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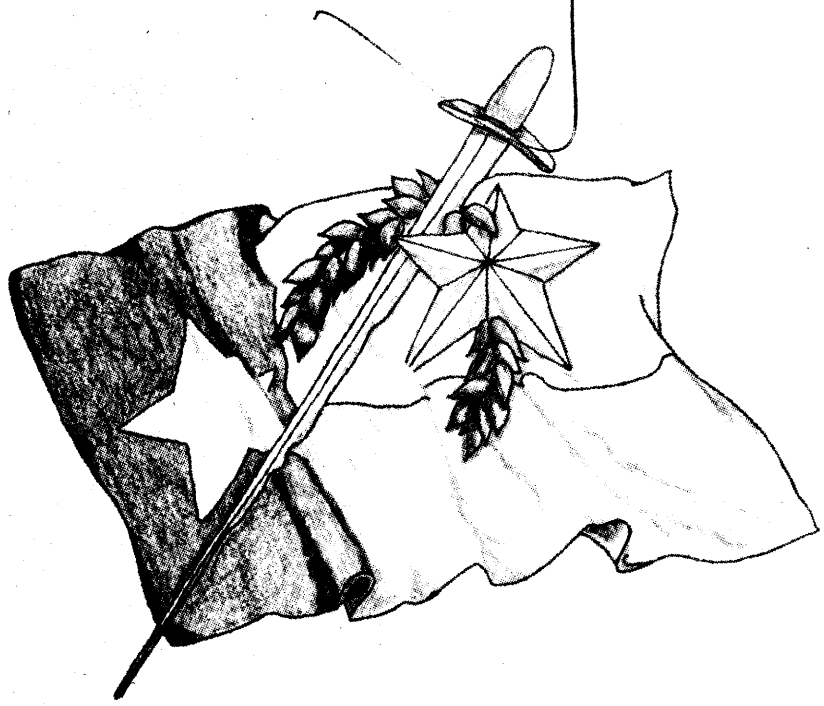
Texas Register



Highlights

★ The Texas Commission on the Arts proposes amendments concerning a plan which outlines the commission's activities; earliest possible date of adoption - January 17 . . . . . page 4367

★ The Texas Air Control Board adopts amendments to a rule that will require gasoline terminals in Harris County with a daily throughput of 500,000 gallons or more to reduce emissions of volatile organic compound vapors; effective date - December 30 . . . . . page 4399

★ The School Land Board adopts amendments to a rule that will clarify the verification and notification requirements for obtaining an easement for construction of a pier, dock, or other structure on Clear Lake and provide adequate public notice of the proposed construction; effective date - December 30 . . . . . page 4422

ffice of the Secretary of State Volume 7, Number 93, December 17, 1982

How To Use the Texas Register

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1982 with the exception of January 5, April 27, November 16, November 30, and December 28, by the Office of the Secretary of State, 201 East 14th Street, P O Box 13824, Austin, Texas 78711 3824, (512) 475 7886.

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

- Governor – appointments, executive orders, and proclamations
- Secretary of State – summaries of opinions based on election laws
- Attorney General – summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules – rules adopted by state agencies on an emergency basis
- Proposed Rules – rules proposed for adoption
- Withdrawn Rules – rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date
- Adopted Rules – rules adopted following a 30-day public comment period
- Open Meetings – notices of open meetings
- In Addition – miscellaneous information required to be published by statute or provided as a public service

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

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

In order that readers may cite material more easily, page numbers are now written as citations. Example: page 2 in the lower left-hand corner of this page is written "7 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 7 TexReg 3."

How To Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code* (explained below), rule number, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules currently being published by Shepard's/McGraw-Hill, in cooperation with this office.

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

1 indicates the title under which the agency appears in the *Texas Administrative Code* (a listing of all the titles appears below);

TAC stands for the *Texas Administrative Code;*

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

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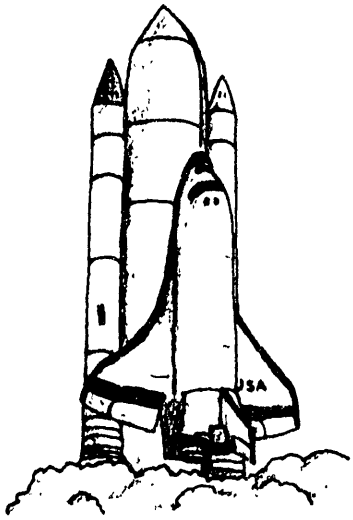
The Attorney General

Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure.

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are $1.00 a copy.



Request for Opinion

RQ-964. Request from W. O. Shultz, general attorney, the University of Texas System, Austin, concerning whether various documents relevant to land acquisition by the University of Texas at Arlington are excepted from public disclosure by the Open Records Act, §3(a)(5).

TRD-829356

Opinion

MW-520 (RQ-943). Request from Kenneth H. Ashworth, commissioner, Coordinating Board, Texas College and University System, Austin, concerning whether university construction project is exempt from a requirement of Coordinating Board approval where it is constructed partly from funds appropriated by House Bill 1 of the Second Called Session, 67th Legislature.

Summary of Opinion. Approval by the Coordinating Board of the Texas College and University System is not required for any project authorized in House Bill 1, Acts of the 67th Legislature, Second Called Session, 1982, Chapter 1, at 1, for "new construction" and "major repairs and rehabilitation" at any of seventeen named institutions of higher education, regardless of the source of funding of any such project.

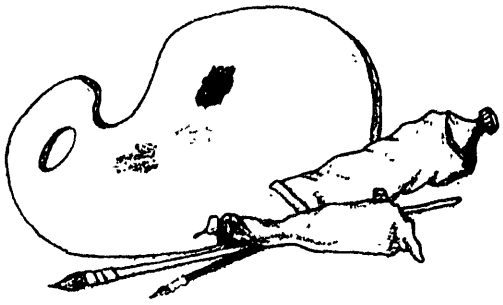
TRD-829355

Thirty days before an agency intends to permanently adopt a new or amended rule, or repeal an existing rule, it must submit a proposal detailing the action in the *Register*. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposal may not be adopted until 30 days after publication. The document, as published in the *Register,* must include a brief explanation of the proposed action; a fiscal statement indicating effect on state or local government; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of legal authority under which the proposed rule is to be adopted (and the agency's interpretation of the legal authority); the text of the proposed action; and a certification statement. The certification information which includes the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

Symbology in amended rules. New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

Proposed Rules



TITLE 13. CULTURAL RESOURCES

Part III. Texas Commission on the Arts

Chapter 35. Texas Arts Plan

13 TAC §35.1

The Texas Commission on the Arts proposes amendments to §35.1, concerning the Texas Arts Plan which outlines the activities of the commission. This proposed rule amends the major institutions program by changing the titles of the two components to major program support and major operating support. The guidelines for the major program support component are revised. These revisions reduce the minimum budget to $500,000, set additional review criteria, expand eligible programs, restrict the matching funds to private sector money, and require additional attachments.

Jack Nokes, acting director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Nokes has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the following. The major institutions program awards serve as an incentive for organizations to create programs of the highest artistic quality, thereby stimulating the economic and cultural growth of Texas. This funding will serve as a catalyst for increasing and broadening private support for major institutions which will contribute to their long term strength and stability. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Margaret L. Dahl, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 6144g, §4, which provides the Texas Commission on the Arts with the authority to make rules for its government and that of its officers and committees.

§35.1. Texas Arts Plan. The commission adopts by reference the Texas Arts Plan as amended **November**

[August], 1982. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

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

Issued in Austin, Texas, on December 8, 1982.

TRD-829276 Jack Nokes
Acting Director
Texas Commission on the Arts

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 475-6593.

TITLE 28. INSURANCE
Part I. State Board of Insurance

(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct TAC title and part.)

Powers and Duties
Examination of Carriers
059.01.15.221

The State Board of Insurance proposes amendments to Rule 059.01.15.221, concerning salvage or subrogation. Unnecessary language is removed from the rule but no substantive change is made.

Charles Ramsey, chief examiner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Ramsey has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the deletion of unnecessary language. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Charles Ramsey, Chief Examiner, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

This amendment is proposed under authority of the Texas Insurance Code, Articles 2.08, 2.10, 3.01, 3.39, 3.40, 3.40-1, 6.08, 6.12, 8.07, 8.18, 9.18, 10.17, 11.18, 11.18-1, 14.26, 16.15, 16.24, 17.11, 17.22, 18.09, 19.06, 20.10, 21.39, 22.18, 23.10, and the Texas Health Maintenance Organization Act, Article 20A.06. These laws relate to permissible investments and admissible assets for the various insurance companies and related entities regulated by the State Board of Insurance, and to requirements for reporting in annual statements by the same entities; they empower the board to examine insurance companies and related entities for the purpose of valuation of assets.

.221. Salvage and subrogation. [This rule reaffirms this department's long-standing express position in respect of the treatment of salvage and subrogation items. The difficulty in ascertaining the value of items received as salvage on losses (whether paid or unpaid) necessitates that insurance]

(a) Insurance companies incorporated under the laws of this state and foreign and alien companies licensed to do business in this state shall not take credit against any open claim or loss reserve nor as an admitted asset in any annual statement or interim statement filed with this department for salvage or subrogation recoveries until such recoveries shall have been reduced to cash or to an item which qualifies as an admitted asset under the Texas Insurance Code. The proceeds from the salvage **and** [and/or] the recovery of subrogation shall be accounted for as a reduction to losses paid in accordance with existing practices.

(b) This rule [(Note: The foregoing] conforms to the [position of the] National Association of Insurance Commissioners' [as evidenced in their] instructions on the annual statement blank form, which **are** [annual statement forms and the instructions relating thereto have been heretofore] adopted annually [by board order] under [the provisions of] the Texas Insurance Code, Article 1.10 (9).[)]

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

Issued in Austin, Texas, on December 6, 1982.

TRD-829256 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 475-2950.

059.01.15.222

The State Board of Insurance proposes amendments to Rule 059.01.15.222, concerning the valuation of normal depreciation of real estate. The amendment deletes unnecessary language but makes no substantive change.

Charles Ramsey, State Board of Insurance chief examiner, has determined that for the first five-year period the rule will be in effect there will be no fiscal

implications to state or local government as a result of enforcing or administering the rule.

Mr. Ramsey has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the deletion of unnecessary language. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Charles Ramsey, State Board of Insurance Chief Examiner, 1110 San Jacinto Street, Austin, Texas 78786.

This amendment is proposed under authority of the Texas Insurance Code, Article 1.15, §2, which provides the State Board of Insurance with the authority to determine the value of investments on real estate and to consider depreciation; and pursuant to the board's authority to delete any part of a rule it has previously promulgated.

.002. Depreciation of Real Estate. [*Adjustment of Valuation of Real Estate, Depreciation.* On the 24th day of March, 1959, and on the 13th day of May, 1959, there was considered in public hearing the matter of adjustment of valuation of real estate. Testimony presented at the hearings established that the principle that depreciation occurs is generally accepted and is followed in the valuation of real estate by a majority of the real insurance companies which transact business in this state and own real estate. It is also found that the elements of depreciation, such as wear and tear, deterioration, and normal obsolescence, are continuously present irrespective of other factors influencing the value of real estate. Although this principle is recognized in the provisions of the Texas Insurance Code, Article 1.15, §2, 1951, as amended, some companies have never given effect to such factor in valuing their real estate. Therefore, the following regulation is adopted:] Effective July 1, 1959, in reporting the values of its real estate to the State Board of Insurance in annual statements and other financial reports, each insurer admitted to do business in Texas shall, as a minimum, reflect normal depreciation accrued for periods after June 30, 1959, computed by a recognized accounting method selected by the company, which shall include wear and tear, deterioration, and normal obsolence. This regulation does not exclude from consideration the other factors enumerated in the Texas Insurance Code, Article 1.15, 1951, as amended, bearing upon the value of real estate.

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

Issued in Austin, Texas, on December 6, 1982.

TRD-829257 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 475-2950.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

Endangered, Threatened, and Protected Native Plants

31 TAC §§57.401-57.404, 57.406-57.413

The Texas Parks and Wildlife Commission proposes to adopt new §§57.401-57.404, and 57.406-57.413 concerning endangered, threatened, and protected native plant species. Briefly stated, the proposed rules contain definitions and specify prohibited acts; list endangered and threatened plant species; specify the procedure for amending the list of endangered and threatened plant species; establish the qualifications, procedures, fee, and reporting requirements for permits to take endangered and threatened plants from public lands for propagation, education, and scientific studies; and, indicate the exceptions when the rules do not apply and the penalties for violations of the Parks and Wildlife Code, Chapter 88. The proposed rules designate specific native plant species as endangered or threatened and provide a permit system for propagation, education, and scientific study of these species when found on public property.

Jim Dickinson, director of finance, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government will be an estimated additional cost of $500 in 1982; $17,501 in 1983; $43,004 in 1984; $51,952 in 1985; and $51,952 in 1986. There will be an estimated increase in revenue of $100 in 1982; $500 in 1983; $1,200 in 1984; $1,500 in 1985; and $1,500 in 1986. There is no anticipated effect on local government.

Mr. Dickinson has also determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the establishment of a method to list and protect endangered, threatened, and protected plant species located on public lands in this state and to permit the taking of these plants for propagation, education, and scientific study.

The anticipated economic cost to individuals who are required to comply with the rules as proposed will be a permit fee of $10 each year for the years 1982 through 1986.

Comments on the proposal may be submitted to William C. Brownlee, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979.

The new sections are proposed under the Texas Parks and Wildlife Code, Chapter 88, which provides the Texas Parks and Wildlife Department with the author-

ity to regulate the taking, possession, transportation, or sale of endangered, threatened, or protected native plant species in this state.

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

Director—The executive director of the Texas Parks and Wildlife Department.

Endangered plant—A species of plant life in danger of extinction throughout all or a significant portion of its range.

Native plant—Any tree, shrub, herb, grass, forb, legume, fern, fern ally, or wildflower indigenous to the state and growing on public or private land.

Protected plant—A species of plant life the director determines is of historical and cultural value to the state or area in which it is found that has been listed by the director as protected.

Public land—Land that is owned by the state or by a local governmental entity.

Take—To collect, pick, cut, dig up, or remove.

Threatened plant—A species of plant life likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

§57.402. Plants from Private Land.

(a) Endangered, threatened, or protected plants may be taken from private lands when written consent of the landowner has been obtained. A copy of the written consent of the landowner shall accompany the plants through all wholesale sales to the retailer. This documentation is not required of the consumer.

(b) Endangered, threatened, or protected plants originating and imported from another state are subject to the provisions of the Texas Parks and Wildlife Code, §88.009(b).

§57.403. Endangered Plant Species. Pursuant to the authority of the Texas Parks and Wildlife Code, §88.003, the director has determined that the following native plant species are endangered in this state: Texas wildrice (*Zizania texana*); Parks' (Navasota) ladiestresses (*Spiranthes parksii*); Texas poppy-mallow (*Callirhoe scabriuscula*); Tobusch fishhook cactus (*Ancistrocactus tobuschii*); Nellie Cory cactus (*Coryphantha minima*); Sneed pincushion cactus (*Coryphantha sneedii sneedii*); Lloyd's hedgehog cactus (*Echinocereus lloydii*); Black lace cactus (*Echinocereus reichenbachii albertii*); and Davis' green pitaya cactus (*Echinocereus viridiflorus davisii*).

§57.404. Threatened Plant Species. Pursuant to the authority of the Texas Parks and Wildlife Code, §88.003, the director has determined that the following native plant species are threatened in this state: Bunch Cory cactus (*Coryphantha ramillosa*); Lloyd's Mariposa cactus (*Neolloydia mariposensis*); and McKittrick Canyon pennyroyal (*Hedeoma apiculatum*).

§57.406. Amendments—Public Hearing.

(a) The director may amend the list of endangered, threatened, or protected native plants contained in the rules when it appears that any native plant, or plants, meets the criteria for listing contained in the Texas Parks and Wildlife Code, Chapter 88.

(b) The director shall give public notice of the intention to file a modified order at least 60 days before the order is filed. The notice shall contain the contents of the proposed order and any other information the director determines is appropriate to adequately inform the public of the intended action.

(c) The director shall schedule a public hearing at least 30 days prior to the date the modification order is to be filed. A hearing officer shall be appointed by the director in order to receive oral testimony and written evidence regarding the proposed order. The hearing officer shall forward a hearing officer report to the director following the conclusion of the hearing. Based on the evidence received at the hearing and staff recommendations, the director may file the proposed modified order without change, withdraw the proposed order, or amend the order to reflect public or agency recommendations.

§57.407. Permit Qualifications.

(a) Permits to take, transport, and hold endangered, threatened, or protected native plants from public lands shall be issued by the department only to named individuals for the purpose of propagation, education, or scientific studies. Permits may be issued to individuals when it appears to the department that the applicant has adequate professional training or experience in the field of botany or horticulture to conduct the proposed activities with the plant species requested.

(b) Applicants who are engaged in the selling or holding for sale, endangered, threatened, or protected plants from private land shall not be issued a permit to take endangered, threatened, or protected plants from public lands.

§57.408. Permit Application.

(a) An applicant for a permit to take, transport, and hold endangered, threatened, or protected native plants from public lands shall submit to the department a completed application on a form supplied by the department.

(b) Each application for a permit shall be accompanied by two letters of recommendation from individuals in the field of botany or horticulture attesting to the professional qualifications, research abilities, or experience of the applicant to handle the plant species requested. No permit may be issued by the department until an additional letter or permit has been received from the state agency or local governmental entity, granting the applicant permission for the taking or expressing no objections to the taking of the plants on public lands under the jurisdiction of the agency or local governmental entity. Any permit issued by the department shall be subject to the conditions contained in the letter or permit issued by the agency or local governmental entity, if any.

(c) A permit may be amended at any time during the permit year to reflect changes in the propagation, educational, or scientific studies of the permittee, provided the need for these changes is justified by permittee.

(d) An application must contain the name of each person assisting in the collecting and transporting of endangered, threatened, or protected plants.

(e) The department may require an applicant to justify the need for a permit or a permit amendment by

demonstrating that the proposed propagation, education, or scientific studies shall benefit the species of plants involved.

(f) Each permittee and any person designated to assist in the collecting and transporting is required to carry a copy of the permit issued by the department, and the permittee must have in his possession a copy of the permit or other written authority issued by the agency or local governmental entity, when conducting any permit activities on the public lands where the permitted activities are authorized. The permits shall be presented upon request to any law enforcement officer authorized by law to enforce the provisions of the Texas Parks and Wildlife Code, Chapter 88.

§57.409. Permit Fees. The fee for the issuance of each permit and each permit renewal is $10. No permit fee is required if the plants are to be taken from lands under the jurisdiction of the state agency or local governmental entity employing the applicant or permittee. No additional permit fee is required for the issuance of a permit amendment during the permit year.

§57.410. Annual Reports. Each permittee shall file an annual report on a form provided by the department not more than two weeks after the expiration date of the permit. The report shall indicate the number and species of plants taken, location of taking, and their disposition. The report shall also give the results of any propagation, educational, or research activities conducted by the permittee with the plants or parts taken. A permit may be renewed by the department upon receipt of the annual report and the fee required by these rules.

§57.411. Expiration Date. Each permit issued by the department shall expire one year from the date of issuance.

§57.412. Exceptions. The department may require any person possessing, transporting, or selling an endangered, threatened, or protected native plant within this state to show that a permit has been obtained from the department to authorize such activity; or, that no permit is required by the Texas Parks and Wildlife Code, §88.009; or, that the plant or plants were in possession of the person prior to the effective date of these rules.

§57.413. Penalties. The penalties for a violation of any provisions of this subchapter are prescribed in the Texas Parks and Wildlife Code, §88.011.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829365 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Earliest possible date of adoption:
January 17, 1982

For further information, please call (512) 479-4806.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 3. AFDC

WIN Registration

40 TAC §3.2601

(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The following repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 31, which authorizes the department to administer financial assistance and related services.

§3.2601. Work Incentive Program

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829329 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 441-3355, ext. 2037.

Work Incentive Program

40 TAC §§3.5001-3.5012

(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The following repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 31 which authorizes the department to administer financial assistance and related services.

§3.5001. General Requirements.
§3.5002. Exemption Situations.
§3.5003. Other Situations.
§3.5004. Change in WIN Status.

§3.5005. *WIN Referral Process.*
§3.5006. *Refusal to Register for WIN.*
§3.5007. *Refusal to Participate in WIN.*
§3.5008. *Failure to Appear for Appraisal Interview or to Cooperate with SAU.*
§3.5009. *Failure to Cooperate After Being Certified as Ready for Employment/Training.*
§3.5010. *Deregistration from WIN.*
§3.5011. *Appeal Procedures Relating to WIN Participation.*
§3.5012. *Grant Changes.*

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829331 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 441-3355, ext. 2037.

Employment Services

40 TAC §§3.5001-3.5007

The Texas Department of Human Resources proposes new §§3.5001-3.5007 and the simultaneous repeal of its rules concerning employment services in the AFDC and family self-support programs.

From September 1969, the department has co-administered with the Texas Employment Commission the Work Incentive Program (WIN). This program requires AFDC recipients to register for employment, unless exempt. Recipients who fail to register or participate in employment activities are removed from the AFDC grant. WIN is restricted to geographic areas of the state where the majority of AFDC recipients live.

One of the provisions of the Omnibus Budget Reconciliation Act of 1981 is to allow states to design their own employment program for AFDC recipients (WIN Demonstration). In March, the department initiated a contract with TEC to deliver employment services to AFDC recipients in previous WIN sites.

In April 1983, the department will expand the current WIN demonstration projects to all DHR regions. The department will contract with TEC for employment services in all geographic areas of the state (except areas designated as employment initiative test sites). The employment program is basically the same as the WIN program, except for a few procedural changes. The major procedural changes are:

(1) DHR will register AFDC recipients with TEC automatically instead of using the current manual registration process.

(2) Family support staff will recommend sanctions affecting the AFDC grant instead of TEC staff.

(3) DHR will hear recipient appeals on failure to participate in the employment program instead of TEC.

David Hawes, director of programs budget and statistics, has determined for the first five-year period the proposed rules will be in effect there will be no fiscal implications to state and local government as a result of enforcing or administering the rules.

Mr. Hawes has also determined that for each year of the first five years the rules as proposed are in effect, the public benefit anticipated as a result of enforcing the rules will be assisting AFDC recipients to obtain employment; helping AFDC recipients become self-sufficient so they do not need AFDC; reducing the number of recipients receiving AFDC by placing them in jobs or by removing them from AFDC grants because of non-participation in employment services; and reducing expenditures for AFDC and Medicaid benefits. There will be no economic cost to individuals who are required to comply with the rules as proposed.

A hearing to accept public comment on the employment services' rules will be held at 9 a.m. on January 5, 1982, in the DHR board room, 706 Banister Lane, Austin.

Written comments are also invited and may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-431, Texas Department of Human Resources, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The new rules are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 31, which authorizes the department to administer financial assistance and related services.

§3.5001. *Participation Requirements.*
(a) AFDC clients must register for employment services unless they are exempt. Registration or exemption is a condition of eligibility for each client to be included in an AFDC payment.
(b) Clients must be informed of this requirement.
(c) Exempt clients may volunteer for employment services at any time. Clients who volunteer are eligible for the same services provided to mandatory registrants.

§3.5002. *Exemptions.* A client is exempt from the requirement to register for employment services if he is:
(1) under 16 years old.
(2) receiving AFDC foster care.
(3) sixteen or 17 years old and attending elementary, secondary, vocational, or technical school full time.
(4) eighteen years old and attending secondary, vocational, or technical school full time.
(5) permanently or temporarily ill or incapacitated. DHR authorizes an exemption for temporary illness or incapacity for up to 90 days.
(6) sixty-five years old or older. Clients who are 65 years old or older must furnish proof of age.

(7) a parent or caretaker of children under six years old. Only one person in the certified AFDC group qualifies for this exemption.

(8) needed at home to care for an ill or incapacitated member of the household. To claim this exemption, the client must substantiate the need for care.

(9) too remote from available employment services. Clients may claim this exemption only if they live in areas DHR designates as too remote.

(10) employed for 30 hours or more a week.

§3.5003. Change in Status. A client must report any changes that might affect his employment services' status within 10 days of the change unless he is required to complete and submit to DHR a monthly status report form.

§3.5004. Refusal to Register. Unless exempt, a client must accept registration for employment services. If he does not, his needs are not included in the AFDC grant until he accepts registration.

§3.5005. Refusal to Participate in Employment Services.

(a) After DHR registers a client who is mandated to participate, and the client refuses to cooperate with the requirements without good cause, the client is ineligible for AFDC for three consecutive AFDC payment months. A client who subsequently refuses to cooperate without good cause is ineligible for AFDC for six consecutive AFDC payment months.

(b) After the sanction period, a client must agree to register for and participate in employment services before being included in the AFDC grant.

(c) The participation requirements are:

(1) the client must appear for the scheduled appraisal interview. The client is given two opportunities for appraisal interviews.

(2) the client must accept family support services outlined in the employment-related service plan developed with the client.

(3) the client must participate in activities outlined in the client's employability plan including keeping appointments and attending training classes.

(4) the client must report for job interviews and accept an offer of employment that is appropriate and consistent with the client's employability plan.

(5) the client must not voluntarily leave his job without good cause as interpreted under the Texas unemployment insurance laws.

(d) Situations that constitute good cause include but are not limited to the following;

(1) The client is ill or incapacitated.

(2) The client has to appear in court.

(3) The client is incarcerated.

(4) The client has a family crisis or a change in circumstances that adversely affects his ability to participate.

(5) The client who is 16, 17, or 18 years old returns to school.

(6) The client cannot find transportation or child care arrangements.

(7) The client is offered a job below minimum wage (including tips or gratuities).

(8) Employees of the client's prospective employer are on strike.

§3.5006. Right to Notification. The client is entitled to be notified in writing of any adverse action and his right to appeal. Normally, adverse action may not be effective until at least 10 days after the written notification is mailed to the client. See Chapter 70 of this title (relating to Legal Services) for circumstances under which advance notice is not required.

§3.5007. Right to Appeal. A client is entitled to a hearing to contest:

(1) The determination of nonexempt status.

(2) The denial or reduction of benefits because of refusal to participate in employment services.

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829328 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

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For further information, please call (512) 441-3355, ext. 2037.

WIN Referral

40 TAC §3.5101

(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The following repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 31, which authorizes the department to administer financial assistance and related services.

§3.5101. Purpose.

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

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WIN Registration Process

40 TAC §3.5201

(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The following repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 31, which authorizes the department to administer financial assistance and related services.

§3.5201. Policies and Procedures.

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

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Deregistration Process

40 TAC §3.5302

(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The following repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 31, which authorizes the department to administer financial assistance and related services.

§3.5302. Policies and Procedures.

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

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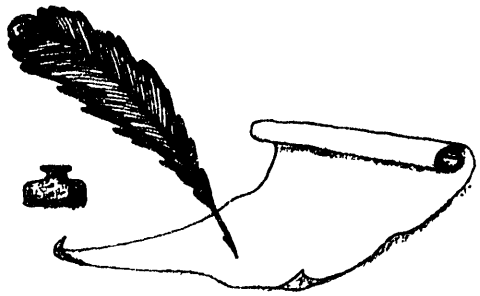

Chapter 7. Refugee Assistance Program

Certification Process

The Texas Department of Human Resources proposes new rules and repeals other rules in the Refugee Assistance Program because of changes made by the Department of Health and Human Services in its refugee program. Eligibility is extended to all nationalities defined by Congress as refugees or entrants rather than only to Indochinese and Cubans.

David Hawes, Programs Budget and Statistics director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Hawes has also determined that for each year of the first five years the rules as proposed are in effect, policies and procedures will be made current and valid in regard to the Refugee Assistance Program. There is no anticipated economic cost to individuals required to comply with the rules.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Policy Development Support Division—198, Texas Department of Human Resources 153-B, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

40 TAC §§7.1101-7.1110

(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance.

§7.1101. Certification for Financial and Medical Assistance.
§7.1102. Work Registration Requirement.
§7.1103. Recertification Periods for Financial Assistance Cases.
§7.1104. Case Folder Content.
§7.1105. Refusal To Register or Accept an Offer of Appropriate Employment or Training.

§7.1106. *Determining Appropriateness of Employment and/or Training.*
§7.1107. *Training Requirements for Employed Refugees.*
§7.1108. *Ceasing Employment To Become or Remain Eligible for Financial Assistance.*
§7.1109. *Appeal Procedure.*
§7.1110. *Refugee Recipients under the Comprehensive Employment and Training Act (CETA).*

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829321 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

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40 TAC §§7.1111-7.1117

The following new rules are proposed under Human Resources Code, Title 2, Chapters 22 and 31, which authorize the department to administer public assistance and establish rules for the Refugee Assistance Program.

§7.1111. *Application and Interview.* An applicant must complete and sign an application form to apply for refugee or entrant assistance. He must also have a personal interview with a caseworker.

§7.1112. *Foster Care Cases.*

(a) Refugees and entrants are eligible for foster care only if they are removed from the home by protective services staff.

(b) Foster care under the Refugee/Entrant Program may be provided only during a child's first 18 months in the United States.

§7.1113. *Medical Assistance.* Persons eligible for cash assistance under the Refugee/Entrant Program are also eligible for medical assistance under Title XIX. The same Medicaid services available to AFDC recipients are available to refugees and entrants. This includes three-month prior and four-month post coverage.

§7.1114. *Reporting Changes.* It is the responsibility of the refugee or entrant to report any changes that might affect eligibility within 10 days of the change, not at the next review.

§7.1115. *Referral for SSI Benefits.* All refugees/entrants who are 65 years old or older, or who are blind or disabled, must apply to the Social Security Administration for SSI benefits. DHR assistance, however, is not withheld pending SSI certification. Recoupment for any duplicate benefits is the responsibility of the Social Security Administration.

§7.1116. *Appeals, Fraud, and Recoupment Procedures.* Appeals, fraud, and recoupment policies and procedures for refugees and entrants are the same as those in the AFDC Program rules.

