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TEXAS REGISTER

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TEXAS DOCUMENTS

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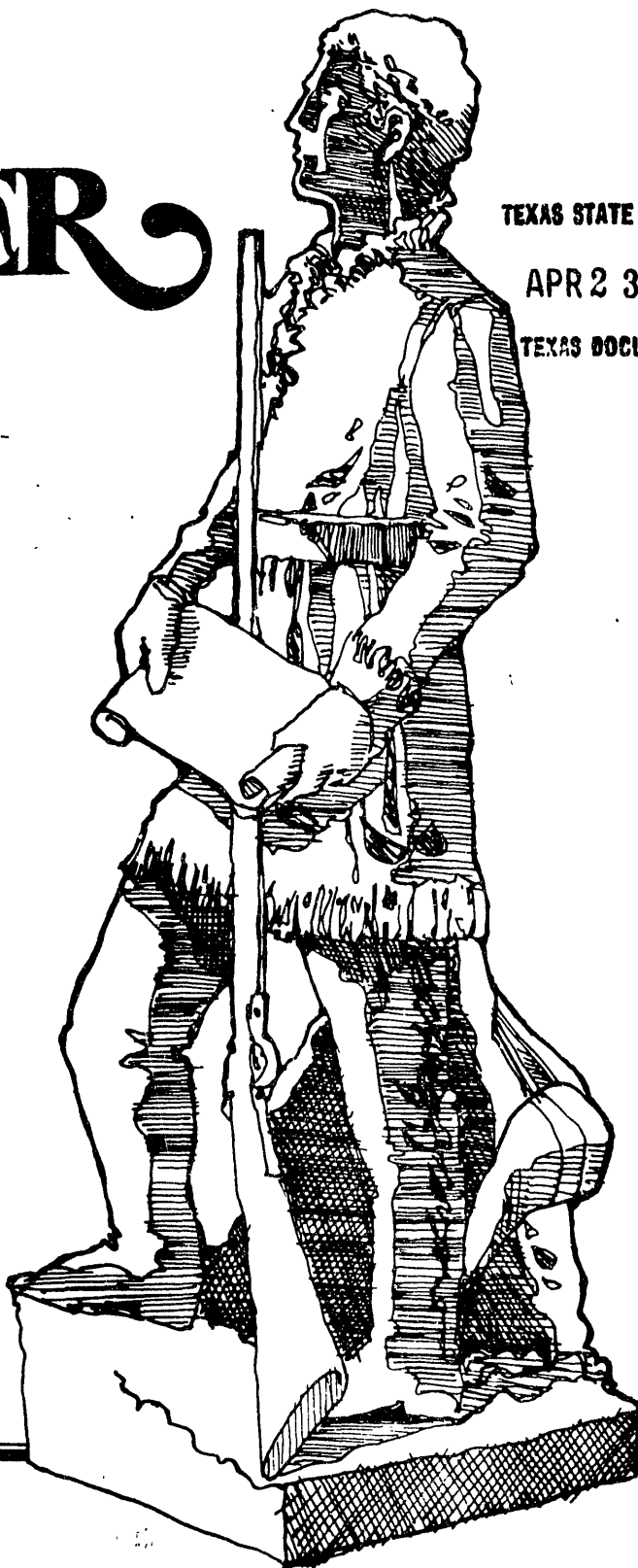
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Office of the Secretary of State

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

Titles 1, 4, 7, 10, 13, 16, 22, 25, 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. 4, Jan. 81

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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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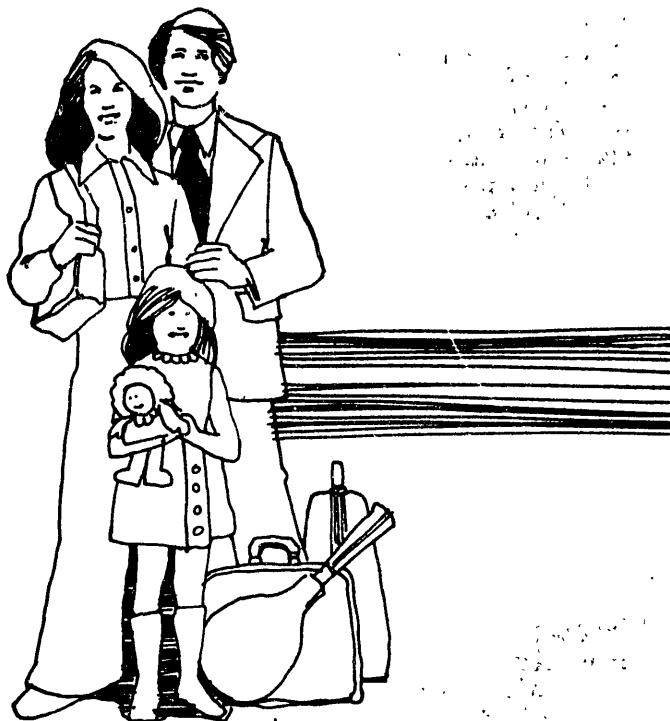
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Texas Civil Statutes, Article 6252-13a, §6, requires that executive orders issued by the Governor of Texas be published in the *Register*. Appointments made and proclamations issued by the governor are also published. Appointments are published in chronological order. The certification information, which includes a telephone number for additional information, follows each published submission.



Executive Orders

WPC-22

Establishing the Texas 2000 Commission

WHEREAS, the Texas 2000 Project and the Texas 2000 Project Steering Committee were established by Executive Order WPC-16 on April 4, 1980; and

WHEREAS, the Texas 2000 Project Steering Committee has determined that a commission is needed to address certain critical issues relating to the continued economic growth and development of the State of Texas, to examine various approaches for meeting these critical issues, and to propose to the Texas 2000 Project Steering Committee a long-range state development investment strategy; and

WHEREAS, Vernon's Annotated Civil Statutes, Article 4413(32a), designates the governor as the chief planning officer of the state.

NOW, THEREFORE, I, William P. Clements, Jr., Governor of Texas, under the authority vested in me, do hereby create and establish the Texas 2000 Commission.

The Texas 2000 Commission shall assist and augment the Texas 2000 Project.

The Texas 2000 Commission shall address the following critical issues related to the continued economic growth and development of the State of Texas:

- population
- economy
- water
- energy
- transportation
- agriculture
- state and local finance
- research and development
- future relations with Mexico

The Texas 2000 Commission shall examine various approaches for meeting these critical issues.

The Texas 2000 Commission shall propose a long-range state development investment strategy for presentation to the Texas 2000 Project Steering Committee.

The Texas 2000 Commission shall consist of not more than 30 members appointed by the governor, including two members of the Texas State Senate and two members of the Texas State House of Representatives. Members shall serve terms of one year and at the pleasure of the governor.

The governor shall designate one member of the Texas 2000 Commission to serve as chairman and one member to serve as vice chairman. Service by members of the Texas 2000 Commission shall be an additional duty of their office and the members of the Texas 2000 Commission shall serve without compensation but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

In addition to meetings of the Texas 2000 Commission, members shall perform any other duties related to the Texas 2000 Project as assigned by the governor. The Texas 2000 Commission shall hold public hearings across the state to present the Texas 2000 Commission's findings to the people of Texas and to receive comments from the public at large.

The Texas 2000 Project shall coordinate and direct the Texas 2000 Commission in activities and shall provide necessary staff support.

All state agencies, boards, and commissions are directed to assist fully the Texas 2000 Commission.

This executive order shall be effective immediately and shall remain in full force until modified, amended, or rescinded by me.

Issued in Austin, Texas, on April 10, 1981.

Doc. No. 812467 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.

Texas Civil Statutes, Article 4399, requires the Attorney General of Texas to give written opinions to certain public officials. The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §7, 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 opinion requests may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78711, telephone (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the File Room, Fourth Floor, P.O. Box 12548, Austin, Texas 78711, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

Requests for Opinions

Summary of Request for Opinion RQ-569

Request from Mike Driscoll, county attorney, Harris County.

Summary of Request:

(1) Under Article 6899j, is the county clerk required to notify the owner of cattle brands of the expiration date at the end of the 10-year period?

