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TEXAS REGISTER

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JUN 12 1980

TEXAS DOCUMENTS

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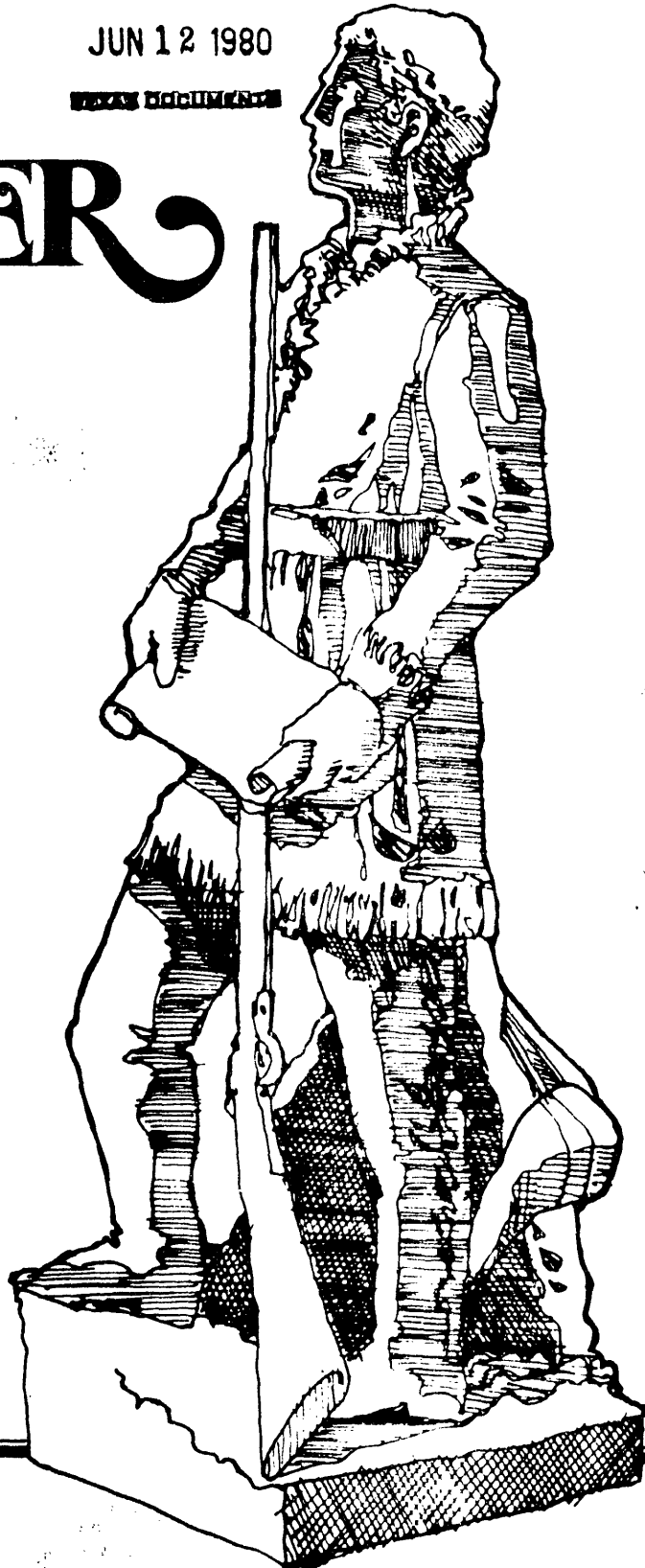
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The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for 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)

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

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

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

TEXAS REGISTER

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George W. Strake, Jr.
Secretary of State

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Appointments**60th Judicial District**

Effective immediately, to be judge, Jefferson County, until the next general election and until his successor shall be duly elected and qualified:

Robert J. Wortham
1405 Futura
Beaumont, Texas 77706

Mr. Wortham is replacing Judge Melvin Combs of Beaumont, Jefferson County, who is deceased.

Mayors Advisory Council

For terms to expire September 1, 1980:

Thane Akins
Mayor of Midland
Box 1152
Midland, Texas 79702

Mayor Akins will be replacing Mayor Ernest Angelo of Midland, Midland County, who is no longer eligible to serve.

Judy Flanders
Mayor of Borger
Box 5205
Borger, Texas 79907

Mayor Flanders will be replacing Mayor Jerry McClure of Borger, Hutchinson County, who is no longer eligible to serve.

Issued in Austin, Texas, on May 29 & 30, 1980.

Doc. No. 804322 & William P. Clements, Jr.
804323 Governor of Texas

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

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

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

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "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 21. Seed Certification Standards

Genetic Seed Chart

The Texas Department of Agriculture is proposing to amend §21.51 (176.83.27.001) of the seed certification standards which were promulgated by the State Seed and Plant Board to effect conformity with the seed certification requirements of the Federal Seed Act. The proposed amendment will delete footnotes 12 and 13 under isolation requirements for the foundation, registered, and certified classes of grasses.

The Texas Department of Agriculture has determined that the proposed amendment to these regulations will cause no fiscal implications for the state or for units of local government.

Public comment on the proposed amendment is invited. Comments may be submitted in writing to Don Ator, director, Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or by telephoning (512) 475-2038.

The amendment is proposed under the authority of Article 67b, Texas Civil Statutes.

§21.51 (176.83.27.001). *Genetic Seed Certification Standards. The Seed Certification—Isolation Distances Chart and footnotes as amended June 1980* [in September 1979] that delineate isolation distances are adopted by reference for the purpose of seed certification by genetic identity only. Copies may be obtained from Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or by telephoning (512) 475-2038.

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804339 Reagan V. Brown
Commissioner of Agriculture

Proposed Date of Adoption: July 14, 1980
For further information, please call (512) 475-2038.

TITLE 13. CULTURAL RESOURCES

Part V. Texas Sesquicentennial Commission

Chapter 51. General Operating Policies

Pursuant to Article 6145-11, Revised Civil Statutes of Texas, Acts of the 66th Legislature, Section 10, the Texas 1986 Sesquicentennial Commission proposes to adopt new sections as they relate to general operating policy to satisfy those provisions of responsibility, operation, and management entrusted to the commission. Article 6145-11, Section 10, authorizes the commission to adopt rules necessary to perform its functions. These new rules will cover the purpose of the commission, program, meetings, organization, staff, and committees. The proposed sections would create a consistent framework for daily operations and management.

The Texas Sesquicentennial Commission has determined that these proposed new sections will have no fiscal implications for the state or for units of local government.

Public comment on proposed new §§51.1-51.6 (367.01.00.001-.006) is invited. Persons should submit their comments in writing to Randy M. Lee, executive director, Texas Sesquicentennial Commission, Southeast Station, P.O. Box 19860, Austin, Texas 78760.

These sections are proposed under the authority of the Texas 1986 Sesquicentennial Commission Act, Article 6145-11, Section 10.

§51.1 (367.01.00.001). *Purpose of the Commission.* The Texas 1986 Sesquicentennial Commission (hereafter referred to as commission) shall fulfill all duties and purposes assigned by law. The commission may, upon responsible and deliberate evaluation, expand its specifically assigned duties to satisfy any requirements prescribed by law.

§51.2 (367.01.00.002). *Program of the Commission.*

(a) It shall be the responsibility of the commission to set policy, identify objectives, and to approve all programs and activities of the commission and its staff.

(b) The commission shall develop and implement a master plan designed to fulfill its responsibilities, and to successfully plan and execute the appropriate observance of the 150th anniversary of Texas independence, and its subsequent progress as a state. Included in this plan shall be historic,

economic, cultural, environmental, and social aspects of Texas, including appropriate past, present, and future highlights.

(c) The commission shall create and maintain a working relationship with other public and private sector groups interested in the sesquicentennial celebration. Whenever possible, the resources of these two groups will be developed, supported, and utilized by the commission to insure maximum efficiency and economy of operation.

(d) The eight duties assigned the commission by statute shall be incorporated into the master plan. The master plan shall be published and adopted as commission policy and delineate all programs, activities, goals, and functions of the commission.

(e) The commission shall have the authority to enter into contracts with a recognized and financially responsible advertising and/or public relations firm having a minimum of five years experience in handling accounts of the public sector, and to contract for time for broadcasting facilities, space in periodicals for the publication of publicity information, historical facts, statistics, drawings, and photographs which will be useful and informative to persons within and outside the state; and to enter into contract with recognized and financially responsible media production companies for the production of moving pictures and still pictures in the state; and to provide for the distribution of such productions or publicity matter to other governmental, quasi-governmental, or private organizations.

§51.3 (367.01.00.003). Meetings of the Commission.

(a) There shall be four regular meetings of the commission each calendar year. They shall be held on the second Friday in February, the second Friday in May, the second Friday in August, and the second Friday in November, or as near these days as the commission may find practicable. Notice of every regular meeting shall be mailed to the commissioners at least 20 days before the time appointed for the meeting.

(b) Special meetings of the commission may be called by the chairman of the commission when he deems necessary, or shall be called by the chairman within 14 days of receipt of a written request of 2/3 of the commission, as then constituted. Notice of any special meeting shall be mailed to commission members at least 10 days in advance, with a statement of the time and place of the special meeting, and information as to the subject or subjects to be considered.

(c) A majority of the members of the commission shall constitute a quorum.

(d) All matters submitted to members of the commission for their vote, including the election of vice chairman of the commission, shall be decided by plurality vote.

(e) No proxies are permitted at any meeting of the commission other than those provided by law for statutory members.

§51.4 (367.01.00.004). Organization of the Commission.

(a) Officers of the commission shall include the chairman who, as required by law, is appointed by and serves at the pleasure of the governor, and a vice chairman who shall be elected by the commission from either remaining membership category from which the chairman has not been drawn.

(b) The chairman shall direct the activities of the commission and its staff to accomplish the goals and objectives set by law and by the commission. The chairman shall preside at all meetings of the commission, shall act as spokesman for the commission, and shall be an ex officio member of

all committees of the commission. The vice chairman shall act in behalf of the chairman in his absence, and carry out whatever additional duties may be assigned him by the chairman.