§7.1117. *Food Stamps.* Refugees or entrants are eligible for food stamp benefits according to the Food Stamp program rules.

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

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For further information, please call (512) 441-3355, ext. 2037.

Refugee Resettlement and Cuban/ Haitian Entrant Programs

40 TAC §§7.1901-7.1904

The following new rules are proposed under the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance and establish rules for the Refugee Assistance Program.

§7.1901. *Definition of a Refugee.* According to the Refugee Act of 1980, a refugee is a person who is outside his country of nationality or habitual residence, and is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution because of race, religion, nationality, membership in a particular social group, or political opinion. Anyone who engaged in, or ordered, incited, or assisted in the persecution of others is excluded from the definition.

§7.1902. *Persons Eligible for the Refugee Resettlement Program.*

(a) To be eligible for the Refugee Resettlement Program, refugees must have a Form I-94, I-151, or I-551 with an alien registration number and one of the following entry statuses from the Immigration and Nationality Act:

(1) paroled under §212(d)5:

(A) If Indochinese and the Form I-94 was issued on or after June 1, 1980, the person must be paroled as a refugee or be granted asylum;

(B) If Cuban and the Form I-94 was issued on or after April 21, 1980, the person must be paroled as a refugee or be granted asylum.

(2) admitted as a conditional entrant under §203(a)7.

(3) admitted as a refugee under §207.

(4) granted asylum under §208.

(5) permanent resident status on Form I-151. A person must have held one of the preceding statuses before he became a resident alien to be eligible for refugee assistance.

(b) It is the responsibility of the refugee to obtain Form I-94, either the initial issuance or a replacement if lost, from the INS.

§7.1903. Persons Ineligible for the Refugee Resettlement Program. The following persons are not eligible for the Refugee Resettlement Program:

(1) persons who entered the United States as a resident alien (immigrants who did not previously have the status of a refugee or were not granted asylum);

(2) persons paroled under §212(d)5 whose Form I-94 does not show they are refugees or have been granted asylum;

(3) persons who are "applicants for asylum" as opposed to those who have been granted asylum; or

(4) persons who have expired entry documents.

§7.1904. Persons Eligible for the Cuban/Haitian Entrant Program.

(a) Cuban/Haitian entrants must have a Form I-94 with an alien registration number and be in one of the following categories:

(1) Cuban and Haitian. A person who has an INS Form I-94 stamped "Cuban/Haitian Entrant (Status Pending)."

(2) Cuban. A person who has a Form I-94 that shows he is a citizen of Cuba and that contains the initials "OOE."

(3) Cuban. A person who has a Form I-94 that:

(A) shows the person is a citizen of Cuba;

(B) shows the person is "paroled;"

(C) shows the person either entered the U.S. after, or was paroled after, April 20, 1980; and

(D) does not contain the words "Outstanding Order of Exclusion."

(4) Haitian. A person who has a Form I-94 showing that the person is a citizen of Haiti who has been either paroled or granted "Voluntary Departure."

(b) Persons in all of these categories are eligible even if the expiration date on their parole or voluntary departure status is past.

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

Issued in Austin, Texas, on December 9, 1982.

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Texas Department of Human Resources

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Refugee Resettlement and Cuban/Haitian Entrant Cash and Medical Assistance

40 TAC §§7.2001, 7.2002, 7.2004-7.2006, 7.2008-7.2016

The following new rules are proposed under the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance and establish rules for the Refugee Assistance Program.

§7.2001. Financial Assistance.

(a) Any person admitted as a Cuban/Haitian entrant, a refugee, or granted asylum by INS qualifies for financial assistance under this program if he meets all other eligibility criteria. All refugees or entrants must first apply for AFDC and be determined ineligible before they can apply for the Refugee/Entrant Program. Refugees or entrants eligible for AFDC are served under that program.

(b) Requirements of categorical relatedness for financial assistance are waived for refugees and entrants if they do not qualify for the AFDC Program. They may receive financial assistance without regard to family composition, the presence of children, or deprivation of parental support. The WIN Program and AFDC child support services are not available for refugees or entrants who do not qualify for AFDC. Non-AFDC child support and parent locator services are available.

(c) There is an 18-month time limit on the receipt of financial and medical assistance under this program dating from the person's entry date into the United States.

(d) A person must be 18 years old to be the caretaker in a case, or to receive the single-adult grant. Children under 18 years old must have a caretaker (relative or nonrelative), a payee, or a protective payee, and receive the noncaretaker grant. A payee does not have to be a refugee or entrant, but a caretaker must be a refugee or entrant. Children 18-21 years old who are not in school are considered adults.

§7.2002. Income and Resources. The income and resource levels for the Refugee/Entrant Program are the same as those stated in the AFDC Program rules.

§7.2004. Exemptions from Income.

(a) CETA wages. Hourly wages paid under the Comprehensive Employment and Training Act (CETA) are exempt as income. Any other employment income or training allowance income is considered the same as in the AFDC Program rules.

(b) Educational grants. Refugees or entrants who wish to enroll in post-secondary institutions are eligible for financial aid through the Basic Education Opportunity Grant and the Guaranteed Student Loan. They may remain in the assistance group, with the loan or grant benefits disregarded in determining the amount of the assistance payment. Other student loans or grants are treated the same as in the AFDC Program rules.

§7.2005. U.S.-Born Children/Marriage to U.S. Citizen.

(a) A child of refugee or entrant parents born in the U.S. is eligible for the Refugee/Entrant Program. Both parents must be refugees or entrants for the child

to be eligible. One or both parents must receive cash assistance for the child to receive cash assistance.

(b) If a refugee or entrant marries a U.S. citizen, only the refugee or entrant may be eligible. A married refugee/entrant is not eligible if the U.S. citizen-spouse has income or resources which make the income or resources of the refugee/entrant above the allowable limitations. Children of the marriage are not eligible for refugee assistance, because they are U.S. citizens.

§7.2006. Sponsors/Voluntary Resettlement Agencies (VOLAGs). Eligibility for financial and medical assistance is based on the needs of the refugee or entrant, considering only financial assistance provided by the sponsor on a regular basis. All in-kind contributions are disregarded. The income and resources of the sponsor are disregarded.

§7.2008. Matching Grant Program. The federal government provides separate grants to Voluntary Resettlement Agencies (VOLAGs) for certain groups of refugees. These funds are separate from the resettlement grant given to each VOLAG for all refugees and entrants. These separate grants are currently given for Soviet Jewish refugees and Czech refugees, and may include other non-Indochinese or non-Cuban refugees. These persons may or may not receive these grants, but if they do, the income is counted toward the grant.

§7.2009. Work Registration Requirements. All nonexempt refugees and entrants are required to register for employment with the Texas Employment Commission (TEC) as a condition for receiving cash assistance. This requirement does not apply during the first 60 days after arrival in the United States.

§7.2010. Criteria for Exempt Status and Determining Validity of Claims of Exemption.

(a) The following individuals are exempt from registration:

(1) a refugee or entrant who has been in the United States less than 60 days;

(2) a refugee or entrant who is 15 years old or younger, or 16 or 17 years old and attends an elementary, secondary, vocational, or technical school full time;

(3) a refugee or entrant who is 18 years old and attends an elementary, secondary, or vocational/technical school full time and is expected to complete the program before reaching 19 years old;

(4) a refugee or entrant who is ill, incapacitated (including a temporary illness or injury of not more than 90 days), or 65 years old or older;

(5) a refugee or entrant whose presence in the home is needed because of illness or incapacity of another member of the household. The person claiming this exemption must provide medical evidence such as a physician's statement that the person needing care and supervision has an illness or disability that requires in-home services. In the absence of medical evidence, the individual exempt under this provision is responsible for providing substantiation of the person's need for care. Only one person in a certified group may be exempt from employment or training registration for this reason;

(6) a mother or other caretaker who is caring for a child under 6 years old;

(7) a mother or other caretaker who is caring for a child under 18 years old, if the nonexempt father or other nonexempt adult relative in the home is registered and has not refused to accept employment without good cause.

(b) If, in a two-adult household with children, neither adult meets any of the exemptions, the mother or other caretaker is not required to register as long as the other nonexempt adult is participating as required.

(c) Inability to communicate in English does not exempt the client from registration.

§7.2011. Refusal To Register for Employment or Training.

(a) The needs of a refugee or entrant who refuses or fails to register for appropriate employment or training are removed from the grant unless refusal is with good cause. Refusal to apply for, or to accept, appropriate employment or a training opportunity includes:

(1) failure to report to TEC for an interview;

(2) failure to respond to a TEC request for supplemental information; or

(3) failure to report to an employer or trainer to whom referred.

(b) A refugee or entrant who refused or failed to register may have his needs restored to the grant at the time he registers.

§7.2012. Refusal To Accept an Offer of Appropriate Employment or Training.

(a) If a nonexempt refugee or entrant refuses without good cause to accept an employment or training opportunity from TEC or from a local contracted provider of refugee services, his needs are removed from the grant.

(b) A nonexempt refugee or entrant for whom assistance is denied for failure to accept or continue employment or a training opportunity is not eligible to have his needs included in an assistance grant for 30 days after the effective date of the denial.

§7.2013. Determining Appropriateness of Employment or Training.

(a) Appropriate work meets the following criteria:

(1) It may be temporary, permanent, full-time, part-time, or seasonal, if the work meets the other work standards described in §7.2014 of this title (relating to Secondary Work or Training Standards).

(2) The wage meets or exceeds the federal or state minimum wage law, whichever is applicable. If these laws are not applicable, the wage cannot be lower than the wage usually paid for similar work in that labor market. The wage can never be less than ¾ of the state minimum wage rates.

(3) The daily and weekly hours of work cannot exceed those customary to the occupation.

(4) No refugee or entrant is required to accept employment if:

(A) the position offered is vacant because of a strike, lockout, or other bona fide labor dispute; or

(B) the refugee or entrant is required to work for an employer contrary to the conditions of his existing membership in the union for that occupation. Employ-

ment not governed by the rules of a union to which the refugee or entrant belongs is appropriate.

(b) Besides meeting these criteria, for training to be appropriate, the quality of the training has to meet local employers' requirements so that the refugee or entrant is in a competitive position within the local labor market. The training must be part of an approved employability plan through a contracted provider of refugee services.

§7.2014. Secondary Work or Training Standards. It is necessary for the proposed work or training to meet the following additional standards before a nonexempt refugee or entrant is required to accept it:

(1) The refugee or entrant must be physically and mentally capable or regularly performing the job or training assignment. Any claim by the refugee or entrant of adverse effect on his physical or mental health must be based on adequate medical testimony from a physician or licensed certified psychologist stating that the refugee's or entrant's participation would impair his physical or mental health.

(2) The total daily commuting time to and from home to the work or training site to which the refugee or entrant is assigned does not generally exceed two hours. Commuting time does not include transporting a child to and from a child care facility. If a longer commuting distance and time is generally accepted in the community, the round trip commuting time cannot exceed the generally accepted community standards.

(3) If child care is required and is provided by DHR, it is necessary for the child care to meet the state's licensing standards. Child care must be available during the hours the refugee or entrant is working or engaged in training or English language instruction, plus any additional necessary commuting time. Day care arranged by the refugee or entrant and treated as a work-related expense by the department is not required to meet state standards. The department's provision of child-care services is limited to people working or in training except for whatever other child care the department provides according to its priorities.

(4) The work or training site must meet applicable federal, state, and local health and safety standards.

(5) There can be no discrimination in work assignments because of age, sex, race, creed, color, or national origin.

§7.2015. Ceasing Employment To Become or Remain Eligible for Financial Assistance.

(a) A nonexempt applicant for refugee/entrant financial assistance cannot, during 30 consecutive calendar days immediately before receiving aid, quit work voluntarily to receive financial assistance, or refuse to apply for or accept an offer of employment. The dependent family, however, of this ineligible applicant can apply for and receive financial assistance.

(b) A nonexempt refugee or entrant in the Refugee/Entrant Program cannot quit work voluntarily to remain eligible for financial assistance, or refuse to apply for or accept an appropriate offer of employment or employment-related training meeting any applicable minimum wage requirement.

§7.2016. Reporting Changes that Affect Employment Status. The refugee or entrant must report within 10 days any change which might affect his employment or training registration status or that of another member of the certified group.

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

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Refugee/Entrant Resettlement Services
40 TAC §§7.2101-7.2103

The following new rules are proposed under the Human Resources Code, Title 2, Chapters 22 and 31, which authorize the department to administer public assistance and establish rules for the Refugee Assistance Program.

§7.2101. Available Services.

(a) Refugees/entrants receiving cash assistance have priority for refugee/entrant resettlement services. In compliance with the Refugee Act of 1980, refugees or entrants are entitled to the following services. The first two services are provided without regard to income. The third service is provided according to income eligibility requirements.

(1) English as a second language. Instruction is for refugees or entrants 16 years old or over who are not students at the secondary level. The emphasis is on survival English especially for use in finding and keeping a job.

(2) Employment services. Services include career counseling, development of an individual employability plan, job orientation, job development and placement, and follow-up. Support services mandated for English instruction and employment services are:

(A) information and referral;

(B) outreach, including activities designated to familiarize refugees or entrants with available services;

(C) assessment and service planning, particularly from the standpoint of employability. This includes identification of familial or environmental obstacles to employment; and

(D) translation and interpretation services. Providers must have one or more bilingual volunteers or paid paraprofessionals or professional staff to provide these services. Bilingual staff can assist the refugee or entrant by acting as an interpreter or translator, until the refugee or entrant has developed communication skills in the English language.

(3) Vocational training. Vocational training is provided to refugees or entrants that meets local employers' hiring requirements and is applicable to the local job market. The training must be provided with the expectation that the refugee or entrant can be employed within a reasonable time period. Support services mandated for this vocational training are:

(A) information and referral;

(B) outreach;

(C) assessment and service planning;

(D) translation and interpretation services; and

(E) employment services, including career counseling, development of an employability plan, job orientation, job development, job placement, and follow-up.

(b) These refugee/entrant resettlement services are for employable refugees or entrants and their families. Eligibility for these services is not affected by the time limitation for receiving cash assistance. Also, all refugees or entrants are eligible for services if they are current AFDC, SSI, or refugee/entrant cash assistance recipients, or if they meet the income eligibility requirements and service priorities.

§7.2102. Refugee/Entrant Medically Needy Program.

(a) The Refugee/Entrant Medically Needy Program is available for refugees and entrants who have unpaid medical bills, but who do not qualify for financial assistance and Medicaid. If the patient's (the person incurring the medical bills) U.S. entry date exceeds the 18-month limit, he is ineligible and must not be certified.

(b) Refugees or entrants who are ineligible for or not interested in financial assistance, but who have unpaid medical bills incurred up to three months before the date of application, may test their eligibility for the Medically Needy Program. Refugees or entrants who are eligible for financial assistance and have prior medical bills, but are ineligible for three-month prior Medicaid, can have their prior bills considered under the program. A refugee or entrant cannot receive both three-month prior and the Medically Needy Program benefits.

(c) Each medically needy certification is for a one- to three-month period only.

(d) Dental bills are not considered in this program.

§7.2103. Spenddown. Eligibility for the Medically Needy Program is determined by using a "spenddown" procedure. Spenddown is a process by which refugees or entrants become eligible for medical assistance by incurring medical expenses which reduce income to a level within the standard of need for the AFDC Program. All past medical debts are the liability of the refugee or entrant; however, paid medical bills may be included in the spenddown for the certification period. Unpaid bills for any months before the certification period also may be used in spenddown as long as they are the refugee's or entrant's responsibility. These bills are not considered for payment, only toward spenddown.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829320 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 441-3355, ext. 2037.

Chapter 10. Family Self-Support Services

Employment Services

The Texas Department of Human Resources proposes new §§10.2301-10.2307 and the repeal of other rules concerning employment services in the AFDC and Family Self-support Programs.

From September 1969, the department has co-administered with the Texas Employment Commission (TEC), the Work Incentive Program (WIN). This program requires AFDC recipients to register for employment, unless exempt. Recipients who fail to register or participate in employment activities are removed from the AFDC grant. WIN is restricted to geographic areas of the state where the majority of AFDC recipients live.

One of the provisions of the Omnibus Budget Reconciliation Act of 1981 is to allow states to design their own employment program for AFDC recipients (WIN Demonstration). In March, the department initiated a contract with TEC to deliver employment services to AFDC recipients in previous WIN sites.

In April 1983, the department will expand the current WIN demonstration projects to all DHR regions. The department will contract with TEC for employment services in all geographic areas of the state (except areas designated as employment initiative test sites). The employment program is basically the same as the WIN program, except for a few procedural changes. The major procedural changes are as follows.

(1) DHR will register AFDC recipients with TEC automatically instead of using the current manual registration process.

(2) Family support staff instead of TEC staff will recommend sanctions affecting the AFDC grant.

(3) DHR instead of TEC will hear recipient appeals on failure to participate in the employment program.

David Hawes, programs budget and statistics director, has determined for the first five-year period the proposed rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Hawes also has determined that for each year of the first five years the rules as proposed are in effect, the public benefits anticipated as a result of enforcing the rules will be assisting AFDC recipients to obtain employment, helping AFDC recipients to become self-sufficient so they do not need AFDC, reducing the number of recipients receiving AFDC by placing them in jobs or by removing them from AFDC grants because of nonparticipation in employment services, and reducing expenditures for AFDC and Medicaid benefits.

There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

A hearing to accept public comment on the employment services rules will be held at 9 a.m. on January 5, 1982, in the DHR board room, 706 Banister Lane, Austin.

Written comments may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-431, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

40 TAC §10.2101

(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The following repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 31, which authorizes the department to administer financial assistance and related services.

§10.2101. Eligibility Criteria.

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829368 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 441-3355, ext. 2037.

Work Incentive

40 TAC §§10.2201, 10.2202, 10.2204-10.2217

(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The following repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 31, which authorizes the department to administer financial assistance and related services.

§10.2201. Clients Served by the WIN Program.
§10.2202. SAU Responsibilities Related to Former WIN Clients.
§10.2204. Service Needs.
§10.2205. Requests for Support Services.
§10.2206. Certification.
§10.2207. Duration of Eligibility for Support Services.
§10.2208. Clients Eligible for Purchased Child Day Care.
§10.2209. Day Care for Former WIN Clients.
§10.2210. Registration.
§10.2211. Readiness for Work/Training.
§10.2212. WIN Support Services.
§10.2213. Examination.
§10.2214. Refusal to Participate without Good Cause.
§10.2215. Refusal of AFDC Foster Care Children to Register in the WIN Program.
§10.2216. Responsibilities of the Texas Employment Commission.
§10.2217. Child Day Care Services through Contracted Service Providers.

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829370 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 441-3355, ext. 2037.

40 TAC §§10.2301-10.2307

The new rules are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes

the department to administer public assistance programs; and Chapter 31, which authorizes the department to administer financial assistance and related services.

§10.2301. Eligibility Criteria. Current recipients of AFDC, SSI, or refugee cash assistance are eligible for employment services.

§10.2302. Responsibilities of the Texas Employment Commission. Based on the contract DHR has with TEC, TEC staff are responsible for providing employment services to AFDC clients. To fulfill this responsibility, TEC staff:

(1) conduct an appraisal of AFDC clients referred to TEC to establish an employability plan;

(2) discuss employment services with registered AFDC clients;

(3) discuss initial employment services that staff will provide to the clients with the family support worker, if possible;

(4) develop the employment and training portion of the client's employability plan;

(5) provide employment services to selected clients; and

(6) provide employers with information about targeted jobs tax credits and complete the appropriate forms.

§10.2303. Requests for Support Services. Clients are eligible for the support services that the family support worker, TEC staff, and the clients determine are needed for employment.

§10.2304. Duration of Eligibility for Support Services for DHR/TEC or DHR/Other Agency Cases.

(a) Employment services clients are entitled to receive time-limited support services if they are involved in employment services through DHR and TEC or DHR and other employment agencies. Clients are entitled to receive support services during the time DHR is working with them to remove barriers to employment, during participation in TEC employment components, or during participation in other agencies' employment components.

(b) DHR regions may determine the length of follow-up time (30, 60, or 90 days) that clients may receive support services if the clients are in TEC's working registrant status or in unsubsidized employment through other agencies.

(c) Clients are entitled to receive needed support services for 30 calendar days between participation in TEC employment components or between participation in an employment component and entry into working registrant status. Clients receiving employment services through agencies other than TEC are entitled to receive needed support services for 30 calendar days between participation in active training activities or between participation in training activities and employment activities.

§10.2305. Certification.

(a) DHR must not refer any client to employment services if there is an indication of severe emotional problems, alcoholism, drug addiction, or involvement with protective services until DHR verifies with the treatment center that the client is ready for work or training.

(b) DHR must certify for TEC or other employment agencies that the client has no barriers to employment:

(1) if TEC or another agency requests assistance from DHR to remove barriers to a client's employment; or

(2) when DHR refers the client to TEC; or

(3) when DHR refers the client to another agency if, based on the agreement with the agency, DHR is responsible for barrier removal before referral.

(c) DHR must not apply employment sanctions to clients who are mandated to participate in employment services until DHR determines that the client has no barriers to employment.

§10.2306. Medical Examination for Employment Services.

(a) DHR authorizes medical examinations for employment services clients when needed:

(1) to determine or verify any physical or mental impairments, which limit the client's vocational options;

(2) to prepare the client for entry into a training component or employment that requires a medical examination; or

(3) to determine exemptions from employment services.

(b) DHR does not accept a general examination that is not related to employment in determining the client's ability to participate in employment services.

§10.2307. Employment Support Services. Employment support services for eligible clients include:

(1) Family planning—provided to enable employment services clients to voluntarily limit family size.

(2) Day Care—provided to children in need of day care. Clients who are mandated to participate in employment services and who refuse to accept day-care services if they are available and suitable in the family support worker's judgment are subject to sanction for refusal to participate.

(3) Health-related—provided to enable employment services clients to effectively use health care resources. The services include:

(A) assisting to arrange appointments and transportation for EPSDT and other medical services;

(B) helping the client obtain medical care and carry out medical instructions;

(C) arranging for nutrition counseling; and

(D) identifying and arranging treatment for emotional problems that may preclude or seriously interfere with the client's employability such as parent-child conflicts, marital problems, child behavior problems, or personal dysfunction.

(4) Other—services DHR and the client determine are needed to remove barriers to employment.

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829335 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 441-3355, ext. 2037.

Refugee Resettlement and Cuban/ Haitian Entrant Services

40 TAC §10.5001

The Texas Department of Human Resources proposes new §10.5001, concerning about eligibility of refugees for financial and medical assistance. The department proposes new policies for refugee assistance because of changes made by the Department of Health and Human Services (HHS) in its refugee programs. Eligibility is extended to all nationalities defined by Congress as refugees rather than only to Indochinese or Cubans. The time limit for receiving cash and medical assistance is lowered from 36 months to 18 months. There is no time limit for receiving self-support services. The $30 and ⅓ earned income disregard is no longer applicable in determining financial eligibility. The time limit and income disregard were adopted as final rules pursuant to federal regulations and are not addressed in this submission.

David Hawes, Programs Budget and Statistics director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Hawes has also determined that for each year of the first five years the rule as proposed is in effect, policies and procedures will be made current and valid in regard to the Refugee Resettlement and Cuban/Haitian Entrant Program. There is no anticipated economic cost to individuals required to comply with the rule.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-012, Department of Human Resources 153-B, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The following rule is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§10.5001. Eligibility for Family Self-support Services.

(a) Refugees and entrants receiving cash assistance are eligible for family support direct delivery services.

(b) Refugees and entrants receiving cash assistance and those whose income is below the established income eligibility level are eligible for family self-support purchased services as long as they meet one of the priorities for services.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829316 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
January 17, 1983

For further information, please call (512) 441-3355, ext. 2037.

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is generally effective immediately upon filing with the *Register*.

If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register*. Notice of the withdrawal will appear in the next regularly scheduled issue of the *Register*. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal of an identical or similar rule following normal rulemaking procedures.

Withdrawn Rules

TITLE 7. BANKING AND SECURITIES
Part VII. State Securities Board
Chapter 113. Registration of Securities

7 TAC §113.3, §113.4

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §113.3 and §113.4, submitted by the State Securities Board have been automatically withdrawn, effective December 9, 1982. The amendments as proposed appeared in the June 8, 1982, issue of the *Texas Register* (7 TexReg 2181).

TRD-829275
Filed: December 9, 1982

TITLE 31. NATURAL RESOURCES AND CONSERVATION
Part III. Texas Air Control Board
Chapter 115. Volatile Organic Compounds

Vent Gas Control in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties

31 TAC §115.41

The Texas Air Control Board has withdrawn from consideration for permanent adoption amendments to §115.41, concerning vent gas control in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties. The text of the amended sections as proposed appeared in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2232).

Issued in Austin, Texas, on December 9, 1982.

TRD-829291 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed: December 9, 1982
For further information, please call (512) 451-5711, ext. 354.

Water Separation in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

31 TAC §115.144

The Texas Air Control Board has withdrawn from consideration for permanent adoption amendments to §115.144, concerning water separation in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties. The text of the amended sections as proposed appeared in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2235).

Issued in Austin, Texas, on December 9, 1982.

TRD-829296 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed: December 9, 1982
For further information, please call (512) 451-5711, ext. 354.

Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule will function; contain comments received on the proposal; list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute under which the rule was adopted.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

TITLE 13. CULTURAL RESOURCES

Part III. Texas Commission on the Arts

Chapter 35. Texas Arts Plan

13 TAC §35.1

The Texas Commission on the Arts adopts amendments to §35.1, without changes to the proposed text published in the August 17, 1982, issue of the *Texas Register* (7 TexReg 3025).

These amendments to the provisions of the Artists-In-Education Program will enable the commission to use federal artists-in-education funds in a more effective manner, thereby allowing more Texas sponsor organizations and artists to participate in the program.

The amendments revise the guidelines of the Artists-In-Education Program by:

(a) authorizing program sponsors, who have participated in a program through an Education Service Center in a residency of no more than one week, to apply for 50% funding of their own residency;

(b) extending the February 1 sponsor deadline· and

(c) extending the June 1 artist deadline.

No comments were received regarding adoption of these amendments.

The amendments are adopted under Texas Civil Statutes, Article 6144g, §4, which provides the Texas Commission on the Arts with the authority to make rules for its government and that of its officers and committees.

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

Issued in Austin, Texas, on December 8, 1982.

TRD-829277 Jack Nokes
Acting Director
Texas Commission on the Arts

Effective date: December 30, 1982
Proposal publication date: August 17, 1982
For further information, please call (512) 475-6593.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter H. Tariffs and Schedules

16 TAC §5.141

The Railroad Commission of Texas adopts amendments to §5.141, without changes to the proposed text published in the July 10, 1981, issue of the *Texas Register* (6 TexReg 2373).

These amendments will allow carriers to record on the waybill, instead of the freight bill, the date and beginning and ending time for extra labor service, provided a copy of the waybill is attached to the freight bill to maintain an audit trail. This will eliminate duplication of effort by not re-recording this information on the freight bill and requiring instead that a copy of the waybill be attached to the freight bill.

Rory K. McGinty, transportation division assistant director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule as proposed.

Mr. Ginty has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a reduction in the cost of compliance of commission record keeping requirements. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

No comments were received regarding these amendments.

This amendment is adopted under the authority of Texas Civil Statutes, Article 911b, §4, which provides the Railroad Commission of Texas with the authority to prescribe rules governing the operations of motor carriers engaged in intrastate commerce.

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

Issued in Austin, Texas, on December 6, 1982.

TRD-829353 Jim Nugent
Chairman
Mack Wallace and Buddy Temple
Commissioners
Railroad Commission of Texas

Effective date: December 31, 1982
Proposal publication date: July 10, 1981
For further information, please call (512) 445-1186.

TITLE 19. EDUCATION
Part I. Coordinating Board, Texas College and University System
Chapter 21. Student Services
Subchapter G. Texas Public Educational Grants Program

19 TAC §21.176

The Coordinating Board, Texas College and University System adopts an amendment to §21.176, without changes to the proposed text published in the November 2, 1982, issue of the *Texas Register* (7 TexReg 3870).

The proposed amendment is intended to require students attending an institution placed on public probation by the appropriate accrediting agency to provide evidence of knowledge of the school's accreditation status as a condition of receiving financial aid.

No comments were received regarding adoption of the proposed amendment.

This amendment is adopted under the Texas Education Code, §52.54, which gives the Coordinating Board authority to administer the Hinson-Hazlewood College Student Loan Program, and to adopt rules and regulations necessary for participation in the federal guaranteed loan program; also, Texas Education Code, §61.229, as it applies to the Tuition Equalization Grant Program, and §61.027 and §61.028, as they apply to the Texas Public Educational-State Student Incentive Grants Program.

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

Issued in Austin, Texas, on December 7, 1982.

TRD-829281 James McWhorter
Assistant Commissioner for Administration
Coordinating Board, Texas College and University System

Effective date: December 30, 1982
Proposal publication date: November 2, 1982
For further information, please call (512) 475-2033.

TITLE 28. INSURANCE
Part I. State Board of Insurance

(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct TAC title and part.)

Rating and Policy Forms
Workers' Compensation Rates

059.05.55.001

The State Board of Insurance adopts an amendment to Rule 059.05.55.001, the Texas Workers' Compensation and Employers' Liability Insurance Manual, without changes to the proposed text published in the October 12, 1982, issue of the *Texas Register* (7 TexReg 3653).

This amendment deletes from the manual the Texas Workers' Compensation Assigned Risk Pool Rules and Regulations which were adopted by reference as part

of the manual. These rules are not part of the board's rules. Under authority of the Texas Insurance Code, Article 5.76, the Texas Workers' Compensation Assigned Risk Pool has adopted these rules as necessary to make Article 5.76 effective. The board's statutory function is simply to approve the rules but not formally to adopt them as its own. The effect of this amendment is to delete the rules from the board's rules on file with the *Texas Register* but not to withdraw any previous approval of the rules by the board. These rules will continue to be inserted in the manual for administrative convenience.

