours all instances of suspected child abuse and neglect." Before delivery of services, the contract must be completed and signed by the commissioner and the project provider. The Application for Identification Number form must be completed when the contract is signed if the provider does not have a comptroller's vendor identification number. The contract must be completed even when the provider is certified by DHR, such as an emergency foster home.

.022. Contract Package.

(a) The contract package submitted to the Legal Division of the department must include:

(1) an approval memo signed by the appropriate regional staff;

(2) Contract Information Sheet—Child Welfare Earned Funds Contract;

(3) corporate Board of Directors Resolution form, or other authorization naming the person to sign the contract on behalf of the contractor;

(4) four copies of the completed contract, signed by the authorized representative of the contractor. The contract is to include the Child Welfare Earned Funds Contract form, a statement of need for the contracted service, a description of the service to be provided, and a budget or other description of the basis for payment.

(b) Any planned regional use of CWFEC that is not consistent with current policy must have prior written approval from the Protective Services for Children Division, State Office.

(c) The major basis of State Office review and evaluation of the projects will be a study of the written contracts, billing and payment records, and utilization records on file in regional offices.

.023. Rate Determination.

(a) In determining rates to pay a contractor for contracted services, regional or State Office staff should consider those reasonable and necessary costs related to the service incurred by the provider. Some selected cost items which could be considered in negotiating a rate are:

- (1) salaries (except in development of community or parent groups);
- (2) fringe benefits;
- (3) travel—mileage and per diem at no more than the state-approved rates;
- (4) supplies—office supplies or program supplies;
- (5) equipment—the purchase of equipment under \$300 per piece, or the lease of equipment;
- (6) space cost.

(b) Some items are not allowable, such as:

- (1) Honorariums (speakers' fees for training and community development are allowable).
- (2) Entertainment.
- (3) Gifts.
- (4) Foods, meals, refreshments. In the provision of group home services, shelter, or camping, purchase of food is acceptable. Community or parent groups may purchase food in the provision of services to children in the department's conservatorship. However, direct provision of food or refreshments for volunteers, consultants, or staff in other child welfare earned funds contracts is not allowable.

(5) Incorporation expense. Fees or legal services related to organization or reorganization are not allowable.

.024. Payment Procedures.

(a) Contractors will bill the department using a purchase voucher. In addition to that approved statement, the contractor must provide for the reimbursement request. In the case of a rate contract, units of service actually delivered and the unit rate should be reported. In cost contracts, expenditure reports should be provided.

(b) Staff designated by the regional administrator or State Office program manager should sign the agency certification of the purchase voucher form prior to forwarding the voucher to Fiscal Division.

.025. Contract Changes. Any changes to the Child Welfare Earned Funds Contract form subsequent to sig-

nature by the commissioner and the contractor, must take the form of an amendment to the contract. Amendments may be composed by regional staff and submitted to Legal Division for the commissioner's signature. Changes to the program description, budget, or other attachments to the Child Welfare Earned Funds Contract, may take the form of a plan change, and do not require the signature of the commissioner.

Doc. No. 802104

**Protective Services for Children
326.50.72.030-.033, .042-.047, .049-.058,
.060**

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Department of Human Resources, John H. Reagan Building, Austin, or the offices of the Texas Register Division, 503E Sam Houston Building, Austin.)

These repeals are proposed under the authority of the Human Resources Code, Chapter 41.

- .030. *Truant and Runaway Children.*
- .031. *Children in Need of Supervision (CHINS).*
- .032. *Unmarried or School-Age Parents.*
- .033. *Receipt of Report of a Child in Need of Protective Services.*
- .042. *Investigation of Reports that Public School Personnel Have Abused a Child.*
- .043. *Investigation of Referral of a Truant, Runaway, or CHINS Child or Unmarried or School-Age Parents.*
- .044. *Investigation of Lack of Medical Care because of Parents' Religious Beliefs.*
- .045. *Investigation of Reports Involving Handicapped Persons.*
- .046. *Deaf Persons.*
- .047. *Court-Ordered Social Study on Disputed Conservatorship Petition.*
- .049. *On-Going Protective Services for Children in Their Own Home.*
- .050. *Emergency Homemaker Services.*
- .051. *Protective Day Care.*
- .052. *Community Treatment Services.*
- .053. *Camping Experiences.*
- .054. *Psychiatric and Psychological Services.*
- .055. *On-Going Protective Services for Truant, Runaway, or CHINS Children.*
- .056. *Self-Support Services.*
- .057. *Transitional Services for Juveniles.*
- .058. *On-Going Protective Services for Unmarried or School-Age Parents.*
- .060. *Law Enforcement Investigations of Criminal Child Abuse and Neglect.*

Doc. No. 802105

326.50.72.064-.098

The following new rules are proposed under the authority of the Human Resources Code, Chapter 41.

.064. Truant and Runaway Children. The department provides protective services for truant and runaway children under the following circumstances:

(1) Truancy.

(A) The child has violated the compulsory school attendance laws on three or more occasions.

(B) The parent has been the major cause of the failure of the child to be enrolled in school as required by the Texas Education Code.

(2) Runaway.

(A) The child, on three or more occasions, has been voluntarily absent from his home without the consent of his parent or guardian for a substantial length of time or without the intent to return.

(B) The parent has been the major cause of the child's absence from his home without the consent of his parents or guardian for a substantial length of time or without the intent to return.

.065. Children in Need of Supervision (CHINS). DHR provides protective services for children ages 10-17 who are referred to DHR by the court for violation of Section 51.03(b), Conduct Indicating a Need for Supervision, of the Texas Family Code, or by other concerned for the youth's need for supervision to divert him from the criminal justice system. CHINS offenses include the following:

(1) Status offenses. Status offenders are children who come to the attention of the juvenile justice system for behavior that would not be considered criminal if committed by an adult. Status offenses include truancy, runaway, simple possession of alcohol, possession of inhalants where local ordinance prohibits possession by minors and not by adults, and curfew violations.

(2) Misdemeanor offenses punishable by fine only. These offenses would be considered criminal if committed by an adult. They include thefts under \$200, public intoxication, possession of marijuana without intent to sell, gambling, obscenity, public indecency, deviant sexual intercourse, sexual contact, cruelty to animals, and theft of service.

.066. Unmarried and School-Age Parents. DHR provides protective services for unmarried parents, of any age, and for school-age parents under age 21, whether married or not, who need assistance in planning for the birth, care, and rearing of their child, as a preventive measure and service against child abuse and neglect of the child. Unmarried or school-age parents with one or more children may be high-risk and may need protective services to prevent or remedy sexual abuse of themselves or abuse or neglect of the child, or as an unmarried or school-age parent. AFDC mothers, age 10 to 21, have been identified as one group for whom protective services may be needed to prevent or remedy sexual abuse and/or neglect.

.067. Receipt of Report of a Child in Need of Protective Services.

(a) The report of a child in need of protective services can come from any source, including parents or children worried about their situation at any time. The complainant should make an oral report immediately upon learning of a child in need of protection.

(b) The department must provide for the receipt of reports 24 hours a day, seven days each week in all counties. The complainant may make the report to DHR's child abuse hotline or to local staff in each county. Local staff receiving

emergency reports may be on duty, on call, or available through an answering service.

(c) DHR and the Texas Department of Health cooperate to carry out Section 34.02 of the Texas Family Code which requires that deaths of children from abuse or neglect be referred to DHR. If DHR does not have a CANRIS report of the child's death, the Protective Services for Children Division, State Office, will refer the report to the local office for investigation to determine if there are other children in the home who need protection and if the child died of abuse or neglect.

(d) Only authorized DHR staff may make inquiries and reports to the CANRIS system. The DHR Investigation Division may make inquiries about child abuse and neglect cases referred to them for providing assistance to protective services staff. If the Investigation Division becomes aware of an unreported case of abuse or neglect, it will refer the case to the appropriate protective services regional staff who must report the incident to CANRIS and coordinate the investigation. The Special Services Division may also make inquiries to CANRIS when there are out-of-state inquiries about abuse or neglect incidents.

(e) The worker must report all reports of abuse and neglect to CANRIS. Even though the case may be active at the time the report is received, the new report must be entered into the CANRIS system. When the death of a child due to abuse or neglect is reported to DHR, a CANRIS report must be made of the child's death. This CANRIS report should include the situation of any living children in the home.

(f) The worker must make an inquiry about previous incidents on all reports he has made to CANRIS, unless the case is currently active and the information has already been received.

(g) The worker must update the CANRIS report:

(1) during the investigation to enter information which necessitates another inquiry;

(2) at the end of the investigation to report the findings of the investigation;

(3) as soon as a family moves, if they do so before the investigation is completed;

(4) as soon as court action about the child or family is completed, if the court has not made its decision by the end of the investigation.

(h) Identifying information on persons in closed-in-intake invalid CANRIS reports will be automatically removed from the CANRIS computer files six months after the date of the finalization of the report. Identifying information on persons in CANRIS reports determined to be valid, potential, uncertain, or family moved will be automatically removed from the CANRIS computer files when the youngest victim or child reported in the case has reached age 18.

(i) Definitions.

(1) Invalidated is defined as a case in which abuse or neglect has been clearly ruled out.

(2) Validated is defined as a case in which actual abuse or neglect has been substantiated.

(3) Uncertain is defined as a case in which actual abuse or neglect cannot be substantiated or clearly ruled out, but there is enough evidence from the investigation to establish a reasonable doubt that there may be abuse or neglect.

(4) Potential is defined as those cases where actual abuse or neglect cannot be substantiated but there is sufficient evidence to identify that abuse or neglect is likely to oc-

cur as a result of existing conditions in the home which threaten the child's physical or emotional well-being.

(5) Moved is defined as a case where the family moved before any of the above dispositions were made.

(j) If licensing or social services staff suspect during the course of a foster home or licensing study that the family or individual may have been involved in an abuse or neglect situation in the past, they may request a CANRIS inquiry on the family or individual.

(k) The decision about intervention by DHR may be shared with an agency or professional person making the report. The worker should explain to the professional person that it is necessary to enter a report of abuse or neglect before inquiry information can be obtained. The worker should discuss with the professional person whether the inquiry without a report would place the professional person in violation of the mandatory reporting law. The worker must verify the identity of the professional person before releasing confidential information. The worker should help the professional person understand the confidential nature of the inquiry information and how the information should be used. If the professional person does not make a report, the worker and supervisor must evaluate the possibility of abuse or neglect in the case, based on the information gained. If they believe a potential danger to the child exists, the worker must make a CANRIS report and further inquiry into the situation.

(l) Cases reported for truancy, runaway behavior, juveniles in need of supervision, unmarried and school-age parents, or death of a child are not reported into the CANRIS system unless the child's situation appears to involve abuse or neglect. If the death of a child has been diagnosed by a medical examiner or coroner to have been due to Sudden Infant Death Syndrome, the child's death must not be reported on CANRIS.

.068. Investigation of Reports That Public School Personnel Have Abused A Child.

(a) Policies relating to complaints of abuse against school personnel while on duty in the school system are predicated on the assumption that the school system is responsible for the behavior of its employees and must be involved in investigating and handling cases of alleged abuse.

(b) To provide for prompt and effective handling of complaints, DHR staff responsible for protective services to children will initiate discussions with each public school district in the region. These discussions should identify the areas of responsibility of both DHR and the school district as they pertain to protection of children. Written contracts, agreements, and procedures may be formulated to ensure continuity of understanding between department staff and the school district. Agreements with the school district should be reviewed at least annually and on change of school administration. If required to achieve appropriate communication and cooperation, the Child Welfare Board and the school board may be involved in negotiations.

(c) When reports of abuse by public school personnel are received by DHR staff, they must secure from the complainant all possible information and must prepare a written record. The worker must tell the complainant that the information is being referred to school or school board personnel for investigation. The complainant should be encouraged to take the complaint directly to appropriate school personnel. However, if the complainant does not wish to do so, the worker must assure the complainant that the department will not reveal the complainant's identity to the school.

(d) Upon receipt of a complaint against any employee of the school district, the worker or supervisor must make a verbal report of the complaint, except for the identity of the complainant, to the responsible person in the school district as identified in established agreements and/or contracts. If no such agreement exists, the report must be made to the principal of the school where the alleged abuser is an employee. If the alleged abuser is the principal, the report must be made to the superintendent of schools or to the next appropriate supervisory level above the principal. If the alleged abuser is the superintendent of schools, the report must be made to the president of the school board.

(e) The person to whom the complaint is reported must be asked to investigate the complaint and report back to the department at the earliest time possible. A tentative date for receipt of this report must be set at this contact.

(f) Immediately subsequent to transmitting the verbal complaint, DHR protective services staff must prepare a written referral, which must be approved by the supervisor. In addition to documenting the complaint, the agreements reached, and the plan for feedback of information about the investigation, this letter will advise that the department will be expecting a written report about findings and disposition within 30 days of the date of original referral.

(g) In the event the person receiving the complaint provides no report or an unsatisfactory report, the appropriate DHR staff member must communicate the problem to the regional director for social services. Appropriate contacts must be made with local administrative levels of the school district up to the president of the school board in an effort to secure satisfactory closure on the complaint. Should these efforts fail, the regional director may authorize a written report to the district attorney, identifying the details of the complaint and specifying the efforts made to secure cooperation from the school district. This letter will place the matter in the hands of the district attorney for further disposition.

(h) Complaints against personnel of schools other than public schools must be handled as is any complaint against an individual. If the school is subject to any regulatory laws, any validated, uncertain, or complaint of potential abuse/neglect and its resolution must be reported to the appropriate regulatory authority.

.069. Investigation of Referral of a Truant, Runaway, or CHINS Youth or Unmarried or School-Age Parents. Referrals of youth age 10-17 or unmarried or school-age parents must be investigated. The intake procedure must involve:

- (1) an investigation and/or social study into the circumstances of the referred youth;
- (2) an assessment of the youth's or unmarried or school-age parent's need for protection and services;
- (3) the provision of needed protective action;
- (4) information, referral, and linkage to needed family and community resources;
- (5) a documentation of whether the youth's situation involves abuse or neglect;
- (6) a determination of whether the youth needs in-home protective services;
- (7) the report of the investigation to the family and complainant;
- (8) reports to the court, district or county attorney, and local law enforcement agencies must be completed.

.070. Investigation of Lack of Medical Care Because of Parents' Religious Beliefs.

(a) Refusal of parents to provide needed medical treatment for a child because of the parents' religious beliefs does not constitute medical neglect. The child must be given DHR's protection through a protective services investigation and the court's protection as necessitated by the child's condition.

(b) During the protective services investigation, a worker must interview the involved medical personnel and the parents to determine the nature and severity of the child's illness and possible alternatives to the recommended medical treatment. When possible, more than one doctor's opinion should be secured. If the child's life is in danger or if he is threatened with permanent loss of a limb or of major muscle, hearing, sight, or intellectual functioning, DHR staff must get written medical statements reflecting this.

(c) DHR must intervene by presenting the child's situation to the court when the doctor's statements indicate that without the recommended medical treatment, the child will die or suffer permanent loss of a limb or of major muscle, hearing, sight, or intellectual functioning.

(d) When the investigation shows that the child lacks needed medical attention because of the parents' religious beliefs (and not because of other parental motivation or incapacity), and that the child has not otherwise been abused or neglected, the CANRIS report must be invalidated.

.071. Investigation of Reports Involving Handicapped Persons. The basis for determining the need for protective services in a referral involving a handicapped parent or child is the effect of the situation on the children involved, not the existence of the handicapping condition. DHR must use its resources, provide information and referral about community resources, and help develop new resources to provide handicapped parents and children with social services equal to those provided to the non-handicapped.

.072. Deaf Persons.

(a) When a protective services case involves a deaf parent or child, a qualified deaf language interpreter should be used to communicate with the deaf person throughout DHR's involvement in the case. A qualified language interpreter is a person skilled in the language of signs or in communicating with the particular deaf person. The client should take part in selecting the interpreter. The client may select a person not on a Registry for Interpreters for the Deaf, such as a relative with whom the client is comfortable and conversant. The case record should document that the client was aware of the availability of an interpreter, when one was actually available.

(b) The deaf interpreter should be given information about DHR's legal role and responsibility for the protection of children, the social work principles involved in DHR's approach to and planning with families, and how to keep information confidential.

(c) Volunteers should be recruited from the deaf community to work with individual clients under the supervision of the caseworker. Caseworkers and volunteers should make a strong outreach to individual clients during the progress of the protective services case.

(d) A deaf client should not be allowed to sign a volunteer placement agreement or affidavit of relinquishment unless the agreement or affidavit is explained to the deaf

client by a qualified deaf language interpreter and by an attorney, if available.

.073. Law Enforcement Investigations of Criminal Child Abuse and Neglect.

(a) Law enforcement responsibility. Investigations of criminal danger, harm, or injury to children are the responsibility of law enforcement. Criminal investigations are conducted by local law enforcement or, at regional option and in accord with the law enforcement agencies preferences, by DHR's Investigation Division. DHR's child protective services staff has an obligation to notify a law enforcement agency of children having suffered serious harm or injury. When child protective services staff notifies the law enforcement agency of serious harm or injury to a child, the law enforcement agency has the responsibility for deciding whether to take any action under the criminal laws. The decision to initiate and conduct a criminal investigation of the child's situation lies solely with the law enforcement agency. Responsibility for initiating civil action to protect children remains with child protective services staff. If the law enforcement agency initiates an investigation of criminal child abuse/neglect, the criminal and civil investigations may be conducted during the same time. In all instances, the civil investigation is a separate investigation from the criminal investigation. Both investigations are appropriate in their own right and neither substitutes for, nor takes precedence over, the other.

(b) Protective service responsibility. DHR's child protective services staff may not conduct nor carry out the criminal investigation, nor may they act on behalf of the law enforcement agency to conduct or carry out the criminal investigation. However, during a law enforcement criminal investigation of child abuse and neglect, DHR will cooperate with the county or district attorney, law enforcement officials, or Investigation Division conducting the investigation. Child protective staff also may not act as agents of the law enforcement agency by gathering evidence or talking to parents, children, or collaterals for the purpose of furthering the criminal investigation. However, a child protective services staff person may conduct the questioning of a particular child victim or witness of abuse or neglect, upon the request of a law enforcement agency, court, or grand jury and when the rationale for the request is the worker's special expertise in interviewing children in a manner that protects the child's emotional integrity. DHR's Investigation Division staff may perform these activities to conduct or further the criminal investigation for the purpose of giving information to the law enforcement agency.

(c) Possible protective service actions. Child protective services staff may:

(1) When notifying a law enforcement agency of harm to a child, give information taken from the complaint or gathered while protecting the child through the civil investigation. If this information is not sufficient for the law enforcement agency to determine whether to initiate a criminal investigation, the law enforcement agency is responsible for gathering any further information or for requesting the assistance of DHR's Investigation Division.

(2) Provide to the law enforcement agency, upon their request, information which has been gathered for the purpose of conducting the civil investigation or of working to rehabilitate or reunite the family.

(3) Testify at the criminal hearing upon the law enforcement agency's request.

- (4) Be interviewed by the law enforcement agency.
- (5) Otherwise cooperate with the law enforcement agency as possible within the above limitations.

Child protective services staff, Investigation Division staff, and law enforcement agency staff should stay in regular contact with each other when involved with the same family.

(d) Required protective service actions. When a law enforcement official was the initial complainant, or when DHR and law enforcement staff are both investigating the same case, child protective services staff should promptly inform law enforcement staff of the following case actions:

- (1) the results of the civil investigation;
- (2) initiation of court action to remove the child from his home or removing the child from his home in an emergency before obtaining a court order;
- (3) plan to return a child to his home or to close the department's case.

If the law enforcement agency is no longer involved in the criminal case, this notification does not have to be made in (2) and (3) above.

.074. In-Home Protective Services for Children.

(a) The goal of in-home protective services for children is to prevent the need for removal of children from their homes. DHR must determine from the findings of its investigation whether protective services are needed and when needed, if they can be effectively provided in the home. If the child is not in immediate danger of permanent harm, and the parents are willing to and capable of, improving the problem situation, DHR must work with the family to improve the care of the child and to provide or to arrange for other services as needed. AFDC or SSI recipients or income-eligible clients who receive child protection services must be provided any DHR social, medical, and financial services available in the community. Clients must apply for, be eligible for, and able to utilize the services.

