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TEXAS DOCUMENTS

TEXAS REGISTER

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Office of the Secretary of State

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

Titles 1, 4, 7, 10, 13, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

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

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

TAC is the *Texas Administrative Code*

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

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

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

TEXAS REGISTER

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*George W. Strake, Jr.
Secretary of State*

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The Attorney General

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

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

Open Records Decisions

Summary of Open Records Decision ORD-239

Request from W. O. Schultz II, associate general counsel, the University of Texas System, Austin, concerning whether a college president's recommendation regarding tenure for individual professors is public.

Summary of Decision: A college president's recommendations on faculty tenure are not required to be revealed under the Open Records Act. If the university determines the release of the information would not inhibit the free flow of information between president and regents, it may and should release the information.

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

Doc. No. 802700 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

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



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

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

NONCODIFIED

State Board of Morticians

Licensing and Enforcement Requirements— Specific Substantive Rules 387.02.00

The State Board of Morticians adopts on an emergency basis Rule 387.02.00.015 concerning the filing of charges under licensing and enforcement requirements. This rule is being adopted on an emergency basis since the board determined that the previous procedures wherein the board heard investigative evidence in both an informal and a formal proceeding presented potential adverse due process consequences for the individual involved.

The following rule is promulgated under the authority of Article 4582b, Texas Civil Statutes.

.015. *Filing of Charges.*

(a) Any person or persons may file with the board charges of violation of any of the mortuary laws of this state against any licensee. Such charges must be in writing, preferably under oath, and set forth the following information:

- (1) the name and office address of the person or entity charged;
- (2) the nature of the acts charged;
- (3) the time and place where such acts are alleged to have occurred;
- (4) a list of persons, if any, who witnessed such acts;
- (5) the charges should be set out in sufficient detail as to enable the person or entity charged to properly meet the same;
- (6) any photographs, letters, advertisements, or other documents used as a basis for the charges should be attached thereto.

(b) The chairman of the board shall appoint committees to consider all charges filed with the board. Such committees may be known as "investigation-enforcement committees," and shall be composed of two board members, who shall serve for the purpose of investigating such complaint or charge.

(1) Each committee shall have the power to issue subpoena and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records, and documents; to administer oaths; and to take testimony concerning the matter under investigation. Upon receipt of a complaint, the committee shall give notice of said complaint to the licensee. The licensee shall have an opportunity to show that he is in compliance with the Act. This showing may be made in writing and may be supported by sworn affidavits or the licensee may request an informal hearing before the investigating committee. If, upon review of the charges and the evidence with respect to such charges the committee shall determine that sufficient legal evidence does exist that a violation of the mortuary laws of the State of Texas may have occurred, such committee shall forward such determination in writing to the chairman of the board, whereupon the chairman of the board shall fix a time and place for a formal hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the person or entity charged or his counsel. If the committee determines that there is insufficient evidence to warrant a formal hearing, they shall make such recommendation to the chairman of the board in writing. Thereafter, no formal hearing will be held unless, by a vote of the majority of the remaining members of the board, the committee's recommendation is overruled or a request for formal hearing is made by the person, other than a board investigator, who filed the charges against the licensee. The two members who handled the investigation of the person or entity charged shall recuse themselves from any vote or other determination with respect to the action, if any, to be taken by the board. If the members of the aforementioned two-member committee disagree concerning whether sufficient legal evidence does exist that a violation of the mortuary laws may have occurred, the chairman of the board, or his designate, shall break the tie, in which event, if a hearing results, such person who broke the tie shall also recuse himself from any vote or other determination.

(2) With a view to the enforcement of the Texas mortuary laws, the chairman of the board shall divide the state into four geographic areas, with two members of such committee being designated responsibility for one geographic area. Within the area assigned, such two members shall be charged with the responsibility of ascertaining that the provisions of the Texas mortuary laws are complied with.

(c) Hearsay and belief that a certain person or entity committed certain acts at a certain time and place shall not be used as the basis for filing charges.

(d) At the formal hearing, the person or entity charged shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board.

(e) After hearing all the evidence, the board shall determine the cause on the merits, and if the board determines such charges to be true, the board may in its discretion, and in the appropriate case, in addition to the other remedies available to the board, cancel, revoke, suspend, or probate the license of any licensee charged.

(f) The board shall not be bound by strict rules of procedure or by the laws of evidence, but its determination shall be founded upon sufficient legal evidence to sustain it.

Issued in Austin, Texas, on April 8, 1980.

Doc. No. 802675 Ann Lloyd
 Board Secretary
 State Board of Morticians

Effective Date: April 9, 1980

Expiration Date: August 7, 1980

For further information, please call (512) 442-6721.

COMMUNICATIONS



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

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

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CODIFIED

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

Chapter 91. Credit Union Regulations

Regulatory Body

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Credit Union Department, 914 East Anderson Lane, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Credit Union Department proposes to repeal §§91.81 and 91.82 (058.01.11.001 and .002) which will be replaced by a new chapter of administrative proceedings, Chapter 93 (058.02) series. This new chapter of rules will provide greater detail on the conduct of administrative procedures which are within the jurisdiction of the State Credit Union Commission and the State Credit Union Commissioner.

The proposed repeal of these rules will not produce any fiscal implications for either state or local governments. This determination was made by the Credit Union Department staff.

Public comment on the proposed repeal of §§91.81 and 91.82 (.001 and .002) should be submitted in writing to John P. Parsons, commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752.

Repeal of the following rules is proposed under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, et seq., Vernon's Texas Civil Statutes.

§91.81 (058.01.11.001). *Meetings*.

§91.82 (058.01.11.002). *Hearings*.

Issued in Austin, Texas, on April 9, 1980.

Doc. No. 802683 John P. Parsons
 Commissioner
 Credit Union Department

Proposed Date of Adoption: May 19, 1980

For further information, please call (512) 837-9236.

Chapter 93. Administrative Proceedings

The Credit Union Department proposes to adopt various new sections concerning administrative proceedings of the department.

The adoption of these proposed new sections will not produce any fiscal implications for either state or local governments. This determination was made by the Credit Union Department staff.

Public comment on the proposed sections should be submitted in writing to John P. Parsons, commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752.

Contested Cases

The Credit Union Department proposes to adopt §§93.41-93.64 (058.02.03.001-.024) which provide general guidance on the conduct of contested cases by the Credit Union Department. In order to provide a just, fair, and equitable determination of any administrative matter within the jurisdiction of the State Credit Union Commission or the State Credit Union Commissioner, the State Credit Union Commission proposes the following rules and regulations with respect to the institution, conduct, and determination of all proceedings before the commission or the commissioner. The provisions of the Administrative Procedure and Texas Register Act govern if ambiguity or conflict exist between these sections and the Act.

The following sections are proposed under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, et seq., Vernon's Texas Civil Statutes.

§93.41 (058.02.03.001). *Official Action To Be Taken*. Neither the commission nor the commissioner shall take official action in a contested case unless it is formally pending for adjudication, and unless it is a real case, controversy, or issue, except that an official ruling or opinion may be made in advance on any matter at the discretion of the commission or the commissioner if it is shown that unreasonable hardship, loss, or delay would result if the matter is not determined in advance. This section shall not abridge or limit the right to an adjudicative hearing as provided by law, nor shall it be interpreted as limiting the right of the commission or the commissioner, on its own motion, to cause matters to become formally pending and to perform any function or duty prescribed by law or rule or regulation of the commission.

§93.42 (058.02.03.002). Notice and Service.

(a) In a contested case, all parties shall be afforded an opportunity for hearing after notice of not less than 10 days. The notice shall include:

- (1) a statement of time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular section of the statutes and rules involved; and
- (4) a short and plain statement of the matters asserted.

(b) If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, on timely written application, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

(c) Deposit in the United States mails of a registered or certified letter, return receipt requested, containing a notice of a hearing in compliance with the requirements set out above, or containing a copy of any decision or order addressed to the affected party or the attorney of record for said party, sent to the party's last known address or the attorney's last known address, shall constitute notice of the hearing or of such decision or order.

(d) A copy of any pleading filed by any party in a proceeding shall be mailed or otherwise delivered by the party filing the same to every other party or such party's attorney. A certificate by the party, attorney, or representative who files a pleading, stating that it has been served on the other parties, is prima facie evidence of such service. The following form of certificate is sufficient.

I hereby certify that I have this _____ day of _____, 19____, served copies of the foregoing pleading upon all other parties to this proceeding by (here state the manner of service).

By: _____

(Signature)

§93.43 (058.02.03.003). Pleadings.

(a) In a contested case, all pleadings for which no other form is prescribed shall contain:

- (1) the name of the party seeking to bring about or prevent action by the agency;
- (2) the names of all other known parties;
- (3) a concise statement of the facts relied upon by the pleader;
- (4) a prayer stating the type of relief, action, or order desired by the pleader;
- (5) any other matter required by statute;
- (6) a certificate of service, as required by §93.42 (.002); and

(7) the signature of the submitting party or his authorized representative.

(b) Any pleading filed pursuant to notice of a hearing may be amended up to seven days prior to the hearing. Amendments after that time will be at the discretion of the presiding officer.

(c) Any pleading may adopt and incorporate, by specific reference thereto, any part of any document or entry in the official files and records of the agency.

(d) All pleadings relating to any matter pending before the commission shall be filed with the administrative support clerk. Pleadings relating to any matter pending before the commissioner shall be filed with the hearings reporter.

§93.44 (058.02.03.004). Ex Parte Consultations. Unless required for the disposition of ex parte matters authorized by law, the commission, the commissioner, or the presiding officer may not communicate, directly or indirectly, with any party or his representative about any issue of fact or law relating to a pending contested case except on notice and opportunity for all parties to participate.

§93.45 (058.02.03.005). Agreements To Be in Writing. In a contested case, no stipulation or agreement between parties, their attorneys, or representatives shall be enforced unless it shall have been reduced in writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record during the course of a hearing, or incorporated in an order. This section shall not be interpreted as limiting a party's ability to waive, modify, or stipulate any right or privilege afforded by these sections, unless precluded by law.

§93.46 (058.02.03.006). Depositions.

(a) On its own motion or on the written request of any party to a contested case pending before it, on a showing of good cause, and on deposit of sums with the administrative support clerk or hearings reporter that will reasonably insure payment of the amounts estimated to accrue under this section, the commission or the commissioner shall issue a commission, addressed to the several officers authorized by statute to take depositions to require that the deposition of a witness be taken, which commission shall authorize the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects as may be necessary and proper for the purposes of the proceedings. The deposition of a member of the commission or the commissioner may not be taken after a date has been set for hearing.

(b) The place of taking the deposition shall be in the county of the witness' residence, or where the witness is employed or regularly transacts business in person.

(c) The commission shall authorize and require the officer or officers to whom it is addressed, or either of them, to examine the witness before him or her on the date and at the place named in the commission and to take answers under oath to questions which may be propounded to the witness by the parties to the proceeding or their attorneys, the commission, the commissioner, or the attorneys for the agency. The commission shall require the witness to remain in attendance from day to day until the deposition is begun and completed.

(d) The testimony shall be reduced to writing or typewriting by the officer taking the deposition, or by some person under the officer's personal supervision, or by the deponent in the officer's presence, and by no other person, and shall, after it has been reduced to writing or typewriting, be subscribed to by the deponent.

(e) The officer taking the oral deposition may not sustain objections to any of the testimony taken, or exclude any of it. The objections of the parties or attorneys engaged in taking testimony shall be reserved for determination by the presiding officer. The presiding officer is not confined to objections made at the taking of the testimony.