(c) The commission shall elect the vice chairman for a one-year term at its regular May meeting, and the term shall begin immediately.

(d) Should resignation, death, or incapacity for any reason create a vacancy in the vice chairmanship, the chairman shall, at the next regular meeting of the commission, conduct an election for a new vice chairman to fill the unexpired portion of the vice chairman's term.

§51.5 (367.01.00.005). Staff of the Commission.

(a) The commission shall employ an executive director to serve at the pleasure of the commission as chief administrative officer of the Texas 1986 Sesquicentennial Commission.

(1) In addition to his general administrative duties, he shall keep full and accurate minutes of all transactions and proceedings of the commission.

(2) With the consent of the commission, and in the name of the 1986 Sesquicentennial Commission, he may accept donations and gifts of property and money which may be made to further the purposes of the commission.

(3) He shall have full authority to employ or dismiss any and all personnel necessary to the discharge of the commission's staff responsibilities. He shall, however, consult the commission on candidates for the position of assistant executive director or that staff member who, although otherwise designated, acts as chief administrative assistant to the executive director.

(4) The commission shall review annually the performance of the executive director.

(b) No employee of the commission shall accept any office, employment, or position on any committee, governing board, or other position of possible influence, authority, or responsibility with any organization connected with the sesquicentennial program, with or without compensation, without the prior consent of the commission. No employee of the commission shall accept any honorarium or other remuneration for himself for services rendered to any sesquicentennial-related organization, other than reimbursement for actual travel expenses, nor own any interest in any sesquicentennial-related organization, nor engage in any business, or enterprise connected with the sesquicentennial program without the prior consent of the executive director and the commission. Any honorarium or remuneration paid to an employee should be returned or donated to the general funding of the commission.

(c) The term "employee" as used herein is not deemed to include consultants or advisors to the commission who are engaged on a contractual basis from time to time to advise the commission on limited, specific matters.

§51.6 (367.01.00.006). Committees of the Commission.

(a) There shall be five standing committees of the commission:

(1) The Program Development and Special Projects Committee (Program Committee) shall maintain a close and continuing liaison with the executive director. It shall oversee development of the master plan for the sesquicentennial celebration. The committee shall, at least annually, review program performance and recommend to the full commission program priorities, program changes, and/or new programs.

The committee shall be responsible for special projects. It shall develop and recommend to the full commission potential research and/or projects related to the sesquicentennial. It shall at the request of the executive director review, revise, and determine which special presentations or projects are to be brought to the attention of the entire commission.

(2) The Marketing Committee shall maintain a close and continuing liaison with the executive director and its public relations or advertising firm. It shall review and recommend to the full commission advertising concepts, publicity policies and guidelines, public relation themes, media plans, copy and art themes and concepts, layouts, proposed media schedules, and budgets. When it has been determined to open the commission's advertising and publicity account to solicitation by qualified firms, the committee shall assist the executive director in screening qualified companies prior to their presentations before the full commission. It shall also assist the staff in developing and encouraging participation by the private sector in the sesquicentennial celebration.

(3) The Finance Committee shall be responsible for developing the commission's biennial budget request. The committee shall maintain a close working relationship with the executive director of the commission and the Program and Marketing Committees, in the development of the commission's budget, and shall consider changes in budget allocations when necessary for recommendation to the full commission. The committee shall also assist the executive director in developing matching fund programs, and encouraging financial participation by the private sector in supporting sesquicentennial programs.

(4) The Administration Committee shall maintain a close working liaison with the executive director of the commission. The committee shall be responsible for operations oversight including personnel, facilities, and acquisitions. The committee shall review and report annually to the full commission on the performance of the executive director. It shall recommend salary adjustments, classification changes, and staff requirements.

(5) The Public Affairs Committee shall assist the executive director in representing the commission and its programs to the legislature, the Office of the Governor, the Office of Lieutenant Governor, and the Office of Speaker. It shall establish and maintain liaison with such other state agencies and local jurisdictions as the commission may deem advantageous. It shall also maintain liaison, and close working relationships, with the state's units of local government, regional chambers of commerce, and the various sesquicentennial-related private sector bodies within the state.

(b) The chairman of the commission shall designate for each committee a chairman who shall serve annually at the pleasure of the commission chairman. Each committee chairman shall be designated from among the membership of the committee.

(c) All vacancies on any committee shall be filled by the chairman in an expeditious manner. The chairman of the commission shall appoint five or more members to each of the five standing committees. In making appointments, he shall attempt to utilize fully each member's professional background and experience and special interests. He shall also attempt to balance the commission tenure of committee members in an attempt to insure maximum continuity of committee memberships. Every commission member shall be appointed to at least one standing committee.

(d) Each committee shall meet at the call of its chairman, or the chairman of the commission, who shall be an ex officio member of all committees.

(e) The executive director of the Texas 1986 Sesquicentennial Commission or his designee, shall be an ex officio member of each committee and, at the request of each committee chairman, provide such staff assistance as the committee from time to time may require.

(f) A quorum at each committee meeting shall consist of a majority of its membership.

(g) Summary minutes shall be kept of all standing and special committee meetings, copies of which shall be promptly approved by the committee chairman for review and then distributed to all commissioners.

Issued in Austin, Texas, on June 6, 1980.

Doc. No. 804374

Randy M. Lee

Executive Director

Texas Sesquicentennial Commission

Proposed Date of Adoption: July 14, 1980

For further information, please call (512) 475-5726.



NONCODIFIED

Texas Department of Human Resources

Organization, Administration, and Management

Support Documents 326.51.99

The Department of Human Resources (DHR) proposes to amend its rule which adopts by reference the Title XX Comprehensive Annual Services Program Plan (CASPP) for Texas for the services program year October 1, 1980, through September 30, 1981.

The Texas Department of Human Resources (DHR) is mandated by the legislature to provide medical, financial, and social services for children, adults, and low-income families in Texas. Title XX of the Social Security Act is DHR's major source of federal funds for social services.

Title XX services are combined with other DHR programs such as Medicaid, Long-Term Care, Financial Assistance, and Food Stamps to provide a comprehensive services system which enables individuals to function in their communities as self-sufficiently as possible.

This proposed Title XX Comprehensive Annual Services Program Plan (CASPP) shows how the funds appropriated by the 66th Legislature for the 1981 program year will be used, and explains how Title XX social services will be provided. Estimated service costs are based on DHR appropriations approved by the governor.

The CASPP described in detail the services to be provided in each of the state's geographic areas and how DHR gains input from staff and citizens in every Texas community in order to develop social services aimed at specific needs, and to establish priorities for the limited available money.

Section I of the plan provides a narrative description of the goals of Title XX services and of how DHR is organized to provide these services. It also includes explanations of the planning, coordination, and public review processes which are a required part of an effective service delivery system. This section also includes an explanation of the eligible client groups and fees for services.

It is proposed in this CASPP that the income eligibility level for all services, except for alternate care for the aged, blind, and disabled (ACABD), be set at 52% of the state median income for a family of four. With the projected increase in the median income from \$18,930 to \$20,455 for a family of four, the change in percentage will not result in a significant difference in the actual dollar cutoff for client eligibility that was used in the 1980 CASPP.

The ACABD upper income eligibility level will be set at 67% of the state median income. At this level, the ACABD income eligibility levels can continue to track the eligibility criteria for the Title XIX Nursing Home Program. The ACABD client eligibility/priority system has been revised to expand eligibility according to each region's capability to purchase services.

It is proposed that family planning agency providers be allowed to charge a patient fee not to exceed \$25 per income-eligible client per state fiscal year. The specifications of any particular patient fee schedule would be left to each agency to determine. (Note: Medicaid-eligible clients may not be charged a family planning patient fee.)

Coordination with other DHR-administered programs: state-paid foster care (non-AFDC) has been added as another program that is provided in conjunction with Title XX social services staff.

Section II contains the definitions of services to be provided through the Title XX Program. Services are presented according to the program through which they are delivered. The order of presentation does not represent nor imply a ranking of priorities. Each definition describes the service's purpose, clients to be served, service activities, and methods

of delivery. Within the Alternate Care for Aged, Blind, and Disabled Adults Program, the congregate component of the Congregate and Home-Delivered Meals Program will be deleted. This service was identified as serving clients with low levels of need. Funds formerly used for this service will be used for other ACABD services such as family care.

The ACABD Program is moving towards incorporating homemaker, chore, and family care into a single in-home service during 1981. The deletion of homemaker and chore service is proposed because similar tasks can be performed for clients through family care service at a lower cost per hour of service. This will allow the delivery of in-home service to more clients, including persons formerly eligible for ICF II nursing home care. Homemaker, chore, and family care will be defined separately in the CASPP, but homemaker and chore service should be phased out by December 1, 1980. In addition, it is proposed that services provided through interagency agreements (state contracts) be discontinued.

Section III provides both general and detailed summaries of the estimated expenditures and sources of funds for the 1981 program year. This includes a comparison of the estimated cost and number of clients who will have been served statewide in each program in the 1980 program year and who are projected to be served in the 1981 program year. The dollar amounts allocated to each service in each region include the costs for DHR direct delivery workers, grant benefits (purchase of service contracts), support staff, and employee social security and retirement. Also included in Section III is the catalog of services which lists the objectives, goals, eligible client categories, methods of delivery, and geographic areas in which each service will be provided.

Estimated expenditures in the proposed 1981 CASPP are based on the assumption of a \$2.5 billion federal Title XX ceiling. This represents an \$800,000 increase over the expected \$2.5 billion ceiling expenditure level for 1980. For Texas to spend at the level appropriated for 1981 by the state legislature, the federal Title XX ceiling would have to be approximately \$3.1 billion. There is no certainty at this time about the possible 1981 ceiling level, but our projected budget is based on the current permanent ceiling for Title XX. The final CASPP will reflect expenditures at a level judged to be likely for 1981 at that time.