(b) When the worker and supervisor believe that removal is in the best interest of the child, the department must petition the court for permission to remove the child or to take other action as needed to protect the child.

(c) In an emergency, DHR may remove the child from the home according to Chapter 17 of the Texas Family Code. The hazard to the child if left in his home compared to the trauma to the child if removed from the home must be continually reassessed.

.075. Plan of Services for In-Home Protective Services for Children.

(a) When in-home services are given to children not in the department's conservatorship who are living in their own or a relative's home, the worker must establish a service plan. A multi-disciplinary team's services, if available, may be sought to establish the service plan.

(b) The service plan is a written statement containing the worker's information about the case, the worker's and family's analysis of the relevant problems and the potential solutions to the problems, and the worker-supervisor's decisions specifying the most appropriate services to be used in protecting the child. The worker should make every attempt to share with the family at least part of the decision making. The final service plan should be carefully explained, either verbally or in writing to the family.

(c) The service plan must be updated as changes occur. The worker and family must reassess the service plan at a

minimum of every six months. The supervisor must approve the initial and updated service plans. The service plan must include:

- (1) the family's problems and the effects of the problems on the family and child;
- (2) the planned solutions to the problems, including the specific ways the care of the child is to be improved;
- (3) the specific steps the family agrees to take as a means of solving the problem and deadlines for each step;
- (4) DHR's responsibilities to provide services or to refer for supportive services, and by what deadlines;
- (5) the date that the service plan will be reviewed;
- (6) a list of appropriate and available community services and family resources to be used to implement the service plan;
- (7) the criteria to be met before ending DHR's intervention.

(d) Whenever possible, the worker must explore the use of relative's homes as the first choice for placing a child outside his own home. If removal of the child becomes necessary while work with the family is in process, the worker must enter a revised service plan in the family's case record. A written home study must be made by the worker and approved by the supervisor before placement or immediately after an emergency placement. Parents' and children's feelings about placement with relatives should be considered. When parents are opposed to a relative placement, the decision of a court may be required to effect the placement.

(e) When the relative lives in another state, placement must be made through the Interstate Compact on Placement of Children if the other state is a member of the ICPC. The department must have legal authority to place the child and must maintain this authority throughout the period the child is in the out-of-state relative's home or until the relative assumes full legal responsibility with the concurrence of the ICPC administrator in the receiving state.

(f) In crisis situations when the worker has no knowledge of extended family members, nonrelative placement may be made. As soon as possible after the emergency placement, however, relative placement must be explored.

.076. Social, Financial, and Therapeutic Services for Solving Problems. Family resources, DHR, and community services should be used when available, appropriate, and accepted by the family to assist in solving problems identified in the family service plan. The worker should use these resources and services to facilitate the development of a supportive network of relationships for the family with several or many people in the community. If a needed service is not available, the worker and other regional staff should work with the appropriate community members to recognize the need. DHR staff or the community may provide leadership to organize and supply the needed resource.

.077. Work with Parents or Relatives to Keep the Child with Family Members.

(a) As long as protective services to the child in his home are continuing, the worker must have personal contact with the family at least once each month. More frequent interviews and other contacts are usually necessary to protect the child and to help the parents become better parents, especially during the early period of work with the family and during crises. Other than the required monthly worker interview, other interviews and contacts may be made by qualified volunteers, case-aides, or field placement students under the

supervision of an approved DHR staff person. Interviews and contacts must be recorded in the family case record by the person doing the activity. The DHR staff person must approve all volunteer, case-aide, or student entries and the approval must be shown in the case record by initialing each entry. If it is deemed that monthly interviews are not appropriate, this should be documented in the service plan, and approved by the supervisor prior to implementation.

(b) When there is an organized volunteer agency approved by the department to work with child protective families, and the worker is directly supervising the volunteer working with the family, the worker's supervisor may waive the requirement for the worker's monthly face-to-face contacts with the child and family. In this instance, the worker, volunteer, and supervisor must agree on how frequently the volunteer must contact the family and how frequently he or she must have a face-to-face interview with the child. During the interviews and contacts with the family, the worker, volunteer, case-aide, and/or student should use social, financial, and therapeutic services for solving the family's problems outlined in the service plan, as follows:

(1) discuss with the family their feelings about DHR's intervention, about their children, and about being parents;

(2) discuss with the family the problems that have been identified as contributing to the abuse/neglect of their children and how they feel about the problems;

(3) teach the family, or arrange for the family to have contact with volunteers, relatives, day care providers, or others who can teach or model these skills or practices;

(4) arrange for the family to become involved in counseling or therapy if this is specified in the service plan in order to help the family solve the problems which prevent good child-rearing practices;

(5) provide or arrange for the other services which have been identified in the service plan;

(6) encourage the family to become involved with family resources to help them with their child rearing problems; or, arrange for other people in the community to become involved with the family in supportive ways.

(c) Information given by the family to the worker is not regarded as legally privileged, and cannot be withheld from the court or county/district attorney should the child's protection require that the department seek to remove the child from his home.

(d) The worker and supervisor, with the input of the volunteer, case-aide, or field placement student, must constantly monitor the degree of danger to the child in the home, and should continuously assess with the parents how much progress has been made in solving the problems outlined in the service plan and how much improvement the family can make in the future. The worker should help the family understand that the worker and supervisor may recommend that the child be removed by the court if the changes outlined in the service plan, and that have been shared with the family, are not achieved. The service plan should be updated as needed.

(e) If the child is in DHR's conservatorship, the worker must try to contact absent parents, work with the court and keep a separate case record for the child.

(f) The worker and supervisor should decide if and at what point, the worker volunteer, case-aide, or field placement student should work directly with the child. Work with the child is done without the knowledge of the parents only in

some rare instances with children age 10-17. The worker should explain to the child what information will be kept confidential and from whom.

(g) At any time there is to be a change of worker, the current worker and the new worker should prepare the child, the family, and others who are working with the family for this change by joint contact with the persons involved. The purposes of this joint contact are:

(1) to introduce the new worker to the family;

(2) to reaffirm service plan goals with the family;

(3) to discuss any changes in the service plan that may need to occur at this time.

If joint contact is not possible, the current worker should prepare the persons involved for the change. These procedures should also be followed whenever there is a change in the volunteer, case-aide, or field placement student.

(h) Anytime a child dies in an open procedure case, staff must immediately notify the Investigation Division or local law enforcement office.

.078. Decision Making about Case Closure, Removal of the Child, or Seeking Assistance in Case Planning from the Community. The department should continue services to the child in his own or a relative's home until:

(1) The problems producing the abuse or neglect have been resolved to at least a minimally satisfactory level and the child is minimally safe in the home. In this event, the worker should close the case.

(2) A decision is made to remove the child and one of the following legal bases exists.

(A) Verified and documented case facts indicate the fulfillment of statutory requirements governing managing conservatorship, ex parte temporary orders, or termination of parental rights. In this event, the worker may request a court order and remove the child from the home.

(B) The worker, his supervisor, and a law enforcement or other witness have reasonable cause to believe that conditions under Chapter 1703(c) or (d), Texas Family Code, exist. In this instance, the department can remove the child in an emergency before a court order is obtained. The supervisor must approve case closure. The worker must inform the family when DHR will no longer be delivering services to the family, and must inform them of how to obtain help if needed in the future.

(C) Parents have consented to a temporary or permanent voluntary placement and conditions and requirements specified by the department. In this instance, the worker, with supervisory approval, will remove the child from the home in a planned manner and with the involvement of the family.

(3) A period of six months' work with the family has passed and none of the above has occurred. In this event, the worker and supervisor should reassess the child's situation to determine which of the following is the appropriate action to take:

(A) Continue to revise the service plan as needed while continuing to work with the family. This action should be taken if the family is showing some progress in resolving problems of abusive or neglectful child care practices. The worker and supervisor should continue to reassess the child's situation every six months or as planned by the worker, his supervisor, and the family, until the case is closed, the child is removed, or action is taken as outlined in (B) or (C) below.

(B) Close the case even though abuse or neglect

may still be marginally or potentially present when all the following conditions are met:

(i) the child is not in current danger of serious injury, nor is there any reasonable cause to believe that he is potentially in this type of danger;

(ii) the child is not in a situation of immediate danger to his health or physical safety;

(iii) the family is refusing to further participate in therapeutic or rehabilitative efforts, or the department has provided or offered all available services the family has requested for which the family is eligible and which are indicated by mutual case planning.

(C) If the worker and supervisor believe they cannot close the case, remove the child, or offer further service resources the family will accept, they should seek input from the following:

(i) the county child welfare board;
(ii) regional child protective and/or administrative staff;

(iii) the department's deputy commissioner for operations and/or Protective Services for Children Division.

.079. *Emergency Homemaker Services.*

(a) Emergency homemaker services are defined as the immediate supervision and care given to children in need of protective services in their own home by a trained and supervised homemaker during an emergency or a crisis situation. These services may be provided in the home for a few hours or 24 hours at a time. Emergency homemaker services are provided without regard to income. This service is available only for children in open protective services cases.

(b) Emergency homemaker services are provided through child welfare earned funds or Title XX social service funds or DHR staff, generally case-aides or other funding. Selection of the funding source may depend on local resources and the type of allocation available to the region.

(c) When a situation needing emergency homemaker services is identified and parents are present, the worker should discuss the service and its benefits with the parents and get their consent for the homemaker to provide services. When parents are not present, the worker, with supervisory approval, may seek a court order to allow the emergency homemaker to enter the home and care for the children until the parents return, the children are removed, or the homemaker's services are no longer needed. The worker should give the homemaker all available information on the situation, and plan with the homemaker for services. The worker should accompany the homemaker to the home at the time of the initial visit. The homemaker should be supervised by the DHR worker and the homemaker's supervisor when the service is provided through a contract agency. The worker, client, and homemaker should plan together about follow-up services. The worker and homemaker should stay in close contact to assess the progress of the family, update the case plans, and keep count of the number of days service is being provided.

.080. *Child Welfare Earned Funds—Emergency Homemaker Services.*

(a) Child welfare earned funds can be used to fund emergency homemaker services available to children in an open protective services case. Emergency homemaker services purchased by earned funds provide for immediate supervision and care given to children in their own homes by trained and supervised homemakers during an emergency or

crisis situation. They must be available 24 hours per day, seven days per week.

(b) Child welfare earned funds can be used for payment of retainer fees and/or service fees. The provider must be a private, nonprofit, or public agency. A retainer fee is a set monthly fee paid to the provider agency for having homemakers available 24 hours a day, seven days per week. A service fee is a set daily/hourly rate paid to the agency for providing services.

(c) Before delivery of services, DHR must have an approved, signed contract with each homemaker service agency. The Application for Vendor Identification Number form must be completed if the provider does not have a comptroller's identification number. The plan of operation must include but is not limited to:

(1) name and location of the provider;

(2) indications that homemakers will receive basic orientation and training consisting of not less than 40 hours per year;

(3) indications that the provider will be available 24 hours a day, seven days per week, and a clear indication of how long the emergency care will be given;

(4) indication of how homemakers will be selected to ensure that they will be qualified in:

(A) the care of children;

(B) home management skills;

(C) performance of household duties;

(D) purchase and preparation of food;

(E) will have respect and understanding of persons

of different races, cultures, and backgrounds;

(F) will be in good physical health;

(G) other requirements appropriate to the function of a homemaker;

(5) amount of retainer and/or service fee;

(6) number of families to be served on behalf of children needing protection;

(7) indication that homemakers will be placed only when parents or caretakers have consented to the provision of services or a court order allows the homemaker to enter the home and care for the children until the parents return, the children are removed, or the services are no longer needed;

(8) maximum reimbursable amount of contract;

(9) a statement that an evaluation will be completed on the contract and the method of evaluation.

.081. *Protective Day Care.*

(a) Protective day care is defined as day care for children who need protective services. Protective day care is given without regard to income. Protective day care is available only to children in open protective services cases. Contract providers can only serve clients who are authorized to receive the service. Protective day care services cannot be started before DHR authorization.

(b) Protective day care is given to infants, preschool-age, and school-age children for a portion of the day outside the child's home.

(c) The worker regularly consults with the provider to monitor the status of work with the client and find out if the results of the protective day care suggest a change in service planning. The worker and supervisor must evaluate the effectiveness of the protective day care with respect to the other casework plans. The worker must tell the provider when authorization to serve the client is ended.

.082. Providers of Protective Day Care. Protective day care is given through a purchase of service contract with a nonprofit private or public agency. Delivery will be in a day care center or family day home which complies with applicable state licensing standards and federal requirements. Protective day care may not be provided through individual provider agreements with day care centers or through in-home day care. Regional purchase of services staff and child development staff maintain information concerning centers or family day home systems providing protective day care. The plan of operation of facilities under purchase of services contract with the department must allow provision of protective day care without regard to income before protective day care can be provided.

.083. Community Treatment Services.

(a) Community treatment services provide assessment and evaluation, treatment planning, treatment, and therapy for children and their parents or caretakers in open protective services cases. Community treatment services are provided through purchase of services contracts. The services are given without regard to income. Contract agencies will serve only clients who are referred and authorized to receive the service by DHR protective service workers. Community treatment services cannot begin before DHR authorization.

(b) When the worker has found that a child or parent needs community treatment services, he should explain the service to the client, mutually plan with the client so that they can agree on the expected benefits of the service, and make the referral to the contract agency. He authorizes the service and consults with the contract service agency about the needs and background of the client and the department's service planning.

(c) The worker must regularly consult with the contract agency to monitor the status of work with the client and determine needed changes in service planning. The worker must tell the provider when authorization to serve the client is ended.

.084. Providers of Community Treatment Services.

(a) Community treatment services are provided through purchase of services contracts with private nonprofit or public agencies. Regional purchase of services staff keep information on the location of providers of community treatment services.

(b) Payment procedures are completed by the contract services provider using regular contract billing methods. The basis for payment is cost reimbursement.

(c) With the exception of therapeutic camping, room and board expenses are not to be included in the approved budget of a contract provider.

.085. Camping Experiences. Camping experiences provide therapeutic camping services and youth camp summer recreational services for foster or children in their own homes in open protective services cases. The term wilderness camp is used to describe both types of programs. The distinguishing factor is whether the emphasis is on therapy or recreation.

.086. Therapeutic Camping.

(a) Therapeutic camping is a 24-hour-a-day camping program where the primary emphasis is on therapy rather than recreation. In these camping programs, the admission is selective and thorough intake studies are done, case records kept, and service plans made for each child.

(b) Child welfare earned funds used for placement of children in therapeutic camp programs are used to pay a service fee but not to pay for a child's regular care and maintenance in the facility. The service fee pays for the special therapeutic services the child required. Payment for the child's regular care and maintenance in the facility is provided through foster care assistance funds such as AFDC, foster care, state-paid foster care, county funds, Medicaid, SSI, child support, RSDI, or other income the child receives. The child welfare earned funds service fee is paid in addition to foster care assistance funds. The total payment to the therapeutic camping provider must not exceed the provider's usual charge for the service.

.087. Youth Camping.

(a) Youth camp experiences emphasize recreational, educational, athletic, and religious activities rather than therapy. With the approval of the regional director for social services/protective services or regional child welfare earned funds contract coordinator, youth camping experiences may be provided for children in open family service caseloads where the child is receiving services to prevent the need for protective services.

(b) Payment for youth camping experiences is based on a daily fee. Child welfare earned funds may be used for the total payment for the service if no county funds are available.

.088. Out-of-State Camping.

(a) Child welfare earned funds may be used to purchase out-of-state recreational camp or therapeutic camp services when approved by the regional director of social services/protective services. Approval must be based on a determination that the out-of-state camp is preferable to available in-state camps according to the following criteria:

- (1) costs of the camp and of travel back and forth;
- (2) quality of the camping program in relation to the specific needs of the children involved.

(b) Approval under the Interstate Compact on Placement of Children is required when children are placed in out-of-state camps except when a child is only temporarily absent from his foster/institutional care placement. A temporary absence is one where the child is not considered removed from the foster home or institution and the plan is for him to return to the foster facility after the camping experience. Approval for the out-of-state travel must be obtained.

.089. Contract with Provider. Before delivery of services, DHR must have an approved signed contract with each provider of camping services. An application for vendor identification number, must be completed if the camping provider does not have a comptroller's identification number. The plan of operation must include but is not limited to:

- (1) name and location of the camp;
- (2) type of camp such as summer camp, day camp, therapeutic camp;
- (3) average length of stay for DHR children;
- (4) cost per DHR child;
- (5) number of children to be served;
- (6) DHR license number of therapeutic camp; TDH license number of youth camp; or an indication that the youth camp has applied to TDH for a license;
- (7) maximum reimbursable amount of contract;
- (8) statement that an evaluation will be completed on this contract and the method of evaluation.

.090. Psychiatric and Psychological Services. Psychiatric and psychological examinations and treatment may be obtained through:

- (1) interagency agreement with community MH/MR centers;
- (2) child welfare earned funds;
- (3) Medicaid (psychological exams are covered under Medicaid only when they are ordered by a psychiatrist and are part of the psychiatrist's workup);
- (4) facilities of the TDMH/MR such as state schools, state hospitals, and centers for human development;
- (5) purchased social services, as a support service.

.091. Psychiatric and Psychological Examinations and Short-Term Treatment.

(a) Child welfare earned funds can be used to purchase psychiatric and psychological examinations and short-term treatment related to the exam for children in open protective services caseloads and their family members, caretakers, and/or potential caretakers. Short-term treatment should be limited to five sessions.

(b) Psychiatric and psychological examinations and short-term treatment must be sought from the mental health community before child welfare earned funds are used to provide these services. Child welfare earned funds must be used to develop services for families and children who do not live in the catchment of the community MH/MR service center. After resources are developed for these children, this allocation may also be used to supplement resources for additional children in the existing MH/MR contracts with the department. The MH/MR contracts must be used to their fullest capacities.

(c) The worker and others involved with the child or family should prepare an evaluation of the helpfulness of examinations or short-term treatment. Positive evaluations of the service is one basis of continued use of the professional person providing the service.

(d) A purchase voucher is used to make child welfare earned funds payments to the psychiatrist or psychologist. Before delivery of services, DHR must have an approved signed contract with each psychologist or psychiatrist. A vendor identification number must be completed if the psychologist or psychiatrist does not have a comptroller's identification number. The contract may cover the service to be delivered to one client, or more likely, several clients who will be seen during the contract period. The plan of operation must speak to but is not limited to:

- (1) name, title, and location of provider;
- (2) stipulation that the psychologist is licensed by the Texas Board of Examiners of Psychologists or the Texas State Board of Examiners in Social Psychotherapy;
- (3) cost per child examination/treatment hour;
- (4) number of children to be served, or number of examinations/treatment hours;
- (5) description of types of clients who will be receiving the service;
- (6) general description of the types of services to be provided;
- (7) the requirement that all clients served under the terms of the contract must be those referred to the contractor by appropriate DHR staff and that services must be authorized by DHR staff; the written authorization shall include identification of clients to be served and description of their roll in the protective service case, the purpose of the ex-

amination, and approval for a specific number of sessions or type of treatment;

- (8) maximum reimbursable amount of contract;
- (9) statement that an evaluation will be completed on this contract and the method of evaluation.

.092. Ongoing Protective Services for Truant, Runaway, or CHINS Youth.

(a) Ongoing protective services are given to children, ages 10-17, by referring the youth to other community and family resources, direct delivery of services, and/or purchase of service contracts. The worker/provider must mutually determine a service plan with the youth and family within one month of referral and must re-evaluate the plan with them every six months. The worker/provider must make at least one contact with the family and the youth per month or document in the case record why the youth and family were not contacted. Ongoing protective services for youth are directed toward keeping these juveniles out of the criminal justice system. The protective services worker should seek to enlarge the youth's opportunities for socially productive and responsible roles. The youths should not be placed in groups made up solely of delinquent or pre-delinquent youth. Youth ages 18 to 21 may be given continuing services if they were being served by the department when they became 18 and are completing school or vocational training.

(b) The worker/contract provider must provide services to the youth and his or her family directed to one or more of the following:

- (1) resolving parent-child relationship problems;
- (2) helping parents assume their parental responsibilities;
- (3) resolving tension and stress in the home when the youth remains or returns there;
- (4) helping the youth develop inner controls over antisocial impulses and behavior;
- (5) helping the youth become self-sufficient.