No comments were received regarding adoption of the proposed amendment.

The amendment is adopted under authority of the Texas Insurance Code, Article 5.76, pursuant to which the board reviews the Texas Workers' Compensation Assigned Risk Pool rules; and pursuant to the board's authority to delete any rule or portion of a rule it has previously promulgated.

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

Issued in Austin, Texas, on December 6, 1982.

TRD-829258 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 29, 1982
Proposal publication date: October 12, 1982
For further information, please call (512) 475-2950.

Prevention of Injuries and Assignment of Rejected Risks

059.05.76.001

The State Board of Insurance adopts an amendment to Rule 059.05.76.001, with changes to the proposed text published in the October 12, 1982, issue of the *Texas Register* (7 TexReg 3653).

Heretofore, the rule adopted by reference the bylaws of the Texas Workers' Compensation Assigned Risk Pool and a form which workers' compensation insurers are required to execute agreeing to participate in the pool. The amendment deletes the bylaws of the Texas Workers' Compensation Assigned Risk Pool. These bylaws are not properly part of the board's rules. Under authority of the Texas Insurance Code, Article 5.76(e), the Texas Workers' Compensation Assigned Risk Pool has adopted the bylaws as necessary to make Article 5.76 effective. The board's statutory function is to review the bylaws for approval but not to formally adopt them as its own rules. The effect of this amendment is to delete these bylaws from the board's rules on file with the *Texas Register* of the Office of the Secretary of State but not to withdraw any previous approval of them by the board. There are two changes in the text of the rules from the proposal. First, in the first sentence of the rule subsequent to its title, the words "as filed with the *Texas Register* on or about the inception of the Administrative Procedure and Texas Register Act" replace "as amended on January 1, 1983." This change is made necessary because the agreement form which is still adopted by reference in the rule has not been altered since the Administrative Procedure and Texas Register Act became effective. To refer to this agreement form as "amended January 1, 1983" is therefore misleading. Second, the agreement form which is still adopted by reference is not available from the Workers' Compensation Assigned Risk Pool. Accordingly, the reference made to the pool as a place from which the agreement form may be obtained is eliminated.

No comments were received regarding adoption of the proposed amendment.

The amendment is adopted under authority of the Texas Insurance Code, Article 5.76, pursuant to which the board reviews Texas Workers' Compensation Assigned Risk Pool rules, and pursuant to the board's authority to delete any rule or part of a rule it has previously adopted.

.001. Texas Workers' Compensation Assigned Risk Pool. The State Board of Insurance adopts by reference the Agreement to Participate in the Texas Workers' Compensation Assigned Risk Pool as filed with the *Texas Register* on or about the inception of the Administrative Procedure and Texas Register Act. The form is available from the State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

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

Issued in Austin, Texas, on December 6, 1982.

TRD-829260 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 29, 1982
Proposal publication date: October 12, 1982
For further information, please call (512) 475-2950.

General Provisions

Liquidation, Rehabilitation, Reorganization, or Conservation of Insurers

059.21.28.001

The State Board of Insurance adopts the repeal of Rule 059.21.28.001, without changes to the proposed

text published in the October 12, 1982, issue of the *Texas Register* (7 TexReg 3661).

Rule 059.21.28.001 tracks board Order 29745, dated October 3, 1975, which makes appointments to fill vacancies of the board of directors of the Life, Accident, Health, and Hospital Service Insurance Guaranty Association. Board Order 29745 is not in the nature of a rule as defined in the Administrative Procedure and Texas Register Act. Accordingly, the board has repealed Rule 059.21.28.001, but is leaving board Order 29745 otherwise unaffected to remain a valid order of the State Board of Insurance.

No comments were received regarding adoption of this proposal.

This repeal is adopted under authority of the Texas Insurance Code, Article 21.28-D, §7, pursuant to which the State Board of Insurance is authorized to appoint directors to the Life, Accident, Health, and Hospital Insurance Guaranty Association; and pursuant to the board's authority to repeal any rule it has previously promulgated.

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

Issued in Austin, Texas, on December 3, 1982.

TRD-829261 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 29, 1982
Proposal publication date: October 12, 1982
For further information, please call (512) 475-2950.

Prepaid Legal Services

059.23.01.001-.004, .006, .007

The State Board of Insurance adopts amendments to Rules 059.23.01.001-.004, .006, and .007, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2227).

The rule amendments are for the purpose of nonsubstantive editorial changes, updating the rules to conform them to present board practices, conforming the rules to statute, and removing overly stringent requirements for insurers applying to write prepaid legal services coverage. The amendments also bring into the rules an amendment which was filed with the *Texas Register* under a different rule number and therefore not incorporated into these rules. Rules 059.23.01.001-.004, .006, and .007 have been renumbered; originally, they were numbered Rule 059 .23.02.001.

No comments were received regarding the proposed amendments.

The amendments are adopted pursuant to various authorities. The Texas Insurance Code, Chapter 23, generally, and the Texas Insurance Code, Article 23.02, specifically, place Chapter 23 Corporations under the regulatory supervision of the State Board of Insurance; Texas Insurance Code, Article 5.13-1, authorizes and requires the board to review rates and forms to be used by insurers issuing prepaid legal services contracts; the Texas Insurance Code, Article 23.26, specifies other articles in the code which are applicable to Chapter 23 Corporations, and makes the Texas Insurance Code, Articles 21.21 and 21.21-2 applicable to Chapter 23 Corporations; the Texas Insurance Code, Article 21.21, prohibits deceptive acts and practices, including a misleading name; the Texas Insurance Code, Article 5.13-1, §(d), authorizes the board to promulgate, after notice and hearing, rules and regulations concerning the application of Article 5.13-1 to the insurers specified in that statute for such clarification, augmentation and amplification as in the discretion of the board is deemed necessary to accomplish the purposes of Article 5.13-1. These amendments are also proposed under the board's authority in Texas Civil Statutes, Article 6252-13a, §4; the Texas Insurance Code, Article 1.04, §4; and elsewhere which authorizes the board to make nonsubstantive editorial changes and clarifications to its rules and to pass procedural rules necessary for it to perform its statutory function; and under the board's authority to delete any portion of a rule it has previously adopted. A public hearing was held to consider these rules.

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829361 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 31, 1982
Proposal publication date: June 11, 1982
For further information, please call (512) 475-2950.

059.23.02.002

The State Board of Insurance adopts the repeal of Rule 059.23.02.002, without changes to the proposed text published in the August 3, 1982, issue of the *Texas Register* (7 TexReg 2820).

Rule 059.23.02.002 is an amendment to the main body of prepaid legal services rules which was filed with the *Texas Register* under a separate rule number on or about the inception of the Administrative Procedure and Texas Register Act. The provisions of this rule are incorporated into the main body of prepaid legal rules by a simultaneous adoption. This process is required by the *Texas Register* but causes no change in the board's rule requirements or in the effective law.

No comments were received regarding the proposed repeal.

This repeal is pursuant to the Texas Insurance Code, Chapter 23, generally, and the Texas Insurance Code, Article 23.02, specifically, which place Chapter 23 Corporations, under the regulatory supervision of the State Board of Insurance; pursuant to the Texas Insurance Code, Article 5.13-1, which authorizes the board to promulgate rules and regulations concerning the application of Article 5.13-1 to the insurers specified in that statute for such clarifications, augmentation, and amplification as in the discretion of the board is deemed necessary to accomplish the purposes of Article 5.13-1; and under the board's authority to repeal any rule it has previously adopted.

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829362 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 31, 1982
Proposal publication date: August 3, 1982
For further information, please call (512) 475-2950.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 101. General Provisions

31 TAC §101.1

The Texas Air Control Board (TACB) adopts amendments to §101.1, with changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2230).

New and revised definitions are necessary to support changes being made concurrently to Chapter 115, concerning volatile organic compounds (VOC). New definitions are adopted for component, drum, leak (for fugitive emission control in petroleum refineries and synthetic organic chemical, polymer, and resin manufacturing processes), pail, polymer, and resin manufacturing process, pounds of VOC per gallon of coating (minus water), and synthetic organic chemical manufacturing process.

Also, a revised definition of volatile organic compound (VOC) is adopted. The revised definition excludes methylene chloride and six chlorofluorocarbons (CFC) or fluorocarbons (FC) that are of negligible photochemical reactivity. See the July 22, 1980, issue of the *Federal Register* (45 FedReg 48941).

Eleven written and two oral comments addressed the proposed definition changes. The following testimony was received concerning the proposed definitions.

"Component" — Three comments were received concerning this definition. The Texas Mid-Continent Oil and Gas Association (TMOGA) stated that the definition was too broad and could be interpreted to include any kind of leak in any piece of equipment. It was their suggestion that the definition should be made more specific, listing only those items subject to fugitive emission regulations. The City of Dallas pointed out that, as proposed, the definition of component would preclude the use of the word for any but VOC applications.

"Leak" — Only one comment was received concerning this definition. Region VI of the U.S. Environmental Protection Agency (EPA) indicated that the *Federal Register* citation used as part of the definition was inappropriate since the citation referred only to proposed rulemaking. The definition in the proposal could change before final rulemaking action by the EPA.

"Pail" — Two comments were received concerning this proposed definition. One commentor indicated that the inclusion of the gauge of metal in the definition was unnecessarily restrictive and could easily be made inaccurate by technological change. The City of Dallas suggested that the definition is too limiting and recommended the use of the term "metal pail" rather than just "pail."

"Synthetic Organic Chemical Manufacturing Plant" — Two commentors expressed concern about using the *Federal Register* citation. EPA opposed the *Federal Register* citation for use as a part of the definition because the citation referred only to proposed rulemaking. The definition in the EPA's proposed rulemaking could change prior to final action by the EPA. Another commentor requested that all chemicals to be included in the proposed definition be listed for the benefit of those who do not have convenient access to the *Federal Register*.

"Volatile Organic Compound (VOC)" — Two industrial organizations, Dow Chemical Company and E. I. DuPont de Nemours, supported the definition as proposed. Two cities, two environmental organizations, and one individual opposed the proposed definition.

Dow Chemical Company submitted a report from a study conducted by BDM Corporation for the U.S. Army. This report includes an evaluation of the characteristics of methyl chloroform and methylene chloride. On the basis of this study, the BDM investigators concluded that these compounds are highly effective solvents both of which have high autoignition temperature and no flash point. The investigators concluded that the two compounds are low in toxicity except at very high concentrations.

The testimony of E. I. DuPont de Nemours and Company supported the proposed VOC definition and cited the *Federal Register* of July 22, 1980, (45 FedReg 48941) and the EPA's decision that the compounds proposed for exemption are not sufficiently photochemically reactive to have a significant impact on the ozone problem. The testimony further reaffirmed the EPA's finding that "the existing data base is inade-

quate for assessing the carcinogenicity of methylene chloride." The testimony also pointed out that the toxicity of methylene chloride should not be a deterrent to exemption since OSHA has established a standard of 500 ppm by volume in air averaged over an eight-hour period with an acceptable ceiling of 1,000 ppm, and a maximum peak concentration of 2,000 ppm for five minutes in any two-hour period. Another commentor also endorsed the proposed VOC definition.

Spokespersons for the Cities of Dallas and Austin recommended the VOC definition now in the rule not be changed so long as the health and environmental effects of these compounds remain uncertain.

Two environmental groups and one individual opposed the proposed VOC definition on the basis that it would exempt from control potentially harmful compounds. These commentors emphasized the need for the TACB to regulate specific individual chemicals with the potential to affect adversely human health.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal, while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. Speaking for the proposal were Richard B. Ward and Malcolm L. Payne of E. I. DuPont de Nemours and Company, and K. L. Shewbart of Dow Chemical Company.

Speaking against the proposal were Gary Tannahill of Texas Mid-Continent Oil and Gas Association Refinery Subcommittee; Jack S. Divita of the U.S. Environmental Protection Agency, Region VI; Maureen McReynolds, Ph.D., of the City of Austin; Callie Foster Struggs of the City of Dallas; George Smith of the Lone Star Chapter of the Sierra Club; William B. Beck of E. I. DuPont de Nemours and Company; and Joan Jones of the Galveston Bay Conservation and Preservation Association.

"Component"—Both of the commentors who discussed this proposed definition were concerned about the lack of specificity of the proposed definition. TMOGA requested that the definition be made specific to the VOC fugitive emission control rules. The City of Dallas warned against the impacts a general definition could have on usage of the term elsewhere in the regulations. The definition was intended to be specific to the VOC fugitive emission control rules in Regulation V. Because of these considerations, the definition is revised to clarify this intent by referring to the controls to which this definition is applicable and by including the specific types of equipment to be considered.

"Leak"—EPA indicated that the *Federal Register* citation as a part of the definition was inappropriate since the citation referred to proposed rulemaking which could change before final EPA action. This *Federal Register* citation was included to specify what was meant by the reference to monitoring as contained in the definition. The deletion of the reference to monitoring from the definition obviates the need for a citation.

"Pail"—The two comments received regarding this definition questioned the restrictiveness of the proposed definition. One commentor pointed out that the inclusion of the phrase "29 gauge or heavier material" could be unnecessarily restrictive. The other questioned whether materials other than metal might also need to be provided for. This definition was intended to apply to specific VOC surface coating control requirements for metal products and to define a specific type of container used to transport hazardous products. Since the Department of Transportation requires the 29 gauge or heavier material restriction as a matter of safety in transporting hazardous products, it is appropriate to retain it in this definition as a means of describing this specific type of container.

"Synthetic Organic Chemical Manufacturing Plant"—Two commentors expressed concern about using the *Federal Register* citation. The EPA opposed the *Federal Register* citation for use as a part of the definition because the citation referred to proposed rulemaking, which could change prior to final action by the agency. Another commentor requested that all chemicals to be included in the proposed definition be listed for the benefit of those who do not have convenient access to the *Federal Register*. This *Federal Register* citation was proposed to avoid the necessity of listing all 378 chemicals that are used to define the synthetic organic chemical manufacturing industry. Both the comments identify serious defects with the proposal to cite the EPA rules. Therefore, the complete list of all 378 chemicals is included in the definition as a table.

In addition to the testimony received directly concerning this definition, related testimony was received concerning proposed new §§115.271-115.275 (of this title, relating to Fugitive Emission Control in Synthetic Organic Chemical, Polymer, and Resin Manufacturing Plants). This testimony suggested that there is unnecessary ambiguity as to the scope of processes covered by the controls in these sections. The commentor felt that the proposal should be changed to specify that only those processes involved in the production of synthetic organic chemicals, polymers, and resins be subject to fugitive emission controls. While it was the intent of the TACB to have fugitive emission controls limited to only those processes involved in the production of certain specified chemicals, polymers, and resins, review by TACB legal counsel has confirmed that revisions to clarify the original intent would be desirable. In the adopted definition and rules, the term "process" is substituted for the proposed terms "plant" and "facility."

The proposed definition is changed to "synthetic organic chemical manufacturing process." In addition,

the proposed definition of "polymer and resin manufacturing plant" is changed to "polymer and resin manufacturing process." Finally, citation references to the altered subchapter title are made in the definitions of "component" and "leak."

"Volatile Organic Compound (VOC)" -- Two industrial organizations, Dow Chemical Company and E. I. DuPont de Nemours, supported the definition as proposed. Two cities, two environmental organizations, and one individual opposed the proposed definition.

Spokespersons for the Cities of Dallas and Austin recommended the VOC definition now in the rule not be changed so long as the health and environmental effects of these compounds remain uncertain.

Two environmental groups and one individual opposed the proposed VOC definition on the basis that it would exempt from control potentially harmful compounds. These commentors emphasized the need for the TACB to regulate specific individual chemicals with the potential to affect adversely human health.

As mentioned in the testimony of E. I. DuPont de Nemours and Company, available evidence indicates that the compounds proposed for exemption from the VOC definition do not contribute significantly to the formation of ozone in the ambient air. In the July 22, 1980, issue of the *Federal Register* (45 FedReg 48941), the EPA concluded that controls on emissions of these compounds would not contribute to the attainment and maintenance of the national ambient air quality standard for ozone.

All of the testimony opposing the proposed exemptions in the VOC definition did so on the bases of possible health effects and of depletion of the stratospheric ozone layer. These same concerns were expressed by the EPA when the compounds proposed for exemption were removed from the list of VOCs the EPA considers to be important in ozone forming processes. The June 4, 1979, issue of the *Federal Register* (44 FedReg 32042) stated as follows:

> Although these substances need not be controlled under state implementation plans for the purpose of achieving ambient ozone standards, nothing in this memorandum is intended to modify past EPA expressions of concern about the uncontrolled use of methyl chloroform, and methylene chloride. As noted in the above referenced policy and the clarification presented in memoranda of August 24, 1978, and March 6, 1979, there is suggestive evidence that both compounds are potentially carcinogenic, and methyl chloroform is suspected of contributing to depletion of stratospheric ozone.

On the basis of this position, EPA recommended that methyl chloroform and methylene chloride not be substituted for solvents which are active in ozone forming processes as a strategy to reduce ozone concentrations. The EPA has further recommended that the states control these compounds under the authority reserved to them in the Clean Air Act, §116.

Although the records of previous hearings on Regulation V suggest that the board included general health and welfare effects (odor, toxicity, etc.) when Regulation V was adopted originally, agency procedures to deal explicitly with control of hazardous and toxic air pollution have been substantially improved since that time. Over the past several years, as public and scientific concern and knowledge about specific effects of certain chemicals or combinations of chemicals from certain processes have increased, the TACB has developed a policy and procedure for evaluating potentially adverse effects and for minimizing ambient levels of potentially harmful compounds from permitted sources. Recently, the board adopted Resolution 82-5. The resolution directs the executive director and the staff of the TACB to:

> continue to emphasize the need to prevent excessive public exposure to contaminants which may adversely affect health and increase priority of efforts to:
>
> identify such air contaminants not regulated under the Federal Clean Air Act;
>
> implement and support research and data collection programs needed to improve knowledge and understanding of such air contaminants and public risk resulting from exposure to them;
>
> investigate and monitor public exposure to such contaminants;
>
> enforce emission control regulations to reduce emissions of such air contaminants where exposure is found to be excessive; and
>
> require application of best available control technology to prevent excessive exposure to such air contaminants from occurring as a result of construction and operation of new and modified emitting facilities.

It would seem appropriate, therefore, that control of fluorocarbons and chlorofluorocarbons or any other compounds which are not active in ozone forming processes should be considered in separate rulemaking pursuant to the policies stated in Resolution 82-5 and should not be included in ozone control strategies.

The amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act and to amend any rule the TACB makes.

§101.1. Definitions. Unless specifically defined in the Act or in the rules of the board, the terms used by the board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

Component (as used in Chapter 115 of this title (relating to Fugitive Emission Control in Petroleum

Refineries, §§115.251-115.255; and Fugitive Emission Control in Synthetic Organic Chemical, Polymer, and Resin Manufacturing Processes, §§115.271-115.275)—A piece of equipment, including, but not limited to pumps, valves, compressors, and pressure relief valves which has the potential to leak volatile organic compounds.

Drum (metal)—Any cylindrical metal shipping container with a nominal capacity equal to or greater than 12 gallons (45.4 liters) but equal to or less than 110 gallons (416 liters).

Leak (as used in Chapter 115 of this title (relating to Fugitive Emission Control in Petroleum Refineries, §§115.251-115.255; and Fugitive Emission Control in Synthetic Organic Chemical, Polymer, and Resin Manufacturing Processes, §§115.271-115.275)—A volatile organic compound concentration greater than 10,000 parts per million by volume (ppmv) or the dripping of process fluid having a true vapor pressure greater than 0.147 psia (1.013 kPa) at 68°F (20°C).

Pail (metal)—Any cylindrical metal shipping container with a nominal capacity equal to or greater than one gallon (3.8 liters) but less than 12 gallons (45.4 liters) and constructed of 29 gauge or heavier material.

Polymer and resin manufacturing process—A process that produces any of the following polymers or resins: polyethylene, polypropylene, polystyrene, and sytrene-butadiene latex.

Pounds of VOC per gallon of coating (minus water)—Basis for emission limits of most surface coating processes. It is calculated by starting with one gallon of coating which contains a volume percentage of solids plus a remaining VOC and water volume percentage. The water percentage is removed and the remainder of the gallon is recalculated to an equivalent gallon of VOC and solids. The resulting new volume percentage of VOC times its density yields pounds of VOC per gallon of coating (minus water).

Synthetic organic chemical manufacturing process—A process that produces, as intermediates or final products, one or more of the chemicals listed in Table I of this section.

TABLE I. SYNTHETIC ORGANIC CHEMICALS

OCPDB No.*	Chemical	OCPDB No.*	Chemical
20	Acetal	400	Benzenesulfonic acid
30	Acetaldehyde	410	Benzil
40	Acetaldol	420	Benzilic acid
50	Acetamide	430	Benzoic acid
65	Acetanilide	440	Benzoin
70	Acetic acid	450	Benzonitrile
80	Acetic anhydride	460	Benzophenone
90	Acetone	480	Benzotrichloride
100	Acetone cyanohydrin	490	Benzoyl chloride
110	Acetonitrile	500	Benzyl alcohol
120	Acetophenone	510	Benzyl amine
125	Acetyl chloride	520	Benzyl benzoate
130	Acetylene	530	Benzyl chloride
140	Acrolein	540	Benzyl dichloride
150	Acrylamide	550	Biphenyl
160	Acrylic acid and esters	560	Bisphenol A
170	Acrylonitrile	570	Bromobenzene
180	Adipic acid	580	Bromonaphthalene
185	Adiponitrile	590	Butadiene
190	Alkyl naphthalenes	592	1-butene
200	Allyl alcohol	600	n-butyl acetate
210	Allyl chloride	630	n-butyl acrylate
220	Amin enzoic acid	640	n-butyl alcohol
230	Aminoethylethanolamine	650	s-butyl alcohol
235	p-Aminophenol	660	t-butyl alcohol
240	Amyl acetates	670	n-butylamine
250	Amyl alcohols	680	s-butylamine
260	Amyl amine	690	t-butylamine
270	Amyl chloride	700	p-tert-butyl benzoic acid
280	Amyl mercaptans	710	1,3-butylene glycol
290	Amyl phenol	750	n-butyraldehyde
300	Aniline	760	Butyric acid
310	Aniline hydrochloride	770	Butyric anhydride
320	Anisidine	780	Butyronitrile
330	Anisole	785	Caprolactam
340	Anthranilic acid	790	Carbon disulfide
350	Anthraquinone	800	Carbon tetrabromide
360	Benzaldehyde	810	Carbon tetrachloride
370	Benzamide	820	Cellulose acetate
380	Benzene	840	Chloroacetic acid
390	Benzenedisulfonic acid	850	m-chloroaniline

Table I.
Synthetic Organic Chemicals

OCPDB No.*	Chemical	OCPDB No.*	Chemical
860	o-chloroaniline	1200	Diaminobenzoic acid
870	p-chloroaniline	1210	Dichloroaniline
880	Chlorobenzaldehyde	1215	m-dichlorobenzene
890	Chlorobenzene	1216	o-dichlorobenzene
900	Chlorobenzoic acid	1220	p-dichlorobenzene
905	Chlorobenzotrichloride	1221	Dichlorodifluoromethane
910	Chlorobenzoyl chloride	1240	Dichloroethyl ether
920	Chlorodifluoroethane	1244	1,2-dichloroethane(EDC)
921	Chlorodifluoromethane	1250	Dichlorohydrin
930	Chloroform	1270	Dichloropropene
940	Chloronapthalene	1280	Dicyclohexylamine
950	o-chloronitrobenzene	1290	Diethylamine
951	p-chloronitrobenzene	1300	Diethylene glycol
960	Chlorophenols	1304	Diethylene glycol diethyl ether
964	Chloroprene	1305	Diethylene glycol dimethyl ether
965	Chlorosulfonic acid	1310	Diethylene glycol monobutyl ether
970	m-chlorotoluene	1320	Diethylene glycol monobutyl ether acetate
980	o-chlorotoluene	1330	Diethylene glycol monobutyl ether
990	p-chlorotoluene	1340	Diethylene glycol monomethyl ether acetate
992	Chlorotrifluoromethane	1360	Diethylene glycol monomethyl ether
1000	m-cresol	1420	Diethyl sulfate
1010	o-cresol	1430	Difluoroethane
1020	p-cresol	1440	Diisobutylene
1021	Mixed cresols	1442	Diisodecyl phthalate
1030	Cresylic acid	1444	Diisooctyl phthalate
1040	Crotonaldehyde	1450	Diketene
1050	Crotonic acid	1460	Dimethylamine
1060	Cumene	1470	N,N-dimethylaniline
1070	Cumene hydroperoxide	1480	N,N-dimethyl ether
1080	Cyanoacetic acid	1490	N,N-dimethylformamide
1090	Cyanogen chloride	1495	Dimethylhydrazine
1100	Cyanuric acid	1500	Dimethyl sulfate
1110	Cyanuric chloride	1510	Dimethyl sulfide
1120	Cyclohexane	1520	Dimethyl sulfoxide
1130	Cyclohexanol	1530	Dimethyl terephthalate
1140	Cyclohexanone	1540	3,5-dinitrobenzoic acid
1150	Cyclohexene	1545	Dinitrophenol
1160	Cyclohexylamine	1550	Dinitrotoluene
1170	Cyclooctadiene	1560	Dioxane
1180	Decanol	1570	Dioxolane
1190	Diacetone alcohol	1580	Diphenylamine

Table I.
Synthetic Organic Chemicals

OCPDB No.*	Chemical	OCPDB No.*	Chemical
1590	Diphenyl oxide	2040	Formaldehyde
1600	Diphenyl thiourea	2050	Formamide
1610	Dipropylene glycol	2060	Formic acid
1620	Dodecene	2070	Fumaric acid
1630	Dodecylaniline	2073	Furfural
1640	Dodecylphenol	2090	Glycerol (Synthetic)
1650	Epichlorohydrin	2091	Glycerol dichlorohydrin
1660	Ethanol	2100	Glycerol triether
1661	Ethanolamines	2110	Glycine
1670	Ethyl acetate	2120	Glyoxal
1680	Ethyl aceatoacetate	2145	Hexachlorobenzene
1690	Ethyl acrylate	2150	Hexachloroethane
1700	Ethylamine	2160	Hexadecyl alcohol
1710	Ethylbenzene	2165	Hexamethylenediamine
1720	Ethyl bromide	2170	Hexamethylene glycol
1730	Ethylcellulose	2180	Hexamethylenetetramine
1740	Ethyl chloride	2190	Hydrogen cyanide
1750	Ethyl chloroacetate	2200	Hydroquinone
1760	Ethylcyanoacetate	2210	p-hydroxybenzoic acid
1770	Ethylene	2240	Isoamylene
1780	Ethylene carbonate	2250	Isobutanol
1790	Ethylene chlorohydrin	2260	Isobutyl acetate
1800	Ethylenediamine	2261	Isobutylene
1810	Ethylene dibromide	2270	Isobutyraldehyde
1830	Ethylene glycol	2280	Isobutyric acid
1840	Ethylene glycol diacetate	2300	Isodecanol
1870	Ethylene glycol dimethyl ether	2320	Isooctyl alcohol
1890	Ethylene glycol monobutyl ether	2321	Isopentane
1900	Ethylene glycol monobutyl ether acetate	2330	Isophorone
1910	Ethylene glycol monoethyl ether	2340	Isophthalic acid
1920	Ethylene glycol monoethyl ether acetate	2350	Isoprene
1930	Ethylene glycol monomethyl ether	2360	Isopropanol
1940	Ethylene glycol monomethyl ether acetate	2370	Isopropyl acetate
1960	Ethylene glycol monophenyl ether	2380	Isopropylamine
1970	Ethylene glycol monopropyl ether	2390	Isopropyl chloride
1980	Ethylene oxide	2400	Isopropylphenol
1990	Ethyl ether	2410	Ketene
2000	2-ethylhexanol	2414	Linear alkyl sulfonate
2010	Ethyl orthoformate	2417	Linear alkylbenzene
2020	Ethyl oxalate	2420	Maleic acid
2030	Ethyl sodium oxalacetate	2430	Maleic anhydride

Table I.
Synthetic Organic Chemicals

OCPDB No.*	Chemical	OCPDB No.*	Chemical
2440	Malic acid	2800	Nitrotoluene
2450	Mesityl oxide	2810	Nonene
2455	Metanilic acid	2820	Nonyl phenol
2460	Methacrylic acid	2830	Octyl phenol
2490	Methallyl chloride	2840	Paraldehyde
2500	Methanol	2850	Pentaerythritol
2510	Methyl acetate	2851	n-pentane
2520	Methyl acetoacetate	2855	1-pentene
2530	Methylamine	2860	Perchloroethylene
2540	n-methylaniline	2882	Perchloromethyl mercaptan
2545	Methyl bromide	2890	o-phenetidine
2550	Methyl butynol	2900	p-phenetidine
2560	Methyl chloride	2910	Phenol
2570	Methyl cyclohexane	2920	Phenolsulfonic acids
2590	Methyl cyclohexanone	2930	Phenyl anthranilic acid
2620	Methylene chloride	2940	Phenylenediamine
2630	Methylene dianiline	2950	Phosgene
2635	Methylene diphenyl diisocyanate	2960	Phthalic anhydride
2640	Methyl ethyl ketone	2970	Phthalimide
2645	Methyl formate	2973	β-picoline
2650	Methyl isobutyl carbinol	2976	Piperazine
2660	Methyl isobutyl ketone	3000	Polybutenes
2665	Methyl methacrylate	3010	Polyethylene glycol
2670	Methyl pentynol	3025	Polypropylene glycol
2690	α-methylstyrene	3063	Propionaldehyde
2700	Morpholine	3066	Propionic acid
2710	α-naphthalene sulforic acid	3070	n-propyl alcohol
2720	β-naphthalene sulforic acid	3075	Propylamine
2730	α-naphthol	3080	Propyl chloride
2740	β-naphthol	3090	Propylene
2750	Neopentanoic acid	3100	Propylene chlorohydrin
2756	o-nitroaniline	3110	Propylene dichloride
2757	p-nitroanisole	3111	Propylene glycol
2760	o-nitroanisole	3120	Propylene oxide
2762	p-nitroanisole	3130	Pyridine
2770	Nitrobenzene	3140	Quinone
2780	Nitrobenzoic acid (o,m, and p)	3150	Resorcinol
2790	Nitroethane	3160	Resorcylic acid
2791	Nitromethane	3170	Salicylic acid
2792	Nitrophenol	3180	Sodium acetate
2795	Nitropropane	3181	Sodium benzoate

Table I.
Synthetic Organic Chemicals

OCPDB No.*	Chemical	OCPDB No.*	Chemical
3190	Sodium carboxymethyl cellulose	3380	Toluene sulfonyl chloride
3191	Sodium chloracetate	3381	Toluidines
3200	Sodium formate	3390, 3391, and 3393	Trichlorobenzenes
3210	Sodium phenate	3395	1,1,1-trichloroethane
3220	Sorbic acid	3400	1,1,2-trichloroethane
3230	Styrene	3410	Trichloroethylene
3240	Succinic acid	3411	Trichlorofluoromethane
3250	Succinonitrile	3420	1,2,3-trichloropropane
3251	Sulfanilic acid	3430	1,1,2-trichloro-1,2,2-trifluoroethane
3260	Sulfolane	3450	Triethylamine
3270	Tannic acid	3460	Triethylene glycol
3280	Terephthalic acid	3470	Triethylene glycol dimethyl ether
3290 and 3291	Tetrachloroethanes	3480	Triisobutylene
3300	Tetrachlorophthalic anhydride	3490	Trimethylamine
3310	Tetraethyllead	3500	Urea
3320	Tetrahydronaphthalene	3510	Vinyl acetate
3330	Tetrahydrophthalic anhydride	3520	Vinyl chloride
3335	Tetramethyllead	3530	Vinylidene chloride
3340	Tetramethylenediamine	3540	Vinyl toluene
3341	Tetramethylethylenediamine	3541	Xylenes (mixed)
3349	Toluene	3560	o-xylene
3350	Toluene-2,4-diamine	3570	p-xylene
3354	Toluene-2,4-diisocyanate	3580	Xylenol
3355	Toluene diisocyanates (mixture)	3590	Xylidine
3360	Toluene sulfonamide		
3370	Toluene sulfonic acids		

*The OCPDB Numbers are reference indices assigned to the various chemicals in the Organic Chemical Producers Data Base developed by EPA.