Categories of clients to receive priority for ACABD services is revised to serve more clients and those with the greatest need. Priority groups numbers five and six presently provide eligibility for service to low client need level persons age 65 and over. The department proposes that these two priority groups be changed to include similarly needful persons age 18 to 64. Rationale for this proposal is that lower age alone does not decrease need for services.

Section IV provides information regarding the number of clients to be served in the 1981 program year and the estimated cost for each service provided in each geographic area. The estimated number of clients to be served is an estimate of the total number of persons who will receive a given service during the program year. These figures represent an estimated, unduplicated count of clients to receive each service and include projections of estimated client turnover during the program year.

Section V lists the agencies in each geographic area which are providing Title XX social services through general purchase of service agreements at the time of publication of the plan. This section also lists the state agencies which provide services through interagency agreements which are managed through the DHR State Office. The list of purchase of service providers has been updated to show contracts in effect as of January 1, 1980.

Section VI includes a summary of the standards for institutions, foster homes, and group living arrangements which serve supplemental security income (SSI) recipients.

DHR will provide the services listed in the catalog of services section of the CASPP to meet the following Title XX goals:

- (1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;
- (2) achieving or maintaining self-sufficiency to reduce or prevent dependency;
- (3) preventing or remedying abuse, neglect, or exploitation of children and adults unable to protect themselves, or preserving, rehabilitating, or uniting families;
- (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;
- (5) securing referral or admission for institutional care when other forms of care are not appropriate, and providing services to persons in institutions.

Anyone may request services from the department. Services, however, are provided only to certain categories of people. Current recipients of AFDC and SSI are eligible to receive most Title XX services. Medical assistance only (MAO) recipients are eligible for Title XX services only if they qualify as income eligibles.

Certain services will be provided on the basis of documented need, but without regard to income eligibility as described in the catalog of services. Protective services for children and adults, protective child care, community services provided to clients referred by DHR protective services staff, and information and referral as part of another service are provided to persons whose income exceeds the eligibility limits on the following charts.

Individuals or families may be eligible for Title XX services based on the amount of annual income they receive. The income eligibility criteria is based upon the state median income for a family of four, which is \$20,455 for most services. The income eligibility criteria is set at 52% of the median income as adjusted for family size. However, for alternate care for the aged, blind and disabled (ACABD), the income eligibility cutoffs are 67% and 37% of the state median income. It is important that the upper income eligibility criteria for ACABD services track the income eligibility criteria for the DHR Title XIX Nursing Home Program so that eligible nursing home recipients may receive ACABD services to become successfully deinstitutionalized.

The following charts establish the Title XX income limit for families of various sizes.

The state median income for a family of four equal \$20,455.

The 52% level does not apply to the Alternate Care for Aged, Blind and Disabled Adults (ACABD) Program.

Family Size	Annual \$	Monthly \$
1	\$5,531.03	\$460.92
2	\$7,232.89	\$602.74
3	\$8,934.74	\$744.56
4	\$10,636.60	\$886.38
5	\$12,338.46	\$1,028.21
6	\$14,040.31	\$1,170.03

The 67% level applies only to certain priority groups in the ACABD Program.

Family Size	Annual \$	Monthly \$
1	\$7,126.52	\$593.88
2	\$9,319.30	\$776.61
3	\$11,512.07	\$959.34
4	\$13,704.85	\$1,142.07
5	\$15,897.63	\$1,324.80
6	\$18,090.40	\$1,507.53

The 37% level applies only to certain priority client groups in the ACABD program.

Family Size	Annual \$	Monthly \$
1	\$3,935.54	\$327.96
2	\$5,146.48	\$428.87
3	\$6,357.41	\$529.78
4	\$7,568.35	\$630.70
5	\$8,779.29	\$731.61
6	\$9,990.22	\$832.52

The following persons shall be included when determining family size of the income-eligible client if they are living in the household or absent from the household for no more than six months:

- (1) an adult and spouse (including those in common law marriage), or a single adult;
- (2) natural or adopted minor children of the adult or of either of the adults if they are a married couple;
- (3) any other for whom the adult or couple is legally responsible;
- (4) if a minor in (2) of (3) above is a parent, include his or her child.

A minor living with nonlegally responsible relatives under the care of unrelated persons not legally responsible for the minor's care, or an emancipated minor, may be considered a one-person family. (An emancipated minor is a person under 18 years of age, who has had the disabilities of minority removed in a court, or who is or has been married.) If such a minor has children, all are considered a family unit. Unrelated adults who reside together may be considered separately. Neither married couples nor minor siblings residing in the same household may be considered separately.

Individuals may apply for Title XX services and have their eligibility determined by staff at a local DHR office. Addresses and telephone numbers of these offices are listed in local telephone directories and in DHR information materials such as pamphlets and booklets. Individuals may also apply at a contract agency for services provided at that agency; however, individuals applying for ACABD services at a contract agency will be referred to a local DHR office for eligibility determination.

Delivery of some social services is limited by the extent to which funds or service delivery resources are available. Therefore, these services are provided to eligible persons according to established priorities based on the client categories of the potential recipients and the purposes of the ser-

vices. Priorities for services are listed in the catalog of services. In the event that service resources are operating at capacity when eligible clients apply for service, waiting lists will be established. Clients will be served according to the priorities listed for each service in the CASPP catalog of services.

In the ACABD Program, mentally retarded or developmentally disabled persons who meet the Texas Department of Mental Health and Mental Retardation Medical Assistance Program criteria for admission to intermediate care facilities for the mentally retarded (ICF-MR), will be encouraged to utilize this resource before receiving family care or alternative living plan services.

A patient fee not to exceed \$25 per income-eligible client per state fiscal year may be charged by family planning agency providers. The specifications of any particular patient fee schedule would be left to each agency to determine. (Note: Medicaid-eligible clients may not be charged a family planning patient fee.)

A fee will be imposed for day care services for children. A fee will not be charged for children served for the following purposes:

- (1) to prevent or remedy abuse or neglect of children reported under the Family Code, and to ensure their adequate care and supervision, although fees may be charged if mandated by court order;
- (2) to allow parents or caretakers to participate in the DHR-VR or WIN Programs for the duration of the public assistance grant, and for one year following grant denial if they are income eligible;
- (3) to allow parents or caretakers of AFDC, SSI, or income-eligible MAO recipients to participate in work or training or to seek employment; and
- (4) to offer AFDC, SSI, or income-eligible MAO recipients needed growth opportunities related to their physical, social, or mental well-being.

A weekly fee based on family income will be charged for children served for the following purposes:

- (1) to allow income-eligible parents or caretakers to participate in work or training or to actively seek employment;
- (2) to offer needed growth opportunities related to the physical, social, or mental well-being of children of income-eligible persons.

A weekly fee for one child receiving day care services will be 1.5% of the gross monthly family income based on the most recent eligibility certification. There will be another charge of 0.5% of the gross monthly family income per week for other children served in a family. When children are enrolled for half-days of care, the fee will be half of the fee resulting from the above calculation.

The fee policy is designed to encourage income-eligible families to participate more actively in the child care program, and assume part of the financial responsibility for child care without undergoing undue hardships.

The provider agency board or advisory group may establish policies and guidelines to reduce or waive fees for individual families. Policies should take into account the fees which the family pays for other social services, family size, and economic conditions which could jeopardize a family's ability to maintain economic self-sufficiency and family unity. When

fees are reduced or waived, a written explanation must be included in the provider's records of the family. Providers also will document a reasonable effort to collect fees assessed. When need to reduce or waive fees cannot be substantiated, and a family accumulates two months of unpaid fees, the child's enrollment will be terminated. Fees collected by provider agencies shall be deducted from billings to the department for services rendered. In no case shall a fee exceed the per child cost of the service contracts with the department.

Social services also may be provided by volunteers supervised by DHR staff, or through cooperative agreements with other agencies. Title XX purchase of service providers are encouraged to use volunteers. DHR encourages volunteers to contribute their time, skills, and personal resources to enable DHR to extend and enhance services. The program also provides an opportunity for volunteers to learn about programs and services. Volunteers of both sexes and all ages and ethnic groups are recruited from all walks of life, including the client population. Training is offered to volunteers so they can function effectively in a variety of program and support areas. Activities range from direct service to clients to involvement in decision about policy. Regional volunteer planning and implementation are the joint responsibilities of the regional citizen involvement specialist and the regional management team.

Social services provided through Title XX are a major resource in meeting the needs of low and moderate income individuals and in providing protection for abused, neglected and exploited Texans. Title XX resources are limited, however, by the availability of local, state, and federal funds. The coordination of Title XX services with other human service resources is to ensure that the needs of eligible persons are met efficiently and effectively.

DHR will work with related human service programs through purchase of social services and cooperative agreements for services. DHR has ultimate responsibility for the delivery of Title XX services. Portions of the responsibility may be delegated through purchase of service contracts or cooperative agreements. Contracting with another agency for the purchase of Title XX services for eligible clients is necessary when the following conditions are present:

- (1) there is a documented unmet need for the service;
- (2) DHR does not provide the service or otherwise cannot meet the needs;
- (3) the service is not available free of charge from another provider;
- (4) competent and experienced providers are available;
- (5) the service to be purchased is of acceptable quality at a reasonable rate; and
- (6) the service is in agreement with the applicable goals and service definitions in the current Title XX CASPP.

Client groups to be served are listed elsewhere in the service plan. Services may not be purchased for clients whose income exceeds prescribed income levels as detailed in the plan, except services to prevent or remedy neglect, abuse, and exploitation, and for information and referral as part of another service. Priorities for receiving services may be established at lower income and/or levels.

Social services are purchased according to procurement procedures, which encourage competition and are administered at the regional level. Agencies interested in applying for a Ti-

title XX purchase of service contract should contact the regional director for social services about social services needs, the availability of Title XX and matching funds in the region, and how to participate in the competitive procurement process.