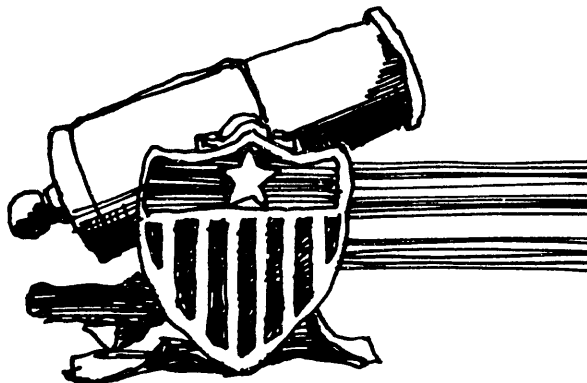
(2) Does §3 of this article require the county clerk to publish notice as required in §1(d), or did that provision only apply when the Act initially took effect?

(3) Does the county clerk have any responsibility to note in the cattle brand book that such brand has expired and/or has been renewed?

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812447 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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



Opinions

Summary of Opinion MW-315 (RQ-465)

Request from Mike Driscoll, county attorney, Harris County, concerning criminal district courts manager of Harris County.

Summary of Opinion: The Commissioners Court of Harris County is not authorized to create the position of or set the salary for a criminal district courts manager.

Issued in Austin, Texas on April 13, 1981.

Doc. No. 812468 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-316 (RQ-500)

Request from Lias B. "Bubba" Steen, commissioner, Texas Department of Labor and Standards, concerning computation of gross receipts tax imposed under Vernon's Texas Civil Statutes, Article 8501-1.

Summary of Opinion: The term "total gross receipts" denoting the subject matters of the 3.0% tax levied by Vernon's Texas Civil Statutes, Article 8501-1, §11(a), means the sum total of all admission charges to any taxable athletic performance without any deduction for tax.

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812469 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-317 (RQ-481)

Request from James B. Adams, director, Texas Department of Public Safety, concerning perjurious complaints against law enforcement officers.

Summary of Opinion: A person who makes a false statement under oath concerning a complaint filed against a law enforcement officer as required by Vernon's Texas Civil Statutes, Article 6252-20, with intent to deceive and with knowledge of the statement's meaning, is guilty of aggravated perjury under the Penal Code, §37.03, if he has knowledge of the content of the complaint, the purpose of its filing, and the official character of the investigation conducted in connection therewith, and if the statement is material.

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812470 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-318 (RQ-391)

Request from Chet Brooks, chairman, Committee on Human Resources, Texas Senate, Austin, concerning delegation of medical acts by means of standing orders.

Summary of Opinion: The Board of Medical Examiners has implied statutory authority to regulate the delegation of medical acts to nonphysicians. Board rules which use the terms "in keeping with sound medical practice" and "independent medical judgment" are not, therefore, void for vagueness. Under certain circumstances, the Board of Medical Examiners has authority to regulate the activities of an unlicensed person performing health services under the supervision of a physician. A physician supervising an unlicensed person providing medical care under Vernon's Texas Civil Statutes, Article 4528, will ordinarily be liable for the acts of that person. The use of presigned prescriptions is not prohibited by the pharmacy and drug laws of this state. Section 193.4 (386.17.00.004) promulgated by the Board of Medical Examiners does not attempt to authorize the practice of medicine by nonphysicians. Section 193.3 (386.17.00.003) of the board does not constitute a grant of authority to anyone or a limitation of anyone's authority to use standing obligation orders.

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812471 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-319 (RQ-456)

Request from Carl A. Parker, chairman, Committee on Financial Institutions, Texas Senate, Austin, concerning whether the Texas Constitution, Article XVI, §11, requires that legislation tying the interest rate to a moving index fix an absolute maximum rate.

Summary of Opinion: Texas Constitution, Article XVI, §11, requires that legislation fixing the interest rate state a numerical maximum interest rate.

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812472 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Summary of Opinion MW-320 (RQ-413)

Request from Garland W. Fulbright, executive director, Commission on Fire Protection Personnel Standards and Education, Austin, concerning authority of the Commission on Fire Protection Personnel Standards and Education to promulgate mandatory certification requirements for positions other than entry level fire protection personnel.

Summary of Opinion: The Commission on Fire Protection Personnel Standards and Education lacks authority to promulgate mandatory certification requirements for fire inspectors.

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812473 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

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

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, an agency must give at least 30 days notice of its intention to promulgate certain action on a rule. The purpose of proposing rule action is to give interested persons an opportunity to review the proposal and make oral or written comments. "Opportunity for public hearing must be granted if requested by at least 25 persons, by a governmental subdivision or agency, or by an association having at least 25 members." Proposed action is effective as notice on the date published in the *Register*. Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposed date of adoption is 30 days after publication. The notice must include a brief explanation of the proposed action; a fiscal impact statement; a request for comments on the proposed action from any interested person; the text of the proposed action, in compliance with the rules of the Texas Register Division; and a statement of the legal authority under which the proposed action is to be promulgated. The certification information, which includes the earliest possible date that the agency may file notice to adopt the proposal, follows each published submission of proposed action. A telephone number for further information is also published.

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

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

CODIFIED

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 11. Herbicide Regulations

The Texas Herbicide Law, Vernon's Annotated Civil Statutes, Article 135b-4, regulates sale, distribution, and use of hormone herbicides in certain counties. Section XVII gives county commissioner courts the authority to regulate or exempt their county relative to the law prompted by citizen requests. The commissioner of agriculture is authorized by the statute to promulgate rules and regulations for adequate enforcement.

The Texas Department of Agriculture proposes to amend §11.1 (176.26.00.001) and §11.2(j), (k), and (r) (176.26.00.002(j), (k), and (r)) to reflect orders of the commissioner courts of Runnels, Colorado, Lamar, Cottle, and Frio Counties, together with special provisions requested by the respective commissioner courts and approved by the commissioner of the Texas Department of Agriculture. The proposal to amend §11.1 (176.26.00.001) will add Cottle and Frio Counties to the regulations of the Texas Herbicide Law, per order of the respective county commissioner courts. The proposal to amend §11.2(j) (176.26.00.002(j)) will add Cottle County's special provisions. The proposal to §11.2(k) (176.26.00.002(k)) will change provisions pertaining to Lamar County. The proposal to amend §11.2(r) (176.26.00.002(r)) will change Runnels County's application dates and chemical provisions. The proposal to add subsections (t), (u), and (v) to §11.2 (176.26.00.002) will add special provisions pertaining to Colorado, Frio, and Lamar Counties. These changes will impose restrictions on use of herbicides in the affected counties to provide for safer use and protect non-target crops.

The Texas Department of Agriculture has determined that the proposed amendments to §11.1 and §11.2 (176.26.00.001 and .002) will cause no fiscal implications for the state or units of local government. This information has been determined by the staff of the Environmental Services Division familiar with herbicide regulations.

Public comment is invited and may be submitted by telephoning David Ivie, (512) 475-6133, or by writing the Agricultural and Environmental Sciences Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

These amendments are proposed under the authority of Texas Civil Statutes, Article 135b-4, under the direction of local commissioner courts of each affected county.

§11.1 (176.26.00.001). Counties Regulated. The following are regulated counties: Aransas, Austin, Bell, Bexar, Borden, Brazoria, Brazos, Burleson, Calhoun, Cochran, Collin, Collingsworth, Colorado, **Cottle**, Culberson, Dallas, Dawson, Delta, Denton, Dickens, Donley, El Paso, Falls, Fannin, Fort Bend, **Frio**, Gaines, Galveston, Hall, Hardin, Harris, Hidalgo, Houston, Hudspeth, Hunt, Jackson, Jefferson, Karnes, Kaufman, King, Knox, Lamar, Lamb, Liberty, Loving, Lynn, McLennan, Martin, Matagorda, Midland, Milam, Newton, Orange, Parmer, Rains, Reeves, Refugio, Robertson, Rockwall, Runnels, San Patricio, Travis, Tyler, Van Zandt, Waller, Ward, Washington, Wharton, Williamson, Wilson, and Wood.