Volatile organic compound (VOC)—Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1,-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829288 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 11, 1982
For further information, please call (512) 451-5711, ext.354.

Chapter 115. Volatile Organic Compounds

Storage of Volatile Organic Compounds in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties

31 TAC §§115.11-115.13

The Texas Air Control Board adopts the repeal of §§115.11-115.13, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2231).

The board simultaneously adopts as replacements new sections in a tabular format. This repeal and the simultaneous adoption of the requirements in tabular form standardizes the format and improves clarity.

No comments were received regarding adoption of these repeals.

The repeal of §§115.11-115.13 is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act and to amend any rule the Texas Air Control Board makes.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829290 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 11, 1982
For further information, please call (512) 451-5711, ext. 354.

31 TAC §§115.11-115.14

The Texas Air Control Board adopts §115.12, with changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2231). Sections 115.11, 115.13, and 115.14 are adopted without changes to the proposed text published in that issue and will not be republished.

These sections are adopted in tabular format to be more easily understood and replace existing §§115.11-115.13, which the board simultaneously repeals in this issue of the *Texas Register*. This replacement makes no substantive change from the provisions of existing §§115.11-115.13.

New §115.11 establishes control requirements for stationary tanks, reservoirs, and other containers for volatile organic compounds (VOC). New §115.12 establishes requirements for floating roof storage tanks. New §115.13 identifies storage containers exempt from the requirements of §115.11. New §115.14 establishes the requirement of continuing compliance.

One comment from an individual was received. This commentor wanted exemptions for old, small, storage tanks abolished. Since the suggested action was not covered in the proposal, the board could not consider it. Two typographical errors in Table I of the rule as proposed are corrected in the adopted version. The correction consists of changing "$>$11 psia" to "$\geq$11 psia" in the first column of Table I in §115.12, and changing "$<$25,000 gal" to "$\leq$25,000 gal" in the second column of this table. These changes make the requirements presented in tabular format identical to the previous requirements presented in narrative format, so there is no substantive change from the proposal as described in the preamble published on June 11, 1982.

The new rules are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act and to amend any rule the board makes.

§115.12. Floating Roof Storage Tank Requirements. For floating roof storage tanks subject to the provisions of §115.11 of this title (relating to Control Requirements), the following requirements shall apply:

(1) The roof shall rest or float upon the surface of the liquid contents and have a closure seal or seals to close the space between the roof or cover edge and tank wall.

Table I.

REQUIRED CONTROL DEVICES FOR STORAGE TANKS FOR VOC OTHER THAN CRUDE OIL AND CONDENSATE

True Vapor Pressure of Compound at Storage Conditions	Nominal Storage Capacity	Emission Control Requirements
< 1.5 psia (10.3 kPa)	Any	None
≥ 1.5 psia (10.3 kPa) and < 11 psia (75.8 kPa)	≤ 1,000 gal (3,785 L)	None
	> 1,000 gal (3,785 L) and ≤ 25,000 gal (94,635 L)	Submerged fill pipe
	> 25,000 gal (94,635 L)	Internal or external floating roof (any type) or vapor recovery system
≥ 11 psia (75.8 kPa)	> 25,000 gal (94,635 L)	Submerged fill pipe and vapor recovery system

(2) There shall be no visible holes, tears, or other openings in the seal or seal fabric.

(3) All tank gauging and sampling devices shall be vapor-tight except when gauging and sampling is taking place.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829289 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 11, 1982
For further information, please call (512) 451-5711, ext. 354.

Water Separation in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties

31 TAC §115.31

The Texas Air Control Board adopts an amendment to §115.31, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2232).

To facilitate measurements to determine compliance, the adopted amendment to §115.31, concerning required control devices, sets the threshold for control of certain volatile organic compound (VOC) water separators on the basis of gallons of VOC separated rather than on the basis of volume of VOC received. The adopted rule will be more easily understood and will make compliance monitoring easier.

One comment was received from the Houston Chamber of Commerce supporting the proposed amendment.

This amendment is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act and to amend any rule the board makes.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829292 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

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

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

31 TAC §115.105, §115.106

The Texas Air Control Board adopts amendments to §115.105 and §115.106, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2233). The adopted amendment to §115.105 exempts welded tanks storing crude oil with a true vapor pressure equal to or greater than 4.0 psia and less than 6.0 psia from certain secondary seal requirements if certain primary seal requirements are met. The adopted amendment to §115.106 clarifies the original intent to have December 31, 1982, as the final compliance date for §§115.101-115.104 of this title (relating to Storage of Volatile Organic Compounds). The exemption for welded tanks meets the U.S. Environmental Protection Agency (EPA) 5.0% demonstration requirement in all but Galveston County, which might have a 6.0% increase in volatile organic compound (VOC) emissions, four tons per year above the 5.0% demonstration level. The cost of control devices required without the exemption would be in excess of $9,000 per ton according to data received from Texas Mid-Continent Oil and Gas Association and Exxon Pipeline Company.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The City of Dallas, commenting against the proposal, opposed the exemption under §115.105(7) for storing 4-6 psia crude under the specified conditions even though all counties but Galveston County would have emissions that meet the 5.0% Rule. The city requested a new provision to control multiple storage tanks where each storage tank may have a capacity of less than 25,000 gallons, but the total storage capacity may be large. Callie F. Struggs spoke for the City.

Brandt Mannchen asked how TACB can enforce compliance with the large number of storage tanks involved. He asked if the validity of the costs and benefits have been checked, what the difference in control efficiency is for a welded tank with a certain primary seal instead of a secondary seal, and what additional VOC emissions in Harris County are anticipated from §115.105(7).

In response to Mr. Mannchen's question about how compliance with the storage tank requirements would be enforced, the board believes that with the limited number of state and local air pollution control inspectors, compliance will have to rely significantly on voluntary compliance together with spot inspections and annual compliance checks.

Both commentors questioned the costs, benefits, and air quality impact of the proposed exemption. The exemption for welded tanks meets the EPA 5.0% demonstration requirement in all but Galveston County, which would have a 6.0% increase in VOC emissions from this class of sources, four tons per year above the 5.0% demonstration level. The cost of control devices required without the exemption would be in excess of $9,000 per ton according to data received from Texas Mid-Continent Oil and Gas Association and Exxon Pipeline Company. The calculations were per-

formed by generally accepted methods and are consistent with TACB procedures. The impact of §115.105(7) on total VOC emission reductions and on ozone air quality in downwind as well as local areas will be undetectable; for Harris County, the anticipated emission increase is estimated to be no more than 50 tons per year.

The question raised by one commentor, the City of Dallas, concerning control of multiple storage tanks as though they were larger tanks, may deserve consideration. However, the question was not raised in the notice of proposed rulemaking and thus could not be considered in this rulemaking action.

These amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act and to amend any rule the board makes.

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

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TRD-829293 Bill Stewart, P.E
Executive Director
Texas Air Control Board

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

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

31 TAC §115.111, §115.113

The Texas Air Control Board adopts amendments to §115.111 and §115.113, with changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2235).

In §115.111, the amendments will affect gasoline terminals in Harris County with a daily throughput of 500,000 gallons or more. The affected terminals will be required to reduce emissions of volatile organic compound (VOC) vapors to a level not to exceed 0.33 pounds of VOC from the vapor recovery system vent per 1,000 gallons of gasoline transferred, approximately half the emission rate that would have been allowed by the rules prior to these amendments. In §115.113, the amendments add a final compliance date of December 31, 1986, and final control plan submittal date of December 31, 1983, for the new control requirements of §115.111 that apply to affected gasoline terminals in Harris County.

These amendments are part of a series of revisions to Chapter 115 to provide in Harris County the additional VOC emission reductions needed to satisfy U.S. Environmental Protection Agency (EPA) requirements for 1982 State Implementation Plan (SIP) revisions. These amendments are based on technical information contained in the Radian Corporation report, "Assessment of the Feasibility and Costs of Controlling VOC Emissions from Stationary Sources in Harris County, Texas," submitted to the Texas Air Control Board September 11, 1981.

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal while a commentor who agreed with the proposal in its entirety is categorized as "for."

Speaking in favor of the proposal, Dave Fellers, of the Texas Oil Marketers Association (TOMA), commended the TACB for its economically sound approach to achieving the additional VOC reductions required in Harris County. The proposed requirement that applies only to gasoline terminals with a daily throughput of 500,000 gallons is reasonable; however, gasoline terminal control should never be considered for any terminal with less than 500,00 gallons per day throughput. TOMA would oppose additional gasoline terminal controls, controls on the smaller bulk gasoline plants, and Stage II controls from an economic basis and because of the safety hazards with Stage II controls.

Speaking against the proposal was Brandt Mannchen, who asked how one can determine that the equipment installed is meeting the 0.67 or 0.33 pounds/1,000 gallons of gasoline transferred. He felt that additional provisions or clarifications were needed to enhance enforcement of emission control requirements.

The Marketing Subcommittee of the Texas Mid-Continent Oil and Gas Association wanted to add wording in §115.111(2)(B) to maximize the possibility of exemption under the 500,000 gallons per day criterion.

The testimony of one of the affected trade associations, TOMA, indicated that the proposed regulation change is reasonable as proposed. The other trade association, TMOGA, however, requested a wording change that might narrow the applicability of the rule. The economic analysis that was carried out developing the proposed regulation amendment and control strategy was based on the wording as it was proposed. Full reanalysis would be necessary to determine the effect of the wording change suggested by the Marketing Committee of TMOGA on the efficiency of §115.111(2)(B).

Comments of the marketing committee of TMOGA on another amendment (§115.162) proposed at this hearing and the comments of one individual have led to the realization that there was some ambiguity concerning the emission point at which compliance with §115.111 is to be determined. Section 115.111(2)(A) and (B) are based upon an EPA control techniques guideline (CTG), which clearly indicates that the emissions from the vapor recovery system vent or vents are to be sampled to determine compliance with the limitation. Insertion of wording from the proposed rule §115.111 to state that the mass-per-throughput emissions limitations are applicable to the emissions from the vapor recovery system vent makes no substantive change in the requirement, but it makes the intent of the rule clearer. Comments from an individual tended to support such a change in the wording to both §115.111(2)(A) and (B). A minor editorial change in the table of §115.113 was made for purposes of clarity.

These rules are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act and to amend any rule the board makes.

§115.111. Throughput and Control Requirements. No person shall permit the loading or unloading to or from any facility having 20,000 gallons (75,708 liters) or more throughput per day (averaged over any consecutive 30-day period) of volatile organic compounds with a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) under actual storage conditions, unless the following emission control requirements are met by the dates specified in §115.113 of this title (relating to Compliance Schedule and Counties):

(1) (No change.)

(2) Gasoline terminal size and additional emission control requirements are as follows:

(A) Volatile organic compound vapors from gasoline terminals shall be reduced to a level not to exceed 0.67 pounds of volatile organic compounds from the vapor recovery system vent per 1,000 gallons (80 mg/liter) of gasoline transferred.

(B) Volatile organic compound vapors from gasoline terminals located in Harris County and having 500,000 gallons (1,892,706 liters) or more throughput per day (averaged over any consecutive 30-day period) shall be reduced to a level not to exceed 0.33 pounds of volatile organic compounds from the vapor recovery system vent per 1,000 gallons (40 mg/liter) of gasoline transferred.

(C) Prior to December 31, 1982, affected gasoline terminals other than those located in Gregg County shall remain in compliance with paragraph (1) of this section.

(D) After December 31, 1982, but before December 31, 1986, gasoline terminals located in Harris County and affected by paragraph (2)(B) of this section shall remain in compliance with paragraph (2)(A) of this section.

(3)-(5) (No change.)

§115.113. Compliance Schedule and Counties. All affected persons in the counties and for the facilities specified below shall be in compliance with the rule paragraphs specified below as soon as practicable but no later than the date shown:

Rule Paragraphs	Affected Facility	Counties Where Rule Is Applicable	Final Compliance Date	Final Control Plan Submittal Date
Paragraphs (1) and (3) of §115.111 of this title (relating to Throughput and Control Requirements).	Volatile Organic Compound Loading Facilities	Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, and Victoria.	12/31/73	Previously Submitted
		Tarrant	2/29/80	Previously Submitted
Paragraphs (2)(A), (2)(C), and (3) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Orange, Nueces, Tarrant, and Victoria.	12/31/82	12/31/79
Paragraph (4) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria.	12/31/82	7/1/81

Rule Paragraphs	Affected Facility	Counties Where Rule Is Applicable	Final Compliance Date	Final Control Plan Submittal Date
Paragraph (5) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Harris	12/31/82	7/1/81
Paragraphs (2)(B) and (2)(D) of §115.111 of this title (relating to Throughput and Control Requirements)	Gasoline Terminals ≥500,000 gal (1,892,706 L) Throughput per day	Harris	12/31/86	12/31/83

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

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TRD-829295 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

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

Water Separation in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

31 TAC §115.141, §115.142

The Texas Air Control Board adopts amendments to §115.142, with changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2235). Section 115.141 is adopted without changes to the proposed text published in the same issue and will not be reprinted.

The amendments to §115.141, concerning facilities other than petroleum refineries, and §115.142, concerning petroleum refineries, exempt certain volatile organic compound (VOC) water separators on the basis of gallons of VOC separated rather than on the volume of VOC received in order to facilitate measurements to determine compliance. Since a reliable method has been identified for measuring the true vapor pressure of the low vapor pressure VOC material separated in a VOC water separator, the board retains in §115.142 the language, "having a true vapor pressure of 0.5 psia (3.4 kPa) or greater" which had been proposed for deletion. The minor editorial changes are adopted as proposed.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

Commenting against the proposal was Gary Tannahill of the Texas Mid-Continent Oil and Gas Association Refinery Subcommittee, who submitted a method to measure the true vapor pressure of VOC in water separators. This measurement method produces reliable results when determining compliance with the present provisions of §115.142; thus, the TACB should not adopt the proposal to delete the 0.5 psia threshold for imposition of control requirements.

C. H. Rivers of the Shell Oil Company opposed an amendment to §115.142 to remove the 0.5 psia threshold. Shell favored use of TMOGA sampling and analytical techniques to demonstrate whether the control requirements apply to a separator.

Mr. Rivers, also representing the Houston Chamber of Commerce Environment Committee, supported TMOGA's proposed method for determining vapor pressure of the recovered oil. The committee supported TACB's proposed revision to calculate the

threshold size for control of oil/water separators on the basis of gallons separated rather than gallons received. The committee felt these revisions should improve understanding and certainty of compliance with the regulation.

Since the testimony that was received supported the change from using the volume of VOC received to using the volume of VOC separated to determine whether the regulation applies to a separator, this amendment is adopted as proposed.

The preamble to the proposed amendments stated that, "If testimony is received concerning a reliable method to measure the true vapor pressure of the low vapor pressure VOC material separated that will be acceptable to compliance personnel, the Texas Air Control Board will not adopt this proposed amendment." The staff has reviewed the method proposed by TMOGA and has found that it appears to be reliable and accurate for the purposes of these rules, so the proposal to delete the 0.5 psia threshold is not adopted.

These amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act and to amend any rule the board makes.

§115.142. Petroleum Refineries. No person shall use any compartment of any single or multiple compartment volatile organic compound water separator, which compartment separates 200 gallons (757 liters) or more a day of volatile organic compounds having a true vapor pressure of 0.5 psia (3.4 kPa) or greater from any equipment in a petroleum refinery which is processing, refining, treating, storing, or handling volatile organic compounds, unless such compartment is controlled in one of the following ways:

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

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829294 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

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

Vent Gas Control in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

31 TAC §115.161, §115.162

The Texas Air Control Board adopts amendments to §115.161, with changes and §115.162, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2236). The text of §115.162 will not be republished.

The adopted amendment to §115.161, concerning ethylene from low-density polyethylene production, makes only minor editorial changes to the previous version. The proposal to revise the emission limit in §115.161 to one based on a 24-hour average is not adopted. The amendment to §115.162, concerning general vent gas streams, to add a reference to new §115.163, concerning general vent gas streams in Harris County, is adopted as proposed. Elsewhere, the board simultaneously repeals the old §115.163, concerning compliance schedules, adopts new §115.163, concerning general vent gas streams for Harris County, and adopts a new §115.164, concerning compliance schedules and counties.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal, while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

Speaking against the proposal, one individual asked who will do the sampling on the low density polyethylene (LPDE) rule and how it will be enforced. He also asked if the company is required to do continuous sampling.

The Texas Chemical Council (TCC) spoke against the proposal and suggested postponement of the proposed rule change for LDPE compliance method for ethylene vent loss. It has no impact on VOC reductions in the SIP. The TCC would like to evaluate the proposal more thoroughly before this rule change is adopted.

E. I. DuPont de Nemours and Company recommended that LDPE sampling for ehtylene emissions remain on a general 30-day averaging period. If this cannot be done, the company agreed with the TCC recommendation for deletion of the proposed sampling rule for further study. Since the item is not SIP-related, dropping the proposal will not affect adoption or approval of the 1982 SIP.

The ARCO Chemical Company commented that there are no approved methods for determining the residual ethylene content in polyethylene pellets. ARCO requested that an officially approved sampling and analysis method for residual ethylene be entered in a source sampling or compliance manual. ARCO also felt that the present "beer can" type testing procedure falls short of analytical reliability. The proposed sampling requirements are ambiguous as to whether the "one-time per working shift" requirement is a con-

tinuing requirement. If it is, it would be a heavy burden with questionable benefit. The compliance date stated is past, but the sampling and control requirement is not equivalent, so it is a retroactive requirement.

The Mobil Chemical Company spoke against the proposal and commented that because the test method takes three days to complete, it would do nothing to improve process control, which requires short feedback time. The proposed requirement would be a significant burden but not provide air quality improvements. Mobil Chemical Company's experience has shown that test repeatability is within a 5.0% to 10% range. Mobil recommended the following regulation language: "Averaged over any consecutive 30-day period when sampled at least four times per period."

The testimony has raised a number of significant questions about the proposed sampling and averaging time proposal for §115.161. In light of the questions that have been raised, it is appropriate to withdraw this proposal for further study. Since new §115.163 (considered elsewhere) is being adopted, it is appropriate to adopt the companion amendment to remove from coverage under §115.162 those vent gas streams that would be controlled under the new §115.163.

The minor editorial changes to §115.161 improve the clarity of the rule but do not change its requirements.

The amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§115.161. Ethylene from Low-Density Polyethylene Production. No person may allow to be emitted more than 1.1 pounds of ethylene per 1,000 pounds (1.1 kg/1,000 kg) of low-density polyethylene plant product from all vent gas streams associated with the formation, handling, and storage of solidified product unless the vent gas streams are burned at a temperature equal to or greater than 1,300°F (704°C) in a smokeless flare, a direct-flame incinerator, or are controlled by an approved substantially equivalent alternate method.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829298 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

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Proposal publication date: June 11, 1982
For further information, please call (512) 451-5711, ext. 354.

31 TAC §115.163

The Texas Air Control Board adopts the repeal of §115.163, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2236). An amended version of old §115.163 is being simultaneously adopted as new §115.164.

No comments were received regarding adoption of this repeal.

This repeal is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829297 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

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Proposal publication date: June 11, 1982
For further information, please call (512) 451-5711, ext. 354.

31 TAC §115.163, §115.164

The Texas Air Control Board adopts new §115.163 with changes and §115.164, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2237). The text of §115.164 will not be republished.

These new sections are part of a series of revisions to Chapter 115 to provide, in Harris County, the additional VOC emissions reductions needed to satisfy Environmental Protection Agency (EPA) requirements for 1982 State Implementation Plan (SIP) revisions. These new sections are based on technical information contained in the Radian Corporation report, "Assessment of the Feasibility and Costs of Controlling VOC Emissions from Stationary Sources in Harris County, Texas" submitted to the Texas Air Control Board September 11, 1981.

The adoption of new §115.163 and §115.164 accomplishes three things: (1) the renumbering of old §115.163 (relating to Compliance Schedule and Counties) as §115.164(a) by simultaneous repeal of §115.163 and adoption of the same language as new §115.164(a); (2) adoption of a new rule §115.163 (relating to General Vent Gas Streams in Harris County), which establishes the same requirements as in old §115.162 (which became effective on May 12, 1974) except that it requires the control of more vent gas streams because all volatile organic compounds

(VOC), rather than only certain compounds and classes of VOCs, will be counted in determining whether control of each waste gas stream is required; and (3) establishment under new §115.164(b) of the compliance dates for the requirements of new §115.163 (relating to General Vent Gas Streams in Harris County).

As a result of public hearing testimony and consideration of the need for VOC emission reductions in Harris County, the agency adopts §115.163, relating to general vent gas streams in Harris County, with the change that the adopted rule does not exempt carbon black plants from the requirements of this new section.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

Speaking against the proposal was the U.S. Environmental Protection Agency, Region VI, who asked how compliance with the proper burning provisions of §115.163 will be determined.

One individual spoke against the proposal and suggested that the rule should not exclude carbon black vent streams because the exclusion would constitute special treatment for one industry with VOC emissions in excess of 6,000 tons per year.

The Texas Mid-Continent Oil and Gas Association Marketing Subcommittee spoke against the proposal by suggesting that adding language to §115.163(a) and §115.162 would assure that these requirements are not applied to vapor recovery vents at gasoline terminals.

The Sierra Club, Lone Star Chapter, objected to the special exemption for the carbon black plant.

One individual stated opposition to special exemption, even on the basis of severe economic impact, to carbon black or other industries.

The preamble to proposed new §115.163 and §115.164, as published in the *Texas Register* (7 TexReg 2237), stated:

> This exemption for certain carbon black manufacturing vent gas streams is based on economic analysis contained in the Radian Corporation report, "Assessment of the Feasibility and Costs of Controlling VOC Emissions from Stationary Sources in Harris County," submitted to the Texas Air Control Board September 1, 1981. This report indicated that the imposition of vent gas controls would have a severe economic impact on the carbon black manufacturing industry in Harris County even though such controls would be cost effective on the basis of dollars per ton of VOC controlled. In Harris County, additional VOC reductions of about 6,425 tons per year are potentially achievable if the exemption for vent gas streams from carbon manufacturing processes is not adopted. The Texas Air Control Board hopes to receive testimony concerning whether or not this exemption should be granted. The Texas Air Control Board specifically reserves the right not to grant this exemption from additional controls based on any information received as testimony

Three commentors objected to the special exemption. No testimony was received from the one carbon black plant that would be affected by adoption of new §115.163 without the exemption. Further staff analysis subsequent to receipt of the Radian report indicates that the net cost of control of the vent gas streams in question may be considerably less than estimated in the Radian report analysis, since the use of the fuel content in the streams may provide substantial savings to the carbon black plant. In addition, it appears that the 6,425 tons per year reduction is needed to develop a State Implementation Plan (SIP) that will satisfy EPA emission reduction requirements.

Although it is not summarized under this heading, substantial testimony was received urging the Teas Air Control Board to adopt an SIP that is fully approvable by the EPA. The new emission control requirements detailed in the new §115.163 will produce a large portion of any additional VOC reductions necessary to meet EPA VOC emission reduction requirements for an approvable SIP.

With regard to the suggestions to add language to §115.162 and §115.163(a) to clarify the intention that these rules not apply to vapor recovery vents at gasoline terminals, it appears that the definitions of "process" and "vent" in the General Rules (§101.1) and the wording of the two rules in question already accomplish what the commentor suggests. Also, since such amendments have not been proposed for hearing, a new rulemaking proceeding would be required to consider them.

The EPA questioned how compliance with the provisions of new §115.163 would be determined. The requirement for proper burning of certain vent gas streams of 1300°F in a smokeless flame or direct flame incinerator has been part of Regulation V (31 TAC 115) since May, 1973. It is enforced by a number of means. First, a source that is newly required to comply with this requirement must submit a compliance plan that includes sufficient engineering analysis to demonstrate that the proposed abatement plan will meet the requirement. That plan is reviewed for adequacy by the staff before it is approved. Part of the annual source investigation involves inspection to assure that required abatement equipment is operating properly. Further, all upsets including those involving incinerators and flares must be reported in accordance with §101.6 of the General Rules. Also, when upsets do occur in such equipment, they often result in excessive visible emissions that promptly

reveal the malfunction to the company, the public, and staff field investigators.

These rules are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§115.163. General Vent Gas Streams in Harris County.

(a) Except for process vent gas streams affected by the provisions of §115.161 of this title (relating to Ethylene from Low-Density Polyethylene Production), no person may allow a vent gas stream to be emitted from any process vent located in Harris County containing volatile organic compounds unless the vent gas stream is burned properly at a temperature equal to or greater than 1300°F (704°C) in a smokeless flare or a direct-flame incinerator before it is alowed to enter the atmosphere; alternate means of control may be approved by the Executive Director in accordance with §115.401 of this title (relating to Procedure).

(b) The following vent gas streams are exempt from the requirements of this section:

(1) A vent gas stream having a combined weight of volatile organic compounds equal to or less than 100 pounds (45.4 kg) in any consecutive 24-hour period.

(2) A vent gas stream having a combined weight of volatile organic compounds greater than 100 pounds (45.4 kg) in any consecutive 24-hour period but less than 250 pounds (113.4 kg) per hour averaged over any consecutive 24-hour period and having a true vapor pressure of volatile organic compounds less than 0.44 psia (3.0 kPa).

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829299 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

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

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

31 TAC §115.191, §115.193

The Texas Air Control Board (TACB) adopts amendments to §115.191, concerning emission limitations, without changes, and to §115.193, concerning exemptions, with changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2238). The text of §115.191 will not be republished.

In §115.191, the amendment to §115.191(9)(A)*(i)* will allow pail and drum interior coatings to have an emission limit of 4.3 pounds of volatile organic compounds (VOC) per gallon of coating (minus water) even though such coatings are not a true clear coat. This change is necessary because the shipping container industry does not have a low-VOC interior coating to withstand the harsh and toxic nature of many chemicals shipped in pails and drums. In §115.193, amendments will exempt from emission limitation provisions of §115.191(9) coating operations for the exterior of fixed offshore structures and any surface coating process or processes at a specific property for which the executive director has approved requirements different from those in §115.191 (a) based upon his determination that such requirements will result in the lowest emission rate that is technologically and economically reasonable. The executive director will specify the date or dates by which such requirements shall be met and shall specify any requirements to be met in the interim. If the emissions resulting from such different requirements equal or exceed 25 tons a year for a property, the determinations for that property shall be reviewed every two years.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The Berwind Railway Service Company commented for the propsal, stating that, in the railcar repair industry, low solvent coatings are not available to meet certain extremem performance requirements as well as requirements for the protection of food products. Since engineering controls are unreasonable, regulation change is needed to allow continued operation of custom coating facilities in this industry. Berwind has submitted information about availability/unavailability of low solvent coatings for various applications.

Custom Pipe Coatings, Inc. (CPC), commented that its business is custom coating pipe; 90% involves extreme performance coatings. CPC has no control over the coatings selected. Field contractors doing the same work are unregulated, and they have higher particulate emissions. Low solvent technology is unavailable. Control systems would have limited effectiveness and are economically unreasonable.

Blas-Kote, Inc., commented that controlling custom coating contractors while exempting field contractors is unacceptably unfair. The regulation as now writ-

ten would probably put the firm out of business while not reducing VOC emissions in Harris County, presuming the work would go to field contractors. Blas-Kote supports adoption of §115.193(c)(6) to exempt its operations.

The Houston Chamber of Commerce supported the exemption where extreme performance coatings are required, and the painting cannot reasonably be enclosed. The exemption should be applicable to many companies such as these involved in coating large storage tanks, oil derricks, and railcars. The Chamber supports expansion of the list of categorical exemptions.