(f) When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and read to or by the witness, unless the examination and reading are waived by the witness and by the parties in writing. However, if the witness is a party to the contested case pending before the agency and has an attorney of record, the deposition officer shall notify the attorney of record in writing by registered or certified mail that the deposition is ready for examination and reading at the office of the deposition officer, and if the witness does not appear and examine, read, and sign the deposition within 20 days after the mailing of the notice, the deposition shall be returned as provided in these sections for unsigned depositions. In any event, the witness shall sign the deposition at least three days prior to the hearing, or it shall be returned as provided in these sections for unsigned depositions. Any changes in form or substance which the witness desired to make shall be entered on the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties present at the taking of the deposition by stipulation waive the signing or the witness is ill, cannot be found, or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver, illness, or absence of the witness or the fact of the refusal to sign, together with the reason, if any, given for failure to sign. The deposition may then be used as fully as though signed.

(g) Any deposition may be returned to the agency either by mail, or by a party interested in taking the deposition, or by any other person. If returned by mail, the agency shall endorse on the deposition that it was received from the post office and shall cause the agency employee so receiving the deposition to sign it. If not sent by mail, the person delivering it to the agency shall make affidavit before the agency that he or she received it from the officer before whom it was taken, that it has not been out of his or her possession since, and that it has undergone no alteration.

(h) A deposition, after being filed with the agency, may be opened by any employee of the agency at the request of either party or his attorney. The employee shall endorse on the deposition on what day and at whose request it was opened and sign the deposition. The deposition shall remain on file with the agency for the inspection of any party. Regardless of whether cross interrogatories have been propounded, any party is entitled to use the deposition in the contested case pending before the agency.

(i) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled to attend any hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of any proceeding under the authority of the Act is entitled to receive:

(1) mileage of not less than \$.10 a mile for going to and returning from the place of the hearing or the place where the deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(2) a fee of not less than \$10 a day for each day or part of a day the person is necessarily present as a witness or deponent.

(j) Mileage and fees to which a witness is entitled under this section shall be paid by the party at whose request the witness appears or the deposition is taken, on presentation of proper vouchers shown by the witness and approved by the agency. In the case of failure of a person to comply with a

subpoena or commission issued by the agency, the agency may take any action provided by law.

(k) Should a party arbitrarily and capriciously refuse to answer questions during a deposition, the party taking the deposition may recess the deposition and request the presiding officer to compel answers. Should the party still refuse to answer, the presiding officer may take further appropriate action.

§93.47 (058.02.03.007). Interrogatories to Parties.

(a) Any time the agency has properly served notice of its intention to institute adjudicative proceedings in a contested case, any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer or agent thereof, who shall furnish such information as is available to the party. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be attested to by the person making them. The party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within the time specified by the party serving the interrogatories which specified time shall not be less than 30 days after the service of the interrogatories, unless the presiding officer, on a motion and notice and for good cause shown, enlarges or shortens the time.

(b) Whenever a party is represented by an attorney, service of interrogatories and answers to interrogatories shall be made on the attorney. True copies of the interrogatories and of any answers shall be served on all other parties or their attorneys at the time that any interrogatories or answers are served, and a true copy of each shall be promptly filed with the administrative support clerk or the hearings reporter. Provided, however, that not more than four copies of any set of interrogatories or of answers shall be required to be furnished to parties, and if there be more than four parties, four copies of such interrogatories or of such answers shall be deposited with the administrative support clerk or hearings reporter and in such case no copies shall be required to be served on the other parties or their attorneys as otherwise provided. The party filing such copies shall inform all parties or their attorneys of record that such copies have been deposited with the administrative support clerk or hearings reporter. The copies shall be delivered by the administrative support clerk or hearings reporter to the first four applicants entitled thereto. Such four copies so provided to be deposited with the administrative support clerk or hearings reporter are in addition to the one copy to be filed with the administrative support clerk or hearings reporter.

(c) Within 15 days after service of interrogatories, a party may serve written objections thereto together with a notice of hearing to consider the objections at the earliest practicable time. Answers to interrogatories to which objection is made shall be deferred until the objections are determined and for such additional time as the presiding officer may direct.

(d) Interrogatories may relate to any matters which can be inquired into under Rule 186a of the Texas Rules of Civil Procedure but the answers, subject to any objections as to admissibility, may be used only against the party answering the interrogatories. A party may be required in his answers to identify each person whom he expects to call as an expert witness at the hearing and to state the subject matter concerning which the expert is expected to testify.

(e) Interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered, but the presiding officer, on motion of the deponent or the party interrogated, may make such protective order as justice may require. The number of interrogatories or of sets of interrogatories to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment, or oppression. The provisions of Rule 186b of the Texas Rules of Civil Procedure are applicable for the protection of the party from whom answers to interrogatories are sought under this section.

(f) A party whose answers to interrogatories were complete when made is under no duty to supplement his answers to include information thereafter acquired, except as follows:

(1) a party is under a duty seasonably to amend his answer if he obtains information upon the basis of which:

(A) he knows that the answer was incorrect when made; or

(B) he knows that the answer though correct when made is no longer true and the circumstances are such that a failure to amend his answer is in substance a knowing concealment; and

(2) a duty to supplement answers may be imposed by order of the presiding officer, agreement of the parties, or at any time prior to hearing through new requests for supplementation of prior answers.

(g) If a party refuses to answer any interrogatory, the proponent of the question may, upon reasonable notice to all persons affected, apply to the presiding officer in which the action is pending for an order compelling an answer.

(h) If a party, except for good cause shown, fails to serve answers to interrogatories after proper service of such interrogatories, the presiding officer in which the cause is pending may, on motion and notice, make such orders as are just.

(i) Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such business records, or from a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries.

§93.48 (058.02.03.008). Admission of Facts and of Genuineness of Documents.

(a) Any time after an agency has properly served notice of its intention to institute adjudicative proceedings in a contested case, a party may deliver or cause to be delivered to any other party or his attorney of record a written request for the admission by such party of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth by the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. Whenever a party is represented by an attorney of record, delivery of a request for admissions shall be made to his attorney unless delivery to the party himself or herself is ordered by the presiding officer. The request for admissions shall state that it is made under this section and that each of

the matters of which an admission is requested shall be deemed admitted unless a sworn statement is delivered to the party requesting the admissions or his attorney as provided in this section. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 10 days after delivery thereof or within such further time as the presiding officer may allow on motion and notice, the party to whom the request is directed, delivers or causes to be delivered to the party requesting the admission or his attorney of record a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters. A true copy of a request for admissions or of a sworn statement in reply thereto shall be filed promptly with the administrative support clerk or presiding officer by the party making such request or such sworn statement.

(b) The party who has requested the admissions may move to determine the sufficiency of the answers or reasons. Unless the presiding officer determines that the party to whom the request is directed has good reason for not admitting or denying a matter requested, it shall order that an answer be served. If the presiding officer determines that an answer does not comply with the requirements of this section, he may order either that the matter is admitted or that an amended answer be served. The presiding officer may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or that a designated time prior to hearing.

(c) Any matter admitted under this section is conclusively established as to the party making the admission unless the presiding officer on motion permits withdrawal or amendment of the admission. The presiding officer may permit withdrawal or amendment when the presentation of the merits of the cause will be subserved thereby and the party who obtained the admission fails to satisfy the presiding officer that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under this section is for the purpose of the pending hearing only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.

§93.49 (058.02.03.009). Subpoenaing Witnesses and Materials. On its own motion or on the written request of any party to a contested case pending before it, on a showing of good cause, and on deposit of sums with the administrative support clerk or the hearings reporter that will reasonably insure payment of the amounts estimated to accrue under §93.46 (.006) of this title, the commission or the commissioner shall issue a subpoena addressed to the sheriff or any constable to require the attendance of witnesses and the production of books, records, papers, or other objects as may be necessary and proper for the purpose of the proceedings.

§93.50 (058.02.03.010). Prehearing Conference.

(a) In a contested case, the presiding officer on its own motion or on the motion of a party, may direct the parties and/or their attorneys or representatives to appear before him at a specified time and place for a conference prior to the hearing for the purpose of formulating issues and considering:

- (1) the simplification of issues;
- (2) the possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record;
- (3) the procedure at a hearing;
- (4) the limitation, where possible, of the number of witnesses; and
- (5) such other matters as may aid in the simplification of the proceedings, and the disposition of the matters in controversy, including settlement of such issues as are in dispute.

(b) Action taken at the conference shall be recorded in an appropriate manner unless the parties enter into a written agreement.

§93.51 (058.02.03.011). Briefs. Briefs may be filed at any time prior to hearing. With leave of the presiding officer, and on such conditions as he may impose, parties may file briefs subsequent to the hearing.

§93.52 (058.02.03.012). Motions for Postponement. Either by agreement of the parties or their attorneys or representatives, or on a showing of good cause to the presiding officer, a motion for postponement of a hearing in a contested case may be granted. Any postponement requested within seven days of the date set will require approval from the presiding officer.

§93.53 (058.02.03.013). Presentation of Evidence in a Contested Case. Unless the order of presentation in a contested case is otherwise directed by the presiding officer, the agency or party who initiated the proceeding or its duly authorized representative shall briefly state the nature of the matters to be heard and proceed with the introduction of evidence in such order as the presiding officer may direct. All parties shall have the right to cross-examine witnesses and present arguments. The presiding officer may recess the hearing from day to day or until a later date subject to call. At the conclusion of all oral testimony, the presiding officer may leave the hearing open for a period of 10 days to receive further written evidence, briefs, or documents from any party.

§93.54 (058.02.03.014). Witness Placed under Rule. At the request of either party to a contested matter, the witnesses or both sides may be sworn and removed out of the hearing room to some place where they cannot hear the testimony as delivered by any other witness in the cause. This is termed placing witnesses under the rule. Neither party to the proceeding shall be placed under the rule, where a corporation is a party to the proceeding, the presiding officer may exempt from the rule an officer or other representative of such corporation to aid counsel in the presentation of the case. If any party be absent, the presiding officer in his discretion may exempt from the rule a representative of such party. Witnesses, when placed under the rule, shall be instructed by the presiding officer that they are not to converse with each other or with any other person about the proceeding other than the attorneys to the proceeding, except by permission of the presiding officer, and that they are not to read any report of or comment upon the testimony in the proceeding while under the rule.

§93.55 (058.02.03.015). Evidence.

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded in a contested matter. The rules of evidence as applied in nonjury civil cases in the district

courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The presiding officer shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, if a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. The presiding officer shall rule on the admissibility of evidence.

(b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. However, at the request of a party or his representative, arrangements shall be made to compare the copy with the original.

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

§93.56 (058.02.03.016). Prepared Testimony. In any contested matter, after providing copies to all parties of record present at the hearing at such time as may be designated by the presiding officer, the prepared testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read or received as an exhibit, upon the witness' being sworn and identifying the same. Such witness shall be subject to cross-examination and the prepared testimony shall be subject to a motion to strike in whole or in part.

§93.57 (058.02.03.017). Exceptions. Formal exceptions to rulings of the presiding officer during the hearing of a contested matter shall be unnecessary. Any ruling adverse to an objecting party shall automatically preserve the exception as if the exception had been made and noted.

§93.58 (058.02.03.018). Excluded Testimony. In a contested matter when testimony is excluded by a ruling of the presiding officer, the party offering such evidence shall be permitted to make an offer of proof by dictating it into the record or submitting the substance of the proposed testimony in writing, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point. The presiding officer may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

§93.59 (058.02.03.019). Informal Disposition of a Contested Case. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or dismissal.

§93.60 (058.02.03.020). Final Decisions.

(a) Any final decision or order adverse to a party in a contested case shall be in writing. Such final decision shall include findings of fact and conclusions of law, separately

stated. Any party may submit proposed findings of fact. The decision shall include a ruling on each proposed finding. Parties shall be notified either personally or by mail of any decision or order.