Interagency agreements should help agencies achieve service goals. As one of many examples, DHR and the Social Security Administration have a cooperative work agreement which allows DHR caseworkers to office in social security offices, thus improving the referral system between two agencies which often serve mutual clients. The regional administrator or a designee will work with any organization interested in cooperation.

A cooperative work agreement is a commitment between two or more state agencies to plan, fund, and deliver services cooperatively. DHR encourages the agreements whether they be general or specific, at the state or regional level. Agreements may include joint planning and training; reciprocal advisory activities; establishing referral procedures; developing needs assessment data; and exchanging program information data. Developing programs for specific client groups and removing obstacles to service delivery are also included.

DHR is participating in a federal, state, and local effort to improve coordination of services to children. The program is funded by an HEW grant and is administered by the Texas Department of Community Affairs. Its purpose is to enhance the physical condition, education, protection, and general well-being of Texas children.

Title XX services are coordinated with other DHR-administered Social Security Act programs.

Title IV-A provides funding for three major DHR programs.

(1) Aid to Families with Dependent Children (AFDC). AFDC provides subsistence grants to eligible children deprived of parental support. Potentially eligible applicants and recipients are referred to DHR social service workers and Title XX contract agencies. Title XX recipients often are referred to DHR financial assistance workers. A DHR social service worker may secure a protective payee for an AFDC recipient who cannot adequately manage a grant.

(2) AFDC Foster Care Program. The AFDC Foster Care Program is for AFDC or AFDC-related children removed from their homes for protection. Financial aid is provided for foster or institutional care until the child can be returned home or other arrangements are made. Social services staff apply for, determine, and certify eligibility for AFDC foster care, financial benefits, and Medicaid for foster care children.

(3) Work Incentive Program (WIN). Operated by DHR and the Texas Employment Commission, WIN provides employment and job training for AFDC recipients. Unless exempt, AFDC applicants and recipients must register for WIN to be eligible for financial aid. Those exempt may volunteer for the program. DHR social services workers frequently provide follow-up services to former WIN participants. Title XX day care providers are encouraged to employ AFDC recipients. Information was sent to Title XX day care providers, AFDC recipients, and the Texas Employment Commission (TEC) to encourage the employment of AFDC recipients in Title XX day care centers. Employment outreach and placement is coordinated through TEC.

County expenditures for child welfare services, including substitute care for children in foster homes and institutions and miscellaneous child care expenses such as clothing, personal needs, medical care, and recreation are claimed under Title IV-B.

Title IV-B-earned federal funds are used to purchase services for abused, neglected, and exploited children and for other children needing protection, such as juveniles in need of supervision, truant and runaway children, and unmarried or school-age parents.

Title IV-B-earned funds projects are funded in communities where other funding is unavailable. Examples are emergency shelter care, emergency homemaker services, psychiatric and psychological exams and treatment, group homes for adolescents, foster parent associations, parents anonymous groups, therapeutic camping for protective services children, adoption services, a statewide child abuse hotline, and parenting forums.

Title IV-D requires that the state establish and maintain a child support program for establishing paternity and enforcing child support laws.

When applying for assistance, AFDC applicants or recipients must assign support rights to the state. A caretaker's refusal or failure to cooperate in the child support collection process without good cause is basis for cancelling the caretaker's portion of the AFDC grant, in which case a Title XX social services worker arranges for a protective payee for the AFDC child. The Title IV-D Program also is available to non-AFDC recipients who apply and pay a fee.

Title XVI of the Social Security Act is administered by the Social Security Administration (SSA) and provides financial payments to needy aged, blind, and disabled persons. Certain social services may be provided to them by DHR workers and contract agencies through Title XX.

A referral process has been established between SSA and DHR. DHR workers are stationed at various SSA offices to facilitate the referral process and make sure information is received.

In compliance with Public Law 94-566, Section VI of the CASPP includes summaries of standards which regulate residential facilities serving SSI recipients. The summaries are provided by the state agencies responsible for setting and enforcing the standards.

Title XIX provides medical coverage for Texas residents who receive cash assistance grants. Services are coordinated with Title XX services so that health and social services are mutually supportive.

(1) In-home care. In accordance with a client's needs, individual service plans are developed and may include Title XIX and/or Title XX-funded services. Title XIX services include professional nursing, home visits, home health aide services, and certain medical supplies and durable medical equipment. Title XX services include family care, chore services, homemaker services, and home-delivered meals.

(2) Continuing care for clients moved out of nursing homes. Title XIX workers make referrals for Title XX social services for eligible individuals moving from a nursing facility into the community.

(3) Early and periodic screening, diagnosis, and treatment (EPSDT). Title XIX workers make referrals to pro-

viders of Title XIX EPSDT services, including authorized dental services for Title XX eligibles receiving an AFDC or SSI grant.

(4) Family planning. Title XX social services workers refer eligible persons to Title XIX and Title XX family planning providers, and provide relevant outreach, counseling, and follow-up and support services as required.

(5) Protective foster care. Social services workers identify and process information to obtain Title XIX medical coverage for children in DHR protective foster care.

(6) Long-term care. DHR contracts with the Texas Department of Health for services pertaining to long-term care regulation. Contracted services include consultation, level-of-care determination, periodic medical review, and utilization review.

(7) Other services. Title XX social services workers refer eligible clients to Title XIX providers of other medical services.

Title XX also coordinates with the following DHR programs: Food Stamp Program, Texas Disaster Relief Program, Refugee and Repatriate Programs, Day Care Licensing, Agency and Institutional Licensing, and State-Paid Foster Care (non-AFDC).

DHR publicizes the availability of Title XX services to encourage their use by eligible Texans. Methods of publicizing include: local radio and television public service announcements; media presentations for use by Title XX social services workers and volunteers who work with clients and the public; brochures for applicants and recipients of AFDC, SSI, and medical assistance only (MAO) and for others eligible for Title XX services such as food stamp recipients and participants in the Comprehensive Employment and Training Act (CETA) Program.

A bilingual announcement of social services is sent to new AFDC recipients with their first AFDC payment, and is sent annually to all AFDC recipients. The announcement discusses the availability of social services and the procedures for obtaining them. Announcements of new programs are sent to recipients on the Explanation of Benefits (EOB) form or with the medical identification card mailed monthly to AFDC, SSI, and MAO recipients.

The following are definitions of the services which are proposed for the 1981 Title XX program year.

(A) Protective services for abused and neglected children.

(1) Protective services for children. Protective services for children seek to ensure that children in need of protection are protected and receive adequate care. Children in need of protection include abused and neglected children, truants, runaways, juvenile-age children in need of supervision, and unmarried or school-age parents. Additionally, the department provides social studies for the courts, when ordered, in disputed custody and adoption court cases.

Protective services for children include investigation of alleged abuse, neglect, or exploitation of children to ascertain if the situation warrants intervention and services for the child's protection. Services also are provided in compliance with the Interstate Compact on the Placement of Children (child-placement across state line) and to deal with child-placement across county and regional lines within the state.

Services are provided when there is reason to believe that a child under the age of 18 has been harmed or is in danger of

harm by a person responsible for the child's care, custody, or control.

Reports of children in need of protection are investigated. The situation is evaluated and the need for protection established. Then services to maintain the integrity of the family are provided, or court action is begun to protect the child. Services to the child and family also include casework, referral to other health and welfare agencies, and mobilization of any relative and community resources such as emergency homemaker services. If services fail to remedy the situation or if the child has been severely abused, neglected, or exploited, court action may be necessary to protect the child. Court action may include removing children from their homes, assignment of protective managing conservatorships, or placement with relatives or in protective foster care.

A major effort is undertaken to provide casework, training, and information and referral to the parents, caretaker, or relatives to improve the home conditions so the child may return to the family, caretaker, or relatives.

Diagnosis and casework also are provided to prepare the child for placement and maintain the child in foster care.

(2) Permanent planning services. When a child is brought under the managing conservatorship of the department, permanent planning is begun before the child is placed in substitute care. The initial planning process is aimed at returning the child to his or her natural parents or relatives without further danger of abuse, neglect, or other harm. Services provided to the family focus on remedying the cause of abuse, neglect, and other need for protection. Care for the child during this period includes planning and casework with the family and is provided through planned short-term foster care.

If the child cannot be returned to the family safely after services are provided, other plans must be made. In some cases, the court may sever the parent-child relationship. When the court terminates parental rights, permanent living arrangements are provided through adoption service or long-term foster care. Services may include the placement, supervision, and evaluation of children in foster care; diagnosis and casework to prepare children for substitute care; adoption and long-term foster care placements; casework for the adopting parents and foster parents during the adjustment period; and training for foster parents. This service includes purchase of adoption services.

(3) Protective community resources. Depending on the availability of funds and community resources, services are purchased to prevent and remedy the abuse and neglect of children through the provision of treatment and support services to children, juveniles, and their families. Services include emergency homemaker services to protect children and enable them to remain home during crisis; emergency shelter services to provide temporary shelter (up to 30 days within a six-month period) for children removed from home for protection; individual, family, or group counseling; psychological evaluation; tutoring; therapeutic camping; parenting and child rearing training for parents and foster parents; therapy to help parents and children adjust to new living arrangements if the child is moved from the home; consultation with DHR protective service staff and foster parents regarding results of testing and treatment; casework services in alternate care facilities which only serve juveniles; and transportation. Services also may include medical and dental exams,

minor emergency medical care prescriptive and nonprescriptive drugs as integral but subordinate parts of the service. Room and board may be provided as integral but subordinate parts of halfway houses, residential living experiences and wilderness camping.

(4) Services for unmarried or school-age parents. Services are to help unmarried and school-age parents care for their children, plan the children's care and rearing, and prevent the abuse, neglect, and exploitation of the children by preparing the parents for parenthood. Services include outreach; individual, family, and group counseling; family life and parenting education; home management training; planning for child care; remedial tutoring; follow-up; information and referral services; mobilizing other community support; and help in obtaining medical care. Services are provided by DHR protective services staff and through purchase of services.