The Protective Coatings Division of Ameron commented that, for some time into the future, extreme performance coatings for applications such as tank linings, offshore platforms, paper mills, and chemical plants will have to contain VOC at rates above the suggested BACT levels.

The O'Brien Corporation commented that certain extreme performance coatings cannot now be formulated except with high VOC content. Progress in developing low VOC formulations may occur, but it would require considerable time.

The U.S. Environmental Protection Agency, Region VI, said that "the state should provide additional information concerning the types of coating operations that would be considered for exemption. Will the exemptions be based on size of operations or other criteria?"

An individual commented that specific criteria for the determination should be written into §115.193(c)(6).

Union Carbide Corporation, Chemicals and Plastics, commented that extreme performance coatings are essential to maintaining the quality of many chemical products during rail shipment. Stainless steel cars are not an economically feasible alternative. No acceptable replacements are currently available for certain high VOC coatings. If inferior coatings were used, total VOC emissions might go up rather than down, because more frequent recoating would be required. Union Carbide suggested delayed compliance until low solvent coatings are developed and proven. The current requirement would cause unreasonable economic hardship to Union Carbide.

Derrick Service International requested the addition of "a category for masts and substructures of land based rotary drilling rigs used in oil well and gas drilling" to the list of specific exemptions in §115.193(c). Low VOC coatings that would meet customer requirements are unavailable and add-on control equipment, at twice the current capital cost of the plant, would be economically unreasonable.

Carboline commented that it is not technologically feasible to produce a complete line of extreme performance coatings that meet the 3.5 lbs/gal (less water) VOC restriction. Carboline recommended adoption of a permanent exemption on extreme performance coatings used on miscellaneous metal parts and products which will, after erection, be architectural structures. (The Bay Area A.Q.M. District has done so.) It is uncertain whether the use of §115.422(b)(3), concerning delayed compliance, would be useful for some coatings, but complying zinc primers will not be available within that three-year period.

The amendment inserting §115.193(c)(5), the exemption of surface coating operations on the exterior of fixed off-shore structures, was proposed because of the understanding that control of emissions from such operations is unreasonable. This exemption would be analogous to the exemption for the exterior of marine vessels. No testimony was received suggesting any changes to this proposal.

The amendment adding §115.193(c)(6) was proposed to exempt the application of high performance surface coatings to miscellaneous metal parts and products (MMPP) if they were applied under conditions for which control had been determined by the executive director of the TACB to be unreasonable. Substantial, uncontradicted testimony indicated that the requirements of §115.191(9), relating to VOC emission limits for surface coating of miscellaneous metal parts and products, could not be met by some sources by the application of reasonably available control technology (RACT).

The EPA has defined RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility" (44 FedReg 53761; September 17, 1979). In discussing the definition of RACT, EPA elaborated that "RACT for a particular source is determined on a case-by-case basis, considering the technological and economic circumstances of the individual source."

To have an approved State Implementation Plan (SIP) that meets the Federal Clean Air Act and EPA requirements, the state must require application of RACT to miscellaneous metal parts and products surface coating operations in nonattainment areas. It appears that there are four options for meeting this requirement:

(1) adopt the control requirements recommended in the EPA's control techniques guidelines for this source category (i.e., surface coating of miscellaneous metal parts and products),

(2) adopt control requirements that differ from those recommended by the EPA, but that would allow no more than 5.0% more VOC emissions than would be allowed under the requirements recommended by the EPA (the "5.0% rule"),

(3) carry out case-by-case review to determine RACT requirements for each source in this source category, or

(4) adopt the emission limits recommended by the EPA for this source category together with a provision for case-by-case determination of what constitutes RACT for sources that cannot meet the EPA recommended emission limits by application of RACT.

The regulation as it was written met EPA requirements by using option one. It appears that the exemption provision as it was proposed for hearing, §115 193(c)(6), would have had to be justified as EPA-approvable under option two; however, since the sources in the MMPP source category are not identified or inventoried individually in the emissions inventory, it would probably have been difficult to demonstrate that the resulting allowable emissions met the EPA's 5.0% rule.

The regulation as it was written imposed emission limits that went beyond RACT for some sources. The testimony indicated that the existing provisions would have resulted in the closing of some businesses that operate in a fixed location but that VOC emissions would not have been reduced because competing field contractors, who were unaffected by the regulation, would then have done the same work in the same counties. The testimony indicated that the existing regulation would have caused unreasonable economic hardships for some other sources. The exemption as it was proposed for hearing, §115.193(c)(6), would have remedied these inequities, but it appears that it might not have met EPA requirements for SIP approval, since it would have provided for exemption from the control requirements in §115 191(9) rather than for case-by-case determination of what alternate requirements constitute RACT for a particular source.

It appears that allowing case-by-case determination of what control requirements constitute RACT (for sources for which the requirements of §115.191(9) are unreasonable) will remedy the inequities in the current regulation while allowing less increase in the allowable emissions than the exemption in the proposed wording of §115.193(c)(6) would have allowed. This intermediate requirement should also be approvable by the EPA as an SIP provision under option four, which was discussed previously.

The testimony showed that in many cases RACT is evolving toward the limits prescribed in §115.191(9), so periodic review of the conditional exemptions to the requirements of §115.191(9) is necessary to assure that the VOC emissions from miscellaneous metal parts and products surface coating operations are reduced to the amounts achievable by application of RACT. To reduce the administrative burden of the periodic reviews on this agency and on small businesses, a tonnage cutoff is useful. Twenty-five tons a year is the cutoff used in developing this agency's standard permit exemptions for criteria pollutants, and it appears to be a workable option for a cutoff on a periodic review.

The testimony supported additional specific exemptions, but it is not clear that they would be more workable or equitable than case-by-case RACT review. Also, outright exemptions might complicate or jeopardize SIP approvability because some sources may reasoably be able to reduce VOC emissions by some techniques, such as improving the fraction of paint that reaches the surface being painted, thereby reducing the amount of surface coatings used, even though control of emissions by capture or incineration may be unreasonable. Another advantage of having a generalized exemption procedure available is that it provides the ability to deal readily with sources for which compliance with §115.191(9) is technologically or economically unreasonable but that are not among the specifically listed exemption categories.

These amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§115.193. Exemptions.

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

(c) The following coating operations are exempt from the application of §115.191(9) of this title (relating to Emission Limitations):

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

(3) customized top coating of automobiles and trucks, if production is less than 35 vehicles per day;

(4) (No change.)

(5) exterior of fixed offshore structures; and

(6) any surface coating process or processes at a specific property for which the executive director has approved requirements different from those in §115.191(9) of this title (relating to Emission Limitations) based upon his determination that such requirements will result in the lowest emission rate that is technologically and economically reasonable. When he makes such a determination, the executive director shall specify the date or dates by which such different requirements shall be met and shall specify any requirements to be met in the interim. If the emissions resulting from such different requirements equal or exceed 25 tons a year for a property, the determinations for that property shall be reviewed every two years.

(d) (No change.)

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

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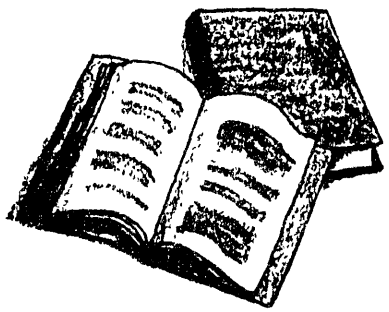

Fugitive Emission Control in Petroleum Refineries in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

31 TAC §§115.251-115.255

The Texas Air Control Board adopts amendments to §§115.251-115.253, and 115.255, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2239). These amendments will not be republished. Amendments to §115.254 are adopted with changes to the proposed text published in the same issue and will be republished.

The amendment to §115.251, concerning control requirements, clarifies the definition of a leak.

Amendments to §115.252, concerning inspection requirements, clarify the definition of a leak and exempt components in continuous vacuum service from certain monitoring requirements.

The amendment to §115.253, concerning recording requirements, clarifies the definition of a leak.

Amendments to §115.254, concerning exemptions, exempt components that contact process fluids containing less than 10% volatile organic compounds (VOC) by volume; components which contact process liquids containing VOC having a true vapor pressure of less than 0.147 psia at 68° F; and petroleum refineries or individual process units in a temporary nonoperating status from certain requirements of this subchapter.

Amendments to §115.255, concerning counties and compliance schedule, clarify the original intent to have December 31, 1982, as the final compliance date of the requirements of §§115.251, 115.252, and 115.253. Additional minor editorial changes are also adopted.

Five written and two oral comments were received concerning the proposed amendments. Three comments generally supported the proposed changes because they would eliminate monitoring and record keeping requirements when unnecessary because of the low vapor pressure of the materials handled in the process equipment. Four comments addressed or requested clarification of specific issues concerning the proposed amendments.

One commentor suggested that, in §115.254(b), 10% VOC by weight be changed to 10% VOC by volume to be consistent with the basis for measurement methods and control requirements used elsewhere. In addition, wording changes were suggested to §115.254(c) and (d) to clarify intent and thereby minimize unintended and unnecessary requirements.

Region VI of the U.S. Environmental Protection Agency (EPA) suggested that hexane or methane should be allowed as the calibration gas in §115.251. The EPA also suggested that, in §115.254(d), nonoperational units should not have an extension from compliance unless all lines are purged of VOC's and that any extensions of compliance must not interfere with or delay attainment by December 31, 1987. In addition, the EPA questioned the basis for exempting components contacting process liquids with a true vapor pressure (TVP) less than or equal to 0.147 psia when a light liquid has TVP greater than 0.04 psia and the basis for defining a leak as greater than 10,000 ppm of VOC. The EPA also suggested adding a definition for "in vacuum service" to the general rules to clarify the meaning of the term in §115.252(g).

Another commentor felt that a leak should be defined as 10,000 ppmv or more of VOC instead of more than 10,000 ppmv. In addition, this commentor questioned how much more cost effective the proposed changes would be. He suggested that additional wording be added to §115.251(a)(2) to specify what interim measures are to be taken to reduce leakage when processes cannot be shut down. He also suggested changing §115.253(a), (b), and (c) to require that copies of the monitoring log be kept for five years instead of two and that a copy be sent to the TACB.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggested any changes in the proposal is categorized as "against" the proposal while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

Shell Oil Company and the Houston Chamber of Commerce commented in favor of the amendments. Texas Mid-Continent Oil and Gas Association Refinery Subcommittee and U.S. Environmental Protection Agency, Region VI, commented against the amendments.

The Houston Chamber of Commerce and Shell Oil Company generally supported the proposed changes since they felt that the changes would eliminate monitoring and record keeping requirements when the low vapor pressure of certain materials handled in some process equipment would make such requirements unnecessary. However, two commentors questioned the basis for such changes. Region VI of the EPA noted that a light liquid is defined as fluid having a true vapor pressure (TVP) greater than 0.04 psia at 68°F (0.3kPa at 20°C), while §115.254(c) exempts components that contact a process liquid containing VOC having a TVP less than or equal to 0.147 psia at 68°F (1.013kPa at 20°C) from monitoring requirements (other than visual). Another commentor felt that a leak should be 10,000 ppmv or more of VOC instead of more than 10,000 ppmv. He also wanted to know how much more cost effective these

changes would be The exemption for components contacting a process liquid containing VOC having a TVP less than or equal to 0 147 psia at 68°F is not based on the definition of a light liquid It is based on the action level of 10,000 ppmv for monitoring and control recommended by the EPA in its control techniques guideline Control of VOC emissions is not required unless a reading of more than 10,000 ppmv is obtained. Thus, the 0 147 psia vapor pressure exemption was included to exempt from monitoring any line, valve, or other component carrying fluids that would be exempt from repair requirements by the EPA's action level. A component contacting fluids having a true vapor pressure of 0 147 psia or less at 68°F could not give a reading of greater than 10,000 ppmv and, therefore, would not be required to be repaired.

The EPA, in its control techniques guideline, notes that repairing components with leak rates small enough to read less than 10,000 ppmv has not been shown to be cost effective since attempts to repair such small leaks may tend to increase rather than decrease emissions. Under the proposed 0.147 psia monitoring exemption, petroleum refineries would be spared the burden of monitoring about 10-50% of their components (depending on the nature of the operation) without affecting emissions, since no repairs would have been required under existing requirements. Despite the request of one commentor that a leak be defined as 10,000 ppmv or more of VOC, the definition of leak as more than 10,000 ppmv of VOC is needed for consistency and completeness.

Three other exemptions were proposed for components in continuous vacuum service, components that contact process fluids containing less than 10% VOC by weight, and petroleum refineries or individual process units in a temporary nonoperating status. If a leak developed, components in continuous vacuum service would not leak VOC, but rather have air leak in. Although the EPA felt a definition for "in continuous vacuum service" should be included in the definitions section of the general rules (§101.1), terms are listed only if the meaning is not a common one. "In continuous vacuum service" is a commonly understood expression used to denote a condition that exists in a system when the pressure within the system is constantly reduced below atmospheric pressure. Petroleum refineries or individual process units in a temporary nonoperating status would not normally have components that would emit VOC Safety considerations and routine procedure govern line purging procedures in such cases Thus, the EPA's concern that such units could potentially leak VOCs if unpurged is not of concern in practice For components that contact process fluids containing less than 10% VOC by weight, a leak would almost have to be the result of a catastrophic failure to produce more than a 10,000 ppmv VOC leak (which is 1 0% VOC by volume). The EPA has concurred in this revision primarily to exempt process gas lines that usually contain only small amounts of VOC. Any failure large enough to produce a "leak" of VOC would already have a high priority for repair for reasons of safety and economy of operation. Thus for these three additional cases, under normal operating conditions, there would be either no leakage of VOC, no emissions of VOC, or no emissions of VOC large enough to require repairs. Under such circumstances, it does not appear reasonable to require monitoring and record keeping when repairs would not be required or would be completed promptly by a company for reasons of safety or cost.

Several additional specific comments were made. The Texas Mid Continent Oil and Gas Association (TMOGA) Refinery Subcommittee requested that in §115 254(b) the exemption be based on 10% VOC by volume instead of 10% VOC by weight because commonly used measurement techniques are read as percent by volume, such measurements are easier for a wide variety of samples, and using percent of volume would be more consistent with the usage of ppmv elsewhere. Depending upon the nature of the materials within a given process line, such a change could vary from a tightening to a relaxation of the proposed provision. However, any effect should prove small and, on average, the overall effect should be quite similar.

The EPA suggested that §115 251 should allow the use of either hexane or methane to calibrate leak detection equipment The EPA noted that the refinery regulation required hexane while the synthetic organic chemical, polymer, and resin manufacturing plant regulation required methane In addition, certain provisions of Regulation V affecting gasoline terminals and certain gasoline bulk plants make calibration using propane convenient. The TACB will allow calibration of such leak detection equipment using hexane, methane, or propane. However, the meter readout shall be as hexane.

TMOGA recommended certain wording changes. In §115.254(c), they recommend that "paragraph (1) and (2) of §115.252(a)" be replaced with "§115.251 and §115 252" to be consistent with other wording elsewhere and to eliminate the need to install double valves, etc., on certain lines containing VOC with a TVP less than 0.147 psia. In §115.254(d), they recommend that "affected petroleum refineries" be replaced with "petroleum refineries affected by this paragraph" to clarify intent. Both suggestions have merit and do not appear to be substantive changes, so they have been incorporated into the adopted rules.

The EPA noted that, under §115 254(d), any extension of the compliance date must not interfere with or delay attainment by December 31, 1987. No such interference or extension was intended. The language of §115.251(d) has been changed to meet this objection by requiring compliance as soon as practicable.

Another commentor felt that §115.251(a)(2) should specify what interim measures are to be taken to reduce leakage when a process cannot be shut down. There are so many competing considerations and varying circumstances that a regulation that specifies what interim measures are to be taken would create more

problems than it would solve Moreover, this substantive revision was not proposed, so it would require new rulemaking before it could be adopted. A final comment concerning §115.253(a), (b), and (c) suggested that copies of the monitoring log should be kept for five years and a copy sent to the TACB. It is unclear that these additional requirements would lead to any additional emission reductions Again, since such a change would be a substantive revision, and it was not proposed, it would require new rulemaking before it could be adopted

The amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes

§115.254. Exemptions.

(a) Valves with a nominal size of two inches (5 cm) or less are exempt from the requirements of §115.251 of this title (relating to Control Requirements), §115.252 of this title (relating to Inspection Requirements), and §115.253 of this title (relating to Recording Requirements), provided allowable emissions at any refinery from sources affected by these sections after controls are applied with exemptions will not exceed by more than 5.0% such allowable emissions with no exemptions. Any person claiming an exemption for valves two inches (5.0 cm) nominal size or smaller under this section shall at the time he provides his control plan also provide the following information.

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

(b) Components which contact a process fluid that contains less than 10% VOC by weight are exempt from the requirements of §115.251 of this title (relating to Control Requirements), §115.252 of this title (relating to Inspection Requirements), and §115.253 of this title (relating to Recording Requirements).

(c) Components which contact a process liquid containing VOC having a true vapor pressure equal to or less than 0.147 psia (1.013 kPa) at 68°F (20°C) are exempt from the requirements of §115.251 of this title (relating to Control Requirements), §115.252 of this title (relating to Inspection Requirements), and §115.253 of this title (relating to Recording Requirements), if the components are inspected visually according to the inspection schedules specified within these same sections.

(d) Petroleum refineries or individual process units that are in a temporary nonoperating status after the specified compliance dates in subsections (b) and (c) of §115.255 of this title (relating to Counties and Compliance Schedule) shall submit a plan for compliance with the provisions of §115.251 of this title (relating to Control Requirements), §115.252 of this title (relating to Inspection Requirements), §115.253 of this title (relating to Recording Requirements), and subsection (b) of §115.255 of this title (relating to Counties and Compliance Schedule) as soon as practicable but no later than one month before the process unit is scheduled for start-up and be in compliance as soon as practicable but no later than three months after start-up. All petroleum refineries affected by this subsection shall notify the Texas Air Control Board of any nonoperating refineries or individual process units when they are shut down and dates of any start-ups as they occur

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829301 Bill Stewart, P E.
Executive Director
Texas Air Control Board

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Fugitive Emission Control in Synthetic Organic Chemical, Polymer, and Resin Manufacturing Processes in Harris County

31 TAC §115.271-115.275

The Texas Air Control Board adopts new §§115.271-115.275, with changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2241).

These new rules prescribe monitoring, maintenance, and record keeping requirements to reduce the fugitive emission of volatile organic compounds (VOC) into the atmosphere from certain processes in Harris County. These new rules are similar in many respects to §§115.251-115.255, concerning fugitive emission control in petroleum refineries, except for the following. There is no exemption for storage tank valves; operators of plants have the option to install certain emission control devices in lieu of monitoring. The monitoring schedule for certain valves may be revised after two quarterly inspections, and the compliance schedule is revised to set the final compliance date and the control plan submittal date as December 31, 1987, and December 31, 1984, respectively.

These new rules are part of a series of revisions to this chapter to provide in Harris County the additional VOC emissions reductions needed to satisfy U.S. Environmental Protection Agency requirements for 1982 State Implementation Plan (SIP) revisions. These new rules are based on technical information contained in the Radian Corporation report, "Assessment of the Feasibility and Costs of Controlling VOC Emissions from Stationary Sources in Harris County, Texas," submitted to the Texas Air Control Board September 11, 1981.

Six written and three oral comments were received concerning new §§115.271-115.275. Six comments requested that process drains be deleted from the pro-

posed provisions. Reasons given were that the rule should be consistent with the EPA's proposed new source performance standard and proposed control technique guideline, that technical reports indicate 0.0% efficiency of control of emission from this type of source, that emission reduction from such sources were not included in the 1982 SIP revisions, and that such a provision would not be cost effective. Three comments addressed or requested clarification of specific issues concerning the proposed new rules.

One commentor felt that the scope of processes covered by the controls in these provisions is unnecessarily ambiguous. He felt that the proposal should be changed to specify that only those processes involved in the production of synthetic organic chemicals, polymers, and resins are subject to fugitive emission controls.

Region VI of the U.S. Environmental Protection Agency (EPA) commented on a number of points. The EPA suggested that hexane or methane should be allowed as the calibration gas in §115.271. The EPA also suggested that, in §115.274(d), nonoperational units should not have an exemption from compliance unless all lines are purged of VOCs and that any extensions of compliance must not interfere with or delay attainment by December 31, 1987. In addition, EPA questioned the basis for exempting components contacting process liquids with a true vapor pressure (TVP) less than or equal to 0.147 psia and the basis for defining a leak as greater than 10,000 ppm of VOC. The EPA also sugested that, in §115.272(b)(3), liquid service pumps with dual seals should have a barrier fluid system that uses heavy liquid or non-VOC barrier fluids. Furthermore, although the EPA noted that §115.272(a)(1) requires yearly monitoring of certain requirements, it recommended quarterly monitoring. Finally, the EPA said that, as provided in §115.275, the schedule for compliance appears to be unnecessarily long and asked the state to document the basis for the extended schedule.

Another commentor felt that a leak should be defined as 10,000 ppmv or more of VOC instead of more than 10,000 ppmv. In addition, this commentor questioned how cost effective the proposed provisions would be. He suggested that additional wording be added in §115.271(a)(2) to specify what interim measures are to be taken to reduce leakage when processes cannot be shut down. He also suggested that §115.273 (a), (b), and (c) should require that copies of the monitoring log be kept for five years instead of two and that a copy be sent to the TACB.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who sugested any changes in the proposal is categorized as "against" the proposal, while a commentor who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comment and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

Speaking against the proposal were Charlie Seay of the Texas Chemical Council; Mel Skaggs of Diamond Shamrock Corporation; Jack S. Divita of the U.S. Environmental Protection Agency, Region VI; James L. Wamsley III of Jones, Day, Reavis, & Pogue for the Lubrizol Corporation; and C. H. Rivers of the Houston Chamber of Commerce.

Two comments each from the Texas Chemical Council, Diamond Shamrock Corporation, and the Houston Chamber of Commerce requested that process drains be deleted from the proposed revisions. The requirement for monitoring and control of process drain fugitive emissions was felt to be inconsistent with the EPA's proposed standards for new and existing sources. Although the EPA's proposed new source performance standards do not explicitly consider process drains, Appendix A (46 FedReg 1160, January 5, 1982), which contains reference method 21, does cover sampling procedures for VOC fugitive emissions for process drains. Specific mention of process drains in the EPA's draft control technique guidelines for existing SOCMI plants is seen less clearly.

Regardless of whether or not process drains were intended to be included in the EPA's proposed standards for new or existing sources, several technical problems would still exist. There is no general agreement on what is meant by the term "process drain" as used by the EPA and as used by industry, there are a wide variety of "process drains" in use in affected plants including open drainage systems needed for upsets, and there is little or no emission reduction achievable at reasonable cost from trying to control emissions from such sources. Radian Corporation in a report entitled "Assessment of the Feasibility and Cost of Controlling VOC Emissions from Stationary Sources in Harris County, Texas" and submitted to the Texas Air Control Board (TACB) September 11, 1981, did not consider any emissions reductions for this measure, nor did the TACB include any reductions in its proposed 1982 SIP revisions for ozone control in Harris County. Thus, although clarification and resolution of the various problems concerning inclusion of process drains will take time, keeping or deleting process drains will have no effect on the demonstration of attainment of the ozone standard to be submitted to EPA. Requirements for process drains are not included in the adopted rules.

One commentor felt that the proposed standard should be changed to specify that only those processes involved in the production of synthetic organic chemicals, polymers, and resins are subject to fugitive emission control. While it was the intent of the TACB to have fugitive emission control limited only to those processes involved in the production of certain specified chemicals, polymers, and resins, review by legal counsel does confirm that additional language to clarify the original intent would be desirable.

Counsel suggested substituting the term "process" for "plant" wherever reference is made to synthetic organic chemical, polymer, and resin manufacturing plants to make it clear that the requirements apply only to specific processes. These changes and the corresponding changes to the proposed definitions have been made in these rules and the corresponding definitions in the General Rules (Chapter 101). Also an explicit exemption has been added (§115.274(e)) for processes that are at the same location as processes covered by these rules but are not related to the production of synthetic organic chemicals, polymers, and resins.

Two commentors questioned the basis for provisions to eliminate monitoring and record keeping requirements for components in certain types of service. The EPA noted that a light liquid is defined as a fluid having a true vapor pressure (TVP) greater than 0.04 psia at 68°F (0.3kPa at 20°C) while §115.274(c) exempts components which contact a process liquid containing VOC having TVP less than or equal to 0.147 psia at 68°F (1.013kPa at 20°C) from monitoring requirements (other than visual). Another commentor felt that a leak should be 10,000 ppmv or more of VOC instead of more than 10,000 ppmv. He also wanted to know how cost effective these provisions would be. The exemption for components contacting a process liquid containing VOC having a TVP less than or equal to 0.147 psia at 68° is not based on the definition of a light liquid. It is based on the action level of 10,000 ppmv for monitoring and control recommended by the EPA in its proposed control technique guideline and proposed new source performance standard.

Control of VOC emissions is not required unless a reading of more than 10,000 ppmv is recorded. If no reading is recorded, emissions are assumed to be greater than 10,000 ppmv. The 0.147 psia vapor pressure exemption was included to exempt from monitoring any line, valve, or other component carrying fluids that the EPA's action level would exempt from repair requirements. A component contacting fluids having TVP of 0.147 psia or less at 68°F could not give a reading of greater than 10,000 ppmv and would, therefore, not be required to be repaired.

The EPA, in its control technique guideline, notes that repairing components with leak rates small enough to read less than 10,000 ppmv has not been shown to be effective since attempts to repair such small leaks may tend to increase rather than decrease emissions. In this case, plants would be spared the burden of monitoring about 10% to 50% of their components, depending on the nature of the operation, without affecting emissions since no repairs would have been required under existing requirements. The definition of leak as more than 10,000 ppmv of VOC is needed for consistency and completeness.

Three other exemptions were proposed for components in continuous vacuum service, components that contact process fluids containing less than 10% VOC by weight, and plants or individual process units in a temporary nonoperating status. Components in continuous vacuum service would not leak VOC but rather have air leak if a leak developed. Plants or individual process units in a temporary nonoperating status would not normally have components that would emit VOC. Safety considerations and routine procedure normally govern line-purging procedures in such cases. The EPA's concern that such units could potentially leak VOCs if unpurged is not of concern in practice. For components that contact process fluids containing less than 10% VOC by weight a leak would almost have to be the result of a catastrophic failure to produce more than a 10,000 ppmv VOC leak (which is 1.0% VOC by volume).

The EPA has concurred in this revision primarily to exempt process gas lines which usually contain only small amounts of VOC. Any failure large enough to produce a "leak" of VOC would be repaired for reasons of safety or general operating practice. Under normal operating conditions, the components are not likely to produce a VOC "leak" and would not normally require repair. For these three additional cases, under normal operating conditions there would be either no leakage of VOC or no emissions of VOC large enough to require repairs. Under these circumstances, it does not appear reasonable to require monitoring and record keeping when repairs would not be required or would be completed promptly by a company for reasons of safety or cost.

The EPA noted that although §115.272(a)(1) requires yearly monitoring of certain requirements, the EPA recommends quarterly monitoring. Another commentor also questioned how cost effective the proposed provisions would be. According to the previously cited Radian Corporation report, quarterly monitoring as recommended by the EPA might produce an additional 600 tons per year of VOC emissions reductions. The total additional cost to affected industries for these additional reductions was estimated to be about $1 to 2 million per year in February 1981 dollars. The alternative monitoring schedule chosen by the TACB achieves estimated reductions of 14,900 tons per year ranging from a credit of about 0.37 million to a cost of $4.5 million dollars per year in February 1981 dollars.

The Texas Mid-Continent Oil and Gas Association (TMOGA) Refinery Subcommittee in its testimony concerning fugitive emission control in petroleum refineries requested that in §115.254(b) the exemption be based on 10% VOC by volume instead of 10% VOC by weight because commonly used measurement techniques are read as percent by volume; such measurements are easier for a wide variety of samples, and percent by volume would be more consistent with the usage of ppmv elsewhere. The proposal appears to have merit also for fugitive emission control in synthetic organic chemical, polymer, and resin manufacturing plants and has been incorporated into the adopted rules. Depending upon the nature of the materials within a given process line, the effect of this change could vary from a tightening to a relaxation of the proposed provisions. However, any effect

should prove small and, on average, the overall effect should be quite similar.

TMOGA also recommended that in §115.254(d) "affected petroleum refineries" be replaced with "petroleum refineries affected by this paragraph" to clarify intent. This change does clarify the intent and is applicable to §115.274(d), where the phrase "affected . . . plants" is replaced with "synthetic . . . plants affected by this subsection."

The EPA suggested that §115.271 should allow the use of either hexane or methane to calibrate leak detection equipment. The EPA noted that the proposed refinery regulation required hexane while the proposed synthetic organic chemical, polymer, and resin manufacturing plan regulation required methane. In addition, certain provisions in Regulation V (Chapter 115) concerning gasoline terminals and certain gasoline bulk plants make calibration using propane convenient. The adopted regulations allow calibration of such leak detection equipment using hexane, methane, or propane. However, the meter readout is required to be as hexane.

The EPA noted that, under §115.274(d), any extension of the compliance date must not delay attainment or interfere with attainment by December 31, 1987. Such delay or interference was not intended and should not occur. To clarify intent, wording has been added to §115.274(d) specifying that in no event shall a synthetic organic chemical, polymer, or resin manufacturing process unit be operated after December 31, 1987, without having an adequate compliance plan fully implemented.

The EPA also noted that under §115.275, the dates given for final control plan submittal and final compliance (December 31, 1984, and December 31, 1987, respectively) seem unnecessarily long and asked that the basis for such a schedule be documented. To date, the EPA has issued proposed standards for new and existing sources but has not issued final standards. There is a good chance that if final standards are issued, which is not certain to happen, they will differ significantly from the proposed standards or may very well be the subject of litigation. The TACB deliberately chose an extended compliance schedule so that, given the uncertainty about the nature of any final standards, appropriate changes in the regulation provisions could be made and corresponding revisions in control plan requirements implemented before signficant or costly steps would be undertaken by industry to meet requirements based on the EPA's proposed standards.