(b) A decision of the commission or commissioner is final, in the absence of a timely motion for rehearing, on the expiration of the period for filing a motion for rehearing, and is final and appealable on the date of rendition of the order overruling the motion for rehearing, or on the date the motion is overruled by operation of law. If the agency finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order in a contested case, it shall recite the finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered.

(c) The commission or the commissioner shall render a final decision or order within 60 days after the date the hearing is finally closed.

§93.61 (058.02.03.021). Motion for Rehearing. Other than the exception provided in §93.60 (.020), a motion for rehearing is a prerequisite to appeal from the commission's or commissioner's final decision or order in a contested case. A motion for rehearing shall be filed within 15 days after the date of rendition of a final decision or order. Replies to a motion for rehearing shall be filed with the administrative support clerk or the hearings reporter within 25 days after the date of rendition of the final decision or order. The presiding officer shall take action on the motion within 45 days after the decision or order. If action is not taken by the presiding officer within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the final decision or order. The presiding officer, by written order, may extend the period of time for filing the motions and replies and for taking action, except that an extension may not extend the period for action beyond 90 days after the date of rendition of the final decision or order. In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date of the final decision or order.

§93.62 (058.02.03.022). Record.

- (a) The record in a contested case shall include:
- (1) all pleadings, motions, and intermediate rulings;
 - (2) evidence received or considered;
 - (3) a statement of matters officially noticed;
 - (4) questions and offers of proof, objections, and rulings thereon;
 - (5) proposed findings and exceptions;
 - (6) any decision, opinion, or report by the presiding officer; and
 - (7) all staff memoranda or data submitted to or considered by the presiding officer.

(b) Proceedings, or any part of them, shall be transcribed on written request of any party. The party requesting the proceeding to be transcribed shall bear the expense thereof in accordance with the usual and customary charges of a court reporter. Should two or more parties make such request, the cost shall be borne on a pro rata basis. This section does not limit the agency to a stenographic recording of proceedings.

§93.63 (058.02.03.023). Appeal from a Final Decision or Order of the Commissioner. Any party aggrieved by a final decision or order of the commissioner in a contested case may appeal to the commission after the decision or order complained of is final and appealable. Appeal to the commission for review of actions of the commissioner shall be made within 30 days from the date that the writing evidencing the official action or order complained of is final and appealable, but for good cause shown, the commission may allow an appeal after that date.

§93.64 (058.02.03.024). Modification of Time Periods. The parties may by agreement with the approval of the commission or the commissioner provide for a modification of the time periods provided in the rules and regulations.

Doc. No. 802690

Rulemaking Proceedings

The Credit Union Department proposes to adopt §§93.81-93.83 (058.02.04.001-.003) which provide the department's procedures for developing and adopting sections. The provisions of the Administrative Procedure and Texas Register Act govern if ambiguity or conflict exists between a section and the Act.

The following sections are proposed under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, et seq., Vernon's Texas Civil Statutes.

§93.81 (058.02.04.001). Prerequisites to Adopting, Repealing, or Amending Sections.

(a) Prior to adopting, repealing, or amending any section, the commission or the commissioner shall give at least 30 days notice of the proposed action. Notice of the proposed section shall be filed with the secretary of state for publication in the *Texas Register*. The notice shall include:

- (1) a brief explanation of the proposed section;
- (2) the text of the proposed section, except any portion omitted as provided in Section 6(C) of the Act, prepared in a manner to indicate the words to be added or deleted from the current text, if any;
- (3) a statement of the statutory or other authority under which the section is proposed to be promulgated;
- (4) a request for comments on the proposed section from any interested person; and
- (5) any other statement required by law.

(b) Any notice becomes effective as notice when published in the *Texas Register*. The notice shall be mailed to all persons who have made timely written requests of the agency for advance notice of its rulemaking proceedings. However, failure to mail the notice does not invalidate any actions taken or sections adopted. Prior to the adoption, repeal, or amendment of any section, the commission or the commissioner shall afford all interested persons reasonable opportunity to submit data, views, or arguments. Such data, views, or arguments may, at the discretion of the commission or the commissioner, be submitted either orally or in writing. A public hearing shall be held prior to the adoption of any section if required by law or these sections. The commission or the commissioner shall consider fully all written and oral submissions concerning the proposed section. On adoption of a section, the commission or the commissioner, if requested to do so by an interested person either prior to adoption or

within 30 days after adoption, shall issue a concise statement of the principal reasons for and against the adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption.

(c) If the commission or commissioner finds that an imminent peril to the public health, safety, or welfare requires adoption of a section on fewer than 30 days notice and states in writing its reasons for that finding, the commission or commissioner may proceed without prior notice or hearing or on any abbreviated notice and hearing found practicable to adopt an emergency section. The section may be effective for a period of not longer than 120 days, renewable once for a period not exceeding 60 days, but the adoption of an identical section is not precluded by this section. An emergency section adopted under the provisions of this subsection, and the commission's or commissioner's written reasons for the adoption, shall be filed in the Office of the Secretary of State for publication in the *Texas Register*.

(d) Except as prohibited by law, the agency may use informal conferences and consultations as means of obtaining the viewpoints and advice of interested persons concerning contemplated rulemaking. The commission or commissioner may also appoint committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rulemaking. The powers of these committees are advisory only.

(e) Any interested person may petition the agency requesting the adoption of a section as set out in §93.81 (.003) of this title.

§93.82 (058.02.04.002). Effective Date of Sections. Each section adopted becomes effective 20 days after the filing of two certified copies with the secretary of state, except that:

(1) if a later date is required by statute or specified in the section, the later date is the effective date; and

(2) if a federal statute or regulation requires that the agency implement a section by a certain date, the section is effective on the prescribed date; and

(3) subject to applicable constitutional or statutory provisions, an emergency section (as that term is set out in Section 5 of the Act) becomes effective immediately on filing with the secretary of state, or on a stated date less than 20 days thereafter, if the commission or commissioner finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The commission or the commissioner shall take appropriate measures to make emergency sections known to persons who may be affected by them.

§93.83 (058.02.04.003). Petition for Adoption of Sections. Any interested person may petition the commission or the commissioner requesting the adoption of a section. Petitions shall be sent to the administrative support clerk or the hearings reporter. Within 60 days after the submission of a petition, the commission or commissioner shall either deny the petition in writing, stating the reasons for the denial, or shall initiate rulemaking proceedings. Petitions shall be deemed sufficient if they contain:

(1) the exact wording of the new, changed, or amended proposed section;

(2) specific reference to the existing section which is proposed to be changed or amended in the case of a changed or amended section; and

(3) a justification for the proposed action set out in narrative form with sufficient particularity to inform the

commission or the commissioner and any other interested party of the reasons and arguments on which the petitioner is replying.

Doc. No. 802691

The Commission

The Credit Union Department proposes to adopt §§93.91-93.97 (058.02.07.001-.007), which provide guidance on the operation of the Credit Union Commission and its scheduled meetings. In order to provide information on the conduct of commission meetings and how items of importance may be placed on a commission meeting agenda, these sections are proposed for adoption. The provisions of the Administrative Procedure and Texas Register Act govern if ambiguity or conflict exists between these sections and the Act.

The following sections are proposed under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, et seq., Vernon's Texas Civil Statutes.

§93.91 (058.02.05.001). Chairman to Preside. The chairman shall preside over all meetings of the commission at which he is present. In his absence, the commissioner shall preside, however, the commissioner may not vote.

§93.92 (058.02.05.002). Official Action by Majority. Any official act or decision of the commission shall be concurred in by at least four of its members. Such act or decision shall be based upon information presented to members present at official meetings of the commission. There shall be at least four commission members present at any official meeting of the commission. Private solicitation of individual members in an effort to in any way influence their official actions through information or arguments not simultaneously presented to other members of the commission is improper.

§93.93 (058.02.05.003). Initiating Proceedings before the Commission. Proceedings before the commission are divided into two classifications: appellate jurisdiction and original jurisdiction. The provisions of the Texas Credit Union Act (Article 2461-1, et seq., Vernon's Texas Civil Statutes) define jurisdiction of the commission. Proceedings over which the commission has original jurisdiction may be initiated as follows.

(1) Any interested person may petition the commission requesting the adoption of a section in accordance with §93.83 (058.02.04.003) of this title.

(2) In any other matter, any person desiring that the commission perform some official act permitted or required by law shall request such performance in writing. Such requests shall be directed to the commissioner. Subject to §93.13 (058.02.02.003) of this title, any written request shall be deemed sufficient to initiate the proceedings and present the subject matter to the commission for its official determination if the request reasonably gives notice to the commission of the act desired. The commission may also initiate proceedings of its own motion.

§93.94 (058.02.05.004). Review of Final Decision or Order of Commissioner. In reviewing any final decision or order of the commissioner, the commission may consider the record made before the commissioner; and in addition thereto, any other evidence and matters pertinent to the appeal may be submitted to the commission, even if not included in the application for review.

§93.95 (058.02.05.005). Hearing Docket of the Commission. When a matter has been initiated before the commission and a hearing is required or shall be held, the commissioner shall enter the same on the docket. The docket shall show the number of the matter, a brief description of the subject to be considered, and the parties. The commission shall make appropriate entries in the docket to show the history and disposition of the matter. The hearing docket of the commission shall be available for public inspection during business hours at the office of the commissioner.

§93.96 (058.02.05.006). Chairman to Set Hearings before the Commission. The chairman shall set the time of any hearing; provided, however, that a majority of the commission may vacate or reset the time of any hearing or, if the chairman is absent or fails to act, may make settings. The commissioner shall enter the date on the docket and give notice thereof to the parties.

§93.97 (058.02.05.007). Place of Meeting of the Commission. All meetings shall be held at the time and place designated by the commission.

Doc. No. 802692

The Commissioner

The Credit Union Department proposes to adopt §§93.221-93.224, which provide the procedures necessary to initiate proceedings of public interest. In order to standardize the initiation of administrative proceedings having public interest that is within the jurisdiction of the State Credit Union Commissioner, the following sections are proposed for promulgation. The provisions of the Administrative Procedure and Texas Register Act govern if ambiguity or conflict exists between these sections and the Act.

The following sections are proposed under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, et seq., Vernon's Texas Civil Statutes.

§93.221 (058.02.06.001). Initiating Proceedings before the Commissioner. Proceedings shall be initiated as follows.

(1) Any person may petition the commissioner, in accordance with §93.83 (058.02.04.003), requesting the adoption of a section within his jurisdiction.

(2) In all other matters, any person desiring that the commissioner perform some official act permitted or required by law shall request such performance in writing. Such request shall be directed to either the hearings reporter or the administrative support clerk. Subject to §93.13 (058.02.02.003), any written request shall be deemed sufficient to initiate the proceedings and present the subject matter to the commissioner for official determination if the request reasonably gives notice to the commissioner of the act desired. The commissioner may also initiate proceedings on his own motion.

§93.222 (058.02.06.002). Commissioner's Hearing Docket. When a matter has been initiated before the commissioner, and a hearing is required or shall be held, the hearings reporter shall enter the same on a docket. The docket shall show the number of the matter, a brief description of the subject to be considered, and the parties. The hearings reporter shall make appropriate entries in the docket to show the history and disposition of the matter. The hearing docket of

the commissioner shall be available for public inspection during business hours at the office of the commissioner.

§93.223 (058.02.06.003). Setting of Hearings of Commissioner. The presiding officer shall set the time of any hearings; provided, however, that he may vacate or reset the time of any hearing. The hearings reporter shall enter the date on the docket and give notice thereof to the interested parties.

§93.224 (058.02.06.004). Place of Hearings of Commissioner. All hearings shall be held at the time and place as designated by the commissioner.

Doc. No. 802693

Repeal of Conflicting Sections

The Credit Union Department proposes to adopt §93.241 (058.02.07.001), which provides for the repeal of conflicting sections. The provisions of the Administrative Procedure and Texas Register Act govern if ambiguity or conflict exists between this section and the Act.