§11.2 (176.26.00.002). County Special Provisions.

(a)-(i) (No change.)

(j) **King and Cottle.** The application of hormone-type herbicides is expressly prohibited between June 10 and October 15 of each year.

(k) **Delta [and Lamar].** The aerial application of hormone herbicides is prohibited between the period April 15 and September 1 of each year.

(l)-(q) (No change.)

(r) **Runnels.** That portion of Runnels County beginning on the west county line at the point of intersection with the Colorado River, east-southeasterly along the Colorado River to its intersection with U.S. Highway 83, thence north along U.S. Highway 83 to its intersection with FM 382, thence northeasterly along FM 382 to its intersection with FM 2647,

thence northerly along FM 2647 with its intersection with FM 1770, thence westerly along FM 1770 to the intersection with U.S. Highway 83, thence northerly along U.S. Highway 83 to its intersection with the north county line, thence westerly along the north Runnels County line to the northwest corner of the county, thence southerly along the west county line to the Colorado River, the point of beginning, is regulated by the Texas Herbicide Law. *In regulated areas, no permit is required from October 1 to May 24 of the year following. Use of high volatile and low volatile ester formulations of regulated herbicides is prohibited between the date of May 24 and October 1 of each year. And further, amine and other nonvolatile formulation may be used in the regulated area between the dates of May 24 and October 1 each year provided that the user obtain a permit as prescribed by the law prior to such use.* [Persons within the above described regulated area may use regulated herbicides without permit fees between the dates of November 1 and May 15, each year. And further, all spraying of regulated "hormone-type" herbicides is prohibited between the dates of May 15 and November 1 each year in the regulated portion of the county.]

(s) (No change.)

(t) *Colorado. That portion of Colorado County lying north of interstate Highway 10 is exempt from the Texas Herbicide Law. Further, in that portion of the regulated area south of Highway 90A, all use of 2,4-D formulations is prohibited from March 15 through July 31 each year.*

(u) *Frio. Only amine-type herbicides can be used and approval from the commissioner or his representative must be obtained before application by aerial or ground equipment. Only boom-type ground equipment can be used, nozzle height not to exceed 24 inches, maximum pressure not to exceed 20 pounds per square inch. Bond or insurance will be required on all spraying over 10 acres. Only amine-type herbicides will be used and will meet the following requirements for ground equipment permits:*

Wind Velocity	Downwind	Upwind
0-5 mph	within 16 rows	8 rows
6-10 mph	1/8 mile	8 rows

Permits for aerial application will be issued on the basis of requirements outlined in §11.6 (176.26.00.006) of this title (relating to General Requirements of these Regulations).

(v) *Lamar. All of Lamar County is exempt from regulation by the Texas Herbicide Law except that portion beginning at the Red River County line on State Highway 271N, which point is the east boundary line of Lamar County; thence on a northwesterly direction along 271N to the Town of Pattonville; thence in a westerly direction from Pattonville along a road known as Jefferson Road for a distance of two miles; thence south on unnamed oil top county road, .9 mile to community of Shady Grove; thence in a westerly direction on unnamed oil top county road for one mile to the intersection of FM 905; thence south one mile on FM 905 to first unnamed oil top county road in community of Plainview; thence in a westerly direction on county road four miles to the Town of Biardstown to intersection of FM 1497; thence northwesterly on FM 1497, .3 mile to Hickory Creek; thence southeasterly on Hickory Creek to North Sulphur River, which is the south boundary line of Lamar County; thence easterly*

along the south county line to the southeast corner of the county; thence northerly along the east county line to its intersection with Highway 271N, the point of beginning. Further, aerial application of hormone-type herbicides is prohibited in the regulated portion of Lamar County between April 15 and September 1 each year.

Issued in Austin, Texas, on April 14, 1981.

Doc. No. 812459

Reagan V. Brown
Commissioner
Texas Department of Agriculture

Proposed Date of Adoption: May 22, 1981

For further information, please call (512) 475-6467.

Part III. Texas Feed and Fertilizer Control Service

Chapter 61. Feed

The Texas Feed and Fertilizer Control Service proposes amendments to Chapter 61 (178.01) concerning feed. The Texas Commercial Feed Control Act of 1957, §11(b), authorizes the director to prescribe, adopt, and publish regulations establishing definitions and minimum standards for commercial feed which, to the extent practicable in the discretion of the director, shall be in harmony with the official pronouncements of the Association of American Feed Control Officials.

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

Public comment is invited and may be submitted in writing to I. J. Shenkir, head, Texas Feed and Fertilizer Control Service, Texas A&M University, P.O. Box 3160, College Station, Texas 77841, or by telephoning the office at (713) 845-1121.

Labeling

The Texas Feed and Fertilizer Control Service proposes to amend §61.13 (178.01.02.003). The proposal amends the section by changing the last sentence in subsection (e) to conform with the 1978 change in the corresponding regulation of the Association of American Feed Control Officials' Official Rules and Regulations promulgated under the Uniform State Feed Bill. The proposed amendment will allow more flexible interpretation by the feed control official of the use of percentage values in the name of commercial feed products.

This amendment is proposed under the Texas Commercial Feed Control Act of 1957, Texas Civil Statutes, Article 3881e.

§61.13 (178.01.02.003). *Brand and Product Names.*

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

(e) When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein," provided that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. **Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.** [When a figure is used in the brand name (except in mineral, vitamin, or other products where the protein guarantee is nil or unim-

portant), it shall be preceded by the word "number" or some other suitable designation.]

(f)-(i) (No change.)

Issued in College Station, Texas, on April 14, 1981.

Doc. No. 812463 I. J. Shenkir
Head
Texas Feed and Fertilizer Control
Service

Proposed Date of Adoption: May 22, 1981

For further information, please call (713) 845-3511.

Adulterants

The Texas Feed and Fertilizer Control Service proposes to amend §61.31 (178.01.03.001). The proposal amends the section by changing subsection (a)(1) and (2) to conform with the 1979 change in the corresponding regulation of the Association of American Feed Control Officials' Official Rules and Regulations promulgated under the Uniform State Feed Bill. The proposed amendment will reflect corrected levels of fluorine in any mineral or mineral mixture as well as in the total ration.

These amendments are proposed under the Texas Commercial Feed Control Act of 1957, Texas Civil Statutes, Article 3881e.

§61.31 (178.01.03.001) *Poisonous or Deleterious Substances.*

(a) For the purpose of §8(g) of the Act, the terms "poisonous or deleterious substances" include but are not limited to the following:

(1) fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds **0.20% for breeding and dairy cattle**; 0.30% for **slaughter** cattle; 0.30% [0.35%] for sheep; **0.35% for lambs**; 0.45% for swine; and 0.60% for poultry;

(2) fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (*exclusive of roughage*) above the following amounts: **0.004% for breeding and dairy cattle**; 0.009% for **slaughter** cattle; **0.006% [0.01%] for sheep**; **0.01% for lambs**; **0.015% [0.014%] for swine**; and **0.03% [0.035%] for poultry**;

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

(b) (No change.)

Issued in College Station, Texas, on April 14, 1981.

Doc. No. 812464 I. J. Shenkir
Head
Texas Feed and Fertilizer Control
Service

Proposed Date of Adoption: May 22, 1981

For further information, please call (713) 845-3511.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation

The Railroad Commission of Texas proposes to amend §3.37 (051.02.02.037) insofar as it pertains to exceptions. The pro-

posed amendments will expedite processing of unprotested exception applications by providing for administrative approval under certain conditions. In addition, some changes in wording have been proposed to clarify and abbreviate the section.

It is the opinion of the division's staff that the proposed amendments will have no fiscal implication for any unit of state or local government.

Oral and written public comments are invited and will be accepted for 30 days following publication of the proposed amendments in the *Texas Register*. Comments should be submitted to Sandra K. Joseph, attorney, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

These amendments are proposed under the authority of Texas Natural Resources Code, Title III, Oil and Gas.