Another commentor felt that §115 251(a)(2) should specify what interim measures are to be taken to reduce leakage when a process cannot be shutdown. In such cases, there are generally too many competing considerations and varying circumstances to specify when and what kind of interim measures are to be taken without creating more problems than one is solving. The commentor said the same comemnts should also be applicable to §§115.271-115.275.

The same commentor suggested that in §115.273(a), (b), and (c), copies of the monitoring log should be kept for five years and a copy sent to the TACB. The need for such a change is debatable. The requirement that the monitoring log should be kept by the owner/operator was designed to have records against which TACB personnel could check their inventory listings and with which compliance spot checks would be aided. A period of longer than two years would not be justified since owners could modify their control plan significantly within that time period and old records then would not be of much use in enforcement. Any additional use to which such records could be put does not seem to be easily implemented or of sufficient importance to justify the cost and storage problems of keeping these additional records on thousands to hundreds of thousands of components. Similar considerations apply to the suggestions that a copy of these records be sent to the TACB. Access to records kept at the plant is sufficient for the regulatory uses that are anticipated for these records.

These rules are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent of the Texas Clean Air Act.

§115.271. Control Requirements. No person shall operate a synthetic organic chemical, polymer, or resin manufacturing process, as defined in §101.1 of this title (relating to Definitions), without complying with the following requirements:

(1) No component shall be allowed to leak, as defined in §101.1 of this title (relating to Definitions), volatile organic compounds (VOC) with a VOC concentration exceeding 10,000 parts per million by volume (ppmv). The leak detection equipment can be calibrated with methane, propane, or hexane, but the meter readout must be as parts per million by volume (ppmv) hexane.

(2) Every reasonable effort shall be made to repair a leaking component, as specified in paragraph (1) of this subsection, within 15 days after the leak is found. If the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate, the repair may be delayed until the next scheduled shutdown.

(3) All leaking components, as defined in paragraph (1) of this subsection, which cannot be repaired until the unit is shut down for turnaround, shall be identified for such repair by tagging. The executive director at his discretion may require early unit turnaround or other appropriate action based on the number and severity of tagged leaks awaiting turnaround.

(4) Except for safety pressure relief valves, no valves shall be installed or operated at the end of a pipe or line containing volatile organic compounds unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only while a sample is being taken, or during maintenance operations.

(5) Pipeline valves and pressure relief valves in gaseous volatile organic compound service shall be

marked in some manner that will be readily obvious to monitoring personnel.

§115.272. Inspection Requirements.

(a) The owner or operator of a synthetic organic chemical, polymer, or resin manufacturing process shall conduct a monitoring program consistent with the following provisions.

(1) Measure yearly (with a hydrocarbon gas analyzer) the emissions from all:

(A) pump seals;

(B) pipeline valves in liquid service.

(2) Measure quarterly (with a hydrocarbon gas analyzer) the emissions from all:

(A) compressor seals;

(B) pipeline valves in gaseous service; and

(C) pressure relief valves in gaseous service.

(3) Visually inspect, weekly, all pump seals.

(4) Measure (with a hydrocarbon gas analyzer) the emissions from any pump seal from which liquids having a true vapor pressure greater than 0.147 psia (1.013 kPa) at 68°F (20°C) are observed dripping.

(5) Measure (with a hydrocarbon gas analyzer) emissions from any relief valve which has vented to the atmosphere within 24 hours.

(6) Measure (with a hydrocarbon gas analyzer) immediately after repair, the emissions from any component that was found leaking.

(b) The following items are exempt from the monitoring requirements of subsection (a) of this section:

(1) pressure relief devices connected to an operating flare header, components in continuous vacuum service, inaccessible valves, and valves that are not externally regulated (such as in-line check valves);

(2) pressure relief valves that are downstream of a rupture disk which is intact;

(3) pumps in liquid service that are equipped with dual pump seals, barrier fluid system, seal degassing vents, and vent control systems kept in good working order; and

(4) compressors that are equipped with degassing vents and vent control systems kept in good working order.

(c) The owner or operator of a synthetic organic chemical, polymer, or resin manufacturing process upon the detection of a component leaking more than 10,000 ppmv of VOC shall affix to the leaking component a weatherproof and readily visible tag, bearing an identification number and the date the leak was located. This tag shall remain in place until the leaking component is repaired.

(d) The monitoring schedule of subsection (a)(1)-(3) of this section may be modified as follows:

(1) After at least two complete annual checks, the operator of a process may request in writing to the Texas Air Control Board that the monitoring schedule be revised. This request shall include data that have been developed to justify any modification in the monitoring schedule.

(2) After at least two complete quarterly checks of pipeline valves in gaseous service, the operator of a process may request in writing to the Texas Air Control Board that the monitoring schedule for pipeline valves in gaseous service be revised. This request shall include data that have been developed to justify any modification in the monitoring schedule.

(3) If the executive director of the Texas Air Control Board determines that there is an excessive number of leaks in any given process, he may require an increase in the frequency of monitoring for that process.

(e) The executive director of the Texas Air Control Board may approve an alternative monitoring method if the process operator can demonstrate that the alternate monitoring method is equivalent to the method required by this rule. Any request for an alternate monitoring method must be made in writing to the executive director.

§115.273. Recording Requirements

(a) The owner or operator of a synthetic organic chemical, polymer, or resin manufacturing process shall maintain a leaking components monitoring log for all leaks of more than 10,000 ppmv of VOC detected by the monitoring program required by §115.272 of this title (relating to Inspection Requirements). This log shall contain, at a minimum, the following data:

(1) the name of the process unit where the component is located;

(2) the type of component (e.g., valve or seal);

(3) the tag number of the component;

(4) the date on which a leaking component is discovered;

(5) the date on which a leaking component is repaired;

(6) the date and instrument reading of the recheck procedure after a leaking component is repaired;

(7) a record of the calibration of the monitoring instrument;

(8) those leaks that cannot be repaired until turnaround; and

(9) the total number of components checked and the total number of components found leaking.

(b) Copies of the monitoring log shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report prepared.

(c) Monitoring records shall be maintained for two years and be made available for review by authorized representatives of the Texas Air Control Board or local air pollution control agencies.

§115.274. Exemptions.

(a) Valves with a nominal size of two inches (5.0 cm) or less are exempt from the requirements of §115.271 of this title (relating to Control Requirements), §115.272 of this title (relating to Inspection Requirements), and §115.273 of this title (relating to Recording Requirements) provided allowable emissions at any plant from sources affected by these sections after controls are applied with exemptions will not exceed by more than 5.0% such allowable emissions with no exemptions. Any person claiming an exemption for valves two inches (5.0 cm) nominal size or smaller under this section shall at the time he provides his control plan also provide the following information:

(1) Identification of valves or classes of valves to be exempted.

(2) An estimate of uncontrolled emissions from exempted valves and an estimate of emissions if controls were applied plus an explanation of how the estimates were derived.

(3) An estimate of the total VOC emissions within the process from sources affected by §115.271 of this title (relating to Control Requirements), §115.272 of this title (relating to Inspection Requirements), and §115.273 of this title (relating to Recording Requirements), after controls are applied and assuming no exemptions for small valves, plus an explanation of how the estimate was derived.

(b) Components which contact a process fluid that contains less than 10% VOC by volume are exempt from the requirements of §115.271 of this title (relating to Control Requirements), §115.272 of this title (relating to Inspection Requirements), and §115.273 of this title (relating to Recording Requirements).

(c) Components which contact a process liquid containing VOC having a true vapor pressure equal to or less than 0.147 psia (1.013 kPa) at 68°F (20°C) are exempt from the monitoring requirements of §115.271 of this title (relating to Control Requirements), §115.272 of this title (relating to Inspection Requirements), and §115.273 of this title (relating to Recording Requirements), if the components are inspected visually according to the inspection schedules specified within these same sections.

(d) Synthetic organic chemical, polymer, and resin manufacturing process units in a temporary nonoperating status during the specified compliance dates in §115.275 (b) and (c) of this title (relating to Counties and Compliance Schedule) shall submit a plan for compliance with the provisions of §115.271 of this title (relating to Control Requirements), §115.272 of this title (relating to Inspection Requirements), §115.273 of this title (relating to Recording Requirements), and §115.275(b) of this title (relating to Counties and Compliance Schedule) within six months after start-up and be in compliance as soon as practicable but no later than one year after start-up or December 31, 1987, whichever is earlier. All synthetic organic chemical, polymer, and resin manufacturing processes affected by this subsection shall notify the Texas Air Control Board of any nonoperating process units when they are shut down and dates of any start-ups as they occur.

(e) Processes at the same location but unrelated to the production of synthetic organic chemicals, polymers, and resins are exempt from the requirements of this undesignated head (relating to Fugitive Emission Control in Synthetic Organic Chemical, Polymer, and Resin Manufacturing Processes in Harris County).

§115.275. Counties and Compliance Schedule.

(a) The provisions of §115.271 of this title (relating to Control Requirements), §115.272 of this title (relating to Inspection Requirements), and §115.273 of this title (relating to Recording Requirements) shall apply only within Harris County. All affected persons shall submit a final control plan to the Texas Air Control Board no later than December 31, 1984, and shall be in compliance with these provisions as soon as practicable but no later than December 31, 1987, with the exceptions noted in subsection (b) of this section.

(b) The owner or operator of an affected synthetic organic chemical, polymer, or resin manufacturing process shall:

(1) Submit to the executive director a monitoring program plan as soon as practicable but no later than the date specified in subsection (a) of this section for submitting a final control plan. This plan shall contain, at a minimum, a list of the process units and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used.

(2) Complete the first weekly, quarterly, and annual monitoring as soon as practicable but no later than December 31, 1987.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829302 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 11, 1982
For further information, please call (512) 475-5711, ext. 354.

Alternate Means of Control

31 TAC §115.401

The Texas Air Control Board adopts an amendment to §115.401, concerning procedure, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2243). The amendment changes a reference to conform to the new numbers that result from the adoption of new and amended rules published elsewhere.

No comments were received regarding the proposed amendment.

This amendment is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829304 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 11, 1982
For further information, please call (512) 451-5711, ext. 354.

Volatile Organic Compound Exemption Status in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

31 TAC §115.411

The Texas Air Control Board adopts the repeal of §115.411, concerning specific exemptions from §§115.411-115.413, concerning volatile organic compound exemption status in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties, without changes to the proposed text published in the June 11, 1982, issue of the *Texas Register* (7 TexReg 2244).

Section 115.411 is redundant because it exempts compounds that are already specifically excluded from the definition of volatile organic compound (VOC) contained in §101.1 of this title, concerning definitions. In a separate unrelated action adopted simultaneously, the definition of VOC contained in §101.1 is amended.

No comments were received regarding the proposed repeal.

This repeal is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829303 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 11, 1982
For further information, please call (512) 451-5711, ext. 354.

Compliance and Control Plan Requirements in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

31 TAC §115.421

The Texas Air Control Board adopts the repeal of §115.421, concerning superseded rules, without changes to the proposed text published in the June 15, 1982, issue of the *Texas Register* (7 TexReg 2309).

Section 115.421, concerning superseded rules, was redundant as written. Reference to dates of previous regulations is not necessary and may serve to confuse the reader about the actual intent of the section. This section has been rewritten for improved clarity, and it is adopted simultaneously as new §115.421, concerning compliance dates.

No comments were received regarding the proposed repeal.

This repeal is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes the Texas Clean Air Act and to amend any rule or regulation of the Texas Air Control Board makes.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829305 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 15, 1982
For further information, please call (512) 451-5711, ext. 354.

The Texas Air Control Board adopts new §115.421, concerning compliance dates, without changes to the proposed text published in the June 15, 1982, issue of the *Texas Register* (7 TexReg 2310). This new section replaces the old §115.421, concerning superseded rules, the repeal of which is simultaneously adopted. The new section clarifies the compliance requirements for certain sections in this chapter. There should be no substantive change in the requirements of the new section.

No comments were received regarding the proposed new rule.

This rule is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation of the Texas Air Control Board makes.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829306 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective date: December 30, 1982
Proposal publication date: June 15, 1982
For further information, please call (512) 451-5711, ext. 354.

Chapter 116. Permits

31 TAC §116.11

The Texas Air Control Board (TACB) adopts new §116.11, concerning permit fees, with changes to the proposed text published in the October 8, 1982, issue of the *Texas Register* (7 TexReg 3618).

This rule is designed to assess a fee covering the reasonable costs associated with permitting and compliance actions required of the TACB. The rule resulted from recommendations made by the Board Ad Hoc Committee on Permit Fees and from consideration of comments received at public hearings held May 25, May 26, June 1, June 2, and November 5, 1982. The public hearings were announced in the *Texas Register*, on April 23, 1982 (7 TexReg 1620).

The requirement for a permit fee system is included in the Federal Clean Air Act, §110(a)(2)(K), as a prerequisite for approval of a State Implementation Plan (SIP). The Texas Clean Air Act, §3.29, authorizes the TACB to establish such a fee system.

As a result of the May-June series of hearings, the original proposal was withdrawn and resubmitted after modification to reflect hearing comments. The following recommended changes were included in the second proposal.

(1) Include changes of location of previously permitted facilities and all forms of exemptions in those actions for which no fee is charged.

(2) Require that 50% of the tendered fee be retained in those instances where a permit application is withdrawn.

(3) Exclude from capital costs for fee computation air pollution control equipment which is not needed to satisfy permit and regulation requirements as well as the cost of obtaining an air control permit.

As a result of the November 5 hearing, a change was made in the permit fee rule as proposed concerning §116.11(d). The rule as proposed allowed, but did not require, that a single fee be assessed for integrated projects for which multiple permits are issued. The rule as adopted is revised to make it clear that, upon meeting the stated conditions, a single fee for the integrated projects is required.

The rule requires the applicant to submit a permit fee with the construction permit request. The method of calculating the fee is described in the rule and is based on the estimated capital cost of the construction project.

As noted in the introduction, two separate hearings were held on the permit fee rule. The proposed rule submitted to the second hearing included changes resulting from the first hearing. This summary encompasses comments from both hearings.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. To comply with this statute, a commentor who suggested any changes in the proposal is categorized as "against" the proposal while a commentor who agreed with the proposal in its entirety is categorized as "for."

Commenting against the proposal were the City of Fort Worth; Texas Industries Incorporated; Ingersoll-Rand Oilfield Products; Santa Fe Energy Company; Getty Oil Company; The Permian Corporation; Marathon Oil Company; Texas Mid-Continent Oil and Gas Association (TMOGA); Texas Oil and Gas Corporation; Gifford-Hill and Company Incorporated; Mobil Producing Texas and New Mexico Incorporated; South Texas Chamber of Commerce; West Texas Chamber of Commerce; Arco Oil and Gas Company; Exxon Company USA; Amoco Production Company; Texas Hot Mix Asphalt Paving Association; West Central Texas Oil and Gas Association; North Texas Oil and Gas Association; Texas Lime Company; Texaco USA; Gulf Oil Corporation; Arco Oil and Gas Company; Refinery Subcommittee of the Texas Mid-Continent Oil and Gas Association; Arco Exploration Company; Diamond Shamrock Corporation; Amoco Oil Company; Wetlands Energy Producers Association; Galveston County Health District; Texaco Incorporated; Mitchell Energy and Development Corporation; the Gillette Company; Aluminum Company of America; Texaco's Port Arthur Refinery; Exxon Pipeline Company; Texas Oil Marketers Association; Associated General Contractors; Texas Aggregate and Concrete Association; the City of Dallas; General Motors Corporation; TRUMIX Concrete Company; Lone Star Steel Company; Gulf Refining and Marketing Company; Texas Association of Taxpayers, Incorporated; Temple-Eastex; Lone Star Industries, Incorporated; Brown, Maroney, Rose, Baker, and Barber; Sierra Club; Texas Independent Producers and Royalty Owners Association; Sierra Club of Houston; United States Steel Corporation; Frito-Lay, Incorporated; Houston Lighting and Power; Texas Instruments Incorporated; Permian Basin Petroleum Association; Sun Production and Exploration; Lufkin Industries, Inc.; El Paso Natural Gas Company; Conoco, Incorporated; Calumet Corporation; Texas Forestry Association; MAPCO Incorporated; Explorer Pipeline Company; Cities Service Company; Gas Processors Association; Sierra Club Lone Star Chapter; Tenneco Oil Exploration; Texas Eastern Products Pipeline Company; Blake Feeder Systems, Incorporated; Kerr-McGee Corporation; El Paso Natural Gas Company; Temple-EasTex, Incorporated; Schlumberger Well Services; General Motors; Delta Drilling Company; Texas Steel Company; Marathon Petroleum Company; Atlantic Richfield Company; Motorola, Incorporated; Sid Richardson Carbon and Gasoline Company; Mobil Pipe Line Company; AMOCO Oil Company; Tyler Pipe Industries; ARCO Pipe Line Company; Texas Eastern Corporation; Texas Association of Business; and Wetlands Energy Producers Oil and Gas Association.

Commenting for the proposal were the U.S. Environmental Protection Agency, Region VI; Neighborhood of Allendale Townsite; and the American Lung Association, San Jacinto Area.

Much of the testimony was in general opposition to the concept of permit fees. General issues raised concerning the adoption of a permit fee system included the following.

(1) There is no current need for a permit fee system as proposed.

(2) The public, not the applicant, is the party served by the permit and should therefore bear the cost.

(3) An industry-financed permit system would be foreign to Texas historic government/business/people relationship.

(4) Allowing regulatory agencies to generate their own operating funds distorts the legislative process by creating an attitude of self-sufficiency on the part of regulatory agencies which would lead to an unwarranted expansion of the bureaucracy and increase the cost of government.

(5) Business and industry already pay their fair share of taxes to finance state government and should not be subjected to the added burden of permit fees.

(6) Use of the permit fee to counteract reduced federal funding is counter-productive.

(7) The permit fee is not a fee but is a tax, and industry is being placed in the position of tax collecting since the fee will be passed on to the consumer.

(8) The fee system should be designed to recover the cost of other Texas Air Control Board activities.

(9) Local air pollution control agencies should receive 1/8 to ½ of the permit fee to compensate for that portion of the permitting process carried out by local agencies.

(10) The Texas Air Control Board should request the legislature to dedicate the funds received from the permit fees to significant air pollution research.

(11) The Texas Air Control Board should use permit fee funds to employ additional inspectors.

Testimony concerning the rule as proposed addressed primarily the following issues:

(1) The capital cost of a project is unrelated to the effort and costs required for the Texas Air Control Board to process a permit application.

(2) The fee schedule, as proposed, places an inequitable burden on smaller projects.

(3) The basis for industrial certification of capital cost and the method to be used by the TACB staff to audit the submittal are unclear.

(4) The administrative cost of other TACB responsibilities and activities should be recognized and included.

(5) The inclusion of pollution control equipment and related items in the capital cost figure used for permit fee computation constitutes a disincentive to install upgraded pollution control equipment.

(6) The inclusion of capital cost items not associated with the process or function generating the emissions is not logical in that it constitutes no workload for the permitting or compliance staff of the TACB.

(7) The fee system could, by the amount of the fee, compromise confidentiality.

(8) All types of exemptions should be excluded from the permit fee system.

(9) Permit fees should not be required for relocation of previously permitted mobile plants such as hot mix asphalt plants.

(10) No method is known to predetermine the cost of securing air quality permits.

(11) The requirement that a fee be submitted before the permit review is initiated is not advisable.

(12) A portion of the fee which would have been required for a permit should be retained by the agency as a filing fee any time a permit application is withdrawn or canceled before a permit is issued.

EPA Region VI commented that the proposed revision appeared to be consistent with the requirements of the Federal Clean Air Act, §110(a)(2)(K).

Many of the general issues raised concerning the adoption of a permit fee system are beyond the rule-making authority of the TACB. Further, much of the opposition was directed toward the establishment of a fee system rather than to the specific provisions of the system as proposed. The TACB recognizes that the establishment of a permit fee system is a significant departure from past procedure; however, the requirement to comply with federal statute as found in the Federal Clean Air Act, §110(a)(2)(K), and as authorized by the Texas Clean Air Act, §3.29, must take precedence.

A number of comments were directed to the basis of the fee, estimated capital cost, and the possible inequity and other problems therewith. In a year-long study conducted by an Ad Hoc Committee of the Board, no system could be found or developed that did not also create similar or related problems.

It has been found, however, that there was a good correlation between capital costs and permitting costs within each of the three categories established by the proposal. (*Consideration of a Permit Fee System for the Texas Air Control Board*, July 10, 1981, p. 74.) Any "schedule" of fees represents averaging in some fashion, and, on balance, capital cost through the three-tiered proposal appears to be the most reasonable basis for a schedule in terms of equity, simplicity, and accuracy in cost recovery.

Regarding comments stating that the fee system could compromise confidentiality, the TACB felt that such difficulties could be avoided simply by paying the maximum, $7,500, fee. Under a maximum fee, no cost figures are required nor audit made.

One suggestion that the permit fee not be required before the permit review is initiated was considered but not incorporated based on the difficulty of determining when during the review process the fee would have to be received for review to continue. Provisions were added to stipulate that fees submitted with permit applications resulting in issuance of an exemption be refunded in full.

The TACB made changes to the proposal to respond positively to the following comments:

(1) The inclusion of pollution control and related items in the capital cost figure used for permit fee computation constitutes a disincentive to install upgrade pollution control equipment.

(2) All types of exemptions should be excluded from the permit fee system.

(3) Permit fees should not be required for relocation of previously permitted mobile plants such as hot mix asphalt plants.

(4) No method is known to predetermine the cost of securing air quality permits.

(5) Part of the permit fee should be retained in those instances where a permit application is withdrawn before a permit is issued.

As a result of the rehearing of the proposed amendment to Regulation VI, 'Permits,' 46 pieces of written testimony were received and 20 oral presentations were made before the TACB on November 5, 1982. The major portion of all testimony received was a restatement of testimony received and summarized in the analysis of testimony resulting from the original hearings on the subject held May 25 and 26 and June 1 and 2, 1982. These will not be readdressed.

Many persons commented that the proposed permit fee is a distortion of the user fee concept. The true user fee, they suggest, is a fee for benefits the user receives, such as fees for swimming pool use, park entrance, etc. They argue that, since the public benfits from the permit system by improved air quality, the public is the real user from whom the permit costs should be collected. Conversely, one commentor argued that emissions constitute the "use" of public air resources and that a permit is therefore properly considered a user fee.

The "public benefit" argument does not appear to be helpful since most types of licenses for which fees must be paid are required as a protection for the public, the driver's license being perhaps the most common example. In any event, the argument has been specifically rejected, and it has been clearly held that a license which is a prerequisite to operating a facility constitutes a benefit which supports a fee. Mississippi Power and Light Company *v.* NRC, 601 F.2d 223 (C.A. 5 1980).

Several commentors argued against permit fees of any type on the ground that they are not required by the language of the Federal Clean Air Act §110(a)(2). Alternatively, it was argued that such a requirement would be in violation of the 10th Amendment to the U.S. Constitution.

Under the statutory argument, it is noted that the FCAA, §110(a)(2), requires only that plans be approved or disapproved within a specified period, and that plans "shall be approved" if they include the elements listed in §110(a)(2)(A)-(K), including provision for permit fees. From this it is reasoned that plans may be approved notwithstanding their failure to include those elements so long as the ultimate condition of attainment and maintenance of the National Ambient Air Quality Standards is met. However, the Federal Clean Air Act, §110(a)(3), directs the administrator to approve plan revisions if they meet the "requirements of paragraph (2)," that is, the elements listed in §110(a)(2)(A)-(K) which include permit fees. Similar language is found in §174(a)(1). From these provisions it seems more reasonable to conclude that §110(a)(2) mandates disapproval of a plan to the extent it fails to include the listed conditions. This does not, however, as some commentors implied, require complete disapproval of a plan, but disapproval only to the extent of the omitted requirement. Section 110(c) then requires that the administrator publish a plan, "or portion thereof," for a state if that submitted fails to meet the statutory requirements. Finally, it should be noted that §176(b) of the statute prohibits certain federal grants under the act if a state does not implement any requirement of the federally promulgated plan.

The question of whether fees are "required" by the Federal Clean Air Act thus seems more semantic than substantive. Certainly the state is not literally compelled to adopt a fee system in that failure to do so simply defers to the requirement that the Environmental Protection Agency (EPA) promulgate its own system and limit certain grant funds if the state fails to implement it, neither of which actions the EPA has yet threatened to take. Nevertheless, it seems unmistakable that the federal statute requires that plans include a fee system, and that federal grant limitations be imposed in states where such a system must be federally promulgated and carried out.

Regarding the 10th Amendment argument, such questions are generally held to be beyond the jurisdiction of administrative agencies (3 Davis, Administrative Law §20.04). Further, there is a strong presumption that legislation is constitutional. Usery *v.* Elkhorn Mining Company, 428 U.S. 1 (1976); U.S. *v.* National Dairy Products Corporation, 372 U.S. 29 (1963). Finally, the U.S. Supreme Court has recently held that each of three requirements must be satisfied to succeed on a 10th Amendment claim. First, the states must be directly affected as such. Second, matters which are indisputably attributes of state sovereignty must be involved. Finally, it must be apparent that compliance with the federal law would directly impair the states' ability to structure integral operations in areas of traditional functions (Hodel *v.* Virginia Surface Mining and Reclamation Association, 452 U.S. 264 (1981)).

The absence of any proffered basis for concluding that these requirements would be met, together with the presumption in favor of constitutionality and the doubtful authority of the board regarding constitutional questions, strongly suggests that it would be inappropriate for the board to conclude that the Federal Clean Air Act, §110(a)(2)(K) is unconstitutional.

Another concern frequently mentioned was that the proposed fee represent an illegal tax under state and federal law. Unfortunately, it is not clear whether these comments challenge the constitutionality of the

respective statutory provisions or the proposed regulation as improperly implementing such legislation.

The argument that the Federal Clean Air Act, §110(a)(2)(K) is invalid as imposing a federal tax was specifically analyzed and rejected by the House Committee on Interstate and Foreign Commerce in reporting House Rule 6161, the Clean Air Act Amendments of 1977, to the House floor (House Rule Rep. 95-294, 95th Congress, First Session, 219 (1977)).

In light of the vagueness of this argument, the earlier discussion regarding the TACB's doubtful authority to address constitutional issues, and the presumption of constitutionality, it would appear that this agency should not conclude the Federal Clean Air Act, §110 (a)(2)(K) imposes a tax.

Whether the Texas Clean Air Act's authorization of fees under §3.29 is an improper exercise of the state legislature's taxing authority under the state constitution is purely a question of state law. In that regard, the general rule is that a license fee is valid if its primary purpose appears to be to recover the costs of regulation but is invalid as a tax if its primary purpose appears to be that of raising revenue (Hurt *v.* Cooper, 110 S.W.2d 896 (Tex. Sup. 1937)); (Beckendorff *v.* Harris-Galveston Coastal Subsidence District, 558 S.W.2d 75 (Cir. App. 1977-writ ref., n.r.e.)). In this sense, "revenue" is construed to mean the amount of money which is excessive and more than reasonably necessary to cover the cost of regulation, and not that which is necessary to cover such costs. (Producers Association of San Antonio *v.* City of San Antonio, 326 S.W.2d 222 (writ ref., n.r.e. 1959)).

Putting aside the question of whether it is appropriate for this agency to determine that the Texas legislature's authorization of permit fees violates the Texas Constitution, the legal presumption that the legislature has acted constitutionally coupled with the statute's clear limitation to recovery of "reasonable costs" suggest that the agency should not do so.

If, as suggested above, the statutory provisions should be deemed constitutional, the objection that the proposed fees constitute a tax becomes an argument that they improperly apply the statutory provisions. Many commentors so stated directly, suggesting that there is not an adequate correlation between the capital cost of a project and the costs associated with permitting it.

This position is largely based on the position that there is a poor correlation between capital costs and permitting costs for all permits issued in 1980. Importantly, however, it has been found that there was a good correlation between capital costs and permitting costs within each of the three categories established by the proposal (*Consideration of a Permit Fee System for the Texas Air Control Board*, July 10, 1981, p. 74). It is this latter correlation which should be determinative as to whether the proposal conforms to the statute. As noted earlier, any "schedule" of fees represents averaging in some fashion, and, on balance, capital cost through the three-tiered proposal appears to be the most reasonable basis for a schedule in terms of equity, simplicity, and accuracy in cost recovery.

Addressing other notable comments briefly, it was suggested by some that fees are unnecessary because the agency has historically been adequately funded. Since the fees collected constitute general revenue and thus are not available to the agency, this argument does not appear to be relevant. Alternate fee methods proposed, such as flat fees based on emissions, and a cost accounting system for each application, appear to be more flawed than the system proposed (*Consideration of a Permit Fee System for the Texas Air Control Board*, July 10, 1981, pp. 61-68).

A comment which appears to be well taken is that the proposed rule allows, but does not require, that a single fee be assessed for integrated projects for which multiple permits are issued. Accordingly, the proposed rule has been revised to make it clear that, upon meeting the stated conditions, a single fee for the integrated project is required.

This new rule is adopted under the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.29, which provides the Texas Air Control Board with the authority to adopt rules relating to charging and collecting fees for permits and variances, including schedules of fees to be charged.

§116.11. Permit Fees.

(a) Applicability. Any person who applies for a permit to construct a new or modify an existing facility pursuant to §116.1 of this title (relating to Construction Permit) shall remit, at the time of application for such permit, a fee based on the estimated capital cost of the project. The fee will be determined as set forth in subsection (b) of this section (relating to Determination of Fees).

(b) Determination of fees.

(1) The estimated capital cost of the project is the estimated total cost of the equipment and services that would normally be capitalized according to standard and generally accepted corporate financing and accounting procedures.

(2) The following fee schedule may be used by a permit applicant to determine the fee to be remitted with a permit application:

(A) If the estimated capital of the project is less than $300,000, the fee is $300.

(B) If the estimated capital of the project is $300,000 to $7.5 million, the fee is 0.1% of the estimated capital cost of the project.