The following section is proposed under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, et seq., Vernon's Texas Civil Statutes.

§93.241 (058.02.07.001). Amendments, Conflicting Sections Repealed. These sections of practice and procedure shall govern until amended. All sections of practice and procedure before the agency in conflict with the sections included herein are repealed to the extent of the conflict. Special sections of the agency dealing with specific subjects or procedures are deemed to be compatible with these general sections of practice and procedure, and such special sections are not repealed.

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

Doc. No. 802694 John P. Parsons
Commissioner
Credit Union Department

Proposed Date of Adoption: May 19, 1980

For further information, please call (512) 837-9236.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 317. Texas Weather Modification Act

The general counsel of the Texas Department of Water Resources is proposing to amend subchapters concerning definitions, records required, and amendment, revocation, and suspension of licenses and permits.

The general counsel of the department has determined that the proposed amendments of the sections will have no fiscal impact to the state or units of local government. No local units of government have been consulted in this estimate.

Public comment on the proposed amendments is invited. Persons should submit their comments in writing to Jim McManus, General Counsel's Office, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

Definitions

The general counsel of the Texas Department of Water Resources is proposing to amend §317.1 (156.11.01.001), Definitions. The proposal amends the section by modifying the definition of "target area" and "operational area" and by adding a definition of "hail suppression."

The rationale for modification of the definitions of "target area" and "operational area" is to provide definitions for both weather modification operations which do not include hail suppression as an objective of the operation and those which do. The rationale for the addition of a definition of "hail suppression" is Section 18.0841, Texas Water Code, which mandates that the department shall promulgate a definition of "hail suppression." A definition of hail suppression would provide a reference for the Texas Water Commission in its review and action on weather modification permits.

The amendments to the definitions of "target area" and "operational area" provide clarifications that these definitions are applicable to operations other than those which include hail suppression as an objective, as well as to those which do include hail suppression. The amendment of the section which adds a definition of "hail suppression" is new and is in response to the legislative mandate of Section 18.0841, Texas Water Code.

This amendment is proposed under the authority of Sections 5.131 and 5.132, Texas Water Code.

§317.1 (156.11.01.001). Definitions of Terms. The following definitions of terms apply, unless the subject matter or context clearly requires otherwise.

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

(6) "Target area" means the area [within the operational area,] described by metes and bounds or other specific bounded description, which is intended to be affected by the operation. *If hail suppression activity is included, the "target area" means the area within or the same as with the operational area, described by metes and bounds or specific other bounded description, which is intended to be affected by the operation.*

(7) "Operational area" means that area, described by metes and bounds or other specific bounded description, not intended to be affected by the operation, which may be outside the target area but within which it is reasonably necessary to effectuate the purposes of a permitted operation within the target area. *If [When] hail suppression activities are included [carried on], the operational area shall not exceed eight miles from the limits of the target area.*

(8) (No change.)

(9) "Hail suppression means the release of appropriate ice-nucleating materials or other chemicals into or adjacent to a cloud for the purpose of artificially limiting natural hailstone growth within the cloud, so as to reduce, at ground level, the size, frequency, and damage without decreasing the cloud's natural precipitation efficiency."

Doc. No. 802695

Records Required

The general counsel of the Texas Department of Water Resources is proposing to amend §317.31 (156.11.10.001), Information To Be Recorded. The proposal amends the section by substituting the following language: "radial distance from a standard reference point or by" for "VOR/RAC, dual, or." The purpose of this amendment is to substitute a description of the measurement to be made in lieu of a particular technology. The effect of the amendment will be to remove the restriction on the particular technology to be applied. Section 317.31 (.001) remains basically the same differing only in the substitution of a description of what is to be measured for a particular technique of measurement.

This amendment is proposed under the authority of Sections 5.131 and 5.132, Texas Water Code.

§317.31 (156.11.10.001). Information To Be Recorded. Any person conducting an operation in Texas shall keep and maintain a record of each operation. For all operations, the daily log (NOAA Form 17-4B) required by Title 15, Chapter IX, Subchapter A, Part 908, Section 908.8(a), Code of Federal Regulations, November 1, 1972, as amended, and the supplemental information required by Sections 908.8(b), (c), and (d) thereof shall be provided by each operator. In addition, for all operations in which aircraft are employed for reconnaissance and seeding purposes, information consisting of the dates on which operations are conducted, each period (in minutes of local time) of operation, a description of the track of each flight, the rates of dispersion of the seeding agent for each flight, and the total amount of seeding agent dispensed during each operation shall be submitted. The tracks of all seeding and reconnaissance missions shall be logged in such a manner so as to allow a complete and accurate reconstruction of each run. The tracks may be identified by either *radial distance from a standard reference point or by [VOR/RAC, dual VOR, or] ground fixes in statute miles from a nearby town or landmark at the beginning and ending of each aerial event.* Furthermore, each applicant shall promptly report to the executive director any changes or additions to the list, submitted with the application, which contained the names and post office addresses of individuals involved in the operation.

Doc. No. 802697

Amendment, Revocation, and Suspension of Licenses and Permits

The general counsel of the Texas Department of Water Resources is proposing to amend §§317.41 and 317.42 (156.11.15.001 and .002), concerning amendment, revocation, and suspension of licenses and permits. The proposal amends §317.41 (.001) by adding paragraph (3) to provide for changes in information which were the basis for the issuance of the weather modification license. The rationale for the amendment is that there is currently no procedure established in the sections for the review of material changes to the information upon which the license was issued. The effect of this amendment would be to establish such a procedure. In addition, the proposal amends §317.42 (.002) by adding subparagraph (D) to paragraph (1), which specifies an additional basis for the revocation or suspension of a license to conduct weather modification operations.

The primary purpose of §317.41(3) (.001(3)) is establishment of procedures to allow review of material changes which were the basis for the issuance of the license to conduct weather modification operations. The primary purpose of §317.42(1)(D) (.002(1)(D)) is specification of an additional basis for revocation or suspension of a license.

These amendments are proposed under the authority of Sections 5.131 and 5.132, Texas Water Code.

§317.41 (156.11.15.001). Amendment, Revocation, or Suspension. The executive director may initiate proceedings before the commission in the following instances:

(1) to amend a permit if it appears that an amendment is necessary to protect the health or property of any person; [or]

(2) to suspend or revoke a permit or license if he has probable cause to believe that the permit or license should not be suspended or revoked;

(3) to approve changes in operational personnel or information material to the weather modification license. The executive director may seek the advice of the Weather Modification Advisory Committee.

§317.42 (156.11.15.002). Probable Cause. Probable cause to believe that a permit or license should be revoked or suspended shall include but not be limited to the following:

(1) Licenses.

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

(D) The operational personnel or other information which were the basis for the issuance of the license have changed materially.

(2) (No change.)

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

Doc. No. 802698 Bruce Bigelow
 General Counsel
 Texas Department of Water Resources

Proposed Date of Adoption: May 19, 1980
For further information, please call (512) 475-7845.

NONCODIFIED

Industrial Accident Board

Request for Case Folders and Certifications of Actions of the Board 061.09.00

The Industrial Accident Board proposes to amend Rule 061.09.00.010 to allow the board to eliminate refunds under \$5.00 for monies received for copies or services.

The Industrial Accident Board has determined that the proposed amendment to Rule .010 will generate a small amount of additional revenue for the state's General Revenue Fund but will not affect units of local governments.

Public comments on the proposed amendment to Rule .010 are invited. Persons should submit their comments in writing to William Treacy, executive director, Texas Industrial Accident Board, first floor, 200 East Riverside Drive, Austin, Texas 78704, within 15 days of publication in this Register.

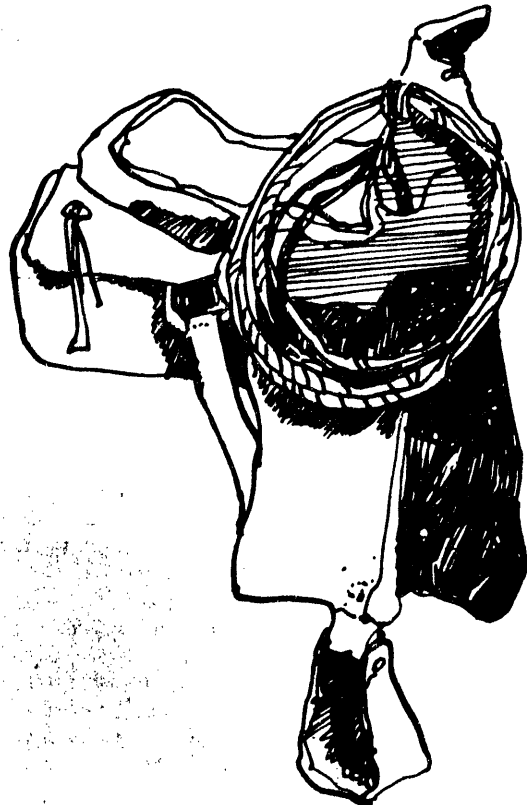
This amendment is proposed under the authority of Article 8307, Section 4, Vernon's Texas Civil Statutes.

.010. Request for Copies. Written requests for public information by persons entitled thereto under Article 8307, Sections 9 and 9a, shall be mailed or presented in person to the board's Austin office. Copies and certified copies of instruments will be furnished only upon receipt of the correct payment. *There will be no refund for less than \$5.00 of monies paid by actual mistake, in excess of the correct amount or for copies of instruments not in the board's file, unless specifically requested in writing.* No copies or certified copies of instruments will be furnished between seven days prior to the date of formal hearing and the date of the board's award (*Revised 1980*) [(1977)].

Issued in Austin, Texas, on April 9, 1980.

Doc. No. 802689 William Treacy
 Executive Director
 Texas Industrial Accident Board

Proposed Date of Adoption: May 19, 1980
For further information, please call (512) 475-4538.



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

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

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

CODIFIED

TITLE 34. PUBLIC FINANCE

Part VII. State Property Tax Board

Tax Record Requirements 237.03.00

The State Property Tax Board has withdrawn from consideration for adoption Rules 237.03.00.001 and .002, governing the development and maintenance of minimum appraisal and assessing records. Rules .001 and .002 were proposed for adoption in January 1979; the texts of the proposals were published in the December 26, 1978, issue of the *Texas Register* (3 TexReg 4501).

Doc. No. 802668

Tax Assessor Education 237.04.00

The State Property Tax Board has withdrawn from consideration for adoption Rule 237.04.00.001, concerning training for school assessors. Rule .001 was proposed for adoption in January 1979; the text of the proposal was published in the December 26, 1978, issue of the *Texas Register* (3 TexReg 4502).

Issued in Austin, Texas, on April 9, 1980.

Doc. No. 802669 Walter Earl Lillie
 General Counsel
 State Property Tax Board

Filed: April 9, 1980, 2:41 p.m.
For further information, please call (512) 837-8622.

Chapter 159. Operational Standards

The School Tax Assessment Practices Board (State Property Tax Board, as of January 1, 1980) adopted a new section governing the distribution of state funds to appraisal districts established pursuant to the provision of the Texas Property Tax Code.

The board determined that there will be no fiscal implications to the state or to any units of local government as a result of this adopted section.

The board adopted this section to assure the distribution of funds to appraisal districts in a manner which complies with the intent of the law.

This section is adopted in accordance with the statutory mandate found in Section 2 of Senate Bill 621 (Property Tax Code, Acts 1979, 66th Legislature, Chapter 841, effective January 1, 1980).

§159.1 (237.05.00.001). Distribution of Funds to Appraisal Districts.

(a) Each year the State Property Tax Board shall distribute money from funds appropriated by law to each appraisal district to assist the districts in preparing to implement the Property Tax Code.