(B) Day care for children. Day care services are a means of providing care and supervision for children who are in danger of abuse or neglect, and for low-income parents, who work or are in training. Children served will be offered growth opportunities related to their physical, social, and mental functioning. Care is provided in a day home or day care center which complies with state and federal licensing requirements. Day care to prevent or remedy abuse or neglect is provided without regard to income if the child is receiving protective services and the protective care is included in the child's treatment plan.

DHR staff negotiate for purchase of day care services, link clients with day care resources, and monitor and provide technical help regarding contract compliance and the quality and coordination of services. Transportation, information and referral, medical examination, dental screening, immunizations, and other child and family services also may be provided.

(C) Family planning. Family planning services are to enable individuals (including minors and handicapped persons) to voluntarily limit their family size or space child births according to personal wishes, insofar as is legal. Services include social and educational services such as outreach, information and education, referral, supportive counseling, and follow-up services. Medical services include diagnosis, treatment and continuing supervision, necessary laboratory examinations and tests, drugs, supplies, devices, and related counseling. Medical services must be furnished, prescribed by, or under the supervision of a physician. Services also include voluntary sterilizations, in accordance with federal regulations. Support services such as transportation and information and referral (without regard to income) also may be provided.

(D) Employment services. Rehabilitation services are to prevent or reduce the dependency of handicapped, disabled, or otherwise disadvantaged persons by helping them to function and be more employable. Services include social assessment; personal and family counseling; service delivery coordination; arranging for child care; facilitating alternative living arrangements; emergency services; instructions in basic living and self-care skills; interpreter services; medical, psychological, psychiatric, and vocational evaluations; prevocational, on-the-job, and basic skills training; college training; sheltered workshop training; personal, social, and work adjustment training; job development, referral and placement; providing tools, licenses, equipment, and uniforms necessary for employment; supplying training related materials, initial

stock, and supplies for self-employment enterprises; and postemployment and follow-up services. Services also may include integral but subordinate room and/or board in a halfway house, job training programs, mobility and communication training, and personal development programs for handicapped persons.

Integral but subordinate medical and remedial care also may be provided to help the client become self-supporting or self-sufficient. Care includes examinations, surgery, medications, immunizations, prosthetic and assistive devices, physical therapy, and psychiatric and medical in-patient and out-patient treatment. Support services may include information and referral (without regard to income) and transportation.

(E) Emergency family services. Emergency family services are to help low-income families and persons overcome or reduce family, interpersonal, and social problems so they may remain self-sufficient and to prevent abuse and neglect.

Problems may involve inadequate housing, nutrition, childrearing, family and interpersonal relationships (i.e., career development, family planning, unplanned pregnancies, spouse abuse, rape, school performance, marital problems, and drug abuse), community relationships, establishing of AFDC protective payee, and obtaining needed health care.

Services include individual, family, and group counseling; crisis intervention; assistance in securing housing; training in home management, parenting and family life, nutrition and consumer awareness; helping assess social problems; securing needed services; planning with individuals, families, and social services providers to assess the quality of the delivered services and follow-up on social service recommendations; and developing needed, lacking resources. To the extent feasible, services are delivered to families and individuals on a short-term basis. Support services such as transportation, outreach, and information and referral also may be provided.

Family violence services are to provide protection from abuse to victims of family violence, when a family member is in danger of being harmed by another family member, former spouse, or other person living with the endangered person. Persons needing protection may include adults with children who are being physically abused or threatened.

Services may include but are not limited to individual, family or group counseling, emergency transportation; referral to community resources; counseling for violent family members, access to a 24-hour crisis hotline; assuring continued school attendance of children; information on job training and seeking employment; and liaison with law enforcement officials. Secondly, room and board and emergency medical treatment may be provided on a limited basis if provision of other services is contingent upon shelter or emergency medical treatment may be provided on limited basis if provision of other services is contingent upon shelter or emergency medical care. Support services such as outreach and information and referral also may be provided.

(F) Alternate care for aged, blind, and disabled adults (ACABD). During the past legislative session, the Joint Committee on Long-Term Care Alternatives made recommendations regarding the need for services for elderly and handicapped persons. Subsequently, the legislature directed DHR to concentrate its alternate care resources on services which would most help elderly and handicapped clients to live in the

community. In response to these directions, DHR conducted a review of ACABD services during the 1980 program year, which indicated that some services be redefined and others deleted. Any changes in services during the program year will be explained through the CASPP amendment process.

(1) **Homemaker services.** Homemaker services, which are provided through purchase of service contracts, include the care of a client in his or her home to help maintain, strengthen, and safeguard the client's functioning. A trained and supervised homemaker provides personal care and performs related household tasks. Support services also may include transportation and information and referral.

(2) **Chore services.** Chore services are provided through purchase of service contracts. They include the performance of household tasks, essential shopping, meal preparation, simple household repairs, and other necessary home maintenance tasks. The objective is to permit a client, unable to perform the tasks, to remain at home. Chore services involve the client's environment and not the client's personal care. Support services may include transportation and information and referral.

(3) **Family care services.** Family care services are provided through purchase of service agreements with individual providers or with approved Title XVIII and XIX contract provider agencies. Services may be provided by a family member or a person having the capacity for a family-like relationship with the client, such as a friend or neighbor.

Services are provided for a person who, because of physical or mental infirmity, cannot care for personal needs. Services include the performance of household tasks, provision of personal care, and protective supervision. Support services may include transportation and information and referral.

(4) **Home-delivered meals.** Home-delivered meals are provided through purchase of service contracts. They provide supplemental nutrition to help prevent or reduce inappropriate institutionalization. Hot meals may be prepared and delivered to the client's residence. Support services may include transportation and information and referral.

(5) **Adult day care.** Adult day care is provided through purchase of service contracts. Services may include personal care, meals, respite care, reality orientation, occupational services, and other social services delivered in a protective setting during the day. Support services may include transportation and information and referral.

(6) **Alternative living plans.** This service is provided through purchase of service agreements with individual providers or provider agencies. Services are provided to clients in DHR-certified alternative-living-plan homes so they can live in a home-like setting rather than an institution. Special services include reality orientation, counseling, socialization, preparation of special diets, and preventive health measures. Support services may include transportation and information and referral.

(7) **Protective services.** Protective services include social and legal services for adults who are abused, neglected, or exploited and who are mentally or physically unable to protect themselves from abuse or exploitation, are incapable of recognizing that their state of neglect is life endangering, and have no one willing or able to act on their behalf. Protective services may be delivered by DHR staff and through a purchase of service contract agency. Services include case-work, counseling, psychological assessments, advocacy, mobilization of community resources, and follow-up.

There is no Texas law requiring the reporting of alleged abuse, neglect, or exploitation of adult clients or which specifies procedures for DHR to follow in such cases. Therefore, DHR protective services are authorized by generally applicable federal or state statutes. DHR staff must assure that the legal rights of the individual are protected and must make full use of community resources. Community resources such as district and county attorneys, county judges, legal aid societies, and state and local referral services will be used wherever possible.

(8) **Case management services.** Case management services are provided directly by DHR caseworkers to eligible clients on an ongoing basis. Services include assessment of client needs, service plan development, arranging for transportation, counseling, interceding on the client's behalf, other general casework activities to help with problems concerning the service plan, formal case referral, follow-up, and monitoring of the client and service delivery.

Case management activities are necessary services to clients for the effective and coordinated delivery of ACABD services. Services enable clients to enter the alternate care for the aged, blind, and disabled service delivery system and receive the support and assistance necessary to remain in their homes, thereby preventing and reducing inappropriate institutionalization.

(G) **Special services to AFDC children.** Special services for AFDC children are to enhance the development of AFDC-certified children's personal, social, and educational functioning in the community. Services are available on a one-time basis for each eligible client and include help in obtaining back-to-school supplies, winter clothing, and other necessities which the responsible adult deems necessary.

The department has determined that the cost to the State of Texas for providing these services for fiscal year 1981 is \$64,676,874 as appropriated by the 66th Legislature. Until the plan has reached its final form, the costs to the state cannot be exactly determined. There will be no fiscal impact to the state for fiscal year 1980 nor for the years 1982-1984 because this plan applies only to fiscal year 1981. The department has further determined that there will be no fiscal implications for local units of government.

1981 Program Year
Statewide Summaries
All Programs Combined

Breakdown of Resources

Federal.....	\$149,148,633*
State.....	64,676,874
Local/donated.....	4,844,080
Certified public expenditures.....	4,804,563
Total.....	\$223,474,150

*Total federal allocation for Texas at a \$2.5 billion Title XX ceiling.

Comparison of Expenditures by Year

	1979 Program Year (Actual)	1980 Program Year (Estimated)	1981 Program Year (Estimated)
Federal	\$157,063,000	\$173,426,755	\$149,148,633
Nonfederal	48,421,528	75,814,188	74,325,517
Total	\$205,484,528	\$249,240,943	\$223,474,150

Expenditures Relevant to Method of Delivery

Direct delivery	\$74,799,227
Purchase of service	125,101,700
Administrative support	23,573,223*
Total	\$223,474,150

*Includes \$7,288,337 for Child Care Licensing Program, plus other costs for Family Code Administration, executive administration, and support provided by other state agencies.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769. The comment period will end on July 31, 1980. A public hearing on the proposed plan is scheduled for 9 a.m. July 16, 1980, in Room 2L1 of the Banister Building, 706 Banister Lane in Austin. Persons or groups wishing to make oral comments or public recommendations may do so at the hearing. Additional public hearings on the proposed plan may be held in each DHR region during the comment period. The time and location for the regional hearings can be obtained by contacting one of the DHR offices listed in the newspaper advertisement or the Title XX Information Center.

Copies of the proposed services plan are available to the public for inspection at the Title XX Information Center, 1708 East Anderson Lane, Austin. Copies are available, free of charge, by writing to the Title XX Information Center, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769.

This amendment is proposed under the authority of Title 2 of the Human Resources Code.