(C) If the estimated capital cost of the project is over $7.5 million, the fee is $7,500.

(3) An application for a construction permit for which the fee is calculated according to the schedule included in paragraph (2) of this subsection shall include a certification that the estimated capital cost of the project as defined in the paragraph (1) of this subsection is less than or equal to the cost estimate used to determine the required fee if the estimated capital cost of the project is less than $7.5 million. Certification of the estimated capital cost of the project may be spot checked and eval-

uated for reasonableness during permit processing. The reasonableness of project capital cost estimates used as a basis for permit fees shall be determined by the extent to which such estimates include fair and reasonable estimates of the capital value of the direct and indirect costs listed in subparagraphs (A) and (B) of this paragraph.

(A) Direct Costs.

(i) Process and control equipment not previously owned by the applicant and permitted in Texas.

(ii) Auxiliary equipment, including exhaust hoods, ducting, fans, pump, piping, conveyors, stacks, storage tanks, waste-disposal facilities, and air pollution control equipment specifically needed to meet permit and regulation requirements.

(iii) Freight charges.

(iv) Site preparation (including demolition), construction of fences, outdoor lighting, road, and parking areas.

(v) Installation (including foundations), erection of supporting structures, enclosures or weather protection, insulation and painting, utilities and connections, process integration, and process control equipment.

(vi) Auxiliary buildings, including materials storage, employee facilities, and changes to existing structures.

(vii) Ambient air monitoring network.

(B) Indirect costs.

(i) Final engineering design and supervision, and administrative overhead.

(ii) Construction expense (including construction liaison), securing local building permits, insurance, temporary construction facilities, and construction clean-up.

(iii) Contractor's fee and overhead.

(4) A fee of $7,500 shall be required if no estimate of capital project cost is included with a permit application.

(c) Payment of Fees. All permit fees will be remitted in the form of a check or money order made payable to the Texas Air Control Board and delivered with the application for construction permit to the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas, 78723. Required fees must be received before the agency will begin examination of the application.

(d) Single fee. The executive director shall charge only one fee for multiple permits issued for one project if he determines that the conditions set forth in paragraphs (1)-(4) of this subsection are met:

(1) all the component or separate processes being permitted are integral or related to the overall project; or

(2) the project is under continuous construction of the component parts; or

(3) the permitted facilities are to be located on the same or contiguous property; or

(4) applications for all permits for the project must be submitted at the same time.

(e) Fees not required. Fees will not be charged for operating permits, permit amendments, permit revisions, exemptions, site approvals for permitted portable facilities, changes of ownership, or changes of location of permitted facilities.

(f) Return of fees. Fees must be paid at the time an application for construction permit is submitted. If no permit is issued by the agency or if the applicant withdraws the application prior to issuance of the permit, ½ of the fee will be refunded except that the entire fee will be refunded for any such permit application for which a specific or standard exemption is issued. No fee will be refunded after a permit has been issued by the agency.

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

Issued in Austin, Texas, on December 10, 1982.

TRD-829359 Bill Stewart, P. E.
Executive Director
Texas Air Control Board

Effective date: January 1, 1982
Proposal publication date: October 8, 1982
For further information, please call (512) 451-5711, ext. 354.

Part IV. School Land Board

Chapter 155. Land Resources

Coastal Public Lands

31 TAC §155.9

The School Land Board adopts amendments to §155.9, without changes to the proposed text published in the September 17, 1982, issue of the *Texas Register* (7 TexReg 3353).

The adoption of this amendment is required to clarify the verification and notification requirements for obtaining an easement for construction of a pier, dock, or other structure on Clear Lake and to provide adequate public notice of the proposed construction.

The rule will make the Clear Lake easement application process more efficient and make the public notice of the proposed project more widely published.

No comments were received regarding adoption of the amendment.

This amendment is adopted under the Texas Natural Resources Code, Title 31, Chapter 155, §155.9, which provides the School Land Board with the authority to adopt procedural and substantive rules which it considers necessary to administer, implement, and enforce the statutes applying to coastal public lands.

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

Issued in Austin, Texas, on December 8, 1982.

TRD-829312 Bob Armstrong
Commissioner
General Land Office

Effective date: December 30, 1982
Proposal publication date: September 17, 1982
For further information, please call (512) 475-1166.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 8. HEAP

Program Administration

40 TAC §§8.907-8.909, 8.911

The Texas Department of Human Resources adopts amendments to §§8.907-8.909, and 8.911, with changes to the proposed text published in the October 22, 1982, issue of the *Texas Register* (7 TexReg 3773). The department adopts the amendments to assist low-income households to pay for the cost of heating their homes during the winter phase of the Home Energy Assistance Program. Benefits are paid directly to eligible households.

The comment period on the proposed amendments ended November 21, 1982. Written comments were received from the Texas Association of Community Action Agencies, Inc. Written and oral comments were received during a public hearing on November 4, 1982, from the following organizations: Consumers Union, Gray Panthers, and Texas Legal Services Center. The three participants at the hearing coordinated their remarks to avoid repetition.

The department's response to the issues follows and addresses any changes made based on public comment.

Comments may be summarized as follows:

Comment: The speakers objected to the department's decision to limit participation in the program only to recipients of Aid to Families with Dependent Children (AFDC), food stamps, or Supplemental Security Income (SSI), or to VA needs-tested households.

Response: Federal law provides states the flexibility to limit participation to "categorically eligible" households. The department chose to restrict participation to prevent costly administrative expenditures and to maintain benefits at the maximum levels possible. The department's Energy Crisis Intervention Program (ECI) is available to assist eligible low-income households, whether categorically eligible or not, who experience imminent termination or lack of energy for heating and cooling.

Comment: The speakers said the department does not vary benefits according to the energy burden. They disapproved of the department's use of county-wide averages to establish benefit levels. The speakers recommended individual needs assessment to ensure that benefits are available to people with the lowest income and the highest energy cost in relation to their income.

Response: The department does not agree that individual needs assessment is required to ensure compliance with the law. The department currently makes payments according to household size and income. Benefits are based on the average cost of natural gas in each county according to population. Payments based on individual heating bills could favor households that use larger amounts of fuel. Households that have lower fuel bills because they conserve fuel would receive reduced benefits. The department believes that its current benefit structure is equitable because households with the lowest income receive the highest benefits, since they spend a higher percentage of their income on energy.

Comment: The speakers said the department should publicize the program.

Response: The department agrees that outreach is vital to the success of the program. The department will conduct outreach in compliance with the Texas State Plan of Operation for the Home Energy Assistance Program.

The department also will notify all active AFDC, food stamp, and SSI clients whose income meets the requirements of the program by sending them an application/questionnaire. A follow-up form will be sent to households that do not respond to the initial mailing. In addition, public service announcements on radio and television and press releases to newspapers will be made throughout the state. Notices will also be placed in all DHR offices. The department has added subsection (d) of §8.907 to indicate the public information efforts that will be made.

Comment: Those commenting said the department should ensure that applications are available upon request to categorical clients who do not receive the application mailed to them.

Response: This is current department policy and has been clarified in subsection (b) of §8.908. For example, if a household reports a lost or destroyed application/questionnaire, a replacement form is mailed to them.

Applications are also available to VA needs-tested households upon request from January 3, 1983, through January 31, 1983.

Comment: The speakers suggested that the department explain the procedures used to determine HEAP eligibility for VA needs-tested households.

Response: Veterans who receive benefits under 38 United States Code §§415, 521, 541, or 542, or under §306 of the Veterans and Survivors Pension Improvement Act of 1978 may apply for benefits. Households that receive benefits from these programs must request an application from the department's regional HEAP coordinator from January 3, 1983, through January 31, 1983. Since the department does not have categorical designation and income verification on file for VA cases, applicants must provide information, which the household has access to, required to establish their eligibility. These procedures have been incorporated in §8.908.

Although the department received a computer tape from the Veterans Administration to identify potentially eligible households, the data base is not compatible with the department's computer system. VA needs-tested households, therefore, must apply as indicated in §8.908.

Comment: One speaker said the rule requiring the household to return overpayments (§8.908) should be clarified to reflect the household's right to contest the department's determination of overpayment.

Response: The department agrees and the suggestion has been incorporated.

Comment: The Texas Association of Community Action Agencies (TACAA) stated that the Home Energy Assistance program (HEAP), Energy Crisis Intervention (ECI) and the Weatherization program should be merged into a single crisis response program that is operated by local agencies. The association recommended that benefits be delivered to approximately 50,000 households in life-threatening situations. TACAA said DHR spreads its benefits too thinly by providing assistance to several hundred thousand clients.

Response: Although DHR operates HEAP, ECI, and Weatherization as separate programs, they are administered together under the Low-income Home Energy Assistance program block grant. These programs are intended to help meet separate energy assistance needs. Federal law permits energy assistance payments to households with incomes no more than 150% of the state's poverty level or an amount equal to 60% of the state median income. The state is not required to make payments to every household authorized as an eligible household under federal law. If the state chooses to limit its program to a smaller eligible population, it may do so only in accordance with the considerations stated in the law. For example, highest income households would have to be excluded before lower income households. The law neither states nor implies that benefits should be tied to "life-threatening circumstances." While the department has the flexibility to target assistance to families with the highest energy costs and lowest incomes, it cannot impose requirements that have no legal basis. To maintain the current amount of assistance available to households, the department has to set income limits well below the federal limits. Even so, during the summer of 1982 DHR provided assistance to approximately 100,000 households whose annual income was less than $2,000. Over 240,000 eligible households had annual incomes under $6,000. The department does not see any reasonable way to limit the eligible population to the levels TACAA suggests.

In §8.907, income limits by household size were deleted since the amounts may change from year to year. The income eligibility requirement, however, remains the same. Household income may not exceed 75% of the Bureau of Labor Statistics current lower living standard. The monthly income levels for 1983 are:

Household Size	Income
1	$ 334.49
2	$ 546.49
3	$ 749.49
4	$ 926.49
5	$1,092.49
6	$1,277.49

The department's plans to pilot a direct vendor payment system have been delayed by legal and technical complexities. Proposed rules will be published if the department elects to operate a vendor system during the cooling phase of the Home Energy Assistance program.

The following amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§8.907. Eligibility Requirements.

(a) Categorical designation. To qualify for HEAP heating assistance, the household must apply and be eligible for January AFDC, food stamp, or SSI benefits effective the previous December 31, or be a Veterans Administration needs-tested client in January. Household means any individual or group of individuals who live together as an economic unit and who pay for home energy costs. Residents of nursing homes, state institutions, or government subsidized institutions are not eligible for HEAP assistance.

(b) Income. For HEAP heating assistance, the household's income is its gross income (without any deductions) as determined by the household's AFDC, food stamp, SSI, or Veterans Administration worker. To meet the income requirement, a household's income may not exceed 75% of the Bureau of Labor Statistics lower living standard in effect at the time of eligibility determination.

(c) Vulnerability. To qualify for HEAP heating assistance, the household must be vulnerable to home energy cost increases. Households meet the vulnerability requirement if the residents live in privately owned or rented housing, even if they include the cost of utilities in the rent payment, or pay only a portion of their home energy costs. Residents of certain types of public and subsidized housing are not vulnerable because they are protected from energy cost increases. To comply with the vulnerability requirement, a person who lives in public housing must receive a utility bill from a utility company or pay his total utility cost to the landlord.

(d) Outreach. The department must make available public information about the eligibility requirements and benefits of the program.

§8.908. Household Responsibility.

(a) Households applying for and receiving HEAP heating assistance have the following responsibilities:

(1) To complete an application/questionnaire and return it to the department within the time limit specified on the application, which may be no less than 12 days from the date mailed.

(2) To return any money determined by the department to be an overpayment, provided the household is notified of the right to contest the determination in accordance with the department's appeals procedures (§79.12, Appeals Process).

(3) To provide information, which the household has access to, required to establish eligibility, if requested.

(b) AFDC, SSI, and food stamp households which are potentially eligible are automatically mailed an application by the department. A follow-up form is sent to

households that do not respond to the initial mailing. Applications may be requested from the regional HEAP coordinator by households that do not receive one automatically. Veterans Administration needs-tested clients include veterans who receive benefits under United States Code, Title 38, §§415, 521, 541, or 542, or under §306 of the Veterans and Survivors Pension Improvement Act of 1978. Households that receive benefits from these programs must request an application in January from the department's regional HEAP coordinator.

§8.909. Benefit Amount. Households receive a benefit amount that is based on the average cost of natural gas in each Texas county determined by population. The department uses the household's gross income to determine the benefit level.

§8.911. Appeals. Households may request a hearing if their application for HEAP assistance is denied or not acted on promptly. Households must request the hearing within 90 days from the effective date of the action or alleged inaction. The department's appeals procedures are in the rule chapter on legal services.

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

Issued in Austin, Texas, on December 9, 1982.

TRD-829315 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Effective date: December 30, 1982
Proposal publication date: October 22, 1982
For further information, please call (512) 441-3355, ext. 2037.

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

State Board of Canvassers

Tuesday, December 21, 1982, 10:30 a.m. The State Board of Canvassers will meet in Room 125, Secretary of State's Office, State Capitol. Items on the agenda include a canvass of returns for special elections, full terms, for the State Senate District 18, and State Representative District 32.

Contact: Felix R. Sanchez, 915 Sam Houston Building, Austin, Texas 78701, (512) 475-3091.

Filed: December 9, 1982, 3:07 p.m.
TRD-829307

Texas Conservation Foundation

Wednesday, December 15, 1982, 1:30 p.m. The Board of the Texas Conservation Foundation met in emegency session at the Texas Historic Commission, 1511 Colorado, Austin. Items on the agenda included legislative prospects, project recommendations from the Parks and Wildlife Department, and a report on the Rio Grande Wild and Scenic River assistance request. The meeting was rescheduled from December 13, 1982. The emergency status was necessary because of the inability of one of the board members to attend the previously scheduled meeting.

Contact: M. J. Hutchinson, Suite 105, 1300 Guadalupe, Austin, Texas, (512) 475-0342.

Filed: December 13, 1982, 2:10 p.m.
TRD-829388

Credit Union Department

Tuesday, December 21, 1982, 9:30 a.m. The Credit Union Commission of the Credit Union Department will meet at 914 East Anderson Lane, Austin. Items on the agenda include fiscal year 1983 budget adjustments and a review of proposed changes in the Texas Credit Union Act. The commission will also meet in executive session to consider possible litigation.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236.

Filed: December 10, 1982, 9:33 a.m.
TRD-829323

Crime Stoppers Advisory Council

Monday, December 20, 1982, 10 a.m. The Crime Stoppers Advisory Council of the Office of the Governor will meet in the lieutenant governor's committee room, second floor, State Capitol. According to the agenda summary, the council will consider approval of minutes, reports on local crime stoppers programs, and current operation of the council.

Contact: Bob Sims, P.O. Box 12428, Austin, Texas 78711, (512) 475-2303, or (800) 252-8477.

Filed: December 9, 1982, 2:37 p.m.
TRD-829287

Interagency Council on Early Childhood Intervention

Monday, December 20, 1982, 9:30 a.m. The Interagency Council on Early Childhood Intervention will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the council will hear public comments for which no council action is required; approve minutes of the November 10 and December 2, 1982, meetings; hear the chairman, staff, fiscal, and Advisory Committee reports; discuss Early Childhood Intervention (ECI) Program organization, monitoring of ECI Programs,

rules for the funding of ECI Programs, the ECI State Plan, and budget revisions from funded programs. The council will also meet in executive session.

Contact: James P. Rambin, 1100 West 49th Street, Austin, Texas, (512) 458-7241.

Filed: December 10, 1982, 3:59 p.m.
TRD-829363

Texas Employment Commission

Tuesday, December 21, 1982, 9 a.m. The Texas Employment Commission will meet in Room 644, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will review prior meeting notes; reports of administrative staff on federal legislation, implementation of Jobs Training Partnership Act, fiscal year 1983 funding, E. S. and U. I. Program activities, public information and media update; Sunset Commission's recommendation; ratification of administrative actions during vacancy of chairman position and lack of quorum; and commission policy for filming; and district directors vacancies. The commission will also meet in executive session to consider premises leases and contracts, personnel matters, status of litigation, and attorney general opinion requests.

Contact: Pat Joiner, Texas Employment Commission Building, Room 656, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4514.

Filed: December 13, 1982, 3:24 p.m.
TRD-829389

State Board of Insurance

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street. Austin. The days, times, and dockets follow.

Monday, December 20, 1982, 1:30 p.m. Docket 7039—whether the title insurance agent's license held by Colonial Title, Inc., should be canceled or revoked.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: December 9, 1982, 4:51 p.m.
TRD-829313

Tuesday, December 21, 1982, 9 a.m. Docket 7023—protest to the proposed corporate name of Surety American Life Insurance Company.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: December 13, 1982, 1:23 p.m.
TRD-829376

Tuesday, December 21, 1982, 9 a.m. Docket 7029—application for charter amendment of Texas Fire and Casualty Company, Dallas.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: December 13, 1982, 1:23 p.m.
TRD-829377

Tuesday, December 21, 1982, 1:30 p.m. Docket 7024—protest of the proposed corporate name of Pacific Security Life Insurance Company.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: December 13, 1982, 1:23 p.m.
TRD-829378

Wednesday, December 22, 1982, 9 a.m. Docket 7032—application for amendment to the articles of incorporation of Commercial Credit Life Insurance Company, San Antonio.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: December 13, 1982, 1:23 p.m.
TRD-829379

Wednesday, December 22, 1982, 1:30 p.m. Docket 7033—application for authority to issue variable annuity contracts by Lutheran Mutual Life Insurance Company, Waverly, Iowa.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: December 13, 1982, 1:23 p.m.
TRD-829380

Wednesday, December 22, 1982, 2 p.m. Docket 7034—application for authority to issue variable annuity contracts by Century Life Insurance Company, Waverly, Iowa.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: December 13, 1982, 1:23 p.m.
TRD-829381

Monday, December 27, 1982, 9 a.m. Docket 7036—merger of Metroplex Life Insurance Company, Fort Worth, into United Fidelity Life Insurance Company, Fort Worth.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: December 13, 1982, 1:23 p.m.
TRD-829382

Monday, December 27, 1982, 9 a.m. Docket 7037—application for certificate of authority of LIC Life Insurance Company, Dallas.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: December 13, 1982, 1:23 p.m.
TRD-829383

Monday, December 27, 1982, 1:30 p.m. Docket 7043—application for charter amendment of Commodore Life Insurance Company, Dallas.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: December 13, 1982, 1:24 p.m.
TRD-829384

Tuesday, January 4, 11, 18, and 25, 1982, 2 p.m. daily. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider reports from the commissioner and the fire marshal. The board will also meet in executive session to consider personnel matters.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, (512) 475-2950.

Filed: December 14, 1982, 9:40 a.m.
TRD-829394-829397

Texas Commission on Jail Standards

Wednesday, December 15, 1982, 8:30 a.m. The Texas Commission on Jail Standards submitted an emergency revised agenda for a meeting held in Room 206, the Texas Law Center, Room 206, 1414 Colorado, Austin. The revision concerned adding Dallas County under new business. The emergency status was necessary because Dallas County has been required by the commission staff to improve the smoke detection and alarm system in the new Dallas County Jail. Dallas County authorities desire to discuss the matter with the commissioners prior to committing additional funds and also desire to move into the building as soon as possible.

Contact: Robert O. Viterna, 411 West 13th, Suite 900, Austin, Texas 78701, (512) 475-2716.

Filed: December 13, 1982, 11:35 a.m.
TRD-829375

Board of Pardons and Paroles

Monday-Thursday, December 20-23, 1982, 9 a.m. 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 the agency, and take action upon gubernatorial directives.

Contact: John W. Byrd, 711 Stephen F Austin Building, Austin, Texas, (512) 475-3363.

Filed: December 14, 1982, 9:41 a.m.
TRD-829398

Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450, 7800 Shoal Creek Boulevard, Austin. The days, times, and dockets follow.

Tuesday, December 21, 1982, 2 p.m. A prehearing conference in Docket 3896—application of Texland Electric Company for a certificate of convenience and necessity for Texland Generating Units 1, 2, and 3.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 10, 1982, 2:19 p.m.
TRD-829354

Wednesday, December 22, 1982, 9 a.m. Final orders in the following dockets: 4721, 4726, 4727, 4728, 4766, 4792, 4606, 4223, 4661, 4701, 4611, 4716, 3566, 3726, 4219, 4632, 4654, 4389, 4713, 4795, 4794, 4603, 4411, 4439, 4477, 4722, 4736, 4825, 4831, 4528, 4539, 4617, 4665, 4793, 4811, 4813, 4836, and 4851.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 10, 1982, 3:04 p.m.
TRD-829358

Wednesday, February 2, 1983, 9 a.m. A hearing on the merits in Docket 4865—application of Kaufman County Electric Cooperative, Inc., for rate reduction.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 13, 1982, 2:10 p.m.
TRD-829387

Railroad Commission of Texas

Monday, December 13, 1982, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas submitted an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 IH 35 South, Austin. The addition concerned consideration of Docket 6-78,010—Kodiak Energy Group, application to amend field rules, Dirgin (Cotton Valley) Field, Rusk County. This item was properly noticed for the meeting of December 6, 1982, and was passed. Consideration on less than seven days is required as a matter of urgent public necessity.

Contact: F. M. Rago, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1289.

Filed: December 10, 1982, 1:46 p.m.
TRD-829342

Monday, December 13, 1982, 9 a.m. The Transportation Division of the Railroad Commission of Texas submitted an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 IH 35 South, Austin. The addition concerned consideration of final order in Docket 023953A6NC—application of B & Y Materials, Inc., to change name to B & Y Materials, Inc., doing business as Cecil E. Green Trucking, FM 1825 and Parkway Drive, Plugerville. The emergency status was necessary to preserve vital transportation service to aggregate shippers in the area who depend on the involved carrier for service. The name change was necessary to prevent repossession of carrier assets and permit continuation of service under new management.

Contact: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: December 10, 1982, 1:48 p.m.
TRD-829337

Monday, December 20, 1982, 9 a.m. The following divisions of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. The divisions, agendas, and meeting rooms follow.

The Administrative Services Division will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

Filed: December 10, 1982, 1:43 p.m.
TRD-829352

The Automatic Data Processing Division will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: December 10, 1982, 1:45 p.m.
TRD-829345

The Flight Division will meet in Room 107 to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

Filed: December 10, 1982, 1:44 p.m.
TRD-829350

The Gas Utilities Division will meet in Room 107 to consider gas utilities Dockets 3662, 3528, 3585, 3658, 3659, 3660, 3661, 3666, 3799, 3816-3843, 3845, 3846, 3546, 3787, 3788, 3762, 3793, 3811, 3844, and the director's report.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: December 10, 1982, 1:46 p.m.
TRD-829344

The Office of Information Services will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.

Filed: December 10, 1982, 1:45 p.m.
TRD-829348

The Liquefied Petroleum-Gas Division will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711.

Filed: December 10, 1982, 1:44 p.m.
TRD-829351

The Oil and Gas Division will meet in the first floor auditorium to consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Contact: Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: December 10, 1982, 1:47 p.m.
TRD-829339

Additions to the above agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273.

Filed: December 10, 1982, 1:46 p.m.
TRD-829343

Consideration of whether or not to initiate rulemaking proceedings to amend the "Gas Market Demand Rule" (interpretive order), 16 TAC §3.91, to provide for wildcat incentive nominations.

Contact: Patrick Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286.

Filed: December 10, 1982, 1:47 p.m.
TRD-829341

Consideration of whether or not to initiate proceedings on the proposed oil transport manifest rule.

Contact: Patrick F. Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286.

Filed: December 10, 1982, 1:47 p.m.
TRD-829340

Consideration of unprotested Docket 91,077—American Southwest Land and Petroleum for Rule 37 and 38 exceptions for Willis Carl and Susan M. McGee lease, Hubbard (Woodbine) Field, Hill County.

Contact: Sandra B. Buch, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1363.

Filed: December 10, 1982, 4:20 p.m.
TRD-829364

The Personnel Division will meet in the first floor auditorium to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: December 10, 1982, 1:45 p.m.
TRD-829346

The Office of Special Counsel will meet in the third floor conference room to consider the division director's report relating to pending litigation, Sunset Commission review, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: December 10, 1982, 1:44 p.m.
TRD-829349

The Surface Mining and Reclamation Division will meet in the first floor auditorium to discuss an Administration and Enforcement Grant application pursuant to the federal State Mining Control and Reclamation Act of 1977, §705, Public Law 95-87, and to consider the division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: December 10, 1982, 1:45 p.m.
TRD-829347

The Transportation Division will meet in the first floor auditorium, Room 107, to consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Contact: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: December 10, 1982, 1:48 p.m.
TRD-829338

School Land Board

Tuesday, December 21, 1982, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider approval of the minutes of the previous board meeting; applications for suspensions of state leases; pooling agreement amendments; pooling applications; adoption of a resolution by the board members for Bob Armstrong, commissioner of the General Land Office and chairman of the School Land Board; consideration of schedule and procedures for an April 5, 1983, oil, gas, and other minerals lease sale (passed over by the board on November 16 and December 7, 1982); direct sale of small tract under Texas Civil Statutes, Natural Resources Code, §51.0521; coastal public lands lease applications; easement applications; and coastal public lands report on cabin permit renewals; and consideration of leases for conservation and refuge purposes to the National Audbon Society, passed over by the board on November 16, 1982.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, (512) 475-2071.

Filed: December 13, 1982, 4:45 p.m.
TRD-829390

Teacher Retirement System of Texas

Friday, December 10, 1982, 10 a.m. The Board of Trustees of the Teacher Retirement System of Texas met in emergency session in the board room, 1001 Trinity, Austin. Items on the agenda included approval of minutes; review of investments for the quarter ending November 30, 1982, including sales, purchases, exchanges, and forward commitments; portfolio diversification and performance; estimate of cash flow and statement of reserve; review of discussions and recommendations at the IAC meeting including proposed changes to the approved common stock list and allocation of new money, reports from the actuary, audit committee, executive secretary, general counsel, member benefits division, and medical board; approval of members qualified for retirement, and status of retired payroll. The meeting was relocated from Snyder due to bad weather

Contact: Mary Godzik, 1001 Trinity, Austin, Texas 78701, (512) 397-6400.

Filed: December 9, 1982, 10:27 a.m.
TRD-829280

Texas State Technical Institute

Tuesday, December 21, 1982, 1:45 p.m. The Board of Regents of the Texas State Technical Institute will meet in conference Room 1, the Executive Inn, Dallas. Items on the agenda include a resolution for the authorization to execute documents for the issuance of housing system and auxiliary services revenue bonds, series 1982, a status report on Legislative Budget Board recommendations, and other business.

Contact: Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705, (817) 799-3611, ext. 3910.

Filed: December 13, 1982, 9:17 a.m.
TRD-829366

Veterans Land Board

Wednesday, December 29, 1982, 3 p.m. The Veterans Land Board of the General Land Office will meet in Room 831, Stephen F. Austin Building, Austin. Items on the agenda include approval of the minutes of the November 16, 1982, meeting; hear a report of the executive secretary; and discuss board policy.

Contact: Richard Keahey, Stephen F. Austin Building, Room 738, Austin, Texas, (512) 475-3766.

Filed: December 10, 1982, 3:01 p.m.
TRD-829357

Texas Water Commission

Monday, December 20, 1982, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. Items on the agenda summary include water district approval of the fire department plan, release from escrow, change in plans, use of surplus funds, approval of project, water quality proposed permits, amendments, renewals, final decisions, dismissal without prejudice, use of surface water, motion for rehearing, extension of time, filing and setting of hearing dates, and dismissal of show cause action.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: December 9, 1982, 11:23 a.m.
TRD-829285

Thursday, January 13, 1983, 9 a.m. The Texas Water Commission will meet in the Commissioners Courtroom, Nueces County Courthouse, 901 Leopard, Corpus Christi. According to the agenda summary, the commission will consider the application by Uni Refining, Inc., P.O. Drawer 970, Ingleside, to the Texas Department of Water Resources for a renewal of Permit 02142 which authorizes a discharge of treated process wastewater (commingled with stormwater runoff) effluent at a volume not to exceed an average flow of 120,000 gallons per day from the crude oil refinery treatment facilities. The permit, if renewed by the commission, will specify conditions and limitations generally the same as those currently enforced by the existing permit, except the name has been changed from Uni Oil to Uni Refining, Inc.

Contact: David Hume, P.O. Box 13087, Austin, Texas 78711, (512) 475-2711.

Filed: December 9, 1982, 11:23 a.m.
TRD-829286

Tuesday, January 18, 1983, 9 a.m. The Texas Water Commission will meet in the auditorium, Bank of the Southwest, 910 Travis, Houston. According to the agenda summary, the commission will consider the following.

Application by Houston Lighting and Power Company, P.O. Box 1700, Houston, Texas 77001, to the Texas Department of Water Resources for an amendment to Permit 01038 (W. A. Parish steam electric station) to authorize the addition of new Outfall 003 which is to monitor the free available chlorine contained in the condenser colling water effluent discharged from the outfall at a volume not to exceed an average flow of 2.121 million gallons per day; to delete chlorine limitations from Outfall 701 since it discharges into the condenser cooling water; and to include "ash transport water" in the wastewater description which is to be included in the discharge from the existing Outfalls 101, 201, 801, and 901. The amendment will also authorize intermittent, flow variable discharges of metal cleaning wastes via Outfall 002.

Application by Faust Properties, Inc., 6622 Point Clear, Houston, Texas 77069, to the Texas Department of Water Resources for a permit (Proposed Permit 12570-01) to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 113,000 gallons per day. The applicant proposes to construct the Amberwood Sewage Treatment Plant to serve a proposed mobile home development.

Contact: James Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: December 10, 1982, 11:23 a.m.
TRD-829325, 829326

Friday, January 28, 1983, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will hold hearings on the following.

Application 2589B in the name of T. S. Murrell for an amendment to Permit 2357 to change the existing designation of reservoir and to maintain an additional reservoir for industrial purposes diverted by pump from the currently authorized diversion point on Little Cypress Creek, tributary of Cypress Creek, Cypress Creek Watershed, in Harrison County.