(b) Each appraisal district shall be entitled during 1980 and 1981 to an equal portion of one-fourth of the total amount appropriated each year. During the 1980 and 1981 calendar year, each district's equal portion shall be \$2,841.53.

(c) In addition to the entitlement provided in subsection (b), each appraisal district shall be entitled to a portion of the balance of the annual appropriation according to the ratio the number of parcels of taxable real property in the district bears to the number of parcels of taxable real property in all appraisal districts.

(d) For the purposes of subsection (c), the number of parcels of taxable real estate shall be the number of real property parcels (exclusive of mineral properties) as indicated on the preceding year's tax roll of the county in which the district is located, as reported by the county tax assessor, plus the number of producing oil and gas wells in the county in the preceding year, as reported by the Texas Railroad Commission.

(e) Such distributions of funds as are made under these provisions shall be directed to the chairmen of the board of directors of the respective appraisal districts for and on the behalf of the appraisal district.

(f) Distribution of funds under these provisions shall be initiated in February of each year.

Issued in Austin, Texas, on April 8, 1980.

Doc. No. 802670 Walt E. Lillie
 General Counsel
 State Property Tax Board

Effective Date: April 30, 1980
Proposal Publication Date: November 2, 1979
For further information, please call (512) 837-8622.

Chapter 161. Valuation Procedures

The School Tax Assessment Practices Board (State Property Tax Board, as of January 1, 1980) adopted §161.1 (237.08.00.001) concerning the adoption by reference of the guidelines for the valuation of open-space land, with a change made in the agency's agricultural manual's affidavit for alien/nonalien owners, at the September 5, 1979, board meeting.

The guidelines as adopted by reference include: (1) a comparison of Articles VIII, 1-d, and VIII, 1-d-1, of the Texas Constitution; (2) procedures to verify that land qualifies for open-space valuation; (3) discussion of the theory of productivity valuation; (4) practical application of agricultural valuation (with examples); (5) use value assessment of timber lands; and (6) an appendix with sample application and budget forms.

The board determined that there will be no fiscal implications to the state or units of local government as a result of adoption of the section.

Copies of the guidelines are available free upon request from Kenneth Graeber, executive director, School Tax Assessment Practices Board (State Property Tax Board), P.O. Box 15900, Austin, Texas 78761.

The section is adopted pursuant to rulemaking authority granted by Article 7174A, Section 2(d), and Article 7174B, Section 3(b), Revised Civil Statutes as amended 1979.

§161.1 (237.08.00.001). *Valuation of Open-Space and Timber Lands.* The School Tax Assessment Practices Board (State Property Tax Board) adopts by reference the "Guidelines for the Valuation of Open-Space Land" as published in June 1979. This document is published by and available from the School Tax Assessment Practices Board (State Property Tax Board), 3301 Northland Drive, Austin, Texas 78731.

Issued in Austin, Texas, on April 8, 1980.

Doc. No. 802671 Kenneth Graeber
Executive Director
State Property Tax Board

Effective Date: April 30, 1980
Proposal Publication Date: August 21, 1979
For further information, please call (512) 837-8622.

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Texas Air Control Board

Thursday, April 24, 1980, 1:30 p.m. The Regulation Committee of the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. The committee will review the following aspects of atmospheric dispersion modeling: principles, types of models, evaluation, applications in permit review, and industrial planning.

Additional information may be obtained from Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, telephone (512) 451-5711, ext. 354.

Filed: April 8, 1980, 3:52 p.m.
Doc. No. 802621

Texas Commission on the Arts

Wednesday, April 23, 1980, 3-5 p.m. The Liaison Committee of the Texas Commission of the Arts will meet at 1801 Lavaca, Austin, to discuss the following: arts communication network; art in education in Texas; and the 1982-83 appropriations request.

Additional information may be obtained from Pat McCabe Leche, P.O. Box 13406, Austin, Texas 78711, telephone (512) 475-6593.

Filed: April 11, 1980, 2:33 p.m.
Doc. No. 802721

State Banking Board

Thursday, April 24, 1980, 9 a.m. The Hearing Officer of the State Banking Board will conduct a hearing at 2601 North Lamar, Austin, on the proposed domicile relocation for Southwestern Bank, Stafford, to the southern corner of the Southwest Freeway at Kirkwood in Stafford.

Additional information may be obtained from Ruth R. Amberg, 2601 North Lamar, Austin, Texas, telephone (512) 475-4451.

Filed: April 11, 1980, 10:59 a.m.
Doc. No. 802706

Thursday, May 1, 1980, 9 a.m. The Hearing Officer of the State Banking Board will conduct a hearing at 2601 North Lamar, Austin, on the charter application for Chasewood State Bank, to be located in an unincorporated area of Harris County.

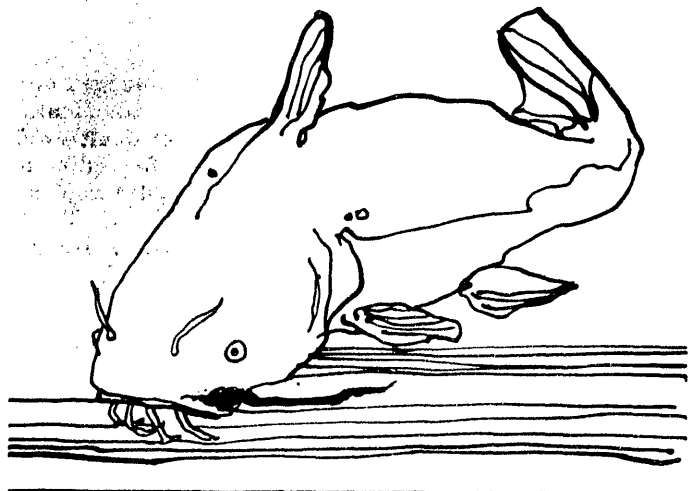
Additional information may be obtained from Ruth R. Amberg, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Filed: April 11, 1980, 10:59 a.m.
Doc. No. 802707

Thursday, May 8, 1980, 9 a.m. The Hearing Officer of the State Banking Board will conduct a hearing at 2601 North Lamar, Austin, on the proposed domicile change for Mid-County Bank and Trust, Port Neches, to relocate at the corner of Nall Street (State Highway 365) and Goodwin Avenue in Port Neches.

Additional information may be obtained from Ruth R. Amberg, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Filed: April 11, 1980, 10:59 a.m.
Doc. No. 802708



Texas Department of Health

Saturday, April 19, 1980, 9:30 a.m. The Texas Board of Health will conduct its monthly meeting in the Texas Woman's University Regent's Room, 16th floor of the Clock Tower, Denton. According to the agenda summary, the board will consider the following: commissioner's report; report on public health region five activities; final rules on general requirements and guidelines for athletic trainers; proposed rules for the licensing and regulation of home health care agencies; request for extension of emergency rules for the licensing and regulation of home health care agencies; final rules for screening of children for visual handicaps; and proposed rules and regulations for the Crippled Children's Ser-

vices Program. The board will also meet in executive session, and will discuss committee reports and recommendations on: crippled children physician applicants; appointments to the Technical Advisory Committee for Crippled Children's Services; Personnel Committee report; appointment to the Controlled Substances Therapeutic Research Review Board; request for employment beyond age 70; appointments to the Hypertension Advisory Committee; and a report regarding Frank Hejl. A date for the May 1980, meeting will be set.

Additional information may be obtained from Joe Klinger, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7487.

Filed: April 11, 1980, 4:18 p.m.
Doc. No. 802731

Monday, April 21, 1980, noon. The Child Study Clinic of the Texas Department of Health will meet at 2008 North Navarro, Victoria, to consider its financial report; minutes; report on Texas Department of Human Resources; amendments to by-laws; and nominating committee presentation. The division will also present service awards to out-going members, and to meet in executive session.

Additional information may be obtained from Eva Seger, M.D., 2008 North Navarro, Victoria, Texas 77901, telephone (512) 575-0681.

Filed: April 11, 1980, 4:17 p.m.
Doc. No. 802732

Friday, May 23, 1980, 9 a.m. The Application, Budget, and Project Review Committee of the Texas Statewide Health Coordinating Council of the Texas Department of Health will meet in Salon H of the Marriott Hotel, Austin. According to the summarized agenda, the council will consider applications for continued full designation from Central Texas Health Systems, Inc., (HSA 6); Northeast Texas Health Systems Agency, Inc., (HSA 7); and Camino Real Health Systems, Inc., (HSA 9)

Additional information may be obtained from George Anderson, M.D., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7261.

Filed: April 11, 1980, 11:04 a.m.
Doc. No. 802710

Friday, May 23, 1980, 1 p.m. The Statewide Health Coordinating Council of the Texas Department of Health will meet in Salon H of the Marriott Hotel, Austin. According to the agenda summary, the council will consider applications for continued full designation from Central Texas Health Systems, Inc., (HSA 6); Northeast Texas Health Systems Agency, Inc., (HSA 7); and Camino Real Health Systems, Inc., (HSA 9)

Additional information may be obtained from George Anderson, M.D., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7261.

Filed: April 11, 1980, 11:04 a.m.
Doc. No. 802711

Texas Health Facilities Commission

Thursday, April 24, 1980, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications:

certificate of need

Hamlin Memorial Hospital, Hamlin
AH79-1128-017

Community Health Centers of Dallas
Martin Luther King Center, Dallas
AS79-0529-019

exemption certificate

Gaston Episcopal Hospital, Inc., Dallas
AH80-0221-011

St. Joseph's Hospital, Inc., Paris
AH80-0303-005

Memorial Medical Center, Corpus Christi
AH80-0303-015

Upjohn Healthcare Services, Lubbock
AS80-0304-001

Beaumont Home Health Services, Beaumont
AS80-0304-003;

Bellaire General Hospital, Houston
AH80-0228-020

Abilene Regional MH/MR Center, Abilene
AA80-0229-015

All Saints Episcopal Hospital of Fort Worth, Fort Worth
AH80-0226-005

Westgate Hospital and Medical Center, Denton
AH80-0226-028

Westgate Hospital and Medical Center, Denton
AH80-0226-030

certificate of need order

Denton State School, Denton
AA79-0301-025A(030380)

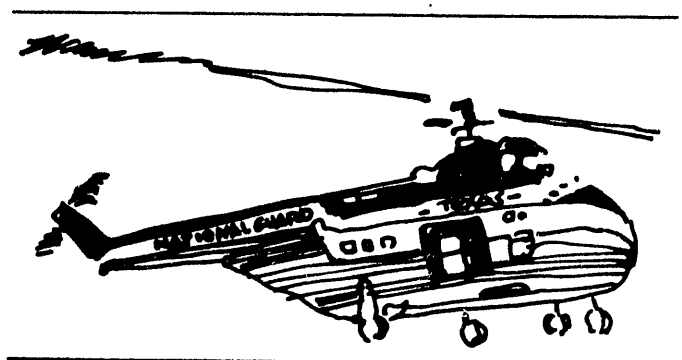
All Saints Episcopal Hospital of Fort Worth, Fort Worth
AH78-1106-001A(021480)

declaratory ruling

Birthing Center/Ebeling Clinic, Marble Falls
AO80-0303-020

Further information may be obtained from O. A. Cassity III, P. O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: April 11, 1980, 11:37 a.m.
Doc. No. 802703



Texas Industrial Commission

Thursday, April 24, 1980, 9 a.m. The Board of Commissioners of the Texas Industrial Commission will meet in the Royal Room, Villa Capri Motor Hotel, Austin, for its quarterly meeting. The board will consider and take action on minutes of previous meeting; its financial statement; a report from officer of Texas Industrial Development Council; and written quarterly reports. Decisions will also be made by the executive director on interest rate change for industrial loan program; request for industrial loans; and change on rules and regulations governing issuance of industrial revenue bonds. The board will also select the site of the next meeting.