§3.37 (051.02.02.037). *Statewide Spacing Rule.*

(a) Distance requirements.

(1) (No change.)

(2) When exception to such rule is desired, application [therefor] shall be made by filing the appropriate **completed** form in triplicate, completely filled out, in the district office, [and application shall be] accompanied by a plat or sketch drawn to the scale of one inch equaling 1,000 feet, accurately showing to scale the property on which **the exception** [permit] is sought; [to drill a well under an exception to this section and accurately showing to scale] all other completed, drilling, or permitted wells on said property; and [accurately showing to scale] all adjoining surrounding properties and wells. Such application shall be certified by some person acquainted with the facts, stating that all facts therein are true and within the knowledge of such person and that the accompanying plat is accurately drawn to scale and correctly reflects all pertinent and required data. Such exception shall be granted **pursuant to paragraph (H)(2), or, if timely protest is received, after the commission has given notice of hearing to the operator of every contiguous tract and to unleased mineral interest owners of land within the subject tract or contiguous tracts** [only after at least 10 days' notice to all adjacent lessees affected thereby has been given] and after **opportunity** for public hearing at which all interested parties may appear and be heard. [and] After **hearing** the commission **shall determine whether** [has determined that] an exception to such section is necessary either to prevent waste or to protect property belonging to the applicant from confiscation.

(b)-(g) (No change.)

(h) Exceptions to Rule 37.

(1) Orders granting exceptions to Rule 37 wherein **protest** [contest] is had shall carry as its last paragraph the following language:

It is further ordered by the commission that this order shall not be final and become effective until fifteen (15) days after it is actually signed by the commission; provided that if a motion for rehearing of the application be filed by any party at interest within such fifteen (15) day period, this order shall not become effective until such motion is overruled, or if such motion be granted, this order shall be subject to further action by the commission. (Reference Order No 20-54,459, effective November 1, 1964 and July 6, 1965) **Permits issued pursuant to paragraph (H)(2) shall be issued without the 15-day waiting period.**

(2) *The general counsel of the Oil and Gas Division or a delegate of the general counsel may issue an exception permit for drilling, deepening, or additional completion, recompletion, or re-entry in an existing well bore if (in a different reservoir may be issued administratively by the Rule 37 department where the following conditions are shown to exist):*

(A) *The commission has given notice of the application to the operator of every contiguous tract and to unleased mineral interest owners of land within the subject tract or contiguous tracts, and the commission has received no protest to the application within a time period specified by the general counsel, but such time period in any event not to be less than 10 days; or* [An exception permit may be issued administratively, after a 10-day notice is issued, and no protest is made to the application for additional completion, recompletion, or re-entry in an existing well bore.]

(B) *Written waivers of protest are received by the commission from the operator of every contiguous tract and unleased mineral interest owners of land within the subject tract or contiguous tracts.* [An exception permit may be issued administratively immediately upon receipt of an application for drilling, deepening, or additional completion, recompletions, or re-entry in an existing well bore where waivers of objection are received from all offsetting operators to whom notice would be given.

(C) Permits issued under the no protest or waiver provisions mentioned in this section may be issued without the 15-day waiting clause.]

(3)(D) Applications filed for drilling, deepening, or additional completion, recompletion, or re-entry will be processed and permit issued in accordance with this regulation, subject to the commission's discretion to set any application for hearing. *If the general counsel or a delegate of the general counsel declines to grant an application, the operator may request a hearing.* [The 15-day clause will be included in all permits where new hole is to be made, either from surface or from a previous total depth, unless the application is unopposed and waivers are had from all offset operators.]

(i) Rule 37 permits.

(1) All Rule 37 permits issued by the commission, regardless of the date of issuance, that are not subject to the limitations imposed by other provisions of this section, shall expire six months from the effective date thereof unless either drilling operations are commenced in good faith *within the six-month period*, or an application for a six-month extension of said permit *is submitted within the six-month period and* is approved by the commission. [provided, that] Each [such] application for an extension may be granted subject to renewal and [provided, further, that each such application for a six-month extension] shall be accompanied by a statement of the applicant setting out the reasons such extension is necessary. *An expired permit shall not be renewed unless* [Should a permit be allowed to expire, no renewal thereof shall be had unless there is filed] a new application, *and it is processed as an original application* [notices issued, hearing had, and proof made as in an original Rule 37 case].

(2) (No change.)

(j) (No change.)

(k) Exceptions to Statewide Rule 37 apply to the total depth for which the permit is granted or if special field rules are applicable, an exception to the spacing rule shall be granted only for the reservoir or reservoirs or applicable depth to which the well is projected. Subsequent recompletion of the well to reservoirs other than that covered by the permit issued would be granted only after *the filing and processing of a new application* [another Rule 37 hearing].

(l)-(m) (No change.)

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812448 John Camp, General Counsel
Oil and Gas Division
Railroad Commission of Texas

Proposed Date of Adoption: May 22, 1981
For further information, please call (512) 445-1186.

TITLE 34. PUBLIC FINANCE

Part Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. Sales Tax Division—State Taxes

The comptroller proposes to amend §3.341 (026.02.20.061). The section is being amended to more clearly indicate when sales tax is due on any fee charged by a governmental entity to provide a copy of a document held by the governmental entity.

There is no fiscal impact (source: revenue estimating staff, Comptroller of Public Accounts).

Public comment is invited. Persons should submit their comments in writing to Jim Phillips, P.O. Box 13528, Austin, Texas 78711.

These amendments are proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A).

§3.341 (026.02.20.061). *Sales of Governmental Publications, Records, or Documents (Texas Taxation—General Annotated, Article 20.01(A) and (J)(1)(a) and (d); Texas Revised Civil Statutes Annotated, Articles 1066c, 6252-17a, §§1-15, and 6252-13a, §§1-23).*

(a) *When a governmental body is required under the Open Records Act to furnish a copy of any document held by it, the transaction is not considered the sale of a taxable item. Sales tax is not due on any fee charged by the governmental body for furnishing one copy. It makes no difference whether the copy is certified or the fee established by statute, ordinance, public official, or the State Purchasing and General Services Commission.* [A governmental body, as defined in the Open Records Act, Article 6252-17a, §2, is not considered a retailer engaged in the business of making sales of tangible personal property or of selling taxable services for the purposes of Chapter 20 and Article 1066c when such governmental body is required to furnish, pursuant to the Act, a copy of any document held by it. Such a transfer of tangible personal property is a governmental act and the tax does not apply whether the copy is certified or not and whether the fee is fixed by statute, ordinance, public official, or the State Board of Control.]

(b) *When a person requests more than one copy of a public document required to be furnished, sales tax is due on the fee charged by the governmental body to furnish the additional copy or copies.* [The preparation of additional copies of the same document, even though one copy of the document is required to be furnished, are taxable when furnished to the same person seeking the information in the same request.]

(c) *Sales tax is not due on the fee charged by a governmental body for furnishing a copy or copies of a document not open to public inspection to a person who is authorized to obtain a copy or copies of such document.* For example, sales tax is not due on the fee charged by a college for furnishing a student's academic transcript to the student or by the Department of Health for furnishing a person a copy of the person's birth certificate. [If the furnishing of a document is permissive or discretionary, a taxable sale results.]

(d) *Unless such sales are otherwise exempt, sales tax is due on sales of regular publications, [by a governmental*

body of] records, or general information *by a governmental body* [are taxable items] even though such *publications, records, or information* may be open or available to the public by statute. *For example, textbooks sold by a state university are taxable. The Texas tax guide sold by the comptroller's office is taxable. Yearly magazine subscriptions sold by a state agency are exempt. See §3.299 (026.02.20.019) of this title (relating to Newspapers, Magazines, Publishers, Sacred Writings, Broadcasters).*

(e) *Sales tax collected by state agencies is to be remitted in accordance with funds management accounting Policy Statement 012 on comptroller's Form 3A06-3.01.*

Issued in Austin, Texas, on April 15, 1981.