.003. Title XX Comprehensive Annual Services Program Plan. The Department of Human Resources adopts by reference the Title XX Comprehensive Annual Services Program Plan for Texas for the services program year October 1, 1980 [1979] to September 30, 1981 [1980].

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804365 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: July 31, 1980
For further information, please call (512) 441-3355.

Texas Department of Mental Health and Mental Retardation

Other Agencies and the Public

Community Mental Health and Mental Retardation Centers 302.03.01

The Texas Department of Mental Health and Mental Retardation proposes to amend subsection (c) of Rule 302.03.01.005 which requires the boards of trustees of community mental health and mental retardation centers to report to the department certain information concerning professional and consultant fees paid by the community center or centers it operates. The Texas Board of Mental Health and Mental Retardation approved the proposed amendment at its May 30, 1980, meeting.

The proposed amendment to subsection (c) of Rule .005 would delete language from the first sentence of the rule so that boards of trustees of community centers will be required to report to the department all professional and consultant fees paid by the community center only once a year, that is, at the end of each grant period, rather than at the end of each quarter of a grant period as is presently required. The department is of the opinion that adequate managerial control and monitoring of professional fee expenditures by community centers can be maintained by annual reports and quarterly reports therefore are unnecessary.

Promulgation of the proposed amendment to Rule .005 will have no known fiscal implications for the state or for units of local government. Promulgation of the proposed amendment will reduce the amount of paperwork involved in monitoring community center professional fee expenditures (source: Legal and Claims Division).

Public comment on the proposed amendment to Rule .005 is invited. Persons may submit their comments by writing to John J. Kavanagh, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, or by telephone at (512) 454-3761.

The amendment to Rule .005 is proposed under the authority contained in Section 4.01 of Article 5547-204, Texas Civil Statutes.

.005. Personnel Administration.

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

(c) At the end of each quarter of a grant period, boards of trustees shall report to the department on forms supplied by it all professional (consultant) fees paid by the community center or centers it operates. The report shall show the name of each person receiving such fees, his profession or occupation, his place of residence, the amount of the fee, and the service rendered.

(d)-(g) (No change.)

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

Doc. No. 804324 John J. Kavanagh, M.D.
Commissioner
Texas Department of Mental Health
and Mental Retardation

Proposed Date of Adoption: July 14, 1980
For further information, please call (512) 454-3761, ext. 241.

Railroad Commission of Texas

Oil and Gas Division

Natural Gas Policy Act (NGPA) State Alternate Procedures 051.02.04

The Railroad Commission of Texas is proposing to adopt Rules 051.02.04.001-.004 governing requests for certain category determinations under the Natural Gas Policy Act of 1978. The earlier version of these rules was published at 4 TexReg 1778 and is withdrawn. The present version addresses additional issues. These rules provide for simplified filings for Section 102(c)(1)(C) applications where the subject well is not the first well in the reservoir for which application is made. Provision is included for applications for wells producing from tight formations, and the requirements

for allocation of production from a multiple well lease are clarified. Provision is made for administrative approval of applications. These rules are designed to serve as a state alternate plan to replace the federal and state rules currently applicable to filings under the Natural Gas Policy Act. The rules are intended to simplify the filing requirements and the determination procedures. The commission believes these modifications are essential to prevent duplicative filings by applicants when existing state regulations provide an adequate basis for determinations. Adoption of these rules will expedite the determination process.

The staff of the commission has determined that the adoption of these rules would have no fiscal implications because, when adopted, they would replace the existing determination mechanism.

Public comment is invited and should be submitted within 30 days to Sandra Bolz Buch, P. O. Drawer 12967, Austin, Texas 78711.

These rules are proposed under the authority of the Texas Natural Resources Code Annotated, Section 81.052.

001. Definitions

(a) "Commencement of surface drilling" means the spud date.

(b) "Commission" and "RRC" mean the Railroad Commission of Texas.

(c) "FERC" means the Federal Energy Regulatory Commission.

(d) "Operator" means a person designated to the commission as the one who has primary responsibility for complying with its rules and regulations.

(e) "Other seller" means a person who sells natural gas from the subject well under a contract separate from the operator's contract.

(f) "Sections 102, 103, 107, and 108" refer to those sections of the Natural Gas Policy Act of 1978 (NGPA).

002. Application Procedure

(a) Applications for category determination may be made only after completion of the subject well. Applications filed prior to the completion date will be returned to the applicant.

(b) An applicant seeking a category determination can be either the operator of a well or any other seller when the operator has not filed an application. A filing by any other seller must be accompanied by a statement that the operator has refused to file. The category determination is initiated by the applicant with the filing of the RRC Form F-1 and the FERC Form 121. Required documents should be included with the application. An application may be amended to include additional categories by filing revised Forms F-1 and FERC 121, certificate of service, and supporting documents. An application may be withdrawn by written request of the applicant prior to transmittal to FERC.

(c) Correspondence on NGPA dockets should be marked "NGPA" and sent to the commission at Box 12967, Austin, Texas 78711. No filings may be made at the district offices.

(d) If any requirement is eliminated, docketed applications will be examined for compliance under the revised regulations.

(e) Applicants should not use staples in attaching pages in an application because the applications cannot be microfilmed with staples.

(f) A separate application must be filed for each well. A separate application must be filed for each completion location, except under Section 108.

003. Documents Supporting Application

(a) General instructions. Only one copy of any required document shall be filed. If a document originally submitted to the commission is required, submission of a legible copy from the applicant's files will comply if the application includes a statement signed by applicant that copies of Texas Railroad Commission documents attached to the application are true and correct copies of the documents originally filed with the commission. Certified copies of documents from commission files or additional documents deemed necessary for a determination after an examination of the application may be required. The applicant must certify that the F-1 and the FERC 121 were served on the purchaser, other sellers, and, if state or university lands are involved, the General Land Office or University of Texas System. All applications must include the oath statement associated with that section and located on the Form F-1.

(b) New gas under Section 102.

(1) Applications under Section 102(c)(1)(B) must contain the RRC Form F-1, the FERC Form 121, copies of all G-1s or W-2s for the subject well, and a legible map or plat covering at least 2 1/2 miles in all directions from the subject well. The map or plat must outline the 2-1/2 mile circle around the subject well and show all marker wells within 2-1/2 miles of the subject well. A marker well is any well from which natural gas was produced between January 1, 1970, and April 20, 1977. All wells shown will be assumed to be marker wells unless the applicant indicates otherwise. If there are marker wells within the circle, the applicant must also show the identification number or well and lease number and completion depth of the well with the deepest completion of any such marker wells. If a directional survey on the well was required to be filed with the commission, a copy from commission files or one prepared by the surveyor or service company shall be included.

(2) Applications under Section 102(c)(1)(C) must include the RRC Form F-1, the FERC Form 121, copies of all G-1s or W-2s, the RRC Form P-7, and a copy of the order or notice of commission action designating a new reservoir and/or new field status applicable to the reservoir in which the subject well is completed. If a directional survey on the well was required to be filed with the commission, a copy from commission files or one prepared by the surveyor or service company shall be included. A plat must be filed showing the subject well and all wells which penetrated the subject reservoir. Where a well penetrated the reservoir, prior to April 20, 1977, it will disqualify the subject well unless:

(A) applicant can show it penetrated the stratigraphic equivalent, but not the reservoir;

(B) applicant can satisfy both tiers of the following rebuttable presumption.

(1) no sales and deliveries of natural gas were made prior to April 20, 1977, through such well; and

(2) no sales and deliveries of natural gas from the subject reservoir were made through such well on or after April 20, 1977, and before November 9, 1978; or

(C) applicant can show that the other well could not have produced in commercial quantities from the subject reservoir. Where the subject well is not the first well in the reservoir for which a Section 102(c)(1)(C) NGPA application

has been filed with the RRC, the applicant may file, in lieu of the above, all G-1s or W-2s for the subject well, the docket number assigned the initial well filing in the reservoir, and appropriate geological and engineering evidence to show that the subject well is completed in the same reservoir as the initial well.

(c) **New onshore production wells under Section 103.** An application shall include the RRC Form F-1, the FERC Form 121, copies of the original and any amended W-1 and accompanying plat(s) and all G-1s or W-2s for the subject well, and copies of the RRC field rules indicating spacing and density provisions applicable at commencement of surface drilling. The location plat accompanying the W-1 must outline the proration unit, show all wells within the unit in which the subject well is located and designate any of those wells completed in the same reservoir. If any such well has been plugged, the plugging date shall be shown.

(1) The NGPA proration unit is the amount required by the statewide or field rules, whichever was applicable on the spud date. This is the amount shown in box 17 on the W-1 and not the amount of the drilling unit. If the commission has authorized an optional unit or changed unit sizes in order to permit effective and efficient development and drainage of the reservoir, such new proration unit shall be effective for the subject well in lieu of any previously existing unit prior to the commencement of surface drilling of the subject well and shall be evidenced by the granting of a permit for the subject well on such unit.

(2) Where the commission has established an entity for density purposes, the plat accompanying the W-1 should outline the entity unit.

(3) When an application involves a second well on a proration unit pursuant to Rule 37 and/or Rule 38 exception, and if surface drilling of the first well to the same reservoir on the unit commenced before February 19, 1977, and such first well produced prior to or was capable after such date of production of natural gas in commercial quantities, the applicant shall include a copy of the commission's Rule 37 and/or Rule 38 order for the subject well and shall request a determination that the well was needed to effectively and efficiently drain the reservoir.

(4) For wells drilled into existing proration units without an exception to RRC Rule 38 (e.g., replacement wells), applicant should request as a part of the Section 103 application and file data to support a finding that the well is needed to effectively and efficiently drain the reservoir. When justified by unusual circumstances, consideration will be given to processing a request prior to filing of an application for category determination. Request for the finding shall be filed with the commission's NGPA section.

(d) **High cost natural gas under Section 107**

(1) Deep high cost natural gas applications under Section 107(a) shall include the RRC Form F-1, copies of all G-1s or W-2s, the FERC Form 121, and a copy of one of the following: a complete well log, the log leading together with the relevant portion of the well log, or a well servicing company report signed by a representative of the independent well servicing company corroborating the depth of the completion location (producing interval). Where a well log is submitted, the perforating depth should be marked.