Additional information may be obtained from Edwin Latta, 410 East 5th Street, Austin, Texas, telephone (512) 472-5059.

Filed: April 14, 1980, 9:31 a.m.
Doc. No. 802738

State Board of Insurance

Monday, April 14, 1980, 8:30 a.m. The Commissioner's Hearing Section of the State Board of Insurance held an emergency hearing in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the public hearing was conducted to consider a motion filed by Republic Financial Services, Inc., to deny amendment or, grant a postponement in Commissioner's Docket 5896 in reference to a disclaimer of control or affiliation filed by Reliance Insurance Company. An urgent public necessity existed for this hearing because Commissioner's Docket 5896 was set for hearing at 9 a.m., April 14, 1980.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: April 11, 1980, 4:11 p.m.
Doc. No. 802730

Texas Commission on Jail Standards

Wednesday, April 23, 1980, 8:30 a.m. The Texas Commission on Jail Standards will meet in Rooms 206-207 of the Texas Law Center, 1414 Colorado, Austin. The summarized agenda includes reading and approval of the minutes of the last regular meeting; the director's report; tabled variances—Hale, Limestone, Martin, and Duval Counties; new business; and applications for variances for Andrews, Burleson, Camp, Castro, Coleman, Collingsworth, Comal, Dallam, Dimmit, Fannin, Frio, Gaines, Garza, Guadalupe, Howard, Hutchinson, Irion, Kendall, Kimble, Kleberg, Parmer, Reeves, San Patricio, Sterling, Tarrant, Taylor, Uvalde, Victoria, and Webb Counties. The commission will also meet in executive session.

Additional information may be obtained from Robert O. Viterna, 1414 Colorado, Suite 500, Austin, Texas 78701, telephone (512) 475-2780.

Filed: April 10, 1980, 3:04 p.m.
Doc. No. 802685

Texas Board of Land Surveying

Friday, May 2, 1980, 7:30 a.m. The Texas Board of Land Surveying will meet in Salon F of the Marriott Hotel, 6121 North IH 35, Austin. According to the agenda, the board will review new applications; reconsider old applications; conduct interviews; consider adoption of proposed rules; and discuss complaints and correspondence of the board.

Additional information may be obtained from the Texas Board of Land Surveying, 5555 North Lamar, H-109, Austin, Texas, telephone (512) 452-9427.

Filed: April 11, 1980, 2:12 p.m.
Doc. No. 802720

Public Utility Commission of Texas

Friday, April 18, 1980, 9 a.m. The Hearings Division of the Public Utility Commission will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider an application by Central Texas Electric Cooperative, Inc., for an electric rate increase within Blanco, Gillespie, Kendall, Kerr, Kimble, Mason, McCullough, Menard, Real, and San Saba Counties—Docket 3170.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: April 10, 1980, 3:29 p.m.
Doc. No. 802686

Tuesday, April 22, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, for a prehearing in Docket 2944—inquiry by the Public Utility Commission of Texas into certain cost studies of Southwestern Bell Telephone Company.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: April 11, 1980, 2:13 p.m.
Doc. No. 802718

Thursday, April 24, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider an application of Pelican Bay Utility Company for a rate increase within Tarrant County—Docket 3143. This hearing was originally scheduled for April 23, 1980.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: April 11, 1980, 2:13 p.m.
Doc. No. 802719

Friday, May 16, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider an application of Lone Wolf Electric Cooperative, Inc., for an electric rate increase—Docket 3140.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: April 11, 1980, 9:51 a.m.
Doc. No. 802705

Monday, June 23, 1980, 1 p.m. The Hearings Division of the Public Utility Commission will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider an application of Eastwood Water Company for a rate increase within Hood County—Docket 3109.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: April 14, 1980, 9:31 p.m.
Doc. No. 802739

State Purchasing and General Services Commission

Friday, April 25, 1980, 10 a.m. The State Purchasing and General Services Commission will meet in Room 100B of the John H. Reagan Building, 15th Street and North Congress Avenue. According to the agenda summary, the commission will consider the following: appropriate action on renovation of the SAMSCO property, San Antonio; purchase of the Veterans of Foreign Wars property, Austin; purchase of the property located at 1807 North Congress Avenue, Austin; adoption of the operating budget for fiscal year 1981; evaluation surveys and liaison reports; and State Purchasing and General Services Commission monthly reports. A date and time for the next regular meeting will also be set.

Additional information may be obtained from Homer A. Foerster, 111 East 17th Street, LBJ Building, Room 914, Austin, Texas, telephone (512) 475-2211.

Filed: April 14, 1980, 9:01 a.m.
Doc. No. 802740



Railroad Commission of Texas

Monday, April 14, 1980, 9 a.m. The members of the Railroad Commission of Texas made an emergency addition to an agenda for a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The emergency addition concerned various matters within the commission's gas utilities, oil and gas, transportation, and surface mining regulatory jurisdiction. These matters were properly noticed for discussion by the commission in open meeting on April 7, 1980, were passed at such meeting, and are now being considered on less than seven days notice as a matter of urgent public necessity.

Additional information may be obtained from Carla S. Doyme, 1124 South IH 35, Austin, Texas, telephone (512) 445-1186.

Filed: April 11, 1980, 11:34 a.m.
Doc. No. 802713

Tuesday, April 22, 1980, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider Dockets: 2087, 2582, 2583, 2584, 2585, 2576, 2305, 2578, 2579, and the director's report.

Additional information may be obtained from Lucia Sturdevant, P.O. Box 12967, Austin, Texas, telephone (512) 445-1126.

Filed: April 11, 1980, 3:15 p.m.
Doc. No. 802729

Tuesday, April 22, 1980, 9 a.m. The Liquefied-Petroleum Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the division will consider the director's report.

Additional information may be obtained from Guy G. Mathews, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1189.

Filed: April 11, 1980, 11:32 a.m.
Doc. No. 802714

Tuesday, April 22, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Additional information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1307.

Filed: April 11, 1980, 11:34 a.m.
Doc. No. 802716

Tuesday, April 22, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider category determinations under Sections 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1273.

Filed: April 11, 1980, 11:33
Doc. No. 802715

Tuesday, April 22, 1980, 9 a.m. The Railroad Commission of Texas will meet in the third floor conference room, 1124 South IH 35, Austin. According to the agenda, the commission will go into executive session to discuss personnel actions for all divisions and to consult with its legal staff on prospective and pending litigation pursuant to Sections 2g and 2e of the Act.

Additional information may be obtained from Carla S. Doyne, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: April 11, 1980, 3:15 p.m.
Doc. No. 802728

Tuesday, April 22, 1980, 9 a.m. The Transportation Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: April 11, 1980, 11:35 a.m.
Doc. No. 802717

Texas Real Estate Commission

Monday, April 21, 1980, 9:30 a.m. The Texas Real Estate Commission will meet in the Victoria House, Four Seasons Hotel-Plaza Nacional, 555 South Alamo, San Antonio. The commission will discuss and consider the following: minutes of March 10, 1980, meeting; staff reports for February and March, 1980; matters of the Texas Real Estate Broker-Lawyer Joint Committee; report on "50-50" rule in other jurisdictions; review of Rule 402.03.15.005 (licensee advertising own property); rules; education and school matters; appointments to Texas Real Estate Broker-Lawyer Joint Committee; Texas-Louisiana licensure situation; long-term plans of agency; and fee structure-change of address. The commission will also meet in executive session to discuss pending litigation and personnel matters.

Additional information may be obtained from Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, telephone (512) 475-4250.

Filed: April 11, 1980, 11:04 a.m.
Doc. No. 802709

Sunset Advisory Commission

Thursday and Friday, April 17 and 18, 1980, 10 a.m. and 9 a.m., respectively. The Sunset Advisory Commission met in emergency session Thursday in Room 309 at the State Capitol, and will meet Friday in Room E of the John H. Reagan Building, Austin. According to the agenda summary, the commission considered tentative recommendations on those agencies classified in its work schedule as Group I agencies and heard staff reports on Group III agencies on Thursday. Public testimony will be taken Friday on Group II agencies. The emergency meeting held Thursday was due to review of staff reports with agency personnel.

Additional information may be obtained from Bill Wells, 203 John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6565.

Filed: April 10, 1980, 2:30 p.m.
Doc. No. 802684

Texas Water Commission

Monday, April 14, 1980, 10 a.m. The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned an application by Texas Parks and Wildlife Department for Water Quality Permit 12234-02 to authorize discharge of treated domestic sewage from Hale Ranch State Park Plant No. 2, Fort Bend County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: April 11, 1980, 3:32 p.m.
Doc. No. 802723

Tuesday, April 22, 1980, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider applications for district bond issues; conversion; water quality renewals; permits; amendments; voluntary cancellations of water quality permits; approval of plans for levee project; extension of time; filing and setting of hearing date and controversy between Lake Country Estates, Inc., and Tarrant County Municipal Utility District No. 1.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: April 11, 1980, 3:32 p.m.
Doc. No. 802724

Tuesday, April 29, 1980, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider Klein United Methodist Church for Water Quality Permit 12155, and an application by City of Reno for Water Quality Permit 12162-01.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: April 11, 1980, 3:32 p.m.
Doc. No. 802725

Tuesday, May 6, 1980, 10 a.m. The Texas Water Commission will conduct a public hearing in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, concerning a petition for creation of Forests Edge Municipal Utility District to contain 101.661 acres of land located wholly within Harris County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: April 10, 1980, 3:59 p.m.
Doc. No. 802688

Wednesday, May 21, 1980, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on Application 3333A of Walnut Creek Management Corporation, for an amendment to Permit 3058 to authorize two additional off-channel reservoirs and six reservoirs on unnamed tributaries of Hogpen Branch, Walnut Creek, Mountain Creek, West Fork Trinity River, Trinity River, Trinity River Basin, for recreational purposes in Tarrant County.

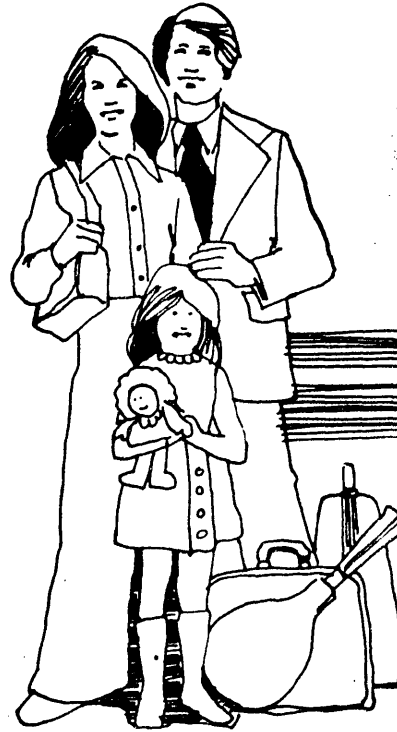
Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: April 11, 1980, 3:32 p.m.
Doc. No. 802726

Thursday, May 29, 1980, 10 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on RE-0124 of City of Greenville for approval of preliminary plans for the construction of certain improvements on Long Branch Creek, tributary of Cowleech Fork of the Sabine River in Hunt County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: April 11, 1980, 3:31 p.m.
Doc. No. 802727



Regional Agencies

Meetings Filed April 10, 1980

The Camino Real Health Systems Agency, Board of Directors, met at 410 South Main, second floor conference room, Heritage Plaza, San Antonio, on April 16, 1980, at 7 p.m. Further information may be obtained from Jose Antonio Contreras, 410 South Main, Suite 212, San Antonio, Texas 78204, telephone (512) 225-4426.

The Education Service Center, Region XX, Board of Directors, will meet at 1550 Northeast Loop 410, San Antonio, on April 22, 1980, at 3 p.m. Further information may be obtained from Dwain Estates, 1550 Northeast Loop 410, San Antonio, Texas 78209, telephone (512) 828-3551.