Doc. No. 812465

Bob Bullock
Comptroller of Public Accounts

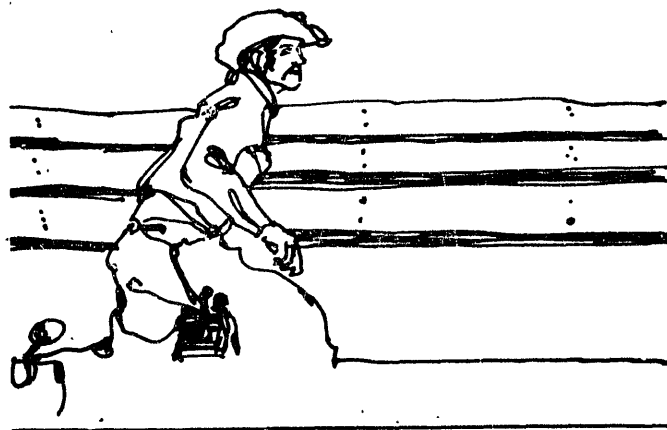
Proposed Date of Adoption: May 22, 1981

For further information, please call (512) 475-3825.

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, an agency may take final action on a rule 30 days after publication of the proposed action in the *Register*. Upon adoption of the action, "the agency, 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 its adoption, incorporating in the statement its reasons for overruling the considerations urged against its adoption." The action is effective 20 days after filing of the notice of final action with the Texas Register Division unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice. The notice includes whether the action is promulgated with or without changes to the action proposed; a statement of the legal authority under which the final action is promulgated; and the text of the final action, in compliance with the rules of the Texas Register Division. If an agency takes final action on a rule with no changes made to the text as proposed, only the preamble of the notice and statement of legal authority will be published. The text, as appropriate, will be published only if final action is taken with changes made to the proposed action. The certification information, which includes the effective date of the final action, follows each published submission of final action. A telephone number for further information is also published.

An agency may withdraw proposed action or the remaining effectiveness of emergency action by filing a notice of withdrawal with the Texas Register Division. The notice will appear in this section of the *Register* and is generally effective immediately upon filing with the Texas Register Division.

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 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 19. Seed Division

Texas Seed Law

The Texas Department of Agriculture adopts an amendment to paragraph (2) of §19.3 (176.80.10.003) without changes to the proposed text published in the March 13, 1981, issue of the *Texas Register* (6 TexReg 904). Section 19.3 (176.80.10.003) of the rules and regulations of the Texas Seed Law facilitates a more workable procedure for the efficient enforcement of the Seed Law. Since there were no objections concerning the proposed change, the amendment was adopted as originally submitted.

Section 19.3 (176.80.10.003) is adopted under the authority of Texas Civil Statutes, Article 93b.

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812442 Reagan V. Brown
Commissioner
Texas Department of Agriculture

Effective Date: May 4, 1981

Proposal Publication Date: March 13, 1981

For further information, please call (512) 475-2038.

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 11. Miscellaneous

Real Estate Loans

The Banking Section of the Finance Commission of Texas adopts an amendment to §11.1 (054.01.02.001) without changes to the proposed text published in the January 20, 1981, issue of the *Texas Register* (6 TexReg 233).

This amendment is adopted under the authority of Texas Civil Statutes, Article 342-504.

Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812445 Robert E. Stewart
Banking Commissioner
Banking Department of Texas

Effective Date: May 5, 1981

Proposal Publication Date: January 20, 1981

For further information, please call (512) 475-4451.

The Banking Section of the Finance Commission of Texas adopts amendments to §11.2(a)(3) (054.01.02.002(a)(3)) without changes to the proposed text published in the January 20, 1981, issue of the *Texas Register* (6 TexReg 233).

These amendments are adopted under the authority of Texas Civil Statutes, Article 342-504.

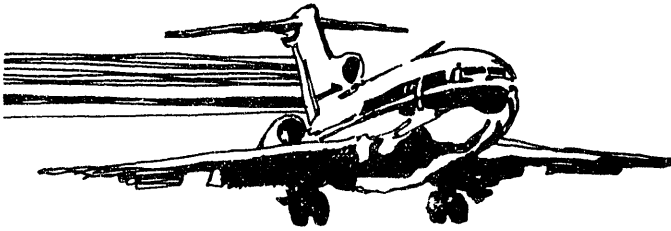
Issued in Austin, Texas, on April 13, 1981.

Doc. No. 812446 Robert E. Stewart
Banking Commissioner
Banking Department of Texas

Effective Date: May 5, 1981

Proposal Publication Date: January 20, 1981

For further information, please call (512) 475-4451.



TITLE 22. EXAMINING BOARDS

Part XV. State Board of Pharmacy

Chapter 283. Licensing Requirements for Pharmacists

The State Board of Pharmacy adopts the repeal of §283.10 (393.15.00.010) of this title (relating to the Expiration Date of Existing Rules). Notice of the proposed repeal was published in the March 27, 1981, issue of the *Texas Register* (6 TexReg 1074). The repeal was proposed because it is no longer of any further force and effect for applicants.

This repeal is adopted pursuant to the authority of Texas Civil Statutes, Article 4542a.

Issued in Austin, Texas, on April 15, 1981.

Doc. No. 812466 Fred S. Brinkley, Jr., R.Ph.
Executive Director/Secretary
State Board of Pharmacy

Effective Date: May 6, 1981

Proposal Publication Date: March 27, 1981

For further information, please call (512) 478-9827.

The Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17, requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. An institution of higher education must have notice posted for at least 72 hours before the scheduled meeting time. Although some notices may be received and filed too late for publication before the meeting is held, all filed notices will be published in the *Register*. Each notice published includes the date, time, and location of the meeting; an agenda or a summary of the agenda as furnished for publication by the agency; where additional information may be obtained; and the date and time of filing.

A political subdivision covering all or part of four or more counties must have notice posted for at least 72 hours before the scheduled meeting time. Each notice published includes the date, time, and location of the meeting and where further information may be obtained. These notices are published under the heading "Regional Agencies," alphabetically by date filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency addition or amendment to an agenda, and the reason for such emergency, posted for at least two hours before the meeting is convened. Emergency notices filed by these entities will be published in the *Register*; however, notices of an emergency addition or amendment to an agenda filed by a regional agency will not be published in the *Register* since the original agendas for these agencies are not published.

All notices are posted on the bulletin board outside the Office 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 Alcoholic Beverage Commission

Monday, April 27, 1981, 10:30 a.m. The Texas Alcoholic Beverage Commission will meet in Suite 210 of the Jefferson Building, 1600 West 38th Street, Austin. The commission will approve the minutes of the March 1981 meeting; hear the administrator's report of agency activity; and approve an affidavit of destruction of tested alcoholic beverages.

Information may be obtained from W. S. McBeath, P.O. Box 13217, Austin, Texas 78711, (512) 458-2500.

Filed: April 14, 1981, 2:03 p.m.
Doc. No. 812453

Texas Commission on the Arts

Thursday, April 23, 1981, 9 a.m. the Texas Commission on the Arts will meet on the fifth floor of the E. O. Thompson Building, 10th and Colorado, Austin. According to the agenda summary, the commission will consider the following: the minutes; the chairman's report; public discussion; regional affiliation; education task force; executive director's report; committee reports; and the governor's handbook for commissioners.

Information may be obtained from Margaret L. Dahl, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

Filed: April 15, 1981, 8:19 a.m.
Doc. No. 812460

State Board of Barber Examiners

Tuesday, May 5, 1981, 8 a.m. The State Board of Barber Examiners will meet at 5555 North Lamar, H-111, Austin. According to the agenda, the board will approve minutes of the previous meeting; sign teachers' licenses and school permits; interview out-of-state applicants; consider examination schedule for July, August, September, and October 1981; hear reports by executive secretary and letters addressed to the board; and meet in executive session.

Information may be obtained from Mary Jo McCrorey, 5555 North Lamar, H-111, Austin, Texas 78751, (512) 458-2241.