(2) Applications under Section 107(b) for wells producing from tight formations shall include the RRC Form F-1 and FERC Form 121 and must specify the designated formation in which the well is completed. Applicant must provide

an aerial map showing the location of the subject well within the formation. In addition, the applicant must file all information required by Section 102 or 103 above.

(e) **Stripper wells under Section 108.** Each application must include the RRC Form F-1, the FERC Form 121, and information by month from the commission's production ledger, P-1, or P-2, detailing the amount of any natural gas production from all completions in the well during a 90-day period designated by the applicant ending within 90 days prior to the filing of the application. A maximum efficient rate of flow or 60 MCF or less must be established either: (1) through the filing of a monthly summary of gas production taken from the RRC production ledger, P-1, or P-2, for a 12-month period ending concurrently with the 90-day period; or (2) through the filing of a copy of the G-10 or W-10 test performed during the 12-month period ending concurrently with the 90-day period. A monthly summary of crude oil production for oil wells shall also be provided for the 90-day production period. The P-1, P-2, or production ledger for the last month of the 90-day production period must be provided.

(1) For a multiple well lease where wells are not individually metered, oil and gas production may be allocated by averaging equally among the nonmetered wells only where there is no other reliable method of allocation. To justify averaging of production, the applicant must specifically state why the W-10 is not reliable as a basis for allocation and that there is no other reliable method of allocation. An applicant may utilize a W-10 well test conducted during the relevant 12-month period or an alternative method of allocation when the reliability of the other method is supported by evidence in the application. The applicant shall submit either an explanation of how the W-10 was used or a description of the alternative method of allocation. The applicant shall file sample calculations and a summary by month of production allocated to the subject well.

(2) If an increase in average daily production above 60 MCF occurs after the 90-day period for which application has been made and the increase is due to an enhanced recovery technique, supporting evidence is required in a subsequent proceeding. If a well is alleged to be seasonally affected, such a determination may be sought in the original application or in a subsequent proceeding.

1004 Commission Action on Applications

(a) Each application will be assigned a docket number identifying it as an NGPA determination. A notice of receipt will be sent to the applicant, indicating the assigned docket number and receipt date. All further correspondence must include this number.

(b) An application can be approved without a hearing. A hearing will be held only in the following situations:

(1) the examiner's recommendation is adverse to the applicant;

(2) an intervention in protest is filed within 15 days after transmittal of notice that the application will be approved without hearing;

(3) the applicant makes a written request for a hearing within 15 days after transmittal of notice that the application will be approved without hearing; or

(4) the staff determines a hearing is necessary.

A notice of hearing will be issued only for complete applications and will be furnished to each person whom the applicant has notified, any other person the commission deems necessary, and to the commission secretary. Persons claim-

ing a justiciable or administratively cognizable interest may intervene in support or opposition.

(c) Although applicants are not required to appear at all hearings, an appearance or additional support may be required at certain hearings. In the absence of intervenors, dockets may be heard on the basis of the supporting documentation. If required by the examiner or requested by the application, an evidentiary hearing with sworn testimony will be conducted.

(d) Dockets in which an intervention in opposition is entered prior to or at the scheduled hearing will be recessed to a time designated by the examiner. If the applicant did not appear initially, the examiner will give notice of the opposition and recess. Failure of the intervenor to appear at the subsequent hearing will be deemed a withdrawal.

(e) If a proposal for decision is not waived, and the examiner's recommendation is adverse to a party in the docket, a proposal will be issued. Exceptions to the proposal may be filed within 13 days after service, and replies to exceptions may be filed within 18 days after service. Exceptions and replies must be served on all other participants and be received by the commission within these times in order to be considered.

(f) Dockets will be consolidated if practicable for presentation of the examiner's recommendations to the commission.

(g) If a person alleging a justiciable or administratively cognizable interest was not given notice, a written motion in intervention may be filed by the date of commission con-

sideration in open meeting showing good cause for the commission to grant the intervention or take other appropriate action.

(h) Motions for rehearing may be filed within 15 days of any order. A reply thereto may be filed within 25 days of the order. Motions and replies must be received by the commission within these times in order to be considered.

(i) Within five days after the last day for filing a motion for rehearing, or if such a motion is filed, within 15 days after it is denied or overruled by operation of law, the commission will transmit to the FERC a copy of its determination, together with the record and any additional material required. Notice of the transmittal will be given to the applicant, nonoperators, and, in the case of Section 108 determinations, to the purchaser(s).

(j) If a determination is reversed by the FERC, an applicant may file a new application based on additional evidence. If a determination is remanded by the FERC, notice will be sent to all parties, and a hearing will be scheduled if required.

Issued in Austin, Texas, on June 6, 1980.

Doc. No. 804373 Sandra Bolz Buch
Director, NGPA
Railroad Commission of Texas

Proposed Date of Adoption: July 28, 1980
For further information, please call (512) 445-1278.

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

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

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

NONCODIFIED

Texas Department of Human Resources

Food Stamps

The Department of Human Resources adopts the following new rules, repeals, and amendments to its rules concerning several federally mandated changes to the Food Stamp Program. The United States Department of Agriculture (USDA) has issued final regulations which add social security number (SSN) requirements, change fraud disqualification and recoupment procedures, and add certification/issuance service requirements. The SSN requirements and the fraud disqualification and recoupment procedures are federally mandated to be effective June 1, 1980; the certification/issuance service requirements are federally mandated to be effective July 10, 1980.

According to USDA, food stamp applicants/recipients 18 years of age or older, or who are under 18 but receive countable income, must provide or apply for a SSN prior to the household's eligibility determination. Failure to provide or apply for the SSN without good cause will result in disqualification of the household member for whom the SSN is required. The department will assist applicants/recipients in applying for an SSN.

The fraud disqualification and recoupment procedures are part of the 1979 amendments to the Food Stamp Act. An individual disqualified for fraud must sign a repayment agree-

ment letter or continue being disqualified. If the agreed upon repayment schedule breaks down, the department may decide to recoup the fraudulent overissuance through a reduction in the household's monthly food stamp allotment.

The USDA has established minimum standards for certification and issuance services offered by the department. Households which live more than 30 miles from a certification or issuance site will be offered a mail issuance option as a means of obtaining their food stamp benefits. Other services to be offered in a county depend on such factors as the number and locations of participant and applicant households, and service needs as expressed by public comment. The department regional offices will prepare needs assessments and service plans for each county. Special provision, such as application pickup points, is made for counties which are served only part time.

Household Concept 326.15.22.003

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.003. Disqualified Persons. The following individuals are disqualified from participation in the Food Stamp Program even though they are otherwise considered household members:

- (1) individuals disqualified as the result of an administrative fraud hearing or by court order;
- (2) individuals whose period of disqualification is continued for failure to sign a repayment agreement after a determination of fraud;
- (3) students who fail to comply with the school year (20 hours) work registration requirements; or
- (4) individuals who fail without good cause to obtain or refuse to provide an SSN.

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804341 Jerome Chapman
 Commissioner
 Texas Department of Human Resources

Effective Date: June 1, 1980

Proposal Publication Date: N/A

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

326.15.22.014

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective July 10, 1980.

.014. Authorized Representative. An authorized representative is an individual who is knowledgeable of household circumstances and may act for the household in applying for, obtaining, or using food stamps. The authorized representative is designated by the head of the household, spouse, or other responsible household member, and may act in that capacity with the full knowledge and consent of the household. Certain households, particularly those consisting entirely of elderly or disabled persons, may have difficulty getting to a certification or issuance office. The worker shall encourage designation of ARs, and reasonably assist such a household in finding an AR to act on its behalf.

Doc. No. 804342

Application Process 326.15.23.006, .007, .011, .012

These rules are amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective July 10, 1980.

.006. *Filing an Application.*

(a) (No change.)

(b) The certification office must encourage the household to file its application the same day a household member or representative contacts, in person or by phone, the appropriate certification office in the county of residence and expresses interest in obtaining food stamps. If the household elects not to come to the office to obtain its application, or if its request for food stamp assistance came through the mail, the office must mail an application to the household on the same day the request is received. Upon contact with the certification office, the household must be advised of the availability of appointments and the options for out-of-office service, if available.

(c) (No change.)

.007. *Availability of Application Form.*

(a) Application forms must be made readily available to potential applicants. Groups, individuals, or other agencies involved in outreach, such as county welfare offices or community action agencies, may obtain application forms through the regional or State Office outreach coordinators. In addition, a notice must be posted in each PA or non-PA certification office to inform the household of application-processing standards and its right to file an application on the day of its initial contact.

(b) As noted in the county's service plan, at least one application pickup point must be established in each county where basic certification services are not offered during normal business hours each business day. The purpose is to afford program access to applicants in such counties when the certification office is not open. The region shall supply the pickup points with sufficient applications, and with stamped envelopes which have been preaddressed to the appropriate certification office. The household may then mail in its application rather than waiting until the part-time certification offices open.

(c) Applications shall be accepted and considered filed on the same day they are received at the address provided for mailed-in applications. This does not include weekends or other nonworkdays. An application drop off point may also be established where the household may leave the application when it is ready for filing. When a household chooses to leave the application at a drop-off point rather than mailing it to the nearest full time office, the region must make instructions available at the drop-off point to explain the options and the circumstances under which mailing applications will result in quicker service.

.011. *Content of Interview.*

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

(d) In addition to the above, the household must be provided an explanation of Food Stamp Rights/Responsibilities form, and advised of its rights and responsibilities in the Food Stamp Program as follows:

(1)-(9) (No change.)

(10) For households living more than 30 miles from a certification or issuance site, discuss alternatives for obtaining certification and issuance services.

.012. *Waiver of Office Interview.*

(a) (No change.)