The Middle Rio Grande Development Council, Criminal Justice Advisory Committee, will meet at Zavala County Commissioners' Courtroom, Courthouse, Crystal City, on April 23, 1980, at 2 p.m. Further information may be obtained from Rodolfo Reyna, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 774-3697.

The West Central Texas Council of Governments, Physical Planning Advisory Committee (A-95), will meet at 1025 East North 10th Street, Abilene, on April 16, 1980, at 11 a.m. Further information may be obtained from Gary L. Smith, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 802687

Meetings Filed April 11, 1980

The City of El Paso, El Paso Urban Transportation Study, Policy Advisory Committee, met in the Conference Room, 10th floor, Municipal Building, No. 2 Civic Center Plaza, El Paso, on April 17, 1980, at 11 a.m. Further information may be obtained from Judith M. Price, No. 2 Civic Center Plaza, El Paso, Texas 79999, telephone (915) 543-6770.

The North Texas Municipal Water District, Board of Directors, will meet at NTMWD Central Plant, Wylie, on April 24, 1980, at 4 p.m. Further information may be obtained from Carl W. Riehn, P.O. Drawer "C," Wylie, Texas 75098, telephone (214) 442-2217, ext. 26.

Doc. No. 802712

Meetings Filed April 14, 1980

The Austin-Travis County MH/MR Center, Executive Committee of the Board of Trustees, met at 9101 Research Boulevard, Austin, on April 17, 1980, at noon. Further information may be obtained from Becky Howard, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The East Texas CETA Consortium, Board of Directors, met in emergency session in the Blue Room, Allied Citizens Bank Building, Kilgore, on April 16, 1980, at 2 p.m. Further information may be obtained from Wendell Holcombe, 5th Floor, Allied Citizens Bank Building, Kilgore, Texas 75662, telephone (214) 984-8641.

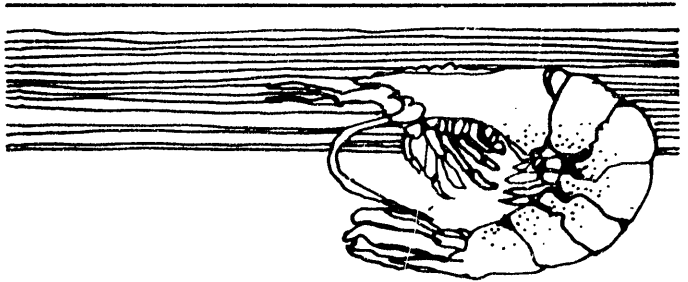
The Heart of Texas Council of Governments, Executive Committee, will meet at 320 Franklin Avenue, Waco, on April 24, 1980, at noon. Further information may be obtained from Marcia Ross, 320 Franklin Avenue, Waco, Texas 76701, telephone (817) 756-6631.

The San Jacinto River Authority, Board of Directors, will meet at 2201 Timberloch Place, The Woodlands, on April 22, 1980, at 2 p.m. Further information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77301, telephone (713) 588-1111.

The West Central Texas Council of Governments, Area Agency on Aging, will meet in rescheduled session at the Senior Center, 2603 Avenue M, Snyder, on April 18, 1980, at 11 a.m. Further information may be obtained from Dorothy Vanderslice, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

The West Texas Council of Governments, Board of Directors, will meet in Suite 700, Mills Building, 300 North Oregon, El Paso, on April 18, 1980, at 9 a.m. Further information may be obtained from Eleanor K. Bode, Mills Building, Suite 700, 303 North Oregon, El Paso, Texas 79901, telephone (915) 532-2910.

Doc. No. 802741



Texas Air Control Board

Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of March 31 through April 4, 1980.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 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 name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

Week Ending April 4, 1980

Santana Industries, Inc., Odessa; tritium products facility; 9916 County Highway 129; 8313; new source

Radcliff Materials, Inc., Houston; asphaltic concrete batch plant; 1686 Brittmoore; 2559A

Gulf Oil Exploration and Production Company, Monahans; crude oil storage—tank battery; Crawar Field Unit 14; 8312; new source

Town of Refugio; air curtain destructor; Town of Refugio landfill; 8311; new source

Methanol Holdings, Ltd., Kerens; methanol production; 1245B; modification

Toshiba International Corporation, Houston; paint spray booths; 8309; new source

COD Concrete, Inc., Woodlands; ready-mix concrete plant; 2300 Rayford Road; 8310; new source

Liquid Energy Corporation, Blessing; gas processing unit (cryogenic type); El Gordo—State Highway 35; 8308; new source

Nash Finch Company, Amarillo; incinerator; 4550 Canyon Drive; 8306; new source

Trimark Packaging, Inc., Ennis; aerosol manufacturing; 8307; new source

Champlin Petroleum Company, Corpus Christi; vacuum unit; 1801 Nueces Bay Boulevard; 8304; new source

McDonough Brothers, Inc., Hunter; limestone rock crushing plant; 8305; new source

Petroleum Carrier Company, Inc., Roanoke; oil heater; Route 1; 8303; new source

Asarco, Inc., El Paso; conversion of existing reverberatory furnace to coal firing; 2301 West Paisano; 8302; new source

Texas Lime Company, Cleburne; waste quicklime storage tank; SP Road 21; 8301; new source

Shintech, Inc., Freeport; bagging warehouse; 5618 East Highway 332; 8299; new source

Matador Pipelines, Inc., West Point; tankage facility; 8300; new source

Carrollton Community Hospital, Carrollton; pathological incinerator; 8297; new source

Oyster Shells, Inc., China Grove; processing oyster shell for chicken feed; 4754 Rakowitz; 8298; modification

AMF Tuboscope, Inc., Midland; coating facility; 7701 South Midkiff Road; 8296; new source

Wells Wright, Inc., Port Lavaca; concrete batch plant; 2257A; new source

J. F. Barton Contracting Company, Humble; aggregate plant; 4107 Jetero Boulevard; 8294; new source

MSC Supply Company, Inc., Houston; ready-mix batch plant; 1718 Ahrens; 5216A

Gulf Chemical and Metallurgical Company, Texas City; tin smelting facility; Highway FM 519; 8295; new source

Johnson Grease Company, Inc., Houston; grease processing; 2000 block of Cavalcade; 8314; new source

Issued in Austin, Texas, on April 7, 1980.

Doc. No. 802623 Ramon Dasch
Hearing Examiner
Texas Air Control Board

Filed: April 8, 1980, 3:52 p.m.

For further information, please call (512) 451-5711, ext. 401.

Notice of Contested Case Hearings

In the matter of Barrett Industries (Hearing No. 143).

Pursuant to the authority provided in Sections 3.15, 3.16, and 3.17 of the Texas Clean Air Act, Article 4477-5, Vernon's Annotated Texas Statutes, hereinafter referred to as the Act, and Rules 131.02.07.001 and 131.02.04.001 of the procedural rules of the Texas Air Control Board, an examiner for the Texas Air Control Board will conduct a hearing to consider an appeal of the executive director's decision to grant Construction Permit C-8059, which has been issued to Barrett Industries, hereinafter referred to as the company, for a light-weight aggregate plant to be constructed in San Antonio, Bexar County, Texas.

Said company is directed to appear at the time and place shown below and demonstrate by preponderance of evidence why the Texas Air Control Board should affirm the issuance of the construction permit by the executive director for the proposed facility as authorized by Section 3.27 of the Act and Regulation VI of the rules and regulations of the Texas Air Control Board.

The record of this hearing will be used by the Texas Air Control Board in determining whether to affirm, modify, or reverse the issuance of the construction permit by the executive director pursuant to Section 3.27 of the Act and Regulation VI of the Texas Air Control Board.

Information regarding the application for the permit and copies of the board's rules and regulations are available at the regional office of the agency located at 4538 Centerview Drive, Suite 130, San Antonio, Texas 78228, the Central Office of the agency located at 6330 Highway 290 East, Austin, Texas 78723, and the Office of the District Clerk, Tom Rickhoff, Bexar County Courthouse, third floor, San Antonio, Texas 78205.

The examiner has set the hearing to begin at 7 p.m. May 20, 1980, at the Central Jury Room, Bexar County Courthouse, second floor, San Antonio, Texas 78205 (entrance is by way of the sheriff's department).

Parties to the hearing will be the Texas Air Control Board staff, the company, and San Antonio communities organized for public service (COPS). Any other persons desiring to be made a party may apply to Ramon Dasch, hearing examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No person will be admitted as a party unless the request is received at the address shown above with a postmark date no later than April 21, 1980. At the hearing, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. If an interested person desires to give testimony at the hearing but does not desire to be a party, he or she may call the Legal Division of the Texas Air Control Board at (512) 451-5711, extension 358, to determine the names and addresses of all admitted parties. These parties may then be contacted about the possibility of presenting testimony.

Pursuant to Rule 131.02.05.006 of the procedural rules of the Texas Air Control Board, the examiner has scheduled a prehearing conference on May 5, 1980, at the Central Jury Room, Bexar County Courthouse, second floor, San Antonio, Texas 78205 (entrance is by way of the sheriff's department). All persons admitted as parties must attend the conference and are required to submit a list of disputed issues for consideration at the hearing. At this conference, a specific date prior to May 20, 1980, will be established for the exchange of witness lists and evidence pursuant to Rule 131.02.05.006(2).

Interested members of the general public who plan to attend the hearing are encouraged to telephone the regional office of the Texas Air Control Board in San Antonio, Texas, at (512) 734-7981, a day or two prior to the hearing date in order to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on April 4, 1980.

Doc. No. 802622 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Filed: April 8, 1980, 3:51 p.m.
For further information, please call (512) 451-5711, ext. 354.

In the matter of Gulf Refining Company (Hearing No. 144).

Pursuant to the authority provided in Sections 3.15, 3.16, 3.17, 3.21, 3.22, and 3.23 of the Texas Clean Air Act, Article 4477-5, Vernon's Annotated Texas Statutes, hereinafter referred to as the Act, and Rule 131.02.02.001(1) of the procedural rules of the Texas Air Control Board, an examiner for the Texas Air Control Board will conduct a hearing to consider a petition for variance from the Texas Clean Air Act and regulations of the board, submitted by Gulf Refining Company, 711 Lynchburg Road, Baytown, Texas, hereinafter referred to as the company, with regard to two 20,000 barrel capacity storage tanks (Nos. 550 and 551) at the Lynchburg Station.

Said company is directed to appear at the time and place shown below and demonstrate by preponderance of evidence whether compliance with Rule 131.07.63.102 of the Texas Air Control Board rules and regulations will result in an arbitrary and unreasonable taking of property, or in the practical closing and elimination of a lawful business without sufficient corresponding benefit or advantage to the people and to further demonstrate the progress the company has made in controlling or preventing air pollution.

The record of this hearing will be used by the Texas Air Control Board to determine whether to grant or deny the variance and, if granted, to determine under what conditions it is to be granted. Information regarding the application for the variance and copies of the board's rules and regulations are available at the regional office of the agency located at 5555 West Loop, Suite 300, Bellaire, Texas 77401; the Central Office of the agency located at 6330 Highway 290 East, Austin, Texas 78723; and the Office of the City Clerk, City Hall, 2401 Market Street, Baytown, Texas 77520.

The examiner has set the hearing to commence at 9 a.m. on Thursday, May 15, 1980, in the city council chambers, City Hall, 2401 Market Street, Baytown, Texas 77520.

Parties to the hearing will be the staff of the Texas Air Control Board, the company, and any other interested person who makes application in writing to the examiner. Such applications are to be addressed to Ramon Dasch, hearing examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No person will be admitted as a party unless the request is received at the address shown above with a postmark date no later than April 25, 1980. At the hearing, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. If an interested person desires to give testimony at the hearing but does not desire to be a party, he or she may call the Legal Division of the Texas Air Control Board at (512) 451-5711, extension 358, to determine the names and addresses of all admitted parties. These parties may then be contacted about the possibility of presenting testimony.