Filed: April 16, 1981, 9:20 a.m.
Doc. No. 812492

Texas Energy and Natural Resources Advisory Council

Thursday, April 30, 1981, 2 p.m. The Advisory Committee on Energy Efficiency of the Texas Energy and Natural Resources Advisory Council will meet in the first floor auditorium, 200 East 18th Street, Austin. According to the agenda, the committee will discuss the preliminary subcommittee recommendations on industrial, transportation, residential, and commercial/institutional matters.

Information may be obtained from Deborah Wastson, Stephen F. Austin Building, Room 629, Austin, Texas 78701, (512) 475-1183.

Filed: April 16, 1981, 8:42 a.m.
Doc. No. 812491

Good Neighbor Commission

Thursday, April 23, 1981, 9 a.m.-noon. The Good Neighbor Commission (GNC) will meet at the Cactus Motel, San Luis Potosi, SLP, Mexico. According to the agenda summary, the commission will consider the following items: approval of minutes of first quarterly meeting; administrative reports; fiscal, executive director, and commissioners' and staff ac-

tivities; sponsorship of Texas-Jalisco conference; Latin American Studies Association proposal; revised plan of operation for 1982-83; participation in border governor's conference; and GNC goals and objectives.

Information may be obtained from Dr. Andres Tijerina, Room 507 of the Sam Houston Building, Austin, Texas, (512) 475-3581.

Filed: April 14, 1981, 3:48 p.m.
Doc. No. 812455

Texas Department of Health

Thursday, April 30, 1981, 9:30 a.m. The Texas Health Data Cooperative of the Texas Department of Health will meet in Room 3-122 of the Joe C. Thompson Conference Center, 26th and Red River, Austin. The cooperative will approve minutes of the previous meeting; review the Hospital Plant Survey Form; hear report of the chair; and select the next meeting date.

Information may be obtained from Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: April 15, 1981, 1:55 p.m.
Doc. No. 812479

Texas Health Facilities Commission

Thursday, April 23, 1981, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the adoption of an amendment to Appropriateness Review §521.18 (315.30.02.080) relating to alcoholism.

Information may be obtained from Linda E. Zatopek, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: April 15, 1981, 9:52 a.m.
Doc. No. 812462

State Department of Highways and Public Transportation

Thursday and Friday, April 23 and 24, 1981, 9 a.m. daily. The commission members of the State Department of Highways and Public Transportation will meet in the State Highway Building, 11th and Brazos Streets, Austin. According to the summarized agenda, the commission will consider presentations in the large hearing room (first floor), by the public for various highway, bridge, and FM road requests—Nacogdoches, Dallas, Angelina, and Austin Counties. (Docket is available in second floor commission office in the State Highway Building.) Upon completion of public presentations, the commission will reconvene in Room 207 (second floor), to execute contract awards and routine minute orders; consider decisions on presentations from public hearing

dockets; and review staff reports relative to planning and construction programs and projects. (The agenda is available in the second floor office of the minute clerk in the State Highway Building.)

Information may be obtained from the office of the engineer-director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas, (512) 475-3525.

Filed: April 15, 1981, 9:03 a.m.
Doc. No. 812461

Texas Historical Commission

Thursday, April 23, 1981, 2 p.m. The board members of the Texas Historical Commission will meet in the board room of the Tips Building, 712 Congress Avenue, Austin. According to the agenda summary, the board will approve Minutes 119; hear the chairman's report and the financial report on annual meeting; consider request for authorization to sponsor grant writing workshops and request for approval of archeological investigation of Landerkin Mesa; and discuss forming Texas Main Street Center Association.

Information may be obtained from Truett Latimer, P.O. Box 12276, 1511 Colorado, Austin, Texas 78711, (512) 475-3092.

Filed: April 15, 1981, 12:50 p.m.
Doc. No. 812476

State Board of Insurance

Tuesday, April 28, 1981, 9 a.m. The State Board of Insurance will conduct a public hearing in Room 142, 1110 San Jacinto, Austin, on the appeal of Joseph L. Hardaway from commissioner's order.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: April 15, 1981, 9:37 a.m.
Doc. No. 812477

Thursday, May 7, 1981, 9 a.m. The State Board of Insurance will conduct a public hearing in the hearing room, State Highway Building, 11th and Brazos, Austin. The board will consider revision of fire allied lines, commercial multiperil, homeowners and farm and ranch owners—rates, rules, forms, clauses, permits, warranties, classes, rating plans; amendments to the general basis schedules; and all other matters pertaining to the writing of insurance.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78736, (512) 475-2950.

Filed: April 15, 1981, 9:37 a.m.
Doc. No. 812478

Texas Department of Mental Health and Mental Retardation

Tuesday and Wednesday, April 28 and 29, 1981, 8:30 a.m. daily. The Proposal Review Committee of the Texas Department of Mental Health and Mental Retardation Texas Developmental Disabilities Program will meet at 909 West 45th Street, Austin. The committee will review and discuss applications submitted to the Texas Developmental Disabilities Program for funding consideration under the Developmental Disabilities Assistance and Bill of Rights Act, Public Law 95-602.

Information may be obtained from Kathy Sandusky, Box 12668, Austin, Texas, (512) 465-4522.

Filed: April 15, 1981, 4:44 p.m.
Doc. No. 812490

Board of Pardons and Paroles

Monday-Friday, April 27-30, 1981, and May 1, 1981, 9 a.m. The Board of Pardons and Paroles will meet at 711 Stephen F. Austin Building, Austin, to review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day to day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency, and to take action upon gubernatorial directives.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: April 14, 1981, 2:14 p.m.
Doc. No. 812456

Texas Parks and Wildlife Department

Wednesday, April 22, 1981. The commission members of the Texas Parks and Wildlife Department will meet at the parks and wildlife complex, 4200 Smith School Road, Austin, at the following times.

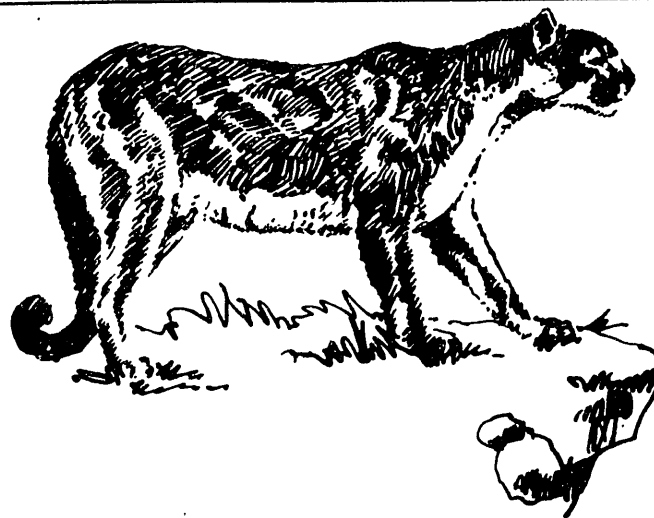
9 a.m. The commission will consider proposed hunting, fishing, and trapping regulations for 1981-82; price of shell; shell dredging in San Antonio Bay; requests for funding local parks from the Land and Water Conservation Fund or the Texas Local Parks, Recreation, and Open Space Fund; easement for waste water tunnel—McKinney Falls State Park, Travis County; capitol improvement project (group shelter) for Eisenhower State Recreation Area, Grayson County; new park facilities—Galveston Island State Park, Galveston County; interpretive development for Caddoan Mounds state historic site—Cherokee County; rule governing petitions to adopt rules; land acquisition project—South Llano River Park site, Kimble County; bridge development—Texas State Railroad State Historical Park, Anderson/Cherokee Counties; facilities development funding—Lake Mineral Wells State Park, Parker County.

Noon (or at the call of the chairman). The commission will meet in closed session to discuss potential donations, acquisitions, and/or land offers regarding historic sites, state parks, and white-winged dove habitat and to consider settlement of pending litigation matters.

In conjunction with 9 a.m. April 22, 1981, public hearing. The commission will discuss proposed hunting, fishing, and trapping proclamations for 1981-82 wildlife management areas and consider added facilities for shop, library, and historical document storage, San Jacinto Battleground State Historical Park, Harris County.

Information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4954.