(c) The worker/contract provider must assess the need for legal, law enforcement, medical, psychiatric, and/or protective intervention. If the assessment indicates that intervention is necessary, the worker/contract provider must provide or arrange services as resources allow.

.093. Runaway Children.

(a) Every effort must be made to locate a runaway child in an open protective services case, including notifying the police, the child's parents if parental rights are not terminated, and the court when the department has managing conservatorship. Department staff may not knowingly harbor a runaway child who is not in the department's conservatorship. Within 24 hours, staff must: notify the person or agency from which the child is absent or notify a law enforcement agency. Failure to comply with these requirements is a criminal offense.

(b) Legally the managing conservator of a child stands in lieu of his parents. Therefore, a runaway child's travel back to where he lives is the responsibility of the protective services unit holding managing conservatorship. When the runaway is not in the department's conservatorship, the parents are responsible for travel funds back home.

.094. Alternate Living Arrangements.

(a) When the home situation or level of conflict between the youth and his parents reaches such a point that DHR believes placement outside the home must be considered, the worker should explore with the youth and the

family the feasibility of keeping the family intact or of removing the youth from the home. The worker should seek an agreement with all involved as to what would be best for the youth.

(b) Alternate living arrangements the worker, youth, and family should explore are:

(1) the family's placing the youth with relatives or with close friends of the family or of the child;

(2) foster family home placement with DHR or another child-placing agency;

(3) foster group home placement with DHR or another child-placing agency;

(4) half-way house living arrangement through TRC or another child-placing agency;

(5) institutional placement in a facility providing basic or specialized care;

(6) educational, boarding, vocational, or military schools;

(7) emancipation;

(8) independent living arrangement. An independent living arrangement is a nonrelative, nonlicensed situation in which the older child whose minority status has not been removed and has placed himself without parental, court, or DHR permission. The department may not place a child in an independent living arrangement or pay for the placement. However, the department may allow the older child to continue living independently after the older child has placed himself when the older child is not in physical danger or has run away from approved placements, and the only alternative living arrangement is a Texas Youth Council or juvenile probation detention facility which is an inappropriate placement for the child. The worker should give the child in an independent living arrangement the full range of the department's available services which the youth will accept and are appropriate to his needs, including helping the older child to leave the independent living arrangement if it proves harmful to him. The worker should intervene more and use a greater degree of legal authority, the younger the child is, and if the effects of placement are harmful to the child. When an older child in the managing conservatorship of the department places himself in an independent living arrangement, the worker must document in the case record who made the placement decision and who physically placed the child, whether the child is related to the provider in the independent living arrangement, the goal the child is working towards, how the child is moving toward the goal and the timetable, who is providing financial assistance, and what this living arrangement is providing this child. The courts should be kept informed of the living arrangement. The parents, when parental rights are not terminated, should be notified and kept informed of the child's circumstances. If the worker and supervisor have any questions as to whether this home is subject to licensing or certification as an agency home, contact should be made with the appropriate regional staff.

.095. Self-Support Services. The worker should help juveniles complete their high school education whenever possible. The worker may refer juveniles for tutoring services, vocational services, the graduate equivalent diploma (GED), or other comprehensive services programs that may be available in the community. The worker should help older juveniles prepare for supporting themselves.

.096. Contract Services for Juveniles.

(a) Contract services for juveniles are provided to prevent or ameliorate abuse or neglect or inappropriate institutional care of eligible youth. Eligibility for services is without regard to income. The provider agency determines and certifies eligibility on the Eligibility for Services without Regard to Income form.

(b) To be eligible for services for juveniles, the youth must meet all the following criteria:

(1) truant, runaway, or a child in need of supervision not adjudicated through Title III of the Texas Family Code;

(2) age 10-17;

(3) in an open DHR case or referred to DHR or the contract agency;

(4) in need of the services.

(c) When a juvenile is found to need these services, this must be discussed with him and his parents, if present. If the juvenile wants to use the service, a referral is made to the contract service agency, providing them with appropriate background information.

(d) When the department has an open case on the juvenile, the worker must regularly contact the contract service agency to monitor the status of work with the juvenile and to determine needed changes in DHR's and the contract agency's service planning.

.097. Providers of Contract Services for Juveniles.

(a) Contract services for juveniles are provided through purchase of services contracts with public or nonprofit private agencies. Priority is given to developing these contracts with juvenile probation departments or juvenile courts. Regional purchase of services staff must keep information on the location of providers of services for juveniles.

(b) The contract's plan of operation should include but need not be limited to 24-hour intake capability, individual counseling, crisis counseling, family counseling, casework services in alternate care facilities exclusively serving the juveniles, psychological testing, information and referral, coordination with other local support services, and coordination with other funding sources such as child welfare earned funds, Criminal Justice Division of the Governor's Office, Texas Youth Council, and local agencies and organizations.

(c) Room and board expenses are not allowed as a cost to be included in the approved budget of a contract provider, with the exception of therapeutic camping.

.098. Ongoing Protective Services for Unmarried or School-Age Parents.

(a) The department offers ongoing protective services to unmarried and school-age parents by developing comprehensive community programs, linking the parents to community and family resources, direct delivery of services, and purchasing services. These services are initiated on the basis of established priorities. Services to this client group are given to prevent child abuse and neglect. Work with unmarried and school-age parents is mainly directed toward planning for the care and rearing of the baby. The worker should help parents consider all the alternatives available for planning and caring for the baby. These alternatives could include any of the following: abortion, giving the baby up for adoption, or keeping and caring for the baby.

(b) When at all possible and when known, the father of the baby, the grandparents, and other family members who are involved with the mother and baby should be included in service planning. The father should be told what plans are

being made for his child, and that he has a part in deciding the child's future. The father must be involved in the court proceedings to terminate his legal rights to the child. The worker should discuss with the father his feelings about plans for the child, the out-of-wedlock pregnancy, and court action. The worker should help the father decide whether he will support the mother and unborn child financially, help pay for medical expenses, provide child care or housing, visit, or plan with the mother.

(c) If the unmarried or school-age parents want to give up their child for adoption or other permanent planning, the department will join the parents in a court petition to terminate the parent-child relationship and place managing conservatorship with the department. An affidavit of relinquishment should be executed by the parents, as outlined in Section 15.03 of the Texas Family Code. If the child is not the legitimate child of the alleged father, an affidavit of status of the child must be executed by the mother, if at all possible, as outlined in Section 15.04 of the Texas Family Code. If the parents wish to establish paternity or petition the court for child-support, the worker should help the parents get legal advice and services. If there are other legal problems, the worker should help the unmarried or school-age parents get legal advice and services in the community. A full social history about the baby must be obtained to aid in adoption placement. The worker should find out whether foster care or residential care in a maternity home may be available to the unmarried mother. Such living arrangements may be paid for by local funds or by the family, the father of the unborn child, another agency, or community resource.

(d) If DHR is the managing conservator of the unmarried or school-age pregnant mother, the worker must arrange for immediate medical verification of the pregnancy. Immediately after verification of the pregnancy, the worker must discuss with the mother plans for the unborn child. The worker must also notify the court having jurisdiction of the mother about the pregnancy and the mother's plans for the child. The worker must involve the father of the baby as stated above.

(e) If the mother is interested in an abortion, the worker should refer her to abortion resources. The worker should discuss with her all pregnancy alternatives to the abortion and should arrange for her to fully discuss the abortion process and its ramifications with a qualified physician, counselor, or nurse. If the mother requests an abortion, the worker should discuss notifying her parents to involve them in ongoing events in her life, as appropriate. The worker must also notify in writing the court having jurisdiction of the pregnant unmarried or school-age child of her decision to have an abortion so that the court can interview or appoint an attorney ad litem for the child, if it wants. The worker must get from the mother a written notarized request and consent for the abortion.

(f) Although Section 35.02(4) of the Texas Family Code provides that a minor may not consent to an abortion, a Supreme Court decision of 1976 ruled as unconstitutional laws such as this. As a result, DHR allows the unmarried mother to consent to the abortion and most medical facilities providing abortions will allow the minor to consent to her own abortion. An unmarried minor can consent to hospital, medical, or surgical treatment related to her pregnancy.

(g) After the abortion or the birth of the baby, the unmarried or school-age parent(s) must be offered family planning counseling and services.

Issued in Austin, Texas, on March 19, 1980.

Doc. No. 802106

Jerome Chapman
Commissioner

Texas Department of Human Resources

Proposed Date of Adoption: April 25, 1980

For further information, please call (512) 475-4601.



Texas Board of Land Surveying

The Land Surveying Practices Act of 1979, passed by the 66th Legislature, merged the Board of Examiners for Licensed State Land Surveyors with the State Board of Registration for Public Surveyors, creating the Texas Board of Land Surveying. Section 9 of the Act provides that the board shall have the authority to adopt rules for the performance of its duties in administering the Act. Several of these rules were adopted on an emergency basis on December 18, 1979.

The proposed rules will have no fiscal implications for the state or units of local government.

Public comment on the proposed rules is invited. Comments may be submitted in writing within 30 days from publication to the Texas Board of Land Surveying, 5555 North Lamar, Suite H-109, Austin, Texas 78751.

General Rules of Procedures and Practices

The Board 408.01.01

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes,

.001. *Name.* The name of the board shall be Texas Board of Land Surveying. For the purpose of brevity in succeeding rules this organization shall be subsequently referred to as the "board."

.002. *Headquarters.* The headquarters of the board shall be in Austin, Texas.

.003. *Chairman.* The chairman shall be the executive officer of the board. When present, he shall preside at all meetings. The chairman shall appoint such committees as the board may authorize from time to time. The chairman shall sign all certificates. The chairman shall perform all other duties usually pertaining to the office of chairman and permitted by law.

.004. *Vice Chairman.* The vice chairman shall, in the absence or incapacity of the chairman, exercise the duties and shall possess all the powers of the chairman, as permitted by law.

.005. *Executive Secretary.* The executive secretary shall conduct and care for all correspondence in the name of the board. The executive secretary shall maintain all records prescribed by law. The executive secretary shall keep a record of all meetings and maintain a proper account of business of the board. The executive secretary shall be custodian of the official seal and affix same to all certificates and other official documents upon the orders of the chairman and/or of the board. The executive secretary shall check and certify all bills and check all vouchers (claims) and shall approve same, and shall perform such other duties as directed by the board. The board shall furnish the executive secretary the necessary equipment, supplies, and stenographic assistance, paying for the same directly on vouchers (claims) handled as prescribed herein and by law.

.006. *Bond.* The executive secretary shall furnish a surety bond to the board in the amount of \$5,000, the premium for which shall be paid from the funds of the board.

.007. *Executive Committee.* The Executive Committee shall consist of the chairman of the board, who shall be chairman ex officio, the vice chairman, and one other member. Its duties shall be to transact all business instructed by the board, during the intervals between board meetings, and to report thereon to the board at its meeting. It shall also recommend to the board such actions in respect to policies and procedures as it may consider desirable.

.008. *Standing Committees.* For the purpose of administering examinations there shall be two standing committees.

(1) The Licensed State Land Surveyors Committee shall prepare, administer, and grade the licensed state land surveyors examination. This committee shall be made up of the commissioner or his authorized representative and all of the licensed state land surveyors on the board. A quorum shall be any three of its members.

(2) The Registered Public Surveyors Committee shall prepare, administer, and grade the registered public surveyors examination. This committee shall be made up of all members of the board. A quorum shall be six of which three must be registered public surveyors.

.009. *Special Committees.* Special committees shall have such duties as may be assigned by the chairman of the board, with the consent of the board.

.010. *Financial.* Payment of all salaries and other operating expenses of the board shall be made by itemized vouchers (claims) on the land surveying fund. Such vouchers (claims) shall be approved by the executive secretary of the board.

The executive secretary shall maintain complete records of the financial transactions of the board as prescribed by the state comptroller and by law.

.011. *Vacancies.* If for any reason, a vacancy shall occur in the board, the chairman shall call a special meeting for the purpose of preparing a notice to the governor asking for the appointment of a new member to fill the unexpired term. If the vacancy shall occur in the office of the chairman, the vice chairman shall call the meeting.

Doc. No. 802031

Meetings 408.01.02

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. *Regular Meetings.* Four regular meetings shall be held each year, one each in January, February, July, and August in Austin, Texas, or at such time and place as the majority of the board may designate.

.002. *Special Meetings.* Meetings may be called at any time by order of the chairman, or in his absence or inability to act by the vice-chairman, or may be called by the executive secretary on the written request of three members. Notice of all regular and special meetings shall be mailed out by the executive secretary to each member at his last known address at least one week prior to said meeting unless majority of the members of the board unanimously waive such notice. When executive sessions of the board are called, the chairman shall appoint one member as recorder.

.003. *Notice of Meetings.* Notice of meetings shall be published and posted in compliance with the requirements of the Administrative Procedure and Texas Register Act.

.004. *Proceedings.* *Robert's Rules of Order* shall govern the proceedings of the board except as otherwise provided herein or by statute.

Doc. No. 802032

Definitions 408.01.03

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. *Hearing.* Hearing means an adjudicative proceeding concerning the issuance, refusal, suspension, revocation of licenses, and/or registration certificates after which the legal rights, duties, or privileges of an applicant or licensee, are to be determined by the board.

.002. *Rule.* Rule means any board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the board. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the board and not affecting private rights or procedures. This definition includes substantive regulations.

.003. *Certificate of Registration and Certificate of Licensure.* A certificate of registration is a license to practice public surveying. A certificate of licensure is a license to practice state land surveying in Texas.

.004. *Renewal.* Renewal means the payment of a fee annually as set by the board within the limits of the law for the certificate of registration or the certificate of licensure.

.005. *Seal.* The seal of the board shall be as illustrated, and shall be of a size commercially designated as a two-inch seal, the measurement being two inches between each pair of opposite corners of the exterior octagonal frame.

.006. *Act.* The word Act used in the rules shall be the Land Surveying Practices Act of 1979.

Doc. No. 802033

Applications, Examinations, and Licensing 408.01.04

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. Applications.

(a) The board will receive at any time applications from persons who qualify by law and wish to apply to take an examination for registration to practice public surveying and/or state land surveying in Texas. Applications received by the board shall be examined by the executive secretary for conformity with the rules and regulations governing applications as established by the board. Applications accompanied by proper fees and in the form prescribed by the board shall be entered in the records of the board. Applications not accompanied by proper fees or not conforming entirely with the rules and regulations shall be returned to the applicant. Application forms in duplicate will be furnished by the board. One application is to be returned to the office of the board, the other retained in the applicant's file. Each applicant for registration shall be required to furnish all information requested on the application form. The application form shall contain general information regarding the applicant, a recent photograph, other registration and memberships, references and qualifications, formal education information with transcripts of college work, personal surveying experience, instructions for filing the form, and a sworn affidavit concerning information contained in the application, and a record of the board.

(b) The application shall be neatly typed or lettered and all questions must be answered. If the answer is negative, use the word "no" or "none." It is the applicant's responsibility to see that all references, transcripts of college work, and any other information required or requested by the board, is received in the office of the board on or before June 15 or December 15 in order for the applicant's file to be considered for the ensuing examination. Applications will not be considered if essential information is lacking. It is important that the experience record of the applicant be completed in detail giving character of work performed, particularly with respect to percentage of time engaged in boundary land surveying as opposed to engineering surveying, title of position, employer, amount of time, and responsibility in each engagement listed. Give total time in actual land boundary surveying in each engagement. If the space provided in the forms is

not sufficient, the applicant may attach as many sheets as are necessary. If the experience is of the character that it cannot be described properly in the tabulated form, he may submit a complete narrative account of his education, professional, or business career. All documents filed with the application shall remain in the permanent files of the board.

(c) Application files are considered initiated the date the application is received with fee. If an application is not received within six months after date of receipt of reference forms and required information, that file will be closed and the applicant so notified at his last known address. There is a one-year limitation on all applications, beginning with the date of initiation.

(d) No credit will be considered for experience obtained in violation of the Land Surveying Practices Act of 1979 or any applicable prior Act governing the surveying profession. Only that experience obtained in regular full-time employment will be considered in evaluating the applicant's record. Full time employment is defined by the board as a minimum of 40 hours per week, for a total collective period of time as required by law. In certain instances, the board may require additional proof of such employment.

(e) Each application shall be attested to before a notary public or other official qualified by law to administer oaths.

.002. Fees.

(a) The application fee is \$50. Each applicant for registration or licensure shall submit a cashier's check or money order for \$50 with his application. This fee is not returnable. The first registered public surveyor examination fee is \$50, which entitles the applicant to one examination. All subsequent examinations will be \$100.

(b) The first licensed state land surveyor examination fee is \$50, which entitles the applicant to one examination. All subsequent examinations will be \$100.

(c) The fee for reciprocal applicants shall be \$50 for each examination.

(d) The fee for filing an original licensed state land surveyor bond shall be \$5.00.

(e) New registrants will be required to pay a prorated fee as of date of registration.

.003. References.

(a) All references should be chosen carefully for their personal knowledge of the applicant's experience and qualifications. A registered professional engineer seeking registration under Section 14b of the Act is requested to provide references in support of his application and experience.

(b) Confidential reference forms furnished by the board shall include the name and address of the person giving the reference and full information in order that the board can better evaluate the applicant's surveying experience and qualifications.

(c) Members of this board shall not be given as references. The board prefers that when an applicant is employed by an organization that includes registered public surveyors, that the applicant use only one reference from a registered public surveyor who is associated with him in such organization. The board reserves the right to ask for additional references.

.004. *Rejections.* Should the board reject the application of any applicant, the fee accompanying the application will be retained by the board as an application fee. In case an application is rejected for any reason, the applicant will be notified by certified mail. The applicant may thereafter file

with the board any further evidence or reason to support claim for reconsideration. It is the policy and intention of the board to give a rejected applicant every reasonable opportunity to support claims for reconsideration and to consider such evidence as may have been omitted from, or overlooked, in the original application or examination. An applicant may apply for, and, at the discretion of the board, be granted an interview to state his case.

.005. Examinations.

(a) Registered public surveyor examinations shall be written and so designed to aid the board in determining the applicant's knowledge of surveying, mathematics, surveying laws, and his general fitness to practice the profession as outlined in the Act. The examinations will cover a two-day period and the applicant will be notified at least 10 days in advance. If an applicant fails to respond to two successive notifications, the applicant's file will be closed and will not be reopened without the filing of a new application and fee.

(b) Calculators will be permitted to be used during any examination, but shall not be programmed. All calculators or computers, determined by the board, the executive secretary, or the examination monitor prior to or during an examination to have been programmed, shall cause immediate disqualification of the applicant for that examination.

(c) All applicants reapplying under a second application for admission to a registered public surveyors' examination and receiving an average of less than 50% of a possible 100% in the previous examination, must show an enrollment and completion of either a correspondence course in land surveying equivalent to an international correspondence school course, or land surveying courses in a curriculum equal to that provided at an accredited junior college. This statement must be in the form of a certificate or a certified copy and must be accompanied by a transcript of the grades received.

(d) A grade of 70% or greater on each of the four sections of the examination will be considered a passing grade on the first examination. Thereafter, at its discretion, the board may require 72% or greater to be a passing grade on the second examination and 74% on the third and fourth examinations.

(e) An applicant for second or subsequent examinations who has achieved a grade of 75 on any portion of a previous examination may, at the discretion of the board, be excused from repeating said portion; provided, however, he pays the required fee set by the board. After three examinations the applicant may, at the board's discretion, be required to repeat the entire examination.

(f) In filing an updated application the applicant must update his experience record and secure a reference from each employer since the date of his original application.

(g) Licensed state land surveyors' examinations shall be written and so designed to reflect the applicant's knowledge of the history, files and functions of the General Land Office, survey construction, legal aspects pertaining to state interest in vacancies, excesses, and unpatented lands, and familiarity with other state interests in surface and sub-surface rights as covered by existing law.

(h) The licensed state land surveyor examination will be in two four-hour sections and each part graded independently. If an applicant scores less than 70% on either part, that applicant will be required to file an updated application with fee and repeat the entire examination.

.006. Certificate of Registration/Licensure.

(a) The number appearing on the licensed state land surveyor's certificate of licensure is the bond filing number of such licensee and is only for record keeping purposes. The licensed state land surveyor shall be required to furnish proof annually, as of the date of renewal of the bond, of a nature satisfactory to the board, that such bond is in full force and effect.