Pursuant to Rule 131.02.05.006 of the procedural rules of the Texas Air Control Board, the examiner has scheduled a prehearing conference on May 1, 1980, at 9 a.m., in the city council chambers, City Hall, 2401 Market Street, Baytown, Texas 77520. All persons admitted as parties must attend the conference and are required to submit a list of disputed issues for consideration at the hearing. At this conference, a specific date prior to May 15, 1980, will be established for the exchange of witness lists and evidence pursuant to Rule 131.02.05.006(2).

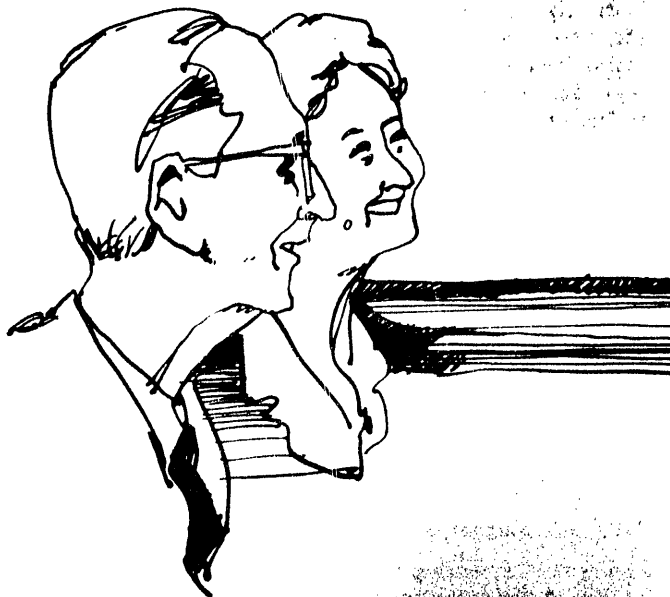
Interested members of the general public who plan to attend the hearing are encouraged to telephone the regional office of the Texas Air Control Board in Bellaire, Texas, at (713) 666-4964, a day or two prior to the hearing date in order to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on April 8, 1980.

Doc. No. 802682 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Filed: April 10, 1980, 1:44 p.m.

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



Comptroller of Public Accounts

Administrative Decisions

For copies of the following opinions selected and summarized by the administrative law judges, contact the administrative law judges, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Summary of Administrative Decision 10603

Summary of Decision: The amount charged by the seller of a custom-made film for the labor of producing a "master" from which copies are made and transferred to the customer may not be separately stated and excluded from the total amount charged for sales tax purposes, regardless of whether or not title to the "master" is retained by the seller (Articles 20.01(D)(1)(b) and 20.01(L)(1)(b)). Although a large portion of the total price paid for such film consists of charges for the performance of intangible services, the total price is subject to sales tax, since the tangible end product of such services is the true object of the sale, rather than the service per se. (Decision rendered February 26, 1980.)

Summary of Administrative Decision 10622

Summary of Decision: Comptroller's franchise tax Rule .015(1), which does not recognize surplus reserve accounts for contingent liabilities as a permissible deduction from surplus, is not inconsistent with any provision of the Franchise Tax Act. The rule adopts the TBCA definition of "surplus" (total assets—total debts—stated capital), and interprets "debts" as excluding any contingent liabilities or surplus reserves which reflect such liabilities. Generally accepted commercial accounting principles are not controlling for either IRS or franchise tax accounting purposes.

The two cases of Huey and Philip Hardware Company v. Shepperd, 251 SW2d 515 (Texas, 1952), and Calvert v. Houston Lighting and Power Company, 309 SW2d 502 (Texas Civil Appeals—Austin, 1963, writ ref'd nre), are not controlling on the issue, since neither case rejected the application of the TBCA's definition of "surplus" for franchise tax purposes; they merely held that the taxpayers in those cases were entitled to rely upon the comptroller's stated policy in effect at that time which recognized the contingent liabilities involved therein as a permissible deduction from a corporation's surplus. (Decision rendered February 20, 1980.)

Summary of Administrative Decision 10642

Summary of Decision: Petitioner was a post exchange concessionaire operating upon a U.S. military installation, and sought to avoid payment on a detrimental reliance-estoppel argument alleging that representatives of the Office of the Comptroller had informed him that he was not required to charge sales tax. Here, petitioner was unable to show detrimental reliance because he did not have the information in writing nor did he have an after-the-fact written statement (or the sworn testimony) of the employee with respect to the information given; in fact, in this case, petitioner did not even know the name of the employee supposedly giving the information. (Decision rendered March 19, 1980.)

Summary of Administrative Decision 10736

Summary of Decision: Paintings purchased for the purpose of resale are not disqualified from the exemption provided in Articles 20.01(S)(1) and 20.04(O)(1) of the Sales Tax Act, even though they were hung for display purposes on the walls of petitioner's offices and within the private residence of its president. The fact that the paintings were listed in a catalog for prospective purchasers and the fact that since the time of the audit 85% of the paintings in question had been sold establish petitioner's right to claim the resale exemption. Whatever decorative benefit petitioner or its president received was incidental to the primary display for resale use made of the paintings. (Decision rendered February 20, 1980.)

Summary of Administrative Decision 10756

Summary of Decision: Although the write-up of a manufacturing company's equipment would not comport with generally accepted commercial accounting principles, the resulting increase of the company's appraisal capital is included as part of its taxable capital for franchise tax purposes. The Franchise Tax Division is not bound by GACAF when recomputing a company's taxable capital, and may therefore include increases shown on its general ledger, regardless of whether or not such increases are in conformity with GACAF. (Decision rendered March 7, 1980.)

Summary of Administrative Decision 10784

Summary of Decision: In the absence of a franchise tax rule requiring revaluation, the receipt of a sister corporation's stock as the result of a nonreciprocal transfer by the parent may be valued, for franchise tax reporting purposes on the same cost basis used by the parent immediately prior to transfer. The fact that the transferee's general ledger reflected the stock on an equity basis is not controlling in view of Franchise Tax Rule .015(3)(d). (Decision rendered March 13, 1980.)

Issued in Austin, Texas, on April 9, 1980.

Doc. No. 802659- Fred Conder
802664 Chief Administrative Law Judge
Comptroller of Public Accounts

Filed: April 9, 1980, 2:39 p.m.

For further information, please call (512) 475-1938.

shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, 315.17.05.010-.030, 315.18.04.010-.030, and 315.18.05.010-.030

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Ada Wilson Hospital, Corpus Christi (4/10/80)

AH80-0407-051

EC—Redesignate eight pediatric medical surgical beds as pediatric ICF-MR-V beds for a total of 72 ICF-MR-V beds and eight remaining pediatric medical surgical beds

Angelo Community Hospital, San Angelo (4/10/80)

AH79-0407-053

EC—Acquire a Mark IV Injector System and a Bi-plane Franklin Film Changer System for the Department of Radiology

Richards Memorial Hospital, Paducah (4/10/80)

AH80-0408-020

EC—Replace existing x-ray equipment with new x-ray equipment with fluoroscopic capabilities and a film processor

Southwestern General Hospital, El Paso (4/10/80)

AH80-0407-049

EC—Renovate existing storage area into an additional operating room

Scott and White Memorial Hospital for Scott and

White Killeen Renal Dialysis Center,

Killeen (4/10/80)

AH79-0315-015A (04-09-80)

AMD/CN—Request to amend Certificate of Need AH79-0315-015, which authorized a free-standing chronic (ESRD) dialysis facility with three stations and one backup machine in Killeen in order to extend the completion deadline to December 31, 1980

Texas Health Facilities Commission

Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of April 9-10, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day

Care One, Inc., for Grand Saline Manor,
Grand Saline (4/10/80)
AN78-1113-001A (04-09-80)
AMD/CN—Request to amend Certificate of Need
AN78-1113-001, which authorized the construction
of a 76-bed ICF-III nursing facility in order to extend
the completion deadline to August 31, 1980

Longview Regional Hospital, Longview (4/10/80)
AH80-0409-033
EC—Addition of ultrasound equipment to the
Radiology Department

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

Doc. No. 802702 O. A. Cassity III
Director of Hearings
Texas Health Facilities Commission

Filed: April 11, 1980, 11:36 a.m.
For further information, please call (512) 475-6940.

Senate

Special Committee on Delivery of Human Services in Texas

Notice of Meeting

A meeting of the Special Committee on Delivery of Human
Services will be held on Thursday and Friday, April 24 and
25, 1980, in the State Capitol. Beginning at 9 a.m. on April
24, two subcommittees are scheduled to meet briefly to final-
ize recommendations as follows:

MH/MR—Lieutenant Governor's Committee Room
Planning and Coordination—Senate Reception
Room 214

At 9:30 a.m. on April 24, the full committee will convene in
the Lieutenant Governor's Committee Room to consider
those recommendations submitted by the two subcommittees
and any additional recommendations emerging from pre-
vious subcommittee reports.

On Friday, April 25, at 9 a.m., the full committee will recon-
vene to receive oral and/or written responses from represen-
tatives of state agencies regarding any recommendations
that will have been tentatively adopted by the committee as
of April 25, 1980.

Persons not specifically representing a state agency may sub-
mit responses in writing at the meeting or before 5 p.m. on
April 28. These persons are asked to use the written response
forms that will be available at the meeting or can be obtained
in advance of the meeting by contacting committee staff in
Room 712, Sam Houston Building. Copies of the pending
recommendations may also be obtained in advance at the
same location.

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

Doc. No. 802701 June Hyer
Executive Director
Special Committee on Delivery of
Human Services in Texas

Filed: April 11, 1980, 11:13 a.m.
For further information, please call (512) 475-1284.

TAC Titles Affected in This Issue

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

7 TAC §§91.81, 91.82 (058.01.11.001, .002)	1485
7 TAC §§93.41-93.64 (058.02.03.001-.024)	1485
7 TAC §§93.81-93.83 (058.02.04.001-.003)	1490
7 TAC §§93.91-93.97 (058.02.05.001-.007)	1491
7 TAC §§93.221-93.224 (058.02.06.001-.004)	1492
7 TAC §93.241 (058.02.07.001)	1492

TITLE 22. EXAMINING BOARDS

Part X. State Board of Morticians

Noncodified (387.02.00.015)	1483
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TITLE 28. INSURANCE

Part II. Industrial Accident Board

Noncodified (061.09.00.010)	1494
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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

31 TAC §317.1 (156.11.01.001)	1492
31 TAC §317.31 (156.11.10.001)	1493
31 TAC §§317.41, 317.42 (156.11.15.001, .002)	1493

TITLE 34. PUBLIC FINANCE

Part VII. State Property Tax Board

Noncodified (237.03.00.001, .002)	1495
Noncodified (237.04.00.001)	1495
34 TAC §159.1 (237.05.00.001)	1495
34 TAC §161.1 (237.08.00.001)	1496

Table of TAC Titles

TITLE 1. ADMINISTRATION
TITLE 4. AGRICULTURE
TITLE 7. BANKING AND SECURITIES
TITLE 10. COMMUNITY DEVELOPMENT
TITLE 13. CULTURAL RESOURCES
TITLE 16. ECONOMIC REGULATION
TITLE 19. EDUCATION
TITLE 22. EXAMINING BOARDS
TITLE 25. HEALTH SERVICES
TITLE 28. INSURANCE
TITLE 31. NATURAL RESOURCES AND CONSERVATION
TITLE 34. PUBLIC FINANCE
TITLE 37. PUBLIC SAFETY AND CORRECTIONS
TITLE 40. SOCIAL SERVICES AND ASSISTANCE
TITLE 43. TRANSPORTATION