Filed: April 14, 1981, 11:28 a.m.
Doc. Nos. 812449-812451



State Pension Review Board

Wednesday, April 22, 1981, 7:30 a.m. The State Pension Review Board will meet in the Senate Sergeant's Committee Room, State Capitol. According to the agenda summary, the board will discuss upcoming legislation and budget revision.

Information may be obtained from Lynda Baker, Room 200M, John H. Reagan Building, 105 West 15th Street, Austin, Texas, (512) 475-8332.

Filed: April 14, 1981, 1:40 p.m.
Doc. No. 812452

Texas State Board of Public Accountancy

Thursday and Friday, April 23 and 24, 1981, 8 a.m. The Texas State Board of Public Accountancy will meet in Suite 500, 3301 Northland Drive, Austin. According to the agenda summary, the board will cover the following items: committee meetings; minutes of the February meeting; applications for registration of partnerships and professional corporations; report of Entry and Reentry Screening Committee; review of certain communications received by the board; discussion of pending litigation; review of board's financial statements; consideration of public need for schools of accountancy; and schedule of future meetings.

Information may be obtained from Bob E. Bradley, 3301 Northland Drive, Suite 500, Austin, Texas 78731, (512) 451-0241.

Filed: April 14, 1981, 4:26 p.m.
Doc. No. 812458

Public Utility Commission of Texas

Tuesday, June 9, 1981, 10 a.m. The Public Utility Commission of Texas will meet in rescheduled session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will conduct a public hearing in Docket 3747—application of Fannin County Electric Cooperative for an electric rate increase. The hearing was originally scheduled for 10 a.m. May 18, 1981.

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

Filed: April 14, 1981, 2:05 p.m.
Doc. No. 812454

Railroad Commission of Texas

Thursday, April 16, 1981, 11 a.m. The Transportation Division of the Railroad Commission of Texas met in emergency session at 1124 IH 35 South, Austin. According to the agenda, the division considered publication of rules to implement the provisions of 49 U.S. Code §10101, et seq., as amended by the Staggers Rail Act of 1980. The meeting was held on less than seven days' notice as a matter of urgent public necessity because of a statutorily imposed deadline, effective April 29, 1981.

Information may be obtained from Owen T. Kinney, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: April 15, 1981, 4:37 p.m.
Doc. No. 812489

Regional Agencies

Meetings Filed April 14, 1981

The Deep East Texas Council of Governments, Manpower Advisory Council and Youth Committee, will meet at Pinewood Park Apartments, 120 Kirksey Street, Lufkin, on April 23, 1981, at 9:30 a.m. The Manpower Advisory Council will meet on the same day at Lufkin Federal Savings and Loan Association, 211 Shepherd, Lufkin, at 10:45 a.m. The A-95 Application Review Committee will meet at the First United Methodist Church Center (youth department—basement), on the same day at 1:30 p.m. Information on the first two meetings may be obtained from Julia Conn Watt, P.O. Box 1423, Lufkin, Texas, (713) 634-2247; and for the last meeting, Mae Ballard, P.O. Drawer 1170, Jasper, Texas 75951, (713) 384-5704.

Doc. No. 812457

Meetings Filed April 15, 1981

The Brazos Valley Region MH/MR Center, Board of Trustees, will meet in Suite 103-D, 707 Texas Avenue, College Station, on April 23, 1981, at 1:30 p.m. Information may be obtained from Ann Pye Shively, Ph.D., P.O. Box 4588, Bryan, Texas 77805, (713) 696-8585.

The Central Counties Center for MH/MR Services, Board of Trustees, met in emergency session at 302 South 22nd Street, Temple, on April 16, 1981, at 7:45 p.m. Information may be obtained from Steven B. Schnee, Ph.D., 302 South 22nd Street, Temple, Texas 76501, (817) 778-4841.

The Deep East Texas Council of Governments, Board of Directors, will meet in the basement of the First United Methodist Church (youth department), 215 North Porter, Center, on April 23, 1981, at 2:30 p.m. Information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, (713) 384-5704.

The Houston-Galveston Area Council, Board of Directors, will meet in the large conference room, 3701 West Alabama, Houston, on April 21, 1981, at 9:30 a.m. Information may be obtained from Charlene McCarthy, 3701 West Alabama, Houston, Texas 77027, (713) 627-3200, ext. 335.

The Lower Colorado River Authority will meet at 700 Lake Austin Boulevard, Austin, on April 23, 1981, at 9 a.m. The Power and Energy Committee, the Flood Control and Water Sales Committee, and the Finance and Compensation Committee will meet at the same location on April 22, 1981, at 2 p.m., 3 p.m., and 4 p.m., respectively. Information may be obtained from Charles Herring, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The South Plains Health Systems, Inc., Executive Committee, will meet in Rooms 1A and 1B of Lubbock General Hospital, 602 Indiana Avenue, Lubbock, on April 23, 1981, at 7:30 p.m. Information may be obtained from Ronald D. Warner, 1217 Avenue K, Lubbock, Texas 79401.

The Tri-Region Health Systems Agency, Plan Development Committee, will meet at River Oaks II, Abilene, on April 23, 1981, at 10 a.m. The Information/Education Committee will meet at the Kiva Inn, River Oaks I, Abilene, on the same day at 10:30 a.m. And the Board of Directors will meet at the Kiva Inn, River Oaks II, Abilene, on the same day at 1:30 p.m. Information may be obtained from David Jackson, 2642 Post Oak Road, Abilene, Texas 79605, (915) 698-9481.

The Upper Leon Municipal Water District, Board of Directors, will meet at the general office of the filter plant, Proctor Lake, Comanche, on April 23, 1981, at 6:30 p.m. Information may be obtained from Upper Leon River Municipal Water District, P.O. Box 67, Comanche, Texas (817) 879-2258.

Doc. No. 812480

Meetings Filed April 16, 1981

The Coastal Bend Council of Governments, Executive Board, will meet at the Nueces Club, Guaranty Bank Plaza Building, Corpus Christi, on April 24, 1981, at noon. The general membership will meet in the commissioners courtroom, county courthouse, 901 Leopard, Corpus Christi, on the same day at 2 p.m. Information may be obtained from John Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

The East Texas CETA Consortium, Board of Directors, will meet at 3800 Stone Road, Kilgore, on April 21, 1981, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

The South Texas Health Systems Agency, Board of Directors, will meet at the Round Table Restaurant, 1418 South 14th Street, Kingsville, on April 25, 1981, at 1 p.m. Information may be obtained from Mario L. Vasquez, Station 1, Box 2378, Kingsville, Texas 78363, (512) 595-5545.

The West Texas Council of Governments, Board of Directors, will meet in Suite 700 of the Mills Building, 303 North Oregon, El Paso, on April 24, 1981, at 9 a.m. Information may be obtained from Bernie Guy, Mills Building, Suite 700, 303 North Oregon Street, El Paso, Texas 79901, (915) 532-2910.

Doc. No. 812493

The following documents are required to be published in the *Register*: applications to purchase control of state banks filed by the Banking Commissioner of Texas pursuant to Texas Civil Statutes, Article 342-401a(B)(6); changes in interest rate filed by the Savings and Loan Commissioner of Texas pursuant to Texas Civil Statutes, Article 5069-1.07; and consultant proposal requests and awards filed by state agencies, regional councils of government, and the Texas State Library pursuant to Texas Civil Statutes, Article 6252-11c. In order to allow agencies to communicate information quickly and effectively, other information of general interest to the public of Texas is published as space allows.

Comptroller of Public Accounts

Administrative Decision

Summary of Administrative Decision 11,289

For copies of the following opinion selected and summarized by the administrative law judges, contact the Administrative Law Judges, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with our confidentiality statutes.

Summary of Decision. This case determined that property sold under a contract for deed continues to be "owned," for franchise tax purposes, by the seller. See Texas Taxation—General Annotated, Article 12.01(1)(b). Section 3.401 (026.02.12.011) had required each corporation to report all property for which it held legal title; it was amended August 29, 1979, to say that while the holder of legal title is presumed to be the "owner," the presumption can be overcome by showing that equitable title is in another. The section goes on to state:

For the purposes of this section, equitable title means the holding of such a present right to legal title that an entity has a right to have legal title transferred to it by a court, or that the entity is entitled to the performance of certain duties and the exercise of certain powers by the legal title holder which performance may be compelled by a court.