Application 4278 in the name of Steve Gose for a permit to divert and use 10 acre-feet of water per annum from a reservoir located on Pulliam Creek, tributary of Nueces River, Nueces River Basin, for irrigation purposes in Edwards County.

Application 4279 in the name of Harry L. German and Barbara German for a permit to divert not to exceed 7 acre-feet of water per annum at a maximum diversion rate of 0.1 cfs (48 gpm) from the perimeter of a 13 acre-foot capacity reservoir located on an unnamed tributary of Bayou La Nana, tributary of Angelina River, tributary of Neches River, Neches River Basin, for irrigation purposes in Nacogdoches County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: December 9, 1982, 3:37 p.m.
TRD-829308-829310

Wednesday, February 9, 1983, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will hold a hearing on Certificate of Adjudication 14-1781 in the name of Virgil J. Powell requesting an amendment to increase the authorized amount of water to be diverted from 46 acre-feet to 112 acre-feet per year (an increase of 66 acre-feet) from San Saba River, tributary of Colorado River, Colorado River Basin, for irrigation purposes in Menard County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: December 9, 1982, 3:38 p.m.
TRD-829311

Regional Agencies
Meetings Filed December 9

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson, Jourdanton, on December 16, 1982, at 1:30 p.m. Information may be obtained from Ernest Dunnagan, 1010 Zanderson, Jourdanton, Texas 78026, (512) 769-2730.

The Bastrop County Appraisal District, Board of Directors, will meet in the conference room, Bastrop County Courthouse, 804 Pine, Bastrop, on December 17, 1982, at 2 p.m. Information may be obtained

from James M. Archer, 705 Spring, Bastrop, Texas 78602.

The Concho Valley Council of Governments, Executive Committee, met at 5002 Knickerbocker Road, San Angelo, on December 15, 1982, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Kendall County Appraisal District, Board of Directors, met at 207 East San Antonio Street, Boerne, on December 15, 1982, at 7:30 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

The Lower Colorado River Authority, Parks and Lands Committee, met at 3700 Lake Austin Boulevard, Austin, on December 15, 1982, at 8 a.m. The following committees also met at the same location on the same date, at the following times:

Water and Flood Control Committee—8:15 a.m.
Audit Committee—9 a.m.
Finance and Administration Committee—9:30 a.m.
Personnel, Compensation, Pension Trust, and Benefit Committee—10 a.m.
Environmental, Safety, and Security Committee—11 a.m.
Power and Energy Committee—1 p.m.

The Board of Directors met at the same location on December 16, 1982, at 9 a.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, met at the First United Methodist Church, 204 East Pearl, Granbury, on December 15, 1982, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

TRD-829284

Meetings Filed December 10

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in the board room, 1430 Collier Street, Austin, on December 16, 1982, at noon. The Finance and Control Committee met at Southside Savings and Loan, 4303 Victory Drive, Austin, on December 13, 1982, at 5:30 p.m. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 27.

The Harris County Appraisal District, Board of Directors, met in emergency session at 3737 Dacoma, Houston, on December 13, 1982, at 2 p.m. Information may be obtained from Searcy German, P.O. Box 10975, Houston, Texas 77292, (713) 683-9200.

The Heart of Texas Region Mental Health and Mental Retardation Center, Board of Trustees, met in emergency session in the second floor conference room, Cameron Building, 110 South 12th Street, Waco, on December 14, 1982, at 11:30 a.m. Information may be obtained from Sue Richardson, P.O. Box 1277, Waco, Texas 76703, (817) 752-3451.

The Nolan County Central Appraisal District, Board of Review, met in the city commission room, City Hall, Sweetwater, on December 14 and 15, 1982, at 9 a.m. daily. The Board of Directors met in Suite 305B, Nolan County Courthouse, Sweetwater, on December 15, 1982, at 1:30 p.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

The South Plains Association of Governments, Board of Directors, met at Lubbock Memorial Civic Center, 1501 Sixth Street, Lubbock, on December 14, 1982, at 2:30 p.m. Information may be obtained from Jerry D. Casstevens, 1709 26th Street, Lubbock, Texas, (806) 762-8721.

The South Plains Health Systems, Inc., Board of Directors, met in the conference room, 1709 26th Street, Lubbock, on December 16, 1982, at 7:30 p.m. Information may be obtained from Lu Nell Isett, 1709 26th Street, Lubbock, Texas.

The Wheeler County Appraisal District, Appraisal Review Board, met in emergency session at the district's office, Courthouse Square, Wheeler, on December 13, 1982, at 7 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-829322

Meetings Filed December 13

The Amarillo Mental Health and Mental Retardation Regional Center, Board of Trustees, met in Room J-13, Psychiatric Pavilion, 7201 Evans, Amarillo, on December 16, 1982, at 1 p.m. The Executive Committee also met in Room G-15 at the same location and on the same day, at noon. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 358-9031, ext. 7085.

The Cherokee County Appraisal District, Board of Directors, met in emergency session at 107 East Sixth Street, Rusk, on December 15, 1982, at 2:30 p.m. Information may be obtained from S. R. Danner, P.O. Box 494, Rusk, Texas 75785.

The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Day Treatment/Administration Facility, 4101 South Medford Drive, Lufkin, on December 21, 1982, at 5:30 p.m. Information may be obtained from Wayne Lawrence, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901, (713) 639-1141.

The Region XVIII Education Service Center, Board of Directors, met in emergency session at the center office on LaForce Boulevard, Midland Air Terminal, Midland, on December 14, 1982, at 7:30 p.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, (915) 563-2380.

The Edwards Underground Water District, Board of Directors, met in the fourth floor conference room, Tower Life Building, San Antonio, on December 16, 1982, at 10 a.m. Information may be obtained from Thomas P. Fox, 1200 Tower Life Building, San Antonio, Texas 78205, (512) 222-2204.

The Fannin County Single Appraisal District, Board of Review, will meet in the Peeler Building, 401 North Main Street, Bonham, on December 17, 1982, at 5:30 p.m. Information may be obtained from Bettye Manning, 401 North Main Street, Bonham, Texas 75418, (214) 583-9546.

The Middle Rio Grande Development Council, A-95 Project Review Committee, will meet at the library of the Texas A&M Extension Center, Uvalde, on December 22, 1982, at 1 p.m. Information may be obtained from Oralia Saldua, Del Rio National Bank Building, Suite 307, Del Rio, Texas 78840, (512) 774-4949.

The Mills County Appraisal District met at Mills County Courthouse, Goldthwaite, on December 16, 1982, at 6:30 p.m. Information may be obtained from J. Micheal

Morris, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The North Central Texas Council of Governments, Executive Board, met in Suite 270, 1201 North Watson, Arlington, on December 16, 1982, at 12:30 p.m. Information may be obtained from Linda Keithley, P.O. Drawer COG, Arlington, Texas 76911, (817) 640-3300.

The North Texas Municipal Water District, Board of Directors, will meet at 505 East Brown Street, Wylie, on December 28, 1982, at 4 p.m. Information may be obtained from Carl W. Riehn, Drawer C, Wylie, Texas 75098, (214) 442-5495.

The Palo Pinto Appraisal District, Board of Directors, met at 102 Northwest Sixth Avenue, Mineral Wells, on December 13, 1982, at 1:30 p.m. Information may be obtained from H. H. Quillen, 100 Southeast Fifth Street, Mineral Wells, Texas 76067, (817) 325-6871.

The Panhandle Regional Planning Commission, Board of Directors, rescheduled a meeting held in the conference room, Gibraltar Building, first floor, Eighth and Jackson Streets, Amarillo, on December 16, 1982, at 1:30 p.m. The meeting was originally scheduled for December 9, 1982. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

The West Texas Council of Governments, Board of Directors, will meet at Two Civic Center Plaza, eighth floor, El Paso, on December 17, 1982, at 9:30 a.m. Information may be obtained from Bernie Guy, 303 North Oregon, El Paso, Texas 79901, (915) 541-4689.

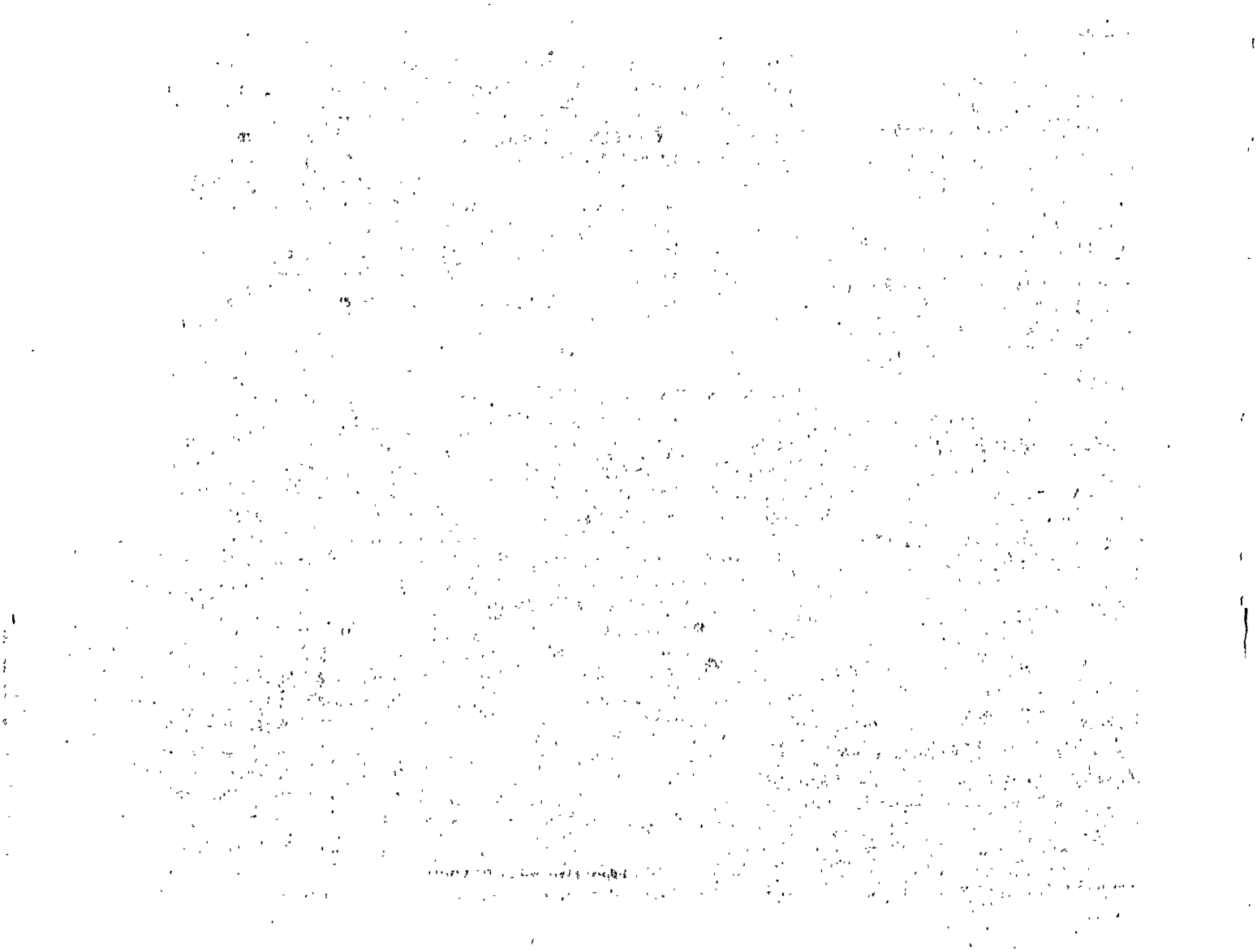
TRD-829367

Meetings Filed December 14

The Coryell County Appraisal District, Board of Directors, will meet at the Coryell County Courthouse, Gatesville, on December 20, 1982, at 7 p.m. Information may be obtained from Joan Blanchard, P.O. Box 6, Gatesville, Texas 76528, (817) 865-5412.

The Interim Regional Transportation Authority, Special Service Needs Committee, met in emergency session in Room 3EN, Dallas City Hall, Dallas, on December 14, 1982, at noon. Information may be obtained from Cinde Weatherby, Lock Box 12, Love Field Terminal Building, Dallas, Texas 75235, (214) 358-3217.

TRD-829393



The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

In Addition

Texas Air Control Board
Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board of applications for construction permits received during the period of November 22-December 3, 1982.

Information relative to the applications listed below, 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, 6330 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 names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Energy Coatings Company, Pearland; pipe coating; 4501 Knapp Road; 2914A, 3079A; new source

Killebrew Manufacturing Company of Texas, Henderson; sandblasting steel trailers; 1225 Industrial Drive; 9225; new source

Charmack Energy Corp., Muleshoe; ethanol plant; (location not available); 9226; new source

Rolston Farms and Feedlot, Pecos; beef cattle feedlot; (location not available); 9227; new source

Interstate Grain Corp., Corpus Christi; export grain elevator; interstate grain port; 9228; new source

Hartley Industries, Inc., Tenaha; highway construction/hot mix plant; (location not available); 6499E, 6499F; new source

G. O. Weiss, Inc., Houston; municipal landfill; 5547 Addicks-Satsuma; 9229; new source

Varmicon Industries, Inc., Port Isabell; ready mix concrete plant; turning basin; 9230; new source

Lower Colorado River Authority, La Grange; lignite mine loading and overland conveyor system; Fayette Power Project; 9231; new source

Lower Colorado River Authority, La Grange; inplant lignite storage handling system; Fayette Power Project; 9232; new source

Lower Colorado River Authority, La Grange; lignite fired steam generator unit #3; Fayette Power Project; 9233; new source

Lower Colorado River Authority, La Grange; ash handling system unit #3; Fayette Power Project; 9234; new source

Amerada Hess Corp., Seminole; sulfur recovery unit; Seminole-San Andres Unit; 9235; new source

Murrel's Excavating Service, Tomball; trench burner; Grant Road and Cedar Point Drive; 8505B; new source

Issued in Austin, Texas, on December 6, 1982.

TRD-829262 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed: December 8, 1982
For further information, please call (512) 451-5711, ext. 354.

Central Texas Council of Governments
Request for Proposals

Notice of Invitation for Proposals. Pursuant to Texas Civil Statutes, Article 6252-11c, the Central Texas Council of Governments (CTCOG), serving in the capacity as the Metropolitan Planning Organization (MPO) for the Killeen-Temple Urban Transportation Study (K-TUTS) announces a Request for Proposals (RFP) for a transit feasibility study of high density transportation corridors in (1) the City of Temple, and (2) the area of the Cities of Killeen and Copperas Cove and the Central Texas College-American Technical University complex. The purpose of this study is to determine the feasibility of initiating some type of public transportation service in each of the two designated target areas or, if not currently feasible, under what circumstances such a system or systems would be feasible.

Method of Selection. Each consultant's offer will be reviewed by a panel of the Transportation Planning Committee for the Killeen-Temple urban transportation study area. This request for proposal does not obligate the CTCOG to award a contract or to accept any of the offers received.

Proposals are due no later than January 5, 1983. For a copy of the RFP, contact Morrison J. Parrott, Planning Coordinator, Killeen-Temple MPO, Central Texas COG, Belton, Texas 76513, (817) 939-1801.

Issued in Belton, Texas, on December 3, 1982.

TRD-829266 Morrison J. Parrott
Planning Coordinator
Central Texas Council of Governments

Filed: December 8, 1982
For further information, please call (817) 939-1803.

Comptroller of Public Accounts
Decision 12,830

For copies of the following opinion selected and summarized by the administrative law judges, contact the Administrative Law Judges, P. O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Comptroller's Administrative Decision 12,830 (Sales Tax)—Pipe and pipeline accessories purchased from out-of-state vendors and delivered to taxpayer's pipeline right-of-way where they remained for between 24 to 48 hours, before being placed in a trench and welded together, were "stored" in the state and subject to the use tax. Texas Tax Code, §151.011.

There is no basis for distinguishing between property kept in Texas for a very brief period and that kept for longer periods of time since §151.011(c) defines "storage" as any keeping or retention in this state for any purpose.

Issued in Austin, Texas, on December 10, 1982.

TRD-829324 Bob Bullock
Comptroller of Public Accounts

Filed: December 10, 1982
For further information, please call (512) 475-1938.

Office of Consumer Credit Commissioner
Rate Ceilings

Pursuant to the provisions of House Bill 1228, 67th Legislature of Texas, Regular Session, 1981, the consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Article 1.04, Title 79, as amended Texas Civil Statutes, Article 5069-1.04.

Effective Period[1]	Type of Transaction Commercial[3] Consumer[2]/thru $250,000	Commercial[4] over $250,000
Indicated Rate Weekly Rate Ceiling 12/20/82-12/26/82	18%	18%
Monthly Rate Ceiling (Variable Commercial Only) 12/01/82-12/31/82	18%	18%
Quarterly Rate Ceiling 01/01/83-03/31/83	18%	18%
Annual[5] Rate Ceiling 01/01/83-03/31/83	22.72%	22.72%

(1) Dates set out above are inclusive.
(2) Credit for personal, family, or household use.
(3) Credit for business, commercial, investment, or other similar purpose.
(4) Same as (3) above, except excluding credit for agricultural use.
(5) Only for open end as defined in Texas Civil Statutes, Article 5069-1.01(f).

Issued in Austin, Texas, on December 13, 1982.

TRD-829372 Sam Kelly
Consumer Credit Commissioner

Filed: December 13, 1982
For further information, please call (512) 475-2111.

Texas Health Facilities Commission
Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this

publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on 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 any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Christian Nursing Centers, Inc., Arlington
AN82-1206-243
NIEH—Request for a declaratory ruling that a certificate of need is not required for Christian Nursing Centers, Inc., to acquire by lease, on or after February 4, 1983, Arlington Nursing Center, an existing 120-bed, ICF-III facility located in Arlington, from Irless Jordan.

Unicare Health Facilities, Inc., doing business as Richland Hills Nursing Center, Richland Hills
AN81-1023-014A(120682)
CN/AMD—Request to extend the completion deadline from February 28, 1983, to May 28, 1983, in Certificate of Need AN81-1023-014 which authorized the addition of 32 skilled beds to the 60-bed, ICF facility through the construction of a 6,380 square foot addition and the renovation of 2,200 square feet.

St. Mary of the Plains Hospital, Lubbock
AH82-1206-241
DR—Request for a declaratory ruling that a certificate of need is not required for St. Mary of the Plains Hospital to purchase, install, and operate a CT whole body scanner. The CT whole body scanner will be acquired at a cost of $395,000.

Chemical Dependency Treatment Center of Austin, Inc., Austin
AO79-1115-025A(120682)
CN/AMD—Request to extend for a second time the completion deadline from December 31, 1982, to June 30, 1983, in Certificate of Need AO79-1115-025 which authorized the construction of a 70-bed, inpatient facility for treatment of alcoholism and drug abuse in Austin.

Lakewood General Hospital, Inc., a to-be-formed, wholly-owned Texas subsidiary of HCA, Nashville, Tennessee
AH82-1207-255
NIEH—Request for a declaratory ruling that a certificate of need is not required for a corporate reorganization in which the ownership of Lakewood General Hospital will be transferred from HCA Health Services of Texas, Inc., to Lakewood General Hospital, Inc., a to-be-formed wholly-owned Texas subsidiary of HCA. Lakewood General Hospital is an existing 71-bed, general acute care hospital with 65 medical/surgical and six ICU beds located in Dallas. The transfer of ownership is preparatory and contingent upon the sale of Lakewood General Hospital to Republic Health Corporation (AH82-1122-203).

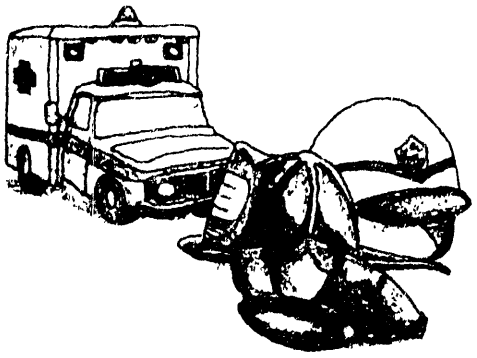
The Houston Clinic, a professional association, Houston
AH82-1208-257
NIEH—Request for a declaratory ruling that a certificate of need is not required for The Houston Clinic, a professional association, to acquire the lease, with option to purchase in 1984, Northeast Memorial Hospital from Houston Hospital Management, Inc., a wholly-owned subsidiary of Hospital Management Associates. Northeast Memorial Hospital is an existing 84-bed, general hospital with 80 medical/surgical and four ICU beds located in Houston.

La Hacienda Treatment Center, Inc., a to-be-formed, wholly-owned Texas subsidiary of HCA, Nashville, Tennessee
AN82-1207-253
NIEH—Request for a declaratory ruling that a certificate of need is not required for corporate reorganization in which the ownership of La Hacienda Treatment Center will be transferred from HCA Health Services of Texas, Inc., to La Hacienda Treatment Center, Inc., a to-be-formed, wholly-owned Texas subsidiary of HCA. La Hacienda Treatment Center is an existing alcohol detoxification and treatment center licensed for 10 beds and located in Hunt. The transfer of ownership is preparatory and will take place immediately prior to the sale of La Hacienda Treatment Center to Republic Health Corporation (AH82-1122-207).

Issued in Austin, Texas, on December 13, 1982.

TRD-829373 John R. Neel
General Counsel
Texas Health Facilities Commission

Filed: December 13, 1982
For further information, please call (512) 475-6940.



State Department of Highways and Public Transportation
Consultant Contract Awards

In compliance with Texas Civil Statutes, Article 6252-11c, the State Department of Highways and Public Transportation hereby furnishes this notice of contract award. The consultant proposal request appeared in the July 20, 1982, issue of the *Texas Register* (7 TexReg 2718). The contract consists of updating the knowledge and skills of the internal review analysts in the department so they can perform internal audit work acceptable to the Federal Department of Transportation and other cognizant audit agencies.

The contractor is Arthur Andersen & Company, Suite 2200, 1201 Elm Street, Dallas, Texas 75270. The total value of the contract is $26,150. The contract work is to begin November 15, 1982, and shall terminate August 31, 1983.

Final report(s) prepared by Arthur Andersen & Company under this contract shall be submitted prior to August 31, 1983.

Issued in Austin, Texas, on December 8, 1982.

TRD-829282 Diane L. Northam
Administrative Technician
State Department of Highways
and Public Transportation

Filed: December 9, 1982
For further information, please call (512) 475-2141.

In compliance with Texas Civil Statutes, Article 6252-11c, the State Department of Highways and Public Transportation hereby furnishes this notice of contract award. The consultant proposal request appeared in the September 17, 1982, issue of the *Texas Register* (7 TexReg 3384). The contract effort consists of computer programming that will design, develop, and document COBOL and NATURAL programs for the department's materials and supply information management system.

The contractor is Ira Dobrow, 638 South Emerson Street, Denver, Colorado 80209. The total value of the contract is $84,000. The contract will begin December 15, 1982, and has an ending date of December 15, 1983.

Final report(s) prepared by Ira Dobrow under this contract shall be submitted prior to December 15, 1983.

Issued in Austin, Texas, on December 8, 1982.

TRD-829283 Diane L. Northam
Administrative Technician
State Department of Highways
and Public Transportation

Filed: December 9, 1982
For further information, please call (512) 475-2141.

Texas Department of Human Resources
Public Meetings

The Texas Department of Human Resources is conducting public meetings throughout the state to discuss the department's new initiatives to secure employment for AFDC applicants and recipients. The department wishes to secure public comments on potential employment options including grant diversion, community work experience programs, targeted job tax credit, work supplementation, and proposed rules for testing the Employment Services Program.

The Family Self-support Services Branch will be conducting meetings in the following locations:

January 11, 1983, at 7 p.m. in the Music Room, Arlington Community Center, 2800 South Center, Arlington.

January 12, 1983, at 7 p.m. in the Hopkins Regional Civic Center, Sulphur Springs.

January 13, 1983, at 7 p.m. in Room 131, West Entrance, Texas Department of Human Resources, 706 Banister Lane, Austin.

January 18, 1983, at 7 p.m. in the Mabee Room, McMurray College Campus Center, South 14th and Sayles Boulevard, Abilene.

January 19, 1983, at 3:30 p.m. in the Garden and Arts Center, 4215 University, Lubbock.

January 20, 1983, at 7 p.m. in the University Suite, Student Union, University of Texas at El Paso, El Paso.

January 21, 1983, at 7 p.m. at the Quality Inn, 603 East Elmira Street, San Antonio.

January 25, 1983, at 7 p.m. in the Holiday Inn, 2095 North 11th Street, Beaumont.

January 26, 1983, at 7 p.m. in the West End Multi-Service Center, 170 Heights Boulevard, Houston.

January 27, 1983, at 7 p.m. in the Victoria County Electric Co-op, 102 South Ben Jordan, Victoria.

An informational packet has been prepared describing the meeting topics. This packet can be obtained by con-

tacting Nancy E. Hill, P.O. Box 2960, Austin, Texas 78769, (512) 835-0440, ext. 2451.

Issued in Austin, Texas, on December 9, 1982.

TRD-829314 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: December 9, 1982
For further information, please call (512) 441-3355, ext. 2037.

Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of December 6-10, 1982.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; and (2) a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice 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 contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed are the names of the applicants and the cities in which the facilities are located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of December 6-10, 1982

Arco Chemical Company, division of Atlantic Richfield Company, Port Arthur; polyethylene and ethylene dichloride manufacturing plant; on the north side of Taylor Bayou and approximately one mile south of the intersection of FM Road 823 with State Highway 73 near the City of Port Arthur, Jefferson County; 00765; renewal

Borden Chemical, division of Borden, Inc., Diboll; Diboll plant; 100 West Borden Drive in the City of Diboll, Angelina County; 01726; renewal

Lamantia-Cullum-Collier Company, Inc., Weslaco; vegetable processing; immediately east of the Mid-valley Airport at a site which is adjacent to the intersection of Mile 3½ West Road and Mile 8½ North Road in Hidalgo County; 02126; renewal

Duval Corp., Galveston; sulphur storage and shipping facility; 4500 block of Port Industrial Boulevard in the City of Galveston, in Galveston County; 01634; renewal

American Teachers Associates, Inc., Humble; wastewater treatment plant; approximately two miles northeast of the City of Humble, on the east side of Eastex Freeway (U.S. Highway 59) between Kingwood Drive and Northpark Boulevard in Montgomery County; 11649-01; renewal

City of Jefferson; surface water treatment plant; at the corner of Soda and Austin Streets in the City of Jefferson in Marion County; 10801-02; renewal

City of Austin; Holly power plant; 2400 Holly Street on the north side of Town Lake immediately upstream from Longhorn Dam in the City of Austin, Travis County; 01886; renewal

City of Austin; Seaholm plant; 800 West First Street in the City of Austin, Travis County; 01901; renewal

Houston Lighting and Power Company, Houston; Cy-Fair district operations and service center; adjacent to Cypress Church Road and within the northwest quadrant formed by the intersection of Cypress Church Road and Cypress Rosehill Road, and approximately 25 miles northwest of the City of Houston, Harris County; 02608; new permit

Todd Shipyards Corp., Research and Technical Division, Galveston; treated wastewater facility; on Pelican Island adjacent to Galveston Channel on Pelican Island and approximately 1½ miles east of the Pelican Island Bridge in Galveston County; 00779; amendment

Community Treatment, Inc., San Antonio; Medio Creek sewage treatment plant; along the west side of Medio Creek approximately 1,300 feet north of the point where U.S. Highway 90 crosses Medio Creek in Bexar County; 10827-03; amendment

A. P. Green Refractories Company, Freeport; periclase manufacturing plant; 6315 Highway 332 East, Freeport, Brazoria County; 01769; renewal

City of Leander; treated domestic sewage; just south of FM Road 2243 and approximately 4,000 feet generally east of the intersection of U.S. Highway 183 and FM Road 2243 in Williamson County; 12644-01; new permit

Harris County Municipal Utility District 199, Houston; residential/office complex; approximately ½ mile north of U.S. Highway 290 and 600 feet west of Jones Road in Harris County; 12636-01; new permit

Peek Road Utilities, Inc., Bellaire; high density residential development; approximately 2,000 feet upstream from the crossing of Loop 610 South and Buffalo Bayou along the west bank of Buffalo Bayou in Harris County; 12633-01; new permit

City of Eldorado; treated wastewater; approximately 2,200 feet northeast of the intersection of U.S. Highway 277 and State Highway 915 east of the City of Eldorado in Schleicher County; 10165-01; amendment

The Monsanto Company, Texas City; chemical plant; at the intersection of Bay Street and Second Avenue South in the City of Texas City in Galveston County; 00575; amendment

Savings Financial Corp. and P&C Enterprises, Inc., West Columbia; commercial/residential; approximately four miles southwest of the City of West Columbia and in the east corner of the intersection of State Highway 35 and FM Road 1459 in Brazoria County; 12604-01; new permit

Issued in Austin, Texas, on December 10, 1982.

TRD-829360 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: December 10, 1982
For further information, please call (512) 475-4514.

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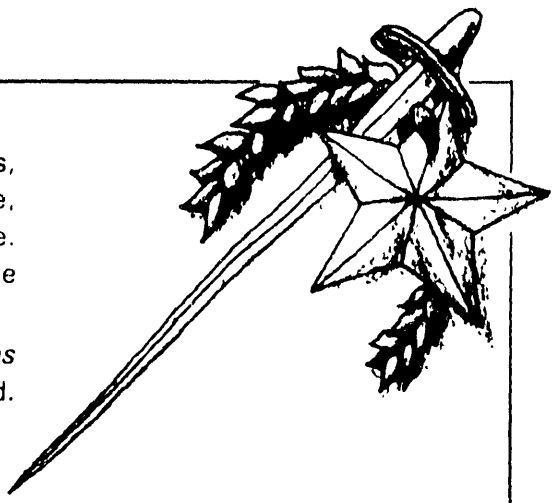

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