(b) At the time the applicant receives his certificate of registration/licensure, he will also be instructed to secure an impression seal of the type specified by the board. As soon as the registrant has secured his impression seal, he shall make an imprint thereof and shall forward said imprint to the board for its files. A rubber stamp is not considered an impression seal, but may be used at the discretion of the licensee.

.007. Reciprocal Registration.

(a) Applicants applying for reciprocal registration under Section 20 shall file with the board application forms as described in these rules and such other forms as required by the board.

(b) Applicants for reciprocal registration who have passed a 16-hour examination in another state are required to pass a written examination of eight hours consisting of legal aspects and analytical portions required of all other applicants.

(c) Applicants who are licensed in another state with less than a 16-hour examination must take a written examination of not less than 16 hours.

(d) Any cost for administering a reciprocal examination for this board by another state will be at the expense of the applicant.

Doc. No. 802034

Hearings 408.01.05

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. *Purpose of Rules.* To provide for a simple and efficient system of procedure before the board, to insure uniform standards of practice and procedure, notice of board actions, and a fair and expeditious determination of proceedings before the board. These rules shall be liberally construed with a view towards the purpose for which they were adopted.

.002. *Filing of Documents.* All complaints, motions, replies, answers, notices, and other pleadings relating to any proceeding pending or to be instituted before the board shall be filed with the executive secretary. They shall be deemed filed only when actually received in the board's office.

.003. *Complaints Officer.* One registered member shall be appointed by the chairman as the complaints officer of the board. It shall be the duty of the complaints officer to review all complaints filed against persons licensed under this present Act and recommendations to the board regarding further action. The complaints officer shall have no voice in the rendering of a final decision on any matter reviewed by him.

.004. Computation of Time.

(a) Computing time. In computing any period of time prescribed or allowed by these rules, by order of the board, or

by any applicable statute, the period shall begin on the day after the act, event or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday.

(b) Extensions. Unless otherwise provided by statute, the time for filing any pleading may be extended by order of the executive secretary, upon written motion duly filed with him prior to the expiration of the applicable period of time for the filing of the same, showing that there is good cause for such extension of time and that the need therefor is not caused by the neglect, indifference, or lack of diligence of the movant. A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

.005. *Agreements To Be in Writing.* No stipulation or agreement between the parties, their attorneys, or representatives, with regard to any matter involved in any proceeding before the board shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a person's ability to waive, modify, or stipulate any right or privilege afforded by these rules, unless precluded by law.

.006. *Service in Rulemaking Proceedings.* Service of a proposed rule or amendment of any existing rule shall be governed by Section 5(A), et seq., of the Administrative Procedure and Texas Register Act.

.007. *Conduct and Decorum.* Every party, witness, attorney, or other representative shall comport himself in all proceedings with proper dignity, courtesy, and respect for the board, the executive secretary, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Texas State Bar.

.008. *Appearances Personally or by Representative.* Any person may appear and be represented by an attorney at law authorized to practice law before the highest court of any state.

.009. *Motions.* Any motion relating to a pending proceeding shall, unless made during a hearing, be written, and shall set forth the relief sought and the specific reasons and grounds therefor. If based upon matters which do not appear of record, it shall be filed with the executive secretary, who shall act upon the motion at the earliest practicable time.

.010. *Amendments.* Any pleading may be amended at any time upon motion; provided, that the complaint upon which notice has been issued shall not be amended so as to broaden the scope thereof.

.011. *Incorporation by Reference of Board Records.* Any pleading may adopt and incorporate, by specific reference thereto, any part of any document or entry in the official files and records of the board except such documents or entries which are protected from public disclosure by law. This rule shall not relieve any party of the necessity of alleging in detail, if required, facts necessary to sustain his burden of proof, if any, imposed by law.

.012. *Motions for Postponement, Continuance, Withdrawal, Dismissal of Other Matters before the Agency.*

(a) Motions for postponement, continuance, withdrawal, or dismissal of other matters which have been duly set for hearing, shall be in writing, shall be filed with the executive secretary, and distributed to all interested persons, under a certificate of service, not less than five days prior to the designated date that the matter is to be heard. Such motion shall set forth, under oath, the specific grounds upon which the moving party seeks such action and shall make reference to all prior motions of the same nature filed in the same proceeding.

(b) Failure to comply with the above, except for good cause shown, may be construed as lack of diligence on the part of the moving party, and at the discretion of the executive secretary, may result in the dismissal of matter in issue, with prejudice to refileing.

(c) Once an application has actually proceeded to a hearing, pursuant to the notice issued thereon, no postponement or continuance shall be granted by the executive secretary without the consent of all parties involved.

.013. *Place and Nature of Hearings.* All hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Austin, Texas, unless for good and sufficient cause the board shall designate another place of hearing in the interest of the public.

.014. *Presiding Officer at Hearings.*

(a) The chairman is delegated by the board the authority to preside at hearings, make and issue final orders, decisions, and recommendations for the board concerning the issuance, refusal, revocation, or suspension of licenses, registration, and certificates. He also shall have the authority to rule upon the admissibility of evidence and amendments to pleadings, and by quorum vote of the board may recess any hearing from day to day.

(b) The executive secretary shall have authority to administer oaths and examine witnesses.

.015. *Notice and Hearing.*

(a) An applicant or licensee is entitled to at least 20 days' notice and a hearing after his original application for examination has been refused.

(b) Notice of hearing for refusal, cancellation, or revocation may be served personally by the board or its authorized representative or sent by United States certified mail addressed to the applicant or licensee at his last known address.

(c) In the event that notice cannot be effected by either of these methods after due diligence, the board may prescribe any reasonable method of notice calculated to inform a person of average intelligence and prudence in the conduct of his affairs. The board shall publish notice of a hearing in a newspaper of general circulation in the area in which the licensee conducts his business activities.

.016. *Order of Procedure in Hearings.*

(a) In all hearings the board shall be entitled to open and close. After all persons have completed the presentation of their evidence the chairman may call upon any party or the staff of the board for further material or relevant evidence upon any issue to be presented at further public hearing after notice to all parties of record.

(b) The executive secretary shall direct all persons to enter their appearances on the record. If exceptions to the

form or sufficiency of a pleading have been filed in writing at least three days prior to the date of hearing, they shall be heard; otherwise not.

.017. *Dismissal without Hearing.* The executive secretary may entertain motions for dismissal without a hearing for the following reasons: failure to prosecute; unnecessary duplication of proceedings or res adjudicata; withdrawal; moot questions; or lack of jurisdiction.

.018. *Rules of Evidence.* In all cases, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable prudent men in the conduct of their affairs. The chairman shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, if a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

.019. *Documentary Evidence and Official Notice.*

(a) Documentary evidence may be received in the form of two copies. On request, all parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the chairman may limit those admitted to a number which are typical and representative, and may, in his discretions, require the abstracting of the relevant data from the documents and the presentation of the abstracts in the form of an exhibit; provided, however, that before making such requirement, the chairman shall require that all persons of record or their representatives be given the right to examine the documents from which such abstracts were made.

(b) Official notice may be taken of all facts judicially recognizable. In addition, notice may be taken of generally recognized facts within the area of the board's specialized knowledge. All persons shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The special skills or knowledge of the board and its staff may be utilized in evaluating the evidence.

.020. *Limitations on Number of Witnesses.* The chairman shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

.021. *Exhibits.*

(a) *Form.* There shall be a brief statement on the first sheet of the exhibit of what the exhibit purports to show. Exhibits shall be limited to facts material and relevant to the issues involved in a particular hearing.

(b) *Tender and service.* The original of each exhibit offered shall be tendered to the chairman for identification; one copy shall be furnished to the executive secretary, and one copy to each other party of record or his attorney or representative.

(c) *Excluded exhibits.* In the event an exhibit has been identified, objected to, and excluded, the chairman shall determine whether or not the person offering the exhibit

withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification, shall be endorsed by the chairman with his ruling, and shall be included in the record for the purpose only of preserving the exception.

(d) After hearing. Unless specifically directed by the chairman, an exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing. In the event the chairman allows an exhibit to be filed after the conclusion of the hearing, copies of the late-filed exhibit shall be served on all parties of records.

.022. *Offer of Proof.* When testimony is excluded by ruling of the board the person offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review by the board. The board may ask such questions of the witness as they deem necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

.023. *Depositions.* The taking and use of depositions in any proceeding shall be governed by Section 14 of the Administrative Procedure and Texas Register Act.

.024. *Subpoenas.* Subpoenas for the attendance of a witness from any place in the State of Texas at a hearing in a pending proceeding, may be issued by the executive secretary in accordance with the Land Surveying Practices Act of 1979.

.025. *Oral Argument.* Any party may request oral argument prior to the final determination of any proceeding, but oral argument shall be allowed only in the sound discretion of the chairman. A request for oral argument may be incorporated in exceptions, brief, replies to exceptions, motions for rehearing, or in separate pleadings.

.026. *Final Decisions and Orders.* All final decisions, recommendations, and orders of the board shall be in writing and shall be signed by the chairman. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submits proposed findings of fact, the decision shall include a ruling on each proposed finding. Parties shall be notified either personally or by mail of any decision or order. On written request, a copy of the decision, recommendation, or order shall be delivered or mailed to any party and to his attorney of record.

.027. *Administrative Finality.*

(a) A decision is final, in the absence of a timely motion for rehearing, and is final and appealable on the date of rendition or the order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

(b) If the executive secretary finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order in a contested case, it shall recite the finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered and no motion for rehearing is required as a prerequisite for appeal.

.028. *Motions for Rehearing.* A motion for rehearing is a prerequisite to an appeal. A motion for rehearing must be filed within 15 days after the date of rendition of a final decision or order. Replies to a motion for rehearing must be filed with the executive secretary within 25 days after the date of rendition of the final decision or order.

.029. *Rendering of Final Decision, Recommendation, or Order.* The final decision, recommendation, or order must be rendered within 60 days after the date the hearing is finally closed.

.030. *Notice of Board's Order.*

(a) Any order refusing an application shall state the reasons for refusal, and a copy of the order shall be delivered immediately to the applicant.

(b) An order revocating or suspending a license shall state the reasons for the revocation or suspension, and a copy of the order shall be delivered immediately to the licensee.

(c) Delivery of the board's recommendation of refusal, revocation, or suspension may be given by:

(1) personal service upon an individual applicant or licensee; or

(2) sending such notice by United States certified mail addressed to the business premises of the applicant or licensee.

Notice is complete upon performance of any of the above.

.031. *The Record.*

(a) The record of a hearing shall include:

(1) all pleadings, motions, and intermediate rulings;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings on them;

(5) proposed findings and exceptions;

(6) any decision, opinion, or report by the chairman presiding at the hearing; and

(7) all staff memoranda or data submitted to or considered by the board in making the decision.

(b) Findings of fact shall be based exclusively on the evidence presented and matters officially noticed.

.032. *Ex Parte Consultations.* Unless required for the disposition of ex parte matters authorized by law, the chairman delegated the authority to render decisions or to make findings of fact and conclusions of law in hearings may not communicate, directly or indirectly, in connection with any issue of fact or law with any party or his representative, except on notice and opportunity for all parties to participate.

.033. *Appeals.* Appeals will be in accordance with Article 5282c, Vernon's Annotated Civil Statutes, and the Administrative Procedure Act.

.034. *Suspension of Rules.* In any case in which a public emergency or imperative public necessity so requires, the board may suspend the operation of these rules.

Doc. No. 802035

Engineers Presently Practicing Surveying 408.01.06

In proposing these rules, the board recognizes two important requirements it must meet: first, to respect the right to his

means of livelihood of the individual who has conscientiously prepared himself to practice the profession of land surveying; and second, to do what is within the power of the board to protect the public against dangers arising from attempts of incompetent or unscrupulous persons to practice the profession of land surveying.

This rule is proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. *Registered Professional Engineers in Texas.* An engineer now engaged in the practice of land surveying may continue to do so until June 13, 1980, or, if he has an application pending with the board, until such time as the board has taken action on such application.

Doc. No. 802036

Temporary Permits 408.01.07

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. *Temporary Permits.* Upon written notification, as outlined in Section 4(5) of the Land Surveying Practices Act of 1979, a temporary permit to practice for not more than 60 days in any calendar year will be granted, provided that the person applying shall be legally qualified to so practice in another state and shall have filed with this board an application for reciprocal registration and shall have paid the fee required. Such exemption shall continue only for such time as the board requires for the consideration of the application for registration.

Doc. No. 802037

Firms Furnishing Surveying Crews 408.01.08

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. *Firms Furnishing Surveying Crews.* Any firm furnishing land surveying crews must have a registered public surveyor as a principal in that firm.

Doc. No. 802038

Surveyor-in-Training 408.01.09

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. *Minimum Education and Application Fees.* Applicants under Section 15(d) shall have a high school education or its equivalent. The application fee for a surveyor-in-training shall be \$50 and such application shall be valid for four years.

.002. *Basic Examinations.*

(a) Surveyor-in-training applicants with a high school education or its equivalent, who have a minimum of two years experience, of which an aggregate of 1.5 years must be in boundary land surveying, may take fundamentals of surveying portion of the examination.

(b) Surveyor-in-training applicants with 32 semester hours of study or its academic equivalent in any combination of courses in civil engineering, land surveying, mathematics, photogrammetry, forestry, or land law and the physical sciences, and a minimum of one year experience in boundary land surveying may take the fundamentals of surveying and computation portions of the examination. If an applicant makes 70% or better on each portion of the examination, a surveyor-in-training certificate will be issued to the applicant. An applicant failing any portion of the examination will be required to make 75% or greater on the second examination and pay the fee as required in (b)(4) of this rule. If applicant fails a second examination, a new application and fee will be required.

(1) Upon successful completion of the fundamentals of surveying portion of the examination, the applicant shall be certified as a surveyor-in-training.

(2) A surveyor-in-training applicant who has a high school education or its equivalent and has become a surveyor-in-training under paragraph B, 1 or 2, may after receiving an additional two years boundary land surveying experience and upon completion of a course of study as outlined by the board, tailored to that individual's needs and geographic location may then be permitted to pay the remaining fees and to take the remainder of the examination and if the applicant passes, then he is registered.

(3) It is the responsibility of the applicant to update his application each year on or before the anniversary date thereof. If a surveyor-in-training applicant does not update the application within 30 days after the anniversary date of his application, such application will be closed and the applicant so notified at his last known address.

(4) The examination fee for a surveyor-in-training shall be prorated to 1/4 of the first examination fee for each portion of the examination taken. This fee entitles the surveyor-in-training applicant to one examination.

(5) A certificate as a surveyor-in-training does not entitle an individual to practice as a registered public surveyor. Any applicant withdrawing from the surveyor-in-training program after being certified as a surveyor-in-training, shall reapply as provided for under the appropriate section of the Act, and shall not be eligible for further consideration as a surveyor-in-training and shall pay the fee, as set by the board, for subsequent examinations and shall be required to repeat the entire examination.

Doc. No. 802039

Standards of Responsibility and Rules of Conduct 408.02.00

These rules are proposed under the authority of Article 5282c, Vernon's Annotated Civil Statutes.

.001. Ethical Standards.

(a) Inasmuch as the practice of the land surveying profession is essential to the orderly use of our physical environment, and, inasmuch as the technical work resultant thereof has important effects on the welfare, property, economy, and security of the public, the practice should be conducted with the highest degree of moral and ethical standards. And inasmuch as the state legislature has vested in the Texas Board of Land Surveying the authority, power, and duty to establish

and enforce standards of conduct and ethics for public surveyors and licensed state land surveyors to insure compliance with and enforcement of the Texas Board of Land Surveyors, the following standards of responsibility and rules of conduct are hereby promulgated and adopted by the board.

(b) So that every applicant for registration as a public surveyor or licensed state land surveyor shall be fully aware of the great obligation and responsibility due the public, the standards of responsibility are promulgated by the board. In furtherance of this intent, every registrant should endorse the standards of responsibility.

.002. Intent.

(a) The intent shall be:

(1) to create standards of responsibility as guidelines for the profession; and

(2) to create rules of conduct for governance of the profession.

(b) The rule shall be binding on all registrants, but nothing contained therein shall be construed to supersede the statutory law of the state.

(c) The board shall determine what acts constitute violation of the rules and shall institute appropriate disciplinary action which may lead to the revocation of the registration in accordance with the state statutes.

.003. Offer To Perform Services. The client or employer is entitled to a careful and competent performance of services. Competence in performance of services requires the exercise of proficiency, reasonable care, and diligence. Therefore, every effort should be made to remain proficient in a field of endeavor, and employment for services to be rendered should not be accepted unless such services can be competently performed. The registrant:

(1) shall accurately and truthfully represent to any prospective client or employer his capabilities and qualifications to perform the services to be rendered;

(2) shall not offer to perform, nor perform, services for which he is not qualified in any of the technical fields involved, by education or experience, without retaining the services of another who is so qualified;

(3) shall not evade his statutory responsibility nor his responsibility to a client or employer.

.004. Conflict of Interests. The acceptance of employment, or engagement to perform services, creates the duties of agent toward the client or employer, requiring the faithful discharge of duty and performance of services, as well as the avoidance of any conflict of interests. All dealings with a client or employer, and all matters related thereto should be kept in the closest confidence. Should an unavoidable conflict of interest arise, the client or employer should be immediately informed of any and all circumstances which may hamper or impair the quality of the services to be rendered. The registrant:

(1) shall not agree to perform services for a client or employer if there exists any significant financial or other interest that may be in conflict with the obligation to render a faithful discharge of such services, except with the full knowledge, approval, and consent of the client or employer;

(2) shall not continue to render such services without informing the client or employer, and all other parties involved, of any and all circumstances involved which may in any way affect the performance of such services, and then only with the full approval of the client or employer;

(3) shall not perform, nor continue to perform ser-

services for a client or employer, if the existence of conflict of interest would impair independent judgment in rendering such services;

(4) shall withdraw from employment at any time during such employment or engagement when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client or employer, and then only upon reasonable notice to the client or employer;

(5) shall not accept remuneration from any party other than his client or employer or a particular project, nor have any other direct or indirect financial interest in other service or phase of service to be provided for such project, unless the client or employer has full knowledge and so approves;

(6) shall keep inviolate the confidences of his client or employer, except as otherwise required in the rules of conduct.

.005. Representations. The highest degree of integrity, truthfulness, and accuracy should be paramount in all dealing with, and representations to, others by not misleading in any way the other's understandings of personal qualifications or information regarding a project. The registrant:

(1) shall not enter into a partnership or any agreement in which any person not legally and actually qualified to perform the services to be rendered has any control over his independent judgment as related to the welfare, property, economy, and security of the public;

(2) shall not indulge in publicity that is false, misleading, or deceptive;

(3) shall not misrepresent the amount or extent of prior education or experience to any employer or client, nor to the board;

(4) shall as accurately and truthfully represent to a prospective client or employer the costs and completion time of a proposed project as is reasonably possible;

(5) shall not hold out as being engaged in partnership or association with any person or firm unless there exists in fact a partnership or association;

(6) shall not recommend to a client services of another for the purpose of collecting a fee for himself for those services.

.006. Unauthorized Practice. All reasonable assistance in preventing the unauthorized practice of land surveying should be given the board. Unauthorized practice should not be aided in any way. The registrant:

(1) shall make known to the board any unauthorized practice of which he has personal knowledge;

(2) shall divulge any information, of which he has personal knowledge, related to any unauthorized practice to the board upon request of the board or its authorized representatives;

(3) shall not delegate responsibility to, nor in any way aid or abet, an unauthorized person to practice, or offer to practice.

.007. Maintenance of Standards. Aid should be given the board in maintaining the highest standards of integrity and competence of those in its subject profession and occupation. The registrant:

(1) shall furnish the board with any information that comes into his possession, indicating that any person or firm has violated any of the provisions of the registration laws or code;

(2) shall furnish any information he might have concerning any alleged violation of the registration laws or code upon request of the board or its authorized representatives.

.008. Adherence to Statutes and Codes. Strict adherence to practice requirements of related sections of the statutes, the state code, and all local codes and ordinances should be maintained in all services rendered. The registrant:

(1) shall abide by, and conform to, the registration and licensing laws of the state;

(2) shall abide by, and conform to, the provisions of the state code and all local codes and ordinances;

(3) shall not violate nor aid and abet another in violating a rule of conduct nor engage in any conduct that may adversely affect his fitness to practice;

(4) shall not sign nor impress his seal or stamp upon documents not prepared by him or under his control or knowingly permit his seal or stamp to be used by any other person.