Taxpayer argued that the comptroller's rules regarding equitable title were contrary to Texas law, but the decision concluded that they were not, noting the Texas distinction between equitable title and equitable right and citing *Hemming v. Zimmerschitte*, 4 Texas Reports 159 (1849) and *Trans-World Bonded Warehouses and Storage v. Garza*, 570 Southwest Reporter 2d 2 (Texas Civil Appeal—San Antonio, 1978, writ referred, no reversible error). Decision rendered December 16, 1980.

Issued in Austin, Texas, on April 1, 1981.

Doc. No. 812414 Bob Bullock
Comptroller of Public Accounts

Filed: April 13, 1981, 10:16 a.m.
For further information, please call (512) 475-7000.

Texas Energy and Natural Resources Advisory Council

Consultant Proposal Request

Description of Project Objective. In accordance with Vernon's Annotated Civil Statutes, Texas Energy and Development Act of 1977, Article 4413(47b), and pursuant to rules adopted for administration of the Energy Development Act (4 TexReg 4604), and under the provisions of Vernon's Annotated Civil Statutes, Article 6252-11c, the Texas Energy and Natural Resources Advisory Council (TENRAC) is requesting proposals from entities who are responding to the U.S. Department of Agriculture/U.S. Department of Energy (USDA/USDOE) request for proposals which was published in the April 7, 1981, issue of the *Federal Register* (46 FedReg 20972). The U.S. government is proposing to provide research grants totaling \$5,803,000 for projects in the biomass, wind, and solar areas. Since TENRAC maintains significant programs in these areas, a strong possibility exists for cost sharing provided by the State of Texas and the U.S. government for projects of mutual interest in Texas.

Specific Project Requirements. Proposals will be accepted only if they are submitted jointly to TENRAC and the appropriate U.S. government agency (USDA/USDOE).

Funding. Funding by TENRAC for selected projects will not exceed \$50,000 or 25% of the total project cost whichever is less. Preference will be given to projects which offer the best cost-sharing advantage to TENRAC. For Texas state agencies or Texas state universities, TENRAC will be unable to provide funds for indirect costs; consequently, these costs should be budgeted to other cost sharers. This restriction does not apply to other proposers. TENRAC funding of projects is contingent upon appropriation of funds for the 1982-83 biennium and on satisfactory evaluation and approval of proposals by TENRAC and USDA/USDOE.

Eligibility. The following criteria are established for acceptability of proposers:

- (1) Texas-based proposers will be given priority consideration and only in unusual circumstances will this priority be disregarded.
- (2) Projects to be conducted in Texas will be given priority consideration and only in unusual circumstances will this priority be disregarded.
- (3) Individual members of the council, TENRAC staff, or their immediate families are not eligible.
- (4) Individuals who are part of the TENRAC review team are eligible and their review function will be appropriately limited.

Proposal Content. In the case of this solicitation, TENRAC is waiving its usual format in lieu of the format requested by USDA/USDOE so that the same proposal can be submitted to both TENRAC and USDA/USDOE.

Review Criteria and Procedures. Proposals will be evaluated in accordance with rules adopted for administration of the Energy Development Act cited in the first paragraph. Proposers and USDA/USDOE will be advised on or about July 1, 1981, of the status of jointly submitted proposals. Specific debriefings will be provided on request.

Deadline and Address for Proposal Information. In order to be considered, 10 copies of a proposal must be received by TENRAC, Technology Development Division, Room 505, Employees' Retirement System Building, 200 East 18th Street, Austin, Texas 78701, no later than 4 p.m. Friday, May 22, 1981.

Target Date for Consultant Contract Award. It is anticipated that contracts would be made no earlier than September 1, 1981, and coincident with USDA/USDOE contract award dates.

Contact. Address questions and requests for additional information to Bob Avant—biomass and wind programs; Charles E. Mauk—solar programs; TENRAC, Technology Development Division, 200 East 18th Street, Austin, Texas 78701, (512) 475-5588.

Issued in Austin, Texas, on April 14, 1981.

Doc. No. 812474 Roy R. Ray, Jr., Director
Technology Development Division
Texas Energy and Natural Resources
Advisory Council

Filed: April 15, 1981, 9:17 a.m.

For further information, please call (512) 475-0414.

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 14 and 15, 1981.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in §511.5 (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 Texas Civil Statutes, Article 4418(h), §3.02 or §3.03, and §505.81 and §505.82 (315.17.04.010 and .030), §§505.91-505.93 (315.17.05.010, .020, and .030), §§507.81-507.83 (315.18.04.010, .020, and .030), and §§507.91-507.93 (315.18.05.010, .020, and .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.

Comfort Medical Center, Inc., Comfort (4/14/81)
AN80-0530-082T (041381)

T/CN—Request to transfer Certificate of Need AN80-0530-082 from Comfort Medical Center, Inc., to Candelaria Mabaquiao (the certificate of need authorized the certificate holder to construct a 60-bed ICF-III nursing home in Comfort and provide long-term care and services of occupational, speech, and physical therapy)

Eastway General Hospital, Houston (4/14/81)
AH78-0207-001A (040981)

AMD/CN—Request to increase the project cost and extend the completion deadline in Certificate of Need AH78-0207-001 which authorized a construction and remodeling/renovation project with additional beds at Eastway General Hospital

Panhandle Home Health Agency, Dumas (4/14/81)
AS81-0219-005

EC—Request to relocate the existing office from 613 East First Street in Dumas to 115 West First Street in Dumas, and increase office space

Hill Country Home Health Agency, Kerrville
(4/14/81)

AS81-0219-009

EC—Request to relocate the existing office from 401 Junction Highway in Kerrville to 509 Clay in Kerrville

Texas Children's Hospital, Houston (4/15/81)
AH78-0531-010A (041381)

AMD/CN—Request to extend the completion deadline in Certificate of Need AH78-0531-010 which authorized a three-stage renovation project at St. Luke's Episcopal and Texas Children's Hospitals in Houston

Issued in Austin, Texas, on April 15, 1981.

Doc. No. 812475 Linda E. Zatopek
Assistant General Counsel
Texas Health Facilities Commission

Filed: April 15, 1981, 9:52 a.m.

For further information, please call (512) 475-6940.

Legislative Information System of Texas

Toll-Free Telephone Number

The Texas Senate and House of Representatives are providing information on the activities of the 67th Legislature through a toll-free statewide WATS line to the Legislative Information System of Texas (LIST).

Information available includes bill status, schedules and agendas of committee meetings and hearings, and lists of bills by author, committee, and subject.

The LIST statewide toll-free telephone number is **1-800-252-9693** for calls from outside the Austin area. For calls originating in Austin, the telephone number is (512) 475-3026.



Each issue of the *Register* includes a conversion table of *Texas Administrative Code* titles affected for that issue. Once a month a guide to agency activity for the previous month is published, as well as a cumulation of TAC titles affected for the previous month. Quarterly and annual indexes to the *Texas Register* are published separately and bound in light blue for distinction.

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 4. AGRICULTURE

Part I. Texas Department of Agriculture

- 4 TAC §§11.1, 11.2 (176.26.00.001, .002)..... 1489
4 TAC §19.3 (176.80.10.003)..... 1494

Part III. Texas Feed and Fertilizer Control Service

- 4 TAC §61.13 (178.01.02.003)..... 1490
4 TAC §61.31 (178.01.03.001)..... 1491

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

- 7 TAC §11.1 (054.01.02.001)..... 1494
7 TAC §11.2 (054.01.02.002)..... 1495

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

- 16 TAC §3.37 (051.02.02.037)..... 1491

TITLE 22. EXAMINING BOARDS

Part XV. State Board of Pharmacy

- 22 TAC §283.10 (393.15.00.010) 1495

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

- 34 TAC §3.341 (026.02.20.061) 1492

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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

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