.009. Professional Conduct.

(a) Competitive bidding for professional surveying services is not in the best interest of the public and is a form of solicitation and is a conduct contrary to the practice of all learned professions in the State of Texas; therefore,

(b) the surveyor shall not offer or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit, or reward as an inducement to secure any specific surveying work or assignment; providing and excepting, however, that a surveyor may pay a duly licensed employment agency its fee or commission for securing surveying employment in a salaried position.

(c) The surveyor shall not make, publish, or cause to be made or published, any representation or statement concerning his professional qualifications or those of his partners, associates, firm, or organization which is in any way misleading, or tends to mislead the recipient thereof, or the public, concerning his surveying education, experience, specialization, or any other surveying qualification.

(d) The public shall be provided every reason for relying upon the surveyors' seals, signatures, or professional identification on all documents, plats or maps, surveyors' reports, plans, or other surveying data on which they appear as a representation that the surveyors whose seals, signatures, or professional identification appear thereon, have personal knowledge thereof and that they are professionally responsible therefor.

.010. Disciplinary Rules. The surveyor shall not:

(1) violate any provision of the Land Surveying Practices Act of 1979 or disciplinary rule thereof;

(2) circumvent or attempt to circumvent any provision of the Land Surveying Practices Act of 1979 or disciplinary rule thereof through actions of another;

(3) participate, directly or indirectly, in any plan, scheme, or arrangement attempting to or having as its purpose the evasion of any provision of the Land Surveying Practices Act of 1979;

(4) fail to exercise reasonable care or diligence to prevent his partners, associates, or employees from engaging in conduct which if done by him, would violate any of the provisions of the the Land Surveying Practices Act of 1979;

(5) engage in any illegal conduct involving moral turpitude;

(6) engage in any conduct that discredits or attempts to discredit the profession of surveying;

(7) permit or allow himself, his professional identification, seal, form, or business name, or his service to be used or made use of, directly or indirectly, or any manner whatsoever, so as to make possible to create the opportunity for the unauthorized practice of surveying by any person, firm, or corporation of this state;

(8) perform any acts, allow any omission, or make any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever, tend to create a misleading impression;

(9) injure or attempt to injure or damage the professional reputation of another by any means whatsoever; provided and except, however, that this shall not relieve the surveyor of the obligation to expose unethical or illegal conduct to the proper authorities or preclude a frank but private appraisal of surveyors or other persons or firms considered for employment;

(10) aid or abet, directly or indirectly, any unlicensed person in connection with the unauthorized practice of surveying or any firm or corporation in the practice of surveying unless carried on in accordance with the Land Surveying Practice Act of 1979.

Issued in Austin, Texas, on March 17, 1980.

Doc. No. 802040 Betty J. Pope
Executive Secretary
Texas Board of Land Surveying

Proposed Date of Adoption: April 25, 1980
For further information, please call (512) 452-9427.

Railroad Commission of Texas

Oil and Gas Division

Natural Gas Policy Act (NGPA) Determination Procedures 051.02.03

(Editor's note: The Railroad Commission of Texas is proposing for permanent adoption the emergency amendment of Rule 051.02.03.003 which it adopts in this issue. The text of the amended rule appears in the Emergency Rules section.)

The Railroad Commission of Texas proposes to adopt the amendment of Rule .003 on a regular basis. This amendment is proposed to clarify the Natural Gas Policy Act (NGPA) requirements for documents submitted with an application for stripper well status under Section 108 of the Natural Gas Policy Act of 1978. Under this amendment, two objectives are achieved. First, the deletion of the requirement for a 24-month lease inventory simplifies an application. Second, the explanation of methods of allocation of production on a multiple well lease where wells are not individually metered clarifies the types of documents which must be submitted. The amendment explains that the well test which Texas requires to be conducted on most wells is a reliable method on which to base allocation of production on a multiple well lease where wells are not individually metered. An applicant can continue to average total lease production equally among the nonmetered wells only by showing that the relevant W-10 is not reliable and that there is no other method of allocation. Alternative methods of allocation continue to be allowed when the applicant proves their reliability. The amendment consists of deleting certain language and adding new language to the subsection. The amendment is being proposed because of the need to simplify and clarify NGPA applications.

The commission staff has determined there will be no fiscal impact for the state or for units of local government.

Public comment on the proposed amendment is invited. Comments should be submitted in writing to Sandra B. Buch, NGPA Section, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

This amendment is proposed under the authority of Title III, Texas Natural Resources Code.

Issued in Austin, Texas, on March 17, 1980.

Doc. No. 802081 John H. Poerner, Chairman
James E. (Jim) Nugent and
Mack Wallace, Commissioners
Railroad Commission of Texas

Proposed Date of Adoption: May 10, 1980
For further information, please call (512) 445-1278.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."



CODIFIED

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 59. Parks

Park Entrance and Park User Fees

The Texas Parks and Wildlife Department has adopted an amendment to §59.4 (127.40.01.017), which authorizes the executive director to prescribe a reservation fee at state parks when he deems it necessary.

The amendment to §59.4 (.017) is adopted under the authority of subsection (t) of §59.3 (.016) and Section 13.019, Texas Parks and Wildlife Code.

§59.4 (127.40.01.017). Reservation of State Park Facilities. Reservations for park facilities may be accepted at parks designated by the executive director. Reservations may not be made more than 90 days in advance. The executive director is authorized to prescribe a reservation fee when he deems it necessary. The reservation fee will be applied to the first day's user fee at the time the holder of the reservation registers at the park headquarters. If the park manager is requested to cancel the reservation not less than 24 hours prior to the day the facility is first to be occupied under the reservation, the reservation fee will be refunded; otherwise the fee will be forfeited.

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802000 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife Department

Effective Date: April 4, 1980

Proposal Publication Date: February 5, 1980

For further information, please call (512) 475-4845.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration Public Information Policies

Pursuant to the authority of Vernon's Civil Statutes, Article 4413(4), the Texas Department of Public Safety is adopting amendments to §1.60 (201.01.04.010) with no changes from the text proposed in the February 12, 1980, issue of the *Texas Register* (5 TexReg 458).

§1.60 (201.01.04.010). Requests for Department of Public Safety Press Cards. Department of Public Safety press cards are issued by the Public Information Office for the sole purpose of assisting department personnel in cooperating with working members of the news media. Press cards are not a pass or license and they convey no immunity from arrest. The cards, which bear the signature of the director, are issued biennially and are of a different color for the two-year period. The following regulations govern the issuance of Department of Public Safety press cards:

(1) Employing organizations may include news publications, accredited news services such as Associated Press or United Press International, licensed radio and television broadcast stations, or government-franchised community cable television systems which originate scheduled, local news programming. Publications must possess a second class mailing permit, must be published at least once weekly, and must contain at least 25% news of general interest.

(2) Applicants must be employed by an eligible organization as defined above and must have job titles which

reflect their responsibilities as working members of the news media. Each applicant must be at least 18 years of age, must not be under indictment for any criminal offense, must not be on probation for any offense other than a traffic violation or Class C misdemeanor, and must not be on parole from any penal institution.

(3) Applications must be made on forms provided by the Department of Public Safety. All blanks must be completed, the applicant's legal name must be used, and a legible thumbprint must be affixed. A Texas driver's license or Department of Public Safety personal identification card number must be shown because this number is used as the press card number. Applications must be signed by both the applicant and employer, and must be mailed in the eligible organization's letterhead envelope to the Public Information Office, Texas Department of Public Safety, Box 4087, Austin, Texas 78773.

(4) Press cards, if issued, will be returned to the employer for issuance to the applicant. Upon receipt, the applicant must affix his signature and photograph in the blanks provided in order to validate the card.

(5) Press cards remain the property of the Texas Department of Public Safety and may be revoked for false statements in the application, if the holder becomes ineligible through termination of employment, or for any of the reasons noted herein.

Issued in Austin, Texas, on March 17, 1980.

Doc. No. 802079 James B. Adams
 Director
 Texas Department of Public Safety

Effective Date: April 8, 1980

Proposal Publication Date: February 12, 1980

For further information, please call (512) 452-0331.

Aircraft Operations

Pursuant to the authority of Vernon's Civil Statutes, Article 4413(4), the Texas Department of Public Safety is adopting amendments to §1.141 (201.01.11.001) with no changes from the text proposed in the January 15, 1980, issue of the *Texas Register* (5 TexReg 131).

§1.141 (201.01.11.001). *Aircraft Operation Regulations.*

(a) Department of Public Safety aircraft shall be used only for state business.

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

(e) All Department of Public Safety pilots are required to hold a current first class medical certificate.

(f) While airborne on routine assignments, helicopter pilots have orders to proceed immediately to the scenes of major crimes, searches, jailbreaks, or disaster scenes which occur in their area, and to establish surveillance and communications as soon as possible.

Issued in Austin, Texas, on March 10, 1980.

Doc. No. 802009 James B. Adams
 Director
 Texas Department of Public Safety

Effective Date: April 4, 1980

Proposal Publication Date: January 15, 1980

For further information, please call (512) 452-0331.

Chapter 21. Equipment and Vehicle Approval

Pursuant to the authority of Vernon's Civil Statutes, 6701i, and Vernon's Civil Statutes, 6701d, Article XIV, Section 108 and Section 108A, the Texas Department of Public Safety is adopting amendments to §21.1 (201.11.00.001) with no changes from the text proposed in the January 25, 1980, issue of the *Texas Register* (5 TexReg 271).

§21.1 (201.11.00.001). *Minimum Safety Standards for Vehicle Equipment.*

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

(e) Use of one-way glass and glass coating material on motor vehicles. The following regulations establish standards and specifications for the use of one-way glass and glass coating material.

(1) Use of one-way glass. AS-3 safety glazing (one-way or privacy) glass is an option available on many new motor vehicles. It may be used anywhere in a bus, van, club wagon, truck, or truck tractor except in the windshield and front (side) windows to the immediate right and left of the driver, and in the rearmost window if such rearmost window is used for driving visibility. If the vehicle is equipped with outside rearview mirrors, then one-way (AS-3) glass may be used in the rearmost window. One-way glass may not be used in any window, interior partition, or aperture created for window purposes in a passenger automobile, station wagon, or taxicab.

(2) Use of glass coating material. Glass coating may be applied anywhere in a motor vehicle except on the windshield and front (side) windows to the immediate right and left of the driver and in the rearmost window if such rearmost window is used for driving visibility. If the motor vehicle is equipped with outside rearview mirrors, then glass coating material may be used in the rearmost window. The glass coating may be a spray-on tint, metalized mylar plastic, or other kinds of material. The use of curtains, blinds, or stick-on novelty designs is not prohibited.

Issued in Austin, Texas, on March 10, 1980.

Doc. No. 802010 James B. Adams
 Director
 Texas Department of Public Safety

Effective Date: April 4, 1980

Proposal Publication Date: January 25, 1980

For further information, please call (512) 452-0331.

Pursuant to the authority of Vernon's Civil Statutes, 6701i, the Texas Department of Public Safety is adopting amendments to §21.5 (201.11.00.005) with no changes from the text proposed in the December 21, 1979, issue of the *Texas Register* (4 TexReg 4653).

§21.5 (201.11.00.005). *Hydraulic Brake Fluid.*

(a) Definitions.

(1) The term "brake fluid" as used herein shall mean the liquid medium through which force is transmitted in the hydraulic brake system of any motor vehicle operated upon the highways of this state.

(2) The term "package" as used herein means the immediate container in which the brake fluid is packed for

sale but does not include a carton or wrapping containing several packages, nor a tank car or truck.

(b) **Registration.** Any manufacturer, packer, or distributor, or their agents or representatives, desiring to market any brake fluid in the State of Texas that is not currently registered shall first furnish to the department such sample of the fluid as it may require for testing purposes and present in writing to the department an application for registration of the brake fluid for marketing in Texas.

(c) **Misbranding.** A brake fluid is misbranded:

(1) if its labeling is false or misleading in any particular; or

(2) if the package in which it is packed for sale does not bear a label or imprint containing in clear and legible type:

(A) the name and address of the manufacturer, packer, or seller;

(B) the words "brake fluid" and a designation of the contents; and

(C) an accurate statement of the net contents in terms of liquid measure.

(d) A brake fluid is adulterated:

(1) if the formula for or proportions of its contents have been changed since it was most recently registered; or

(2) if its quality or characteristics do not meet the standards and specifications for brake fluid established by the department.

(e) **Standards and specifications.**

(1) **Standards.** The requirements for brake fluids used in hydraulic brake systems of motor vehicles shall conform to the (Part 571) Federal Motor Vehicle Safety Standard—No. 116 (effective March 1, 1972, and any subsequent amendments). The grades of brake fluid shall be designated as "DOT _____ Motor Vehicle Brake Fluid."

(2) **Change of formula or composition of physical properties.** In the event the formula or composition of an approved brake fluid grade is changed, the manufacturer shall promptly advise the department of such fact and submit proof that the changed formula or composition will conform to the standards set out in (1).

(3) **Container sealing.** Each brake fluid or hydraulic system mineral oil container with a capacity of six fluid ounces or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. The container closure shall include a tamper-proof feature that will either be destroyed or substantially altered when the container closure is initially opened.

(4) **Certification, marking, and labeling.** Each packager of a brake fluid shall furnish the following information clearly and indelibly marked on each brake fluid container, in any location except a removable part such as a lid:

(A) certification that the brake fluid conforms to Federal Motor Vehicle Safety Standard No. 116;

(B) the name of the packager of the brake fluid, which may be in code form;

(C) the name and complete mailing address of the distributor;

(D) a serial number identifying the packaged lot and date of packaging;

(E) designation of the contents as "DOT _____ Motor Vehicle Brake Fluid" (fill in "3," "4," or "5" as applicable);

(F) the minimum wet boiling point in Fahrenheit of the DOT brake fluid in the container; and

(G) the following safety warnings in capital and lower case letters as indicated:

(i) Follow vehicle manufacturer's recommendations when adding brake fluid.

(ii) Keep brake fluid clean and dry. Contamination with dirt, water, petroleum products, or other materials may result in brake failure or costly repairs.

(iii) Store brake fluid only in its original container. Keep container clean and tightly closed to prevent absorption of moisture. (The last five words of the second sentence may be omitted from the labeling on DOT-5 containers.)

(iv) **Caution:** Do not refill container, and do not use for other liquids. (Not required for containers with a capacity in excess of five gallons.)

(f) **Application.** The following procedure shall be followed when any motor vehicle brake fluid is submitted for registration:

(1) The manufacturer, the manufacturer's representative, the packer, or distributor, shall submit a written request for registration of the motor vehicle brake fluid to the Texas Department of Public Safety.

The owner of a trade name is deemed to be a packer within the requirements of these regulations if the said owner or firm actually packages in marketing containers and has control of the quality of the brake fluid so packaged. The packer is the person or firm who places the brake fluid in the container in which it is marketed to the consumer. The manufacturer is the person or firm who actually manufactures, compounds, or blends the ingredients into a brake fluid. A person or firm who is a manufacturer may also package the fluid in the containers which bear the brand label under which it is to be marketed. In cases where the fluid is purchased from someone as a finished compound in bulk containers and is then repackaged into marketing containers bearing the packager's own or some other brand label, such a person or firm is construed to be the packer. The person or firm who purchases the fluid already packaged and labeled is not the packer or the manufacturer under this section.

(2) The written request shall be accompanied by one copy of label or lithograph design used on containers (originals or photostats), a four-quart sample of the brake fluid; (A) and either (B) or (C).

(A) A sworn statement (affidavit) certifying the following items: that the formula and proportions of the contents of the sample of brake fluid submitted to the independent testing laboratory for testing and described in the test report (or American Association of Motor Vehicle Administrators certificate if used in lieu of a test report) are the same as the formula and proportions of the brake fluid sample submitted to the department and the formula and proportions of brake fluid manufactured or packaged for sale under the brand name and label specified for the sample. This affidavit must clearly identify the test report by name, number, and date (or American Association of Motor Vehicle Administrators certificate) referred to as well as the brand name of the brake fluid for which registration is being sought.

(B) A test report from an independent testing laboratory approved by the department (the department recognizes as approved testing laboratories those laboratories recognized and approved by the American Association of Motor Vehicle Administrators, 1201 Connecticut Avenue, N.W., Suite 910, Washington, D.C. 20036), showing com-

pliance with the standards and specifications herein contained. The test report shall contain a complete and full description (not chemical formula) and analysis of the contents of the brake fluid submitted to the laboratory, the method of conducting the tests, and the results of the tests. The results of the tests and the specifications shall be shown in tabular report form.

(C) A current certified and valid copy of an American Association of Motor Vehicle Administrators equipment approval certificate for brake fluid.

(3) The department shall cause such tests to be made as may be necessary to determine whether or not a sample of brake fluid conforms to the standards and specifications adopted.

(4) After the department has caused such tests to be made of a sample of brake fluid submitted for registration as the department finds necessary, the department, if the sample meets the standards and specifications adopted, shall issue the applicant a certificate of registration authorizing manufacture, packing, and sale in the state of the brake fluid for which the sample is a representative during the time specified on the certificate.

(5) After such testing as the department finds necessary, if the department finds that a sample of brake fluid does not meet the standards and specifications established by rule, the department shall deny registration of the brake fluid and notify the applicant by registered or certified mail of its decision. The notice shall specify the reasons for denying registration.

(6) Within 30 days after receipt of a notice of a denial of registration, an applicant may request the department to hold a hearing on the department's decision.

(7) After providing notice and an opportunity for a hearing, as provided by Article 6252-13a, Vernon's Civil Statutes, the department may revoke registration and cancel a certificate of registration for brake fluid if the department finds that:

(A) any portion of the brake fluid is misbranded or adulterated; or

(B) the registrant has failed since registration to comply with the requirements of this section.

(g) Inspection. The department, through its representatives, shall, after obtaining a search warrant, have access to all premises, buildings, motor vehicles, railroad cars, or vessels used in the manufacture, packing, storage, sale, or transportation of brake fluid, and may open any box, carton, parcel, or container of brake fluid and take therefrom samples for inspection and analysis or for evidence. The department shall issue a receipt for any seized brake fluid or samples taken.

(h) Expiration of certificates.

(1) Brake fluid registered for manufacturers submitting an American Association of Motor Vehicle Administrators certificate shall be valid for a period of up to five years. This registration will expire on the expiration date of the American Association of Motor Vehicle Administrators certificate or any change in formula of brake fluid.

(2) Brake fluid registered for manufacturers not submitting an American Association of Motor Vehicle Administrators certificate shall be valid for a period of up to five years. This registration will expire on the expiration date of the Texas registration certificate or any change in formula of brake fluid.

(3) Brake fluid registered for packers, distributors,

or their agents or representatives shall be valid for a period of up to one year. This registration will expire on the expiration date of the Texas certificate or any change in formula of brake fluid or the manufacturer.

(i) Reregistration. Brake fluid which has been registered for sale and use in the State of Texas must be reregistered upon expiration of the Texas certificate. Expiration date is shown in the lower left-hand corner of the certificate. Reregistration of brake fluid with no change in formula since the previous registration requires the following:

(1) A current certified and valid American Association of Motor Vehicle Administrators certificate of equipment approval or a current (less than five years old) test laboratory report.

(2) A notarized affidavit certifying that the brake fluid for which reregistration is being requested is the same brake fluid previously registered under Texas certificate No. _____ and that there has been no change in the formula or manufacturer. This affidavit must give the name of the brake fluid for which reregistration is requested, as well as clearly identifying the AAMVA certificate (by number) or the test lab report (by number—if no number, by date and name of formula shown on report) which is being used as the basis for this reregistration.

(3) One copy of label or lithograph design proof (only if there has been a change since the previous registration). If there has been a change in formula, it will be necessary to submit all items required for an original registration.

Issued in Austin, Texas, on March 10, 1980.

Doc. No. 802011

James B. Adams

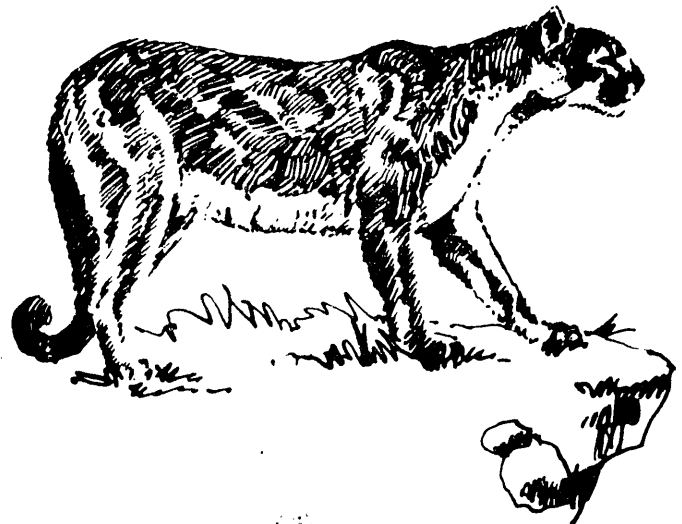
Director

Texas Department of Public Safety

Effective Date: April 4, 1980

Proposal Publication Date: December 21, 1979

For further information, please call (512) 452-0331.



NONCODIFIED

Texas Education Agency State Commissioner of Education

Adoption by Reference 226.13.91

The Texas Education Agency has repealed Rule 226.13.91.020, the adoption by reference of the Reports Management System Catalog. The Reports Management System Catalog is no longer used. All data collection instruments used by the Texas Education Agency are now to be found in Bulletin 742, School District Data Submission to the Texas Education Agency, which is adopted by reference in Rule 226.13.90.020.

This repeal is effected under the authority of Section 11.52(d), Texas Education Code.

Issued in Austin, Texas, on March 19, 1980.

Doc. No. 802100 A. O. Bowen
 Commissioner of Education

Effective Date: April 9, 1980

Proposal Publication Date: February 15, 1980

For further information, please call (512) 475-7077.

State Board of Nurse Examiners

Licensure and Practice 388.04.00

The State Board of Nurse Examiners has withdrawn from consideration for adoption the proposed amendment to Rule 388.04.00.003, Unsuccessful Candidates. The amendment was published in the February 5, 1980, issue of the *Texas Register* (5 TexReg 381).

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802062 Margaret L. Rowland, R.N.
 Executive Secretary
 State Board of Nurse Examiners

Filed: March 18, 1980, 9:29 a.m.

For further information, please call (512) 478-9602.

Advanced Nurse Practitioners 388.06.00

A hearing was held on March 12, 1980, by the State Board of Nurse Examiners to receive testimony on the proposed adoption of Rules 388.06.00.001-.007. The majority of the testimony, both oral and written, was in support of the rules with minor revisions.

Under the authority of Article 4514 and Article 4518, Texas Revised Civil Statutes, the Board of Nurse Examiners has adopted Rules .001-.007 with minor changes in the proposed text.

.001. Definitions.

(a) "Advanced nurse practitioner" is a registered professional nurse currently licensed in Texas, who is prepared for advanced nursing practice by virtue of knowledge and skills obtained through a post-basic or advanced educational program of study acceptable to the board. The advanced nurse practitioner is prepared to practice in an expanded role to provide health care to individuals, families, and/or groups in a variety of settings including but not limited to homes, hospitals, institutions, offices, industry, schools, community agencies, public and private clinics, and private practice. The advanced nurse practitioner functions in a collegial relationship with physicians and other health professionals making independent decisions about nursing needs, interdependent decisions with physicians regarding health regimens, and assumes dependent responsibilities in carrying out delegated medical acts.

(b) "Board" refers to the Board of Nurse Examiners for the State of Texas.

(c) "Should" indicates a recommendation.

(d) "Shall" and "must" indicate mandatory requirements.

(e) "Post-basic course of study" refers to an accredited advanced nurse practitioner program.

.002. Education.

(a) The registered professional nurse practicing as an advanced nurse practitioner shall have completed a post-basic program of study appropriate to the area of practice which meets the following criteria.

(1) The program of study shall meet the requirements for advanced nurse practitioner programs according to Rules 388.05.00.001-.014.

(2) Programs of study in the State of Texas should be accredited by the board.

(3) Programs of study in states other than Texas must meet the requirements of Rules 388.05.00.001-.014 and should be approved by the appropriate licensing body in that state or be accredited by a national accrediting body approved by the board.

(b) In lieu of the aforementioned educational requirements, certification of the advanced nurse practitioner in the appropriate area of practice by a national or state organization, whose certification examination has been approved by the board, will be acceptable.

.003. Categories. Registered professional nurses holding themselves out to be advanced nurse practitioners may include but not be limited to the following:

- (1) nurse anesthetist,
- (2) nurse midwife,
- (3) nurse practitioner,
- (4) clinical nurse specialist,
- (5) other titles as approved by the board.

.004. Credentialing.

(a) The registered nurse who practices as an advanced nurse practitioner shall submit to the board such evidence as is necessary to insure compliance with Rules .002 and .004.

(b) Evidence to be submitted to the board may include but is not limited to the following:

- (1) current registration as a registered nurse in the State of Texas;
- (2) transcript from post-basic program of study;

(3) evidence of certification in the area of practice by a national or state organization approved by the board;

(4) name and address of consulting physician(s), if applicable.

(c) After review by the board, notification of acceptability of credentials shall be sent to the advanced nurse practitioner.

(d) Only those registered professional nurses whose credentials have been approved by the board may hold themselves out to be advanced nurse practitioners and/or use titles to imply that they are advanced nurse practitioners.

.005. Identification. The advanced nurse practitioner should wear a name tag which identifies her or him as a registered nurse and the appropriate area of practice (i.e., family nurse practitioner, nurse midwife, pediatric nurse clinician, etc.).

.006. Functions.

(a) Each advanced nurse practitioner shall practice in an area appropriate to her or his post-basic educational preparation.

(b) The advanced nurse practitioner may act independently or in collaboration with the health team in the maintenance of mental and physical health; in the prevention of illness; in management, observation, and counsel of the ill and injured; or in supervision and teaching of nursing.

(c) Functions of the advanced nurse practitioner shall be clearly delineated by a written statement of policies which include standard and emergency procedures.

(1) Advanced nurse practitioners who manage the medical aspects of care must have written policies jointly developed by the nurse practitioner and consulting physician(s) and signed by both the nurse and the physician(s). These policies shall be reviewed at least annually.

(2) The scope and detail of said policies may vary in relation to the complexity of the situations covered and the area of practice and educational preparation of the individual advanced nurse practitioner.

(d) Within the limitations of her or his educational preparation and within written statements of policy, an advanced nurse practitioner may:

(1) assess the physical and/or mental health status of individuals through:

(A) eliciting and recording complete health and social histories and recording the results thereof,

(B) performing physical examinations, and

(C) performing simple laboratory tests necessary to ascertain health status;

(2) interpret information collected in a health assessment;

(3) formulate and initiate a health care plan;

(4) recommend nonprescriptive measures for relief of symptoms;

(5) refer deviations from normal to the appropriate health care professional;

(6) provide health education;

(7) initiate and maintain health records;

(8) evaluate health care provided and modify as needed;

(9) work collegially with other health care professionals and agencies to provide and, where appropriate, coordinate services to individuals, families, and groups; and

(10) perform medical functions delegated by and

done under the control and supervision of a physician licensed by the Texas State Board of Medical Examiners.

(e) Functions of the advanced nurse practitioner must be within the scope of the Texas Nurse Practice Act and shall not be in violation of the Medical Practice Act of Texas, the Texas pharmacy law, or any Texas drug laws.

.007. Enforcement. Any nurse who violates these rules shall be subject to disciplinary action by the board under Article 4525, Texas Revised Civil Statutes.

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802061

Margaret L. Rowland, R.N.

Executive Secretary

State Board of Nurse Examiners

Effective Date: April 7, 1980

Proposal Publication Date: February 8, 1980

For further information, please call (512) 478-9602.

Railroad Commission of Texas

Oil and Gas Division

Statewide General Application to Oil, Gas, and Geothermal Resource Operations within the State of Texas 051.02.02

The Railroad Commission of Texas has amended Rule 051.02.02.013 by adding a new paragraph to subsection (i). The new paragraph requires that personnel involved in drilling operations on lands which underlie fresh or marine waters in Texas complete training in well control equipment and techniques.

The commission received numerous comments on the proposed amendment, most alleging that the requirements are unnecessary to ensure safe and environmentally sound drilling operations. The commission does not agree. Arguments that these training requirements are unnecessary because there have been few blowouts affecting fresh or marine waters were rejected because the commission believes an ounce of prevention is worth a pound of cure. After a blowout occurs, it will be too late.

On the one hand, some comments argue that these training requirements are unnecessary because industry has other incentives, mostly economic, to ensure adequate training. On the other hand, some comments argue that these training requirements will become the industry standard when, left to their own devices, industry might adopt higher requirements. These arguments are inconsistent. If industry is willing to drop its standards simply because a government regulation would permit it, clearly the economic and other incentives are not as great as suggested. If those incentives are as high as suggested, industry should have no trouble complying with the commission's requirements.

Arguments that these training requirements should apply to offshore marine operation only ignore the fact that bays, estuaries, and inland fresh waters are usually more environmentally sensitive than offshore waters.

The commission has extended the time for compliance to January 1, 1981, to give everyone sufficient time to complete the required training. The commission has also eliminated reference to Railroad Commission-approved schools. Until such time as the commission determines whether or not to propose and adopt standards of its own, completion of courses offered by USGS-approved schools will satisfy the commission's training requirements.

These amendments are promulgated pursuant to Title 3, Texas Natural Resources Code, and Chapter 26, Texas Water Code.

.013. Casing.

- (a)-(h) (No change.)
- (i) Texas offshore casing, cementing, drilling, completion, and training requirements.
 - (1)-(8) (No change.)

(9) Training. Effective January 1, 1981, all tool pushers, drilling superintendents, and operators' representatives (when the operator is in control of the drilling) shall be required to furnish certification of satisfactory completion of a USGS-approved school on well control equipment and techniques. The certification shall be renewed every two years by attending a USGS-approved refresher course. These training requirements apply to all drilling operations on lands which underlie fresh or marine waters in Texas.

Issued in Austin, Texas, on March 17, 1980.

Doc. No. 802082 John H. Poerner, Chairman
Mack Wallace, Commissioner
Railroad Commission of Texas

Effective Date: April 8, 1980

Proposal Publication Date: December 7, 1979

For further information, please call (512) 445-1285.

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.



Texas Department of Agriculture

Wednesday, March 26, 1980, 1:30 p.m. The Seed Division of the Texas Department of Agriculture will meet in Room 335, Soil and Crop Science Building, Texas A&M University, College Station. According to the agenda summary, the division will consider all items of business pertaining to seed and plant certification requiring board action. The agenda includes consideration of new growers; consideration of various requests regarding chili pepper, cotton, bermuda grass, soybean, wheat, triticale and certification labels.

Additional information may be obtained from Don Ator, P.O. Box 12847, Austin, Texas, telephone (512) 475-2038.

Filed: March 17, 1980, 5 p.m.
Doc. No. 802028

Texas Close-Up Board

Friday, March 21, 1980, 1 p.m. The Texas Close-Up Board met in an emergency meeting in Room D, John H. Reagan Building, Austin. According to the agenda, the board con-

ducted an organizational meeting; and considered a presentation by staff from National Close-up Program.

Additional information may be obtained from Sue Cox, 4031 Willow Ridge, Dallas, Texas 75234, telephone (214) 637-0942.

Filed: March 18, 1980, 9:27 a.m.
Doc. No. 802049

Texas Deepwater Port Authority

Thursday, March 20, 1980, 1:30 p.m. The Board of Commissioners of the Texas Deepwater Port Authority made an emergency addition to the agenda of a meeting held in Suite 500, 3131 West Alabama, Houston. According to the agenda, the addition concerned the commissioners meeting in executive session (to discuss personnel matters).

Additional information may be obtained from Carole Speranza, 3131 West Alabama, Suite 500, Houston, Texas 77098, telephone (713) 523-2202.

Filed: March 19, 1980, 2:24 p.m.
Doc. No. 802149

Texas Education Agency

Friday and Saturday, March 28-29, 1980, 1:30 p.m. and 9 a.m., respectively. The State Board of Education Parent Advisory Council for Migrant Education of the Texas Education Agency will meet in the Region I Education Service Center, 1900 West Schunior, Edinburg. According to the agenda summary, the meeting includes the following: orientation for new members only; minutes and review of agenda items; review of state plan for 1980-81; recommendation for 1980-81 evaluation of 1980-81; election of officer for 1980-81; and report on handling of PAC expenses.

Additional information may be obtained from Frank Contreras, 201 East 11th Street, Austin, Texas, telephone (512) 475-6523.

Filed: March 19, 1980, 9:27 a.m.
Doc. No. 802101

Texas Energy and Natural Resources Advisory Council

Wednesday, March 26, 1980, 9:30 a.m. The Solar Advisory Committee of the Texas Energy and Natural Resources Advisory Council will meet on the floor of the house chambers, at the Capitol in Austin. According to the agenda summary, the committee will consider the following: committee mandate; committee background remarks; description of staff and financial support; organization into subcommittees; committee time tables; subcommittee report format; special tours, speakers, and presentations; and a tour of the L. M. Holder III Building, the 21st Street College House and the Cole Solar Systems.

Additional information may be obtained from Roy R. Ray, Jr., 411 West 13th Street, Austin, Texas, telephone (512) 475-5588.

Filed: March 18, 1980, 10:26 a.m.
Doc. No. 802045

Texas Department of Health

Friday, March 28, 1980, 10 a.m. The Application, Budget, and Project Review Committee of the Texas Statewide Health Coordinating Council of the Texas Department of Health will meet at the Marriott Hotel in Salon "H", Austin. According to the agenda summary, the committee will consider the following applications and/or plans: 1980-81 State Plan for the Prevention, Treatment, and Control of Alcohol Addiction and Abuse—Texas Commission on Alcoholism; and the Texas Department of Health's Application and State Administrative Program.

Additional information may be obtained from George Anderson, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7261.

Filed: March 18, 1980, 3:37 p.m.
Doc. No. 802077

Friday, March 28, 1980, 1 p.m. The Texas Statewide Health Coordinating Council of the Texas Department of Health will meet at the Marriott Hotel in Salon 'H,' Austin. According to the agenda summary, the council will consider the following: report by the chair; minutes of previous meeting; Application, Budget, and Project Review Committee report; Monitoring and Assessment Committee report; Resource Development and Implementation Committee report; election of officers; and discussion of cooperative health statistics system.

Additional information may be obtained from George Anderson, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7261.

Filed: March 18, 1980, 3:38 p.m.
Doc. No. 802078

Texas Health Facilities Commission

Tuesday, March 25, 1980, 2 p.m. The Texas Health Facilities Commission will meet in Suite 305, the Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider adoption of rules on appropriateness review. The rules to be considered for adoption include the following subchapters: 315.30.01.010-.050—Explanation of Appropriateness Review; 315.30.02.010-.160—Health Services; 315.30.03.010-.170—Review Criteria for Characteristics; 315.30.04.010-.020—Review Schedule; and 315.30.05.010-.180—Review Procedures.

Additional information may be obtained from O. A. Cassity, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: March 17, 1980, 4:09 p.m.
Doc. No. 802030

Thursday, March 27, 1980, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider an application for Certificate of Need AO79-1119-027—Southwest Medical Plan, Inc., doing business as CompCare, San Antonio.

Additional information may be obtained from O. A. Cassity, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: March 19, 1980, 11:52 a.m.
Doc. No. 802146

Texas Department of Human Resources

Tuesday, March 25, 1980, 10 a.m. The Advisory Council for Child Care Administrator's Licensing Division of the Texas Department of Human Resources will meet in Room 443, 3000 South IH 35, Fountain Park Plaza I, Austin. According to the agenda summary, the division will consider election of new officers; director's report; and administrator's licensing examination.

Additional information may be obtained from Ed Flanagan, P.O. Box 2960, Austin, Texas 78769, telephone (512) 441-3355.

Filed: March 17, 1980, 2:49 p.m.
Doc. No. 802024

Texas Indian Commission

Monday, March 31, 1980, 1 p.m. All divisions of the Texas Indian Commission will meet at the Tigua Indian Reservation Community Center, El Paso. According to the agenda summary, the division will consider approval of minutes; Tigua Indian reservation reports; Alabama-Coushatta reservation reports; Texas Indian Commission administrative reports; and meet in executive session.

Additional information may be obtained from Walt Broemer, P.O. Box 510, Livingston, Texas 77351, telephone (713) 327-3683.

Filed: March 19, 1980, 11:08 a.m.
Doc. No. 802150



State Board of Insurance

Friday, March 21, 1980, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance met in an emergency meeting in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section considered acquisition of up to 24% of the outstanding capital stock of Gulf United Corporation, Jacksonville, Florida, by American Financial Corporation, Cincinnati, Ohio, pursuant to Texas Insurance Code Annotated, Article 21.49-1, Chapter 5—Docket 5964.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 17, 1980, 4:14 p.m.
Doc. No. 802054

Tuesday, March 25, 1980, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Diamond Title Company Houston, failure to furnish audit report within time required—Docket 5952.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 17, 1980, 4:14 p.m.
Doc. No. 802055

Tuesday, March 25, 1980, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider application for admission, Old Reliable Casualty Company, Webster Groves, Missouri—Docket 5951.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 17, 1980, 4:15 p.m.
Doc. No. 802056

Wednesday, March 26, 1980, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Buffalo Title of Houston, Incorporated, Houston—furnishing an audit report which reveals a shortage or other irregularity or a practice not in keeping with sound, honest business practices, Docket 5953.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 17, 1980, 4:15 p.m.
Doc. No. 802057

Wednesday, March 26, 1980, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider application for original incorporation of Tandy Life Insurance Company, Ft. Worth—Docket 5956.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 17, 1980, 4:15 p.m.
Doc. No. 802058

Thursday, March 27, 1980, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider William Arthur Stevens with known past business addresses of Fort Worth, Hurst, North Richland Hills—the revocation of any and all insurance licenses issued by the State Board of Insurance—Docket 5943.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 17, 1980, 4:15 p.m.
Doc. No. 802059

Texas Legislative Council

Thursday, March 27, 1980, 9:30 a.m. The Executive Committee of the Texas Legislative Council will meet in the Senate Reception Room, State Capitol, Austin. According to the agenda, the committee will consider proposed contract for interactive graphics system; and budgetary matters.

Additional information may be obtained from Robert I. Kelly, P.O. Box 12128, Austin, Texas, telephone (512) 475-2736.

Filed: March 19, 1980, 2:58 p.m.
Doc. No. 802151

Texas State Board of Medical Examiners

Friday, March 21, 1980, 3 p.m. The Foreign Medical School Committee of the Texas State Board of Medical Examiners met in an emergency session at 211 East 7th, Austin. According to the agenda, the committee considered required documentation for licensure, as well as discussion of the general requirements for licensure.

Additional information may be obtained from Jean Davis, 211 East 7th, Austin, Texas, telephone (512) 475-0741.

Filed: March 18, 1980, 9:28 a.m.
Doc. No. 802050

Saturday, March 22, 1980, 9 a.m. The P. A. Rules Committee of the Texas State Board of Medical Examiners met in an emergency meeting at 211 East 7th, Austin. According to the agenda, the committee reviewed minor revisions which have been proposed to Physician's Assistant Rules; general business as related to these changes and duties of the P. A.'s.

Additional information may be obtained from Jean Davis, 211 East 7th, Austin, Texas, telephone (512) 475-0741.

Filed: March 18, 1980, 9:29 a.m.
Doc. No. 802051

Texas Board of Mental Health and Mental Retardation

Thursday, March 27, 1980, 2 p.m. The Personnel Committee of the Texas Board of Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. According to the agenda, the committee will consider approval of appointment of director—Beaumont State Center for Human Development.

Additional information may be obtained from John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: March 19, 1980, 4:13 p.m.
Doc. No. 802157

Thursday, March 27, 1980, 3 p.m. The Ad Hoc Biennial Budget Request Committee of the Texas Board of Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. According to the agenda, the committee will consider approval of the budget guidelines for preparation of biennial budget request for fiscal years 1982-1983 relating to recommended compensation for positions exempt from the Classification Plan; and review of budget preparation process schedule.

Additional information may be obtained from John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: March 19, 1980, 4:13 p.m.
Doc. No. 802158

Friday, March 28, 1980, 9 a.m. The Texas Board of Mental Health and Mental Retardation will meet in the Central Office, 909 West 45th Street, Austin. According to the agenda summary, the board will consider the following: presentation by the Honorable Bill Keese, State Representative, concerning reduction of Brenham State School Employees; TDMH/MR alcoholism services fiscal year 1979 summary; 5.0% reduction of staff status report; deputy commissioners' plan for reduction, reduction in force, monthly progress report; Texas State Government Effectiveness Program—status of operational audits; Senate Resolution 67 committee meetings status report; citizens' comments; Beaumont State Center for Human Development director appointment; budget guidelines for preparation of 1982-83 biennial budget request—exempt positions compensation; budget preparation process schedule; Abilene State School agricultural lease; Rusk State Hospital land sale of six tracts of subdivided 453.89 acre tract; Rusk State Hospital land sale of 53.24 acre tract; additional expenditure for technical school emergency allocation of construction program funds; quarterly budget additions and revisions; and duties of the commissioner—organization of TDMH/MR.

Additional information may be obtained from John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: March 19, 1980, 4:12 p.m.
Doc. No. 802159

Natural Fibers and Food Protein Commission

Tuesday, March 25, 1980, 1 p.m. The Food Protein Advisory Committee of the Natural Fibers and Food Protein Commission met in an emergency meeting in Room 264, Airport Marina Hotel, Dallas Fort Worth Regional Airport. According to the agenda, the committee will meet and discuss possible project proposals for biennium 1981-83 for Natural Fibers and Food Protein Commission contracting agencies.

Additional information may be obtained from J. L. Vandellune, 17360 Coit Road, Dallas, Texas 75252, telephone (214) 231-5362, ext. 254.

Filed: March 18, 1980, 2:01 p.m.
Doc. No. 802065

Board of Pardons and Paroles

Monday-Friday, March 31, 1980, and April 1-4, 1980, 9 a.m. daily. The Board of Pardons and Paroles will meet at 711 Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day to day operation of support staff; review and initiate needed rule changes relating to general operation; executive clemency; parole and all hearings conducted by this agency and to take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: March 18, 1980, 9:01 a.m.
Doc. No. 802052

Wednesday, April 2, 1980, 9 a.m. The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. According to the agenda, a parole panel consisting of members of the Board of Pardons and members of the Texas Parole Commission will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: March 18, 1980, 9:01 a.m.
Doc. No. 802053

Texas Parks and Wildlife Department

Tuesday, April 8, 1980, 2 p.m. The Fisheries Division of the Resources Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin, to consider application of Thomas L. Morris for a permit to remove approximately 8,800 cubic yards of sand and 2,200 cubic yards of gravel per month from the Brazos River by means of hydraulic dredge for commercial use. The work site would be located approximately two miles east of Burleigh, starting at a point one-half mile south of FM 529 bridge and extending south for a distance of 1,600 feet, Austin County on the west side of the river and Waller County on the east side of the river. Adjacent property owners are Bernice Islet, Katie Lou Janik, Wilfred Krause, Walter Brandes, Annie Paulis Estate, C. A. Mewis, Alan Hannay, and River Bank Ranch.

Additional information may be obtained from Chester D. Harris, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4831.

Filed: March 18, 1980, 3:37 p.m.
Doc. No. 802076

TEXAS HERITAGE



Texas Pork Producers Board

Sunday, April 6, 1980, 7 p.m. The Texas Pork Producers Board will meet in Room 404, Rudder Tower, Texas A&M University, College Station. According to the agenda, the board will consider the treasurer's report; committee reports; assessment report; and bi-annual election discussion.

Additional information may be obtained from Ken Horton, 8330 Burnet Road, Northwest Office Building, Room 108, Austin, Texas 78758, telephone (512) 453-0615.

Filed: March 17, 1980, 5 p.m.
Doc. No. 802027

Texas State Board of Public Accountancy

Thursday and Friday, March 27 and 28, 1980, 9 a.m. daily. The Texas State Board of Public Accountancy will meet in Suite 500, 3301 Northland, Austin. According to the agenda summary, the board will consider approval of minutes; review of proposed committee structure; consideration of approved applications for registration of individuals or firms; consideration/approval or ratification of CPA certificates; enforcement matters; status of pending litigation; review and adoption of continuing professional education standards; consideration of communications received by the board; review of procedure used for conferring CPA certificates; consideration of policies, procedures, applications relating to Sections 13 and 14 of the Public Accountancy Act of 1979.

Additional information may be obtained from Bob E. Bradley, 3301 Northland, Suite 500, Austin, Texas 78731, telephone (512) 451-0241.

Filed: March 19, 1980, 3:55 p.m.
Doc. No. 802154

Public Utility Commission of Texas

Tuesday, March 25, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider Dockets 2754 and 2931—application of Cedar Park Water Supply Corporation to amend its certificate of convenience and necessity within Williamson County and application of Leander Water Supply Corporation to amend its certificate of convenience and necessity within Williamson County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 17, 1980, 4:08 p.m.
Doc. No. 802029

Friday, March 28, 1980, 1 p.m. The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider final orders and hear oral argument in the following Dockets: 2869, 2947, 2818, 2150, 2942, 2727, 2788, 2893, 2936, 2850, 3003, 3010, 2354, 2835, 2915, 3012, 2814, 2815, 2053, 2904, 2860, 3085, 2874, 2957, 2975, 3001, 3113, 2340, 2832, 2888, 2911, 2987, 2996, 3000, 3008, 3021, 3044, 3048, 3049, 3053, 3055, 3056, 3057, 3058, 3063, 3067, 3068, 3070, 3071, 3079, 3080, 3082, 3084, 3089, 3095, 3098, 3099, 3100, and 3107.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 19, 1980, 3:12 p.m.
Doc. No. 802152

Tuesday, April 1, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider Docket 2268—complaint of Texas Alarm and Signal Association against Southwestern Bell Telephone Company. This meeting has been rescheduled from March 20, 1980.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 20, 1980, 11:47 a.m.
Doc. No. 802161

Tuesday, April 8, 1980, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a hearing in Docket 3127, application of North Shore Water Company for a rate increase within Hutchinson County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 18, 1980, 9:30 a.m.
Doc. No. 802046

Wednesday, April 9, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a hearing in Docket 3129, application of Artesian Forest Water Department for a rate increase within Montgomery County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 18, 1980, 9:30 a.m.
Doc. No. 802047

Wednesday, April 9, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider consumer protests in Docket 3094—application of General Telephone Company of the southwest for authority to increase telephone rates.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 19, 1980, 3:52 p.m.
Doc. No. 802155

Monday, May 12, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider merits of Docket 3094, application of General Telephone Company of the Southwest for authority to change telephone rates.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 19, 1980, 3:52 p.m.
Doc. No. 802156

Wednesday, May 14, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct an hearing in Docket 3114, application of Robertson Electric Cooperative, Inc., for a rate increase within Robertson, Leon, Freestone, Limestone, Brazos, Falls, and Madison Counties.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 18, 1980, 9:29 a.m.
Doc. No. 802048

Wednesday, May 28, 1980, 9:30 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider Docket 3111—application of Southwestern Public Service Company for authority to increase rates.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 20, 1980, 11:47 a.m.
Doc. No. 802162

Texas State Soil and Water Conservation Board

Thursday, March 20, 1980, 8 a.m. The Texas State Soil and Water Conservation Board made a emergency addition to the agenda of a meeting held at 1006 First National Building, Temple. According to the agenda, the board considered annexation of land in the upper Nueces-Frio Soil and Water Conservation District No. 238.

Additional information may be obtained from A. C. Spencer, 1002 First National Building, Temple, Texas 76501, telephone (817) 773-2250.

Filed: March 18, 1980, 2:03 p.m.
Doc. No. 802064

AGRICULTURE



Advisory Council for Technical-Vocational Education in Texas

Friday, April 18, 1980, 9 a.m., and Saturday, April 19, 1980, 8:30 a.m. The Advisory Council for Technical-Vocational Education in Texas will meet at La Posada Motor Hotel, Phillip the 5th Ballroom, 1000 Zaragoza Street, Laredo. According to the agenda, the council will consider presentation on the Laredo economic and labor market overview; hear a presentation on manpower programs in the Laredo area; receive a presentation on secondary vocational programs in the Laredo area; receive a briefing and tour of Laredo Jr. College; receive a briefing and tour of the Nuevo Laredo Technical College; hear committee reports; review the state employment and training council's annual report to the governor; hear special reports on vocational education funding; school monitoring visits; and the HCR 90 Curriculum Task Force Hearings; as well as conduct other council business.

Additional information may be obtained from Valeria J. Blaschke, 1700 South Lamar, Suite 202, Austin, Texas 78704, or P.O. Box 1886, Austin, Texas 78767, telephone (512) 475-2046.

Filed: March 19, 1980, 3:55 p.m.
Doc. No. 802153

Texas A&M University System

Monday, March 24, 1980, 8:30 a.m. The Planning and Building Committee of the Board of Regents of the Texas A&M University System will meet at MSC Annex, Texas A&M University, College Station. According to the agenda, the board will consider matters relating to construction, repair, and rehabilitation of facilities for the various parts of the Texas A&M University System.

Additional information may be obtained from Robert G. Cherry, Texas A&M University, College Station, Texas 77843, telephone (713) 845-4334.

Filed: March 18, 1980, 1:23 p.m.
Doc. No. 802066

Monday, March 24, 1980, 1:30 p.m. The Committee for Academic Campuses of the Board of Regents of the Texas A&M University System will meet at MSC Annex, Texas A&M University, College Station. According to the agenda summary, the board will consider resolutions; granting of special titles; board and fee charges; a new telephone system; academic tenure recommendations; appropriation of funds for a visit of the Southern Association of Colleges and Schools; appropriation for furniture and equipment; authorization of a center for Marine Training and Safety at TAMUG, for recommendations to the Board of Regents.

Additional information may be obtained from Robert G. Cherry, Texas A&M University, College Station, Texas 77843, telephone (713) 845-4334.

Filed: March 18, 1980, 1:23 p.m.
Doc. No. 802067

Monday, March 24, 1980, 3:15 p.m. The Committee for Service Units of the Board of Regents of the Texas A&M University System will meet at MSC Annex, Texas A&M University, College Station. According to the agenda, the board will consider proposed center for marine geotechnical engineering and a skills center in San Antonio, for recommendation to the board of regents.

Additional information may be obtained from Robert G. Cherry, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed: March 18, 1980, 1:25 p.m.
Doc. No. 802068

Monday, March 24, 1980, 4 p.m. The Executive Committee of the Board of Regents of the Texas A&M University System will meet at MSC Annex, Texas A&M University, College Station. According to the agenda summary, the committee will consider personnel appointments; sale of PUF bonds and selection of bond attorneys; sale of surplus and obsolete property; budgeting; holiday schedules; confirmation of appointments; promotions; resignations and terminations; acceptance of gifts; grants and loans; for recommendation to the Board of Regents.

Additional information may be obtained from Robert G. Cherry, Texas A&M University, College Station, Texas 77843, telephone (713) 845-4334.

Filed: March 18, 1980, 1:23 p.m.
Doc. No. 802069

Tuesday, March 25, 1980, 8:30 a.m. The Board of Regents of the Texas A&M University System will meet at MSC Annex, Texas A&M University, College Station. According to the agenda summary, the board will consider matters relating to construction; approval of personnel appointments authority for the sale of Permanent University Fund bonds and selection of bond attorneys; sale of surplus and obsolete property; budgets; holiday schedule; confirmation of personnel appointments; promotions, resignations and terminations; acceptance of gifts; memorial resolutions; special titles; board and fee charges; new telephone system; academic tenure; appropriation of funds for visit of the Southern Association of Colleges and Schools; authorization for a center for marine training and safety; student health services; center for marine geotechnical engineering skills in San Antonio; oil and gas leases; land transactions.

Additional information may be obtained from Robert G. Cherry, Texas A&M University, College Station, Texas 77843, telephone (713) 845-4334.

Filed: March 18, 1980, 1:22 p.m.
Doc. No. 802070

Texas Turkey Producers Board

Wednesday, April 9, 1980, 1:30 p.m. The Texas Turkey Producers Board will meet in Suite 108, of the Texas Poultry Federation office, 1524 East Anderson Lane, (Intersection U.S. 183 and Cameron Road), Austin. According to the agenda, the board will consider the 1980 summer turkey promotion; election of officers; financial report; and new business.

Additional information may be obtained from Bill Powers, P.O. Box 14428, Austin, Texas 78761, telephone (512) 836-6580.

Filed: March 17, 1980, 5 p.m.
Doc. No. 802026

Texas Water Commission

Friday, March 28, 1980, 9 a.m. The Texas Water Commission will conduct a hearing in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Harris County Water Control and Improvement District, Spring, for renewal of Permit 10792, which authorizes a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 450,000 gallons per day from the treatment facilities located at 18501 Highway 75, north of Cypress Creek and immediately west of IH 45 in Harris County.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: March 18, 1980, 3:31 p.m.
Doc. No. 802084

Friday, March 28, 1980, 9 a.m. The Texas Water Commission will conduct a hearing in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Harris County Municipal Utility District No. 1, Houston, for a renewal of Permit 11630, which authorizes a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 100,000 gallons per day from the treatment facilities located approximately 2,000 feet east of Kuykendahl Road and 4,000 feet south of its intersection with Huffsmith Road in Harris County.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: March 18, 1980, 3:32 p.m.
Doc. No. 802085

Friday, March 28, 1980, 9 a.m. The Texas Water Commission will conduct a hearing in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Quanex Corporation, Bellville, for a permit to discharge treated sewage effluent commingled with water softener backwash from a welded steel tube mill located adjacent to State Highway 36 near SH-36—Miller Road intersection which is approximately 5.2 miles southeast of the City of Bellville in Austin County.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: March 18, 1980, 3:31 p.m.
Doc. No. 802086

Tuesday, April 15, 1980, 9:30 a.m. The Texas Water Commission will meet in Room 124A of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a notice of hearing on TA-3690 of J. D. Abrams, Inc., who seeks a permit to divert and use 10 acre-feet of water for a three-year period from Tenmile Creek, Trinity River, Trinity River Basin, for industrial (highway construction) purposes in Dallas County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 18, 1980, 3:33 p.m.
Doc. No. 802087

Tuesday, April 15, 1980, 9:30 a.m. The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summaries, the commission will consider the following applications:

TA-3679 of East Texas Equipment Company, Inc., for a permit to divert and use 10 acre-feet of water for a two-year period from Chinquapin Creek, Prairie Creek, Neches River, Neches River Basin, for industrial purposes in Smith County

TA-3669 of Sprint Sand and Gravel, Inc., for a permit to divert and use 720 acre-feet of water for a three-year period from Nueces River Basin, for mining purposes in Zavala County

TA-3682 of The Starcrest Corporation for a permit to divert and use 50 acre-feet of water for a three-year period from Falcon Reservoir, Rio Grande, Rio Grande Basin, for mining purposes in Zapata County

TA-3684 of The Starcrest Corporation for a permit to divert and use 50 acre-feet of water for a three-year period from Falcon Reservoir, Rio Grande, Rio Grande Basin, for mining purposes in Zapata County

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 18, 1980, 3:36 p.m.
Doc. Nos. 802089, 802094-802096

Tuesday, April 15, 1980, 9:30 a.m. The Texas Water Commission will conduct hearings in Room 124A of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summaries, the commission will consider the following applications:

TA 3687 of Bishop and Sons Dirt Contractors, Inc., for a permit to divert and use 90 acre-feet of water for a three-year period from Souty Concho River, Concho River, Colorado River Basin for mining purposes in Tom Green County

TA-3672 of E. W. Hable and Sons, Inc., who seeks a permit to divert and use two acre-feet of water for a two-year period from Brown's Creek, Alligator Creek, Buffalo Creek, Upper Keechi Creek, Trinity River, Trinity River Basin for industrial (highway construction) purposes in Freestone County

TA-3671 of Houston Bridge and Engineering Co., Inc., who seeks a permit to divert and use one acre-foot of water for a 30-month period from Main Floodway, Arroyo Colorado, Nueces-Rio Grande Coastal Basin for industrial (highway construction) purposes in Hidalgo County

TA-3686 of H. H. Howard and Sons, Inc., who seeks a permit to divert and use 16 acre-feet of water for a three-year period from Long Branch, Little Cypress Creek, Cypress Bayou, Cypress Basin for industrial (highway construction) purposes in Upshur County

TA-3675 of Kidwell Construction Co., Inc., who seeks a permit to divert and use one acre-foot of water for an 18-month period from West Fork San Jacinto River, San Jacinto River, San Jacinto River Basin for industrial (highway construction) purposes in Walker County

TA-3683 of The Starcrest Corporation for a permit to divert and use 50 acre-feet of water for a three-year period from Falcon Reservoir, Rio Grande, Rio Grande Basin for mining purposes in Zapata County

TA-3676 of Trotti and Thomson Company who seeks a permit to divert and use four acre-feet of water for a two-year period from reservoir, unnamed creek, Massey Lake Slough, Neches River Basin for industrial (highway construction) purposes in Hardin County

TA-3681 of McKnight Construction Company who seeks a permit to divert and use six acre-feet of water for a three-year period from Reservoir, Sulphur River, Sulphur River Basin for industrial (highway construction) purposes in Franklin County

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 18, 1980, 3:36 p.m.
Doc. Nos. 802088, 802090-802093, 802097-802099

Regional Agencies

Meetings Filed March 17, 1980

The Pecan Valley Mental Health Mental Retardation Region, Board of Trustees, met in emergency session at the First United Methodist Church, 204 East Pearl Street, Granbury, on March 19, 1980, at 12:15 p.m. Further information may be obtained from Theresa Mulloy, 906 Lingleville Road, Stephenville, Texas, telephone (817) 968-4181.

The West Texas Council of Governments, Board of Directors, met in Suite 700, Mills Building, 303 North Oregon, El Paso, on March 21, 1980, at 9 a.m. MST. Further information may be obtained from Eleanor Bode, Mills Building, Suite 700, 303 North Oregon, El Paso, Texas 79901, telephone (915) 532-2910.

Doc. No. 802025

Meetings Filed March 18, 1980

The Brazos Valley Region MHMR Center, Board of Trustees, will meet at 202 East 27th Street, Bryan, on March 27, 1980, at 2:30 p.m. Further information may be obtained from Linda S. Davis, 202 East 27th Street, Bryan, Texas 77801, telephone (713) 779-2000.

The Central Texas MHMR Center, Board of Trustees, will meet at 208 Lakeway Drive, Brownwood, on March 25, 1980, at 4:30 p.m. Further information may be obtained from Janie Clements, 308 Lakeway Drive, Brownwood, Texas 76801, telephone (915) 646-9574, ext. 35.

The Middle Rio Grande Development Council, A-95 Project Review Committee, will meet in the city council chambers at the city hall in Uvalde on March 26, 1980, at 2 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

Doc. No. 802063

Meetings Filed March 19, 1980

The Deep East Texas Council of Governments, Energy and Transportation Committee, will meet at the Coldspring Community Center, Butler and Cedar Streets, Coldspring, on March 27, 1980, at 10 a.m. The Board of Directors will meet at the same location on March 27, 1980, at 2:30 p.m. Further information may be obtained from Randy E. Blanks and Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704, respectively.

The Education Service Center, Region IV, Board of Directors, will meet in the Nantucket Room, Anchorage Restaurant, 2504 North Loop West, Houston, on April 8, 1980, at 6 p.m. Further information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, telephone (713) 868-1051.

The Education Service Center, Region XIII, Board of Directors, will meet in Conference Room 206, 7703 North Lamar, Austin, on April 1, 1980, at 11:30 a.m. Further information may be obtained from Joe Parks, 7703 North Lamar, Austin, Texas 78752, telephone (512) 458-9131.

The Golden Crescent Council of Governments, Board of Directors, will meet in the La Salle Room, Victoria Bank and Trust Building, 120 South Main, Victoria, on March 26, 1980, at 5 p.m. Further information may be obtained from Robert W. Burr, Victoria, Texas 77901, telephone (512) 578-1578.

The Heart of Texas Council of Governments, Executive Committee, will meet on the third floor, 700 Austin Avenue, Waco, on March 27, 1980, at noon. Further information may be obtained from Marcia Ross, 700 Austin Avenue, third floor, Waco, Texas 76701, telephone (817) 756-6631.

The Upper Leon River Municipal Water District, Board of Directors, will meet in rescheduled session in the general office of the Filter Plant, Proctor Lake, Comanche, on March

27, 1980, at 7 p.m. Further information may be obtained from Lowell G. Pittman, Box 67, Comanche, Texas, telephone (817) 879-2258.

The San Jacinto River Authority, Board of Directors, met in the conference room, Lake Conroe Dam Site, Highway 105 West, Conroe, on March 25, 1980, at 2 p.m. Further information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas, telephone (713) 588-1111.

The West Central Texas Council of Governments, Executive Committee, will meet at 1025 East North 10th Street, Abilene, on March 26, 1980, at 12:45 p.m. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

The West Texas Council of Governments, Rural Development Division, will meet at 1025 East North 10th Street Abilene, on March 27, 1980, at 10:30 a.m. Further information may be obtained from C. Lee Smith, P.O. Box 3195, Abilene, Texas, telephone (915) 672-8544.

Doc. No. 802148

Meetings Filed March 20, 1980

The Mental Health Mental Retardation Center of East Texas, Board of Trustees, will meet in the board room, 2323 West Front Street, Tyler, on March 27, 1980, at 4 p.m. Further information may be obtained from Richard J. DeSanto, 2323 West Front Street, Tyler, Texas, telephone (214) 597-1351.

The Panhandle Regional Planning Commission, Employment and Training Alliance, will meet in Room 216, Amarillo Building, Third and Polk Streets, Amarillo, on March 26, 1980, at 3 p.m. Further information may be obtained from James Barrington, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

Doc. No. 802160



Texas Air Control Board

Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of March 10-14, 1980.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 6630 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

Week Ending March 14, 1980

Texas Oklahoma Port Co., Port Arthur; proposed 150 foot stacker; 8259; new source

David Granberry Memorial Hospital, Naples; solid waste incinerator; Craig and Willis Streets; 8258; new source

Intercontinental Refining, Inc., Pasadena; marine dock facilities; Bayport Turning Basin; 8257; new source

Custom Blast Service, Houston; fabricated pipe and structural steel cleaning and painting plant; 2550 Genoa-Red Bluff; 4755B; new source

Dow Chemical Co.—Texas Division, Freeport; storage tank; A-900; 8255; new source

RSR Corp.—Murph Metals, Inc. Division, Dallas; feed material drying kiln and associated equipment; 2820 North Westmoreland; 8256; new source

McKnight and Little Contracting Co., Houston; air curtain destructor; IH 45 North; 5779A

Sigmor Refining Co., Three Rivers; storage tank; 301 Leroy Street; 8254; new source

Dow Chemical Co.—Texas Division, Freeport; specialty isocyanate reactor and storage; 2008A; modification

Texas International Technology Corporation, Hillsboro; refractory shapes; Old Dallas Highway; 8249; new source

Calcium Carbonate Co., Marble Falls; crushing plant; 1206 South 2nd; 8252; new source

Blair Swine Farm; pork production; 8253; new source

Balcones Rock Products, Inc., San Antonio; rock quarry and washing plant; 5103 NW Loop 1604; 8251; modification

Issued in Austin, Texas, on March 18, 1980.

Doc. No. 802118 Ramon Dasch
Hearing Examiner
Texas Air Control Board

Filed: March 19, 1980, 10:19 a.m.

For further information, please call (512) 451-5711, ext. 401.

State Implementation Plan for the Control of Total Suspended Particulate

Public Hearing

The Texas Air Control Board (TACB) will conduct public hearings to receive testimony concerning additions to the State Implementation Plan (SIP) for the Control of Total Suspended Particulate (TSP) at the following places and times:

April 22, 1980, 7 p.m.
Jefferson County Courthouse
Criminal Courtroom, second floor
1149 Pearl Street
Beaumont

April 22, 1980, 7 p.m.
City Council Chambers
New City Hall
2 Civic Center Plaza
El Paso

April 23, 1980, 7 p.m.
Albert Pick Motor Inn Ballroom
3301 S.W. Freeway
Houston

April 23, 1980, 6 p.m.-8:45 p.m.
Arlington Public Library
101 East Abram
Arlington

April 24, 1980, 7 p.m.
Corpus Christi-Nueces County Health Department
1702 Horne Road
Corpus Christi

April 24, 1980, 7 p.m.
Brownsville City Hall
Market-Square
Brownsville

These hearings will be held concurrently with hearings on proposed amendments to Regulations I, V, VI, general rules and procedural rules. These SIP revisions which set forth a control strategy for attainment of the national ambient air quality standards in six additional areas in Texas are proposed in response to the U.S. Environmental Protection Agency (EPA) administrator's notice of proposed conditional approval of the Texas SIP published in the *Federal Register* on August 1, 1979. The areas addressed by this revision are located in San Benito, Brownsville, Corpus Christi (two areas), Dallas, and El Paso and were not included in earlier revisions to the Texas SIP as submitted on April 13, 1979, because at that time there was some question whether the monitors in these areas were properly located according to EPA criteria. As a result of further study and consultation with EPA, it has been decided that the monitors were adequately situated and that measurements made by them were acceptable. The EPA August 1, 1979, *Federal Register* notice mentioned above referred to eight TSP nonattainment areas; however, it has been determined that one of the areas located in Dallas was originally classified as nonattainment on the basis of old information. Measurements made in the area since 1976 indicate no violation of any particulate standard. Another of the eight areas in question is located in El Paso and has been recommended by the TACB for reclassification to attainment as the result of re-evaluation of data. For these reasons, no strategy is needed or proposed for these two areas.

Analyses of the sources contributing to nonattainment in each of the six TSP nonattainment areas for which strategies are required indicate that the major cause of violation of the national ambient air quality standard (NAAQS) for TSP is fugitive dust emissions from the use and maintenance of roads, alleys, and parking lots, and from material handling and construction activities. The control strategies rely primarily on fugitive dust controls that are required in TSP nonattainment areas. Calculations for each nonattainment area show that judicious application of fugitive dust controls as specified in Regulation I will provide for the attainment of the primary NAAQS for TSP by December 31, 1982, and the secondary NAAQS by December 31, 1987.

Public comments, both oral and written, on the proposed plan are invited at the hearings. Written testimony submitted by May 2, 1980, will be included in the hearing record. The TACB would appreciate receiving 15 copies of all testimony

prior to the hearings, where possible. Copies of the plan are available for review during normal business hours at the TACB, 6330 Highway 290 East, Austin, Texas 78723, and all regional offices of the Texas Air Control Board.

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802119 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Filed: March 19, 1980, 10:21 a.m.

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

Comptroller of Public Accounts

Administrative Decisions

For copies of the following recent opinions selected and summarized by the administrative law judges, contact the administrative law judges, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Summary of Administrative Decision 10561

Summary of Decision: The state may constitutionally acquire jurisdictional nexus under Texas Taxation—General Annotated, Article 12.01 (Vernon 1969) to subject a foreign corporation to the franchise tax solely from the foreign corporation's possession of a certificate of authority to transact business in the state. The franchise tax is assessed on the privilege to do business in this state, regardless of whether the privilege is exercised or not. Further, it is constitutional under the commerce clause to measure the unexercised privilege by destination sales into Texas per Article 12.02 (1)(b)(i).

Summary of Administrative Decision 11068

Summary of Decision: A charge for the labor in cutting and welding straight, stock length pipe into customized pipe configurations, which are later transferred to the job site to become part of an intraplant fluid transportation system, is subject to the sales tax as "fabrication" labor under Texas Taxation—General Annotated, Article 20.01(K)(2)(a) (Vernon 1969), and is not exempt as "remodeling" labor under Article 20.01(L)(3)(g). Also, the transfer for a consideration of tangible personal property, the fabricated pipe, from a wholly owned subsidiary to its parent is not exempt under Article 20.04(V).

Issued in Austin, Texas, on March 19, 1980.

Doc. No. 802116 & Fred Conder
802117 Chief Administrative Law Judge
Comptroller of Public Accounts

Filed: March 19, 1980, 10:19 a.m.

For further information, please call (512) 475-1938.

Texas Department of Health

Correction of Error

Adopted Rule 301.83.12.001 of the Texas Department of Health contained an error as published in the March 4, 1980, issue of the *Texas Register* (5 TexReg 816).

In Rule .001, Glossary of Terms, the fourth sentence of subsection (j) should read: "Without excluding other meanings of 'individual' or 'served,' an individual shall be deemed to be served by a water system if he resides in, uses as his place of employment, or works in, a place to which drinking water is supplied from the system."

Texas Health Facilities Commission

Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of March 12-17, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, 315.17.05.010-.030, 315.18.04.010-.030, and 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Hurst General Hospital, Hurst (3/17/80)

AH80-0313-029

EC—Acquire an IREX echocardiography system as an extension of the facility's present echoabdominal diagnostic capability

Texas Children's Hospital, Houston (3/17/80)

AH80-0312-008

EC—Acquire by lease in conjunction with St. Luke's Episcopal Hospital, 10,965 square feet of space located in the Fannin-Holcombe Building, 69000 Fannin, for the two institutions' shared accounting department

Texas Children's Hospital, Houston (3/17/80)

AH80-0312-010

EC—Acquire by lease, in conjunction with St. Luke's Episcopal Hospital, 14,372 square feet of space located in the Fannin-Holcombe Building, 69000 Fannin, for the two institutions' shared business services department which is presently located in the main complex

St. Luke's Episcopal Hospital, Houston (3/17/80)

AH80-0312-012

EC—Acquire by lease, in conjunction with Texas Children's Hospital, 10,965 square feet of space located in the Fannin-Holcombe Building, 69000 Fannin, for the two institutions' shared accounting department

St. Luke's Episcopal Hospital, Houston (3/17/80)

AH80-0312-014

EC—Acquire by lease, in conjunction with Texas Children's Hospital, 14,372 square feet of space located in the Fannin-Holcombe Building, 69000 Fannin, for the two institutions' shared business services department which is presently located in the main complex

Sears Memorial Methodist Center, Abilene (3/17/80)

AH78-0130-001A(031280)

AMD/CN—Request to amend Certificate of Need AH78-0130-001, which authorized construction of a 17,460 square feet, 60-bed ICF-II nursing home facility, in order to extend the completion deadline by an additional two months

Grand Prairie Community Hospital, Grand Prairie (3/17/80)

AH79-0720-013A(031280)

AMD/EC—Request to amend Exemption Certificate AH79-0720-013, which authorized the creation of a centralized unit for diabetic patients in the Grand Prairie Community Hospital-Southwest facility, in order to extend the completion deadline by an additional six months

Hermann Hospital, Houston (3/17/80)

AH78-0410-005A(021980)

AMD/CN—Request to amend Certificate of Need AH78-0410-005, which authorized the renovation of the existing cardiac catheterization laboratory, in order to extend the completion deadline by an additional 13 months and a project cost increase of \$210,521

Roger P. Byren, DDS, Inc., Corpus Christi (3/17/80)

AO78-0713-005A(031280)

AMD/CN—Request to amend Certificate of Need AO78-0713-005, which authorized construction of an ambulatory dental facility, in order to change the

proposed location and configuration of the approved facility without an increase in project cost

Issued in Austin, Texas, on March 19, 1980.

Doc. No. 802147 O. A. Cassity III
Director of Hearings
Texas Health Facilities Commission

Filed: March 19, 1980, 11:51 a.m.
For further information, please call (512) 475-6940.

Senate

Special Committee on Delivery of Human Services in Texas

Subcommittee Meeting

A meeting of the Subcommittee on Service Distribution Patterns will be held on Thursday, March 27, 1980, beginning at 9:30 a.m. in the Lieutenant Governor's Committee Room at the State Capitol. The subcommittee will consider recommendations regarding service distribution patterns in rural Texas and proposed recommendations regarding improving a system of state agency accountability.

Issued in Austin, Texas, on March 18, 1980.

Doc. No. 802041 June Hyer
Executive Director
Special Committee on Delivery of Human Services in Texas

Filed: March 18, 1980, 10:06 a.m.
For further information, please call (512) 475-1284.

Subcommittee on Consumer Affairs

The Senate Subcommittee on Consumer Affairs will meet on Friday, March 28, 1980, beginning at 9:30 a.m. in the Houston City Council Chamber at 901 Bagby, Houston. The subcommittee will hold a public hearing regarding fire prevention, control, and safety in Texas. For further information, contact Ira Hillyer, chief counsel, at (512) 475-3090.

Issued in Austin, Texas, on March 13, 1980.

Doc. No. 802060 Senator Ron Clower
Chairman
Senate Subcommittee on Consumer Affairs

Filed: March 17, 1980, 12:37 p.m.
For further information, please call (512) 475-3090.

Texas Water Commission

Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of March 10-14, 1980.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed action; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Week Ending March 18, 1980

Fort Bend Utilities Company, Sugar Land; steam electric station; in the northwest quadrant formed where U.S. Highways 59 and 90A cross Oyster Creek; 01893; renewal

Houston Lighting and Power Company (W. A. Parish/Generating Station), Fort Bend County; steam electric station; south of and adjacent to Smithers Lake and Dry Creek; 01038; amendment

City of Red Oak, Ellis County; sewage treatment plant; 2,200 feet south and 2,500 feet west of the intersection of State Highway 342 and FM Road 2377; 11119-01; renewal

City of Hedley, Donley County; sewage treatment plant; 1.2 miles north and 0.8 mile east of the intersection of U.S. Highway 287 and State Highway 203; 10709-01; renewal

City of Rising Star, Eastland County; sewage treatment plant; one mile northeast of the Rising Star city limits; 10702-01; renewal

City of Pearsall, Frio County; wastewater treatment plant; 1/4 mile northeast of the intersection of FM Road 1581 and IH 34; 10360; amendment

Dallas Power and Light Company (Dallas Steam Electric Station), Dallas County; steam electric station; in Blocks 392 and 393 at 2707 Flynn Street; 01248; renewal

City of Rosebud, Falls County; water treatment plant; one mile west of the City of Rosebud; 10731-02; renewal

City of Dallas Water Utilities (Bachman Stormwater/Pollution Control Station), Dallas County;

sewage treatment plant; west of the intersection of Harry Hines Boulevard and Shorecrest Drive; 10060-07; amendment

Dresser Industries, Inc., Dallas County; oil field and mining equipment manufacturing plant; 3400 West Illinois Avenue; 01474; renewal

Texas Department of Corrections (Jester Unit No. 2), Fort Bend County; sewage treatment plant; 425 feet northeast of the main building at the prison farm; 10967-01; renewal

City of Rosenberg (Plant No. 2), Fort Bend County; sewage treatment plant; 3,000 feet east of the intersection of Band Road and State Highway 36; 10607-02; renewal

City of Rosenberg (Plant No. 1), Fort Bend County; sewage treatment plant; northwest of the intersection of Avenue B and 5th Street; 10607-01; renewal

State Department of Highways and Public Transportation (Bolivar Ferry/Comfort Station), Galveston County; sewage treatment plant; adjacent to State Highway 87, at the south end of the Bolivar Peninsula; 11672-01; renewal

City of Galveston (Teichman Road Plant), Galveston County; sewage treatment plant; 89th Street; 10688-03; renewal

City of Galveston (Main Plant), Galveston County; sewage treatment plant; intersection of 52nd Street and Industrial Boulevard; 10688-01; renewal

Marathon Oil Company, Texas City; oil refinery; on the north side of Loop 197 between 6th and 14th Streets; 00990; amendment

Reagent Chemical and Research, Inc., Galveston County; chemical; in the Texas City Terminal Railway yard on 6th Street; 01396; renewal

Galveston County Water Control and Improvement District No. 1, Galveston County; sewage treatment plant; on the south bank of Dickinson Bayou; 10173-02; renewal

Johns Manville Sales Corporation, Denison; asbestos-cement and plastic product manufacturing plant; adjacent to the south bank of the Red River; 00724; renewal

Marathon LeTourneau Company (Longview Division), Gregg County; heavy equipment manufacturing plant; 0.5 mile west-southwest of the intersection of FM Road 1845 and State Highway 149 (Estes Parkway); 01603; renewal

Marathon Morco Company, Galveston County; purified mineral oil and sulfonated hydrocarbons manufacturing plant; 700 feet southeast of the intersection of FM Road 517 and Nichols Street; 00377; renewal

City of Crockett (Plant No. 1), Houston County; sewage treatment plant; on the south bank of Spring Creek; 10154-01; renewal

City of Granbury (southeast plant), Hood County; sewage treatment plant; 1.4 miles southeast of the intersection of U.S. Highway 377 bypass and State Highway 144; 10178-02; renewal

City of Crockett (Plant No. 2), Houston County; sewage treatment plant; 3,000 feet south of the intersection of

U.S. Highway 287 and State Highway Loop 304; 10154-02; renewal

Houston County Water Control and Improvement District No. 1, Houston County; water treatment plant; one mile southwest of Latexo; 10871-01; renewal

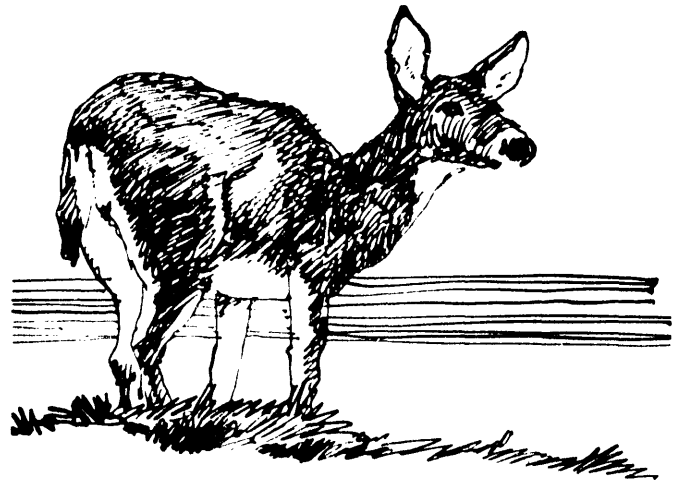
City of Kennard, Houston County; sewage treatment plant; 1/2 mile southeast of the intersection of State Highway 7 and FM Road 357; 11474-01; renewal

Issued in Austin, Texas, on March 18, 1980.

Doc. No. 802083 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Filed: March 18, 1980, 3:31 p.m.

For further information, please call (512) 475-1311.



Texas Department of Water Resources Public Notice of Solicitation of Statements of Interest

The Texas Department of Water Resources is in receipt of a grant from the U.S. Environmental Protection Agency to undertake studies in various river basins throughout the state as part of Section 208 of the Water Quality Management Program. The general objectives of the proposed study include the identification of causes and possible solutions to water quality problems and the identification of point source facilities needs. The Texas Department of Water Resources proposes to contract with local planning agencies (primarily river authorities) to accomplish the required studies in the following river basins: Canadian, Red, Brazos, Colorado, Sulphur, Cypress, Sabine, Neches, Trinity, San Jacinto, Lavaca, Nueces, Guadalupe, San Antonio, and Rio Grande.

Many of the local planning agencies will require the services of a consultant(s) in the performance of their contracted studies; these agencies will identify during contract negotiations with the department the tasks to be subcontracted to a consultant(s).

On behalf of the local planning agencies, the department will distribute requests for proposals to interested consultants. The purpose of this notice is to identify consultants interested in receiving a request for proposal for a given river basin(s). When the individual request for proposals for a basin is developed, the department will provide a copy to interested consultants who have responded to this notice and indicated an interest in the particular basin.

Any consultant desiring to be placed on the list for distribution of requests for proposals for continuing 208 water quality management planning must notify the department in writing. The notification must be received (not posted) by the

department by April 25, 1980. The consultant should indicate in its letter of notification which river basin(s) are of interest. The notification should be addressed to: Tim Bartlett, Texas Department of Water Resources, Construction Grants and Water Quality Planning Division, P.O. Box 13087, Capitol Station, Austin, Texas 78711.

Issued in Austin, Texas, on March 19, 1980.

Doc. No. 802145 Bruce Bigelow
 General Counsel
 Texas Department of Water Resources

Filed: March 19, 1980, 11:41 a.m.

For further information, please call (512) 475-8280.

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