(b) In addition, the office interview must be waived on a case-by-case basis for households unable to appoint an authorized representative and who have no household members able to come to the office because of transportation difficulties, employment or work hours, illness, care of another member, or similar reasons. The certification office may first explore the possibility of another appointment date before waiving the office interview. The reason for granting or denying a request to waive the office interview must be thoroughly documented in the casefolder.

(c) Out-of-office certification procedures (home visits or telephone interviews) shall be offered to applicants and participants who live more than 30 miles from a certification office. If the county has been granted a waiver in the county service plan, these households may choose to travel for certification and issuance services to a population center over 30 miles away where they normally conduct their personal business including use of their food stamps. Alternative issuance services, such as mail issuance, may also be available to these households.

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804343

Jerome Chapman

Commissioner

Texas Department of Human Resources

Effective Date: July 10, 1980

Proposal Publication Date: N/A

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

326.15.23.011

The Texas Department of Human Resources has withdrawn from consideration for adoption the proposed amendment to Rule 326.15.23.011 concerning content of interview. The proposed amendment to Rule .011 was published in the February 1, 1980, issue of the *Texas Register* (5 TexReg 310)

Issued in Austin, Texas, on June 5, 1980

Doc. No. 804344

Susan L. Johnson, Assistant Chief

Systems and Procedures Bureau

Texas Department of Human Resources

Filed: June 6, 1980, 9:21 a.m.

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

326.15.23.016

This rule is adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective July 10, 1980.

.016. *Appointments.* Certification offices must offer appointments to applicants and participants. Offices with three or more AFDC and/or food stamp workers must offer certification services through the lunch hour.

Doc. No. 804345

Non-PA Redeterminations 326.15.26

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective July 10, 1980.

326.15.015. Opportunity to Participate.

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

(c) Mail issuance households will continue receiving their food stamps through the mail if the computer form is processed correctly before cut-off in the last month of the expiring certification period. Otherwise, the worker must issue the household a machine or manual ATP for the first month of the new certification period.

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804346 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: July 10, 1980

Proposal Publication Date: N/A

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

Resources 326.15.35

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

326.15.026. Resources of Nonhousehold Members. The resources of nonhousehold members are not counted as available to the household. The resources of disqualified household members are treated as discussed in Rule 326.15.56.008.

Doc No 804347

Social Security Numbers 326.15.36

These rules are adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

001. Requirements

(a) A household participating or applying for participation in the Food Stamp Program must provide DHR with the social security number (SSN) for each household member 18 years or older and each child under 18 who receives countable income. If an individual has more than one number, all numbers shall be required.

(b) The eligibility worker shall explain to applicants and participants that refusal to provide an SSN will result in disqualification of the individual for whom an SSN is not provided.

(c) DHR is authorized to use SSNs in the administration of the Food Stamp Program in accordance with federal regulations. DHR is required to verify the accuracy of existing SSNs and assist the client in acquiring an SSN when one never existed or is presently unknown. The following procedures meet these requirements.

002. Obtaining Social Security Numbers

(a) Most applicants/recipients will already have an SSN. Existing and available SSNs must be provided before the household's eligibility determination with the exception of expedited issuance cases. For expedited issuance cases, the SSN need not be provided until the next certification.

(b) If an individual reports more than one SSN, all numbers should be documented in the casefolder. The worker should evaluate the numbers provided and enter the number which appears to be the individual's primary SSN. Individuals reporting duplicate SSNs must be referred to the local Social Security Administration office so SSA can clear their records.

(c) If the applicant/recipient does not have an SSN, does not know if he or she has an SSN, or has lost his or her SSN, DHR will, with the client's cooperation and consent, apply for an SSN.

(d) Clients are not prohibited from applying for the SSN at the Social Security Administration. If the client expresses a desire to apply on his or her own, the worker must inform the household member where to apply and what information will be needed. The worker shall suggest that the household member ask for proof of application from SSA. Households applying on their own must be assigned certification periods not exceeding 90 days from the date of the eligibility determination. For expedited issuance cases, the 90 days begins with the date of the first eligibility determination following the expedited certification. If, at the end of the 90 days the household member does not have an SSN or proof of application, he or she must show good cause or be disqualified.

003. Failure to Comply.

(a) If the worker determines that a household member required to provide an SSN as a condition of eligibility has refused to provide it, the individual without the SSN will be ineligible to participate in the program.

(b) If an individual makes application for an SSN on his or her own to SSA in order to meet the SSN requirement, and the SSN has not been received within 90 days of the eligibility decision, the participant must show good cause for the failure or be disqualified. The disqualification applies to the individual for whom the SSN is not provided and not to the entire household.

004. Good Cause

(a) In determining if good cause exists for failure to comply with the requirement to provide an SSN, the worker must consider information from the household member, the SSA, and DHR.

(b) Documentary evidence or collateral information that the household has applied for the SSN is considered good cause for not complying with this requirement in a timely manner. The household member without the SSN may continue to participate while waiting for SSA to issue an SSN so long as they have filed an application for an SSN accompanied by the necessary verification and can document this. In addition, good cause may be established if the household has been unable to complete the SSN application process but can substantiate through documentary evidence or collateral information that the household had made every effort to supply SSA or DHR with the necessary information.

(c) If the household member applying for an SSN has been unable to obtain the documents required by SSA, the worker should make every effort to assist the individual in obtaining these documents.

005. Ending Disqualification. Disqualified household members may become eligible upon providing the worker with the SSN, demonstrating that an application has been made at SSA for a social security number, or applying for an SSN through DHR.

Doc. No. 804348

Definition of Income 326.15.41

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.039. *Included as Income.* For food stamp purposes, income includes the following:

(1) Earned income.

(A) Earnings. All wages and salaries for services performed as an employee. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work with no compensation besides the assistance payments themselves, are considered earned income to the extent that the payments actually substitute for wages or salaries. Special payments for work-related expenses in addition to the basic assistance payment are considered part of the assistance payment and not as additional compensation.

(B)-(C) (No change.)

(D) Income of a disqualified person. Earned income of individuals disqualified for fraud, failure to sign a repayment agreement after a determination of fraud, failure to comply with the student work registration requirement, or failure to comply with the requirement to provide an SSN are counted as earned income less the pro rata share for the disqualified individual.

(2) Unearned income.

(A)-(E) (No change.)

(F) Income of a disqualified member. The unearned income of an individual disqualified for fraud or refusing to sign a repayment agreement, for failing to comply with the student registration requirement, or for failing to comply with the requirement to provide an SSN is counted as income less the pro rata share for the disqualified individual.

(G)-(I) (No change.)

Doc No. 804349

Self-Employment Income 326.15.44

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.017 *Households with Disqualified Members.*

(a) Households with members disqualified for fraud, for failure to sign a repayment agreement, for failure to meet the student work registration requirements, or for failure to obtain or refusal to provide an SSN need special treatment with regard to the resources and income of the disqualified individuals. Resources of disqualified individuals are considered to be available to the remaining household members in their entirety. The nonexcluded income of the disqualified individual is prorated evenly among all household members, including the disqualified member. All but the disqualified individual's share is counted as income to the remaining household members.

(b)-(c) (No change.)

Doc. No. 804350

Disqualified Persons and Nonmembers 326.15.56

These rules are amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.007. *Consideration.* Individual household members may be disqualified for food stamps while the remainder of the household is eligible to participate. Students may be disqualified because of failure to comply with school year (20-

hour) work registration requirements. Other individuals may be disqualified after a fraud hearing, court decision, or for failure to sign a repayment agreement after a determination of fraud, or for failure to obtain or refusal to provide an SSN. Because these persons are quasi-members of the household, although not allowed to participate, their income and resources are handled during the period of disqualification as described in the following rules.

.012. *Worker Action on Disqualified Member.*

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

(c) A notice of adverse action must also be provided to the household before disqualifying an individual for failure to meet the SSN requirement. The notice must inform the household that the individual without an SSN is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

(d) No notice of adverse action is necessary in the case of an individual who has been disqualified for fraud. The fraud hearing process is sufficient notice to the household that one of its members is being disqualified. However, the worker must notify the household of the eligibility and allotment of the remaining members. The household may appeal the reduction or termination of benefits, but it is not entitled to continuation of benefits at the old level during the appeal.

Doc. No. 804351

Verification 326.15.62

This rule is adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.020. *Social Security Numbers.* Security numbers reported by the household must be verified. If, however, all other steps necessary to certify a household have been completed except for verification of an existing SSN, the worker must go ahead and certify the household. Certification of an otherwise eligible household must not be delayed solely to validate a household member's SSN, even if the 30-day processing period has expired. If verification of a reported SSN is not completed at initial certification, it must be completed at the time of or prior to the household's next recertification. Newly obtained social security numbers must be verified at recertification.

Doc No. 804352

Changes during Certification Periods 326.15.64

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.012. *Changes Required To Be Reported.* Certified households are required to report the following changes:

(1) Changes in the sources of income or in the amount of gross monthly income of more than the maximum allowed, except changes in the public assistance grant and mass changes in social security and SSI benefits. Since DHR has prior knowledge of these changes, action must be taken on DHR information.

(2)-(6) (No change.)

Doc. No. 804353

Notice of Adverse Action 326.15.65.007

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.007. Mass Changes. A notice of adverse action is not required for certain changes initiated by the state or federal government which may affect the entire caseload or significant portions of the caseload.

Doc No 804354

326.15.65.023

This rule is adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.023. Converting from Cash Payment to Benefit Reduction. A notice of adverse action is not required when converting a household from cash repayment of a fraud claim to benefit reduction as a result of failure to make restitution as agreed.

Doc. No. 804355

Fraud Disqualification 326.15.73.006, .014

The repeal of Rules 326.15.73.006 and .014 are adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

Doc No 804356

326.15.73.007, .010, .012

These rules are amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.007. Administrative Fraud Hearings.

(a) DHR will conduct administrative fraud hearings whenever there is documented evidence to substantiate that an individual has committed fraud as defined in departmental rules.

(b) Administrative fraud hearings may be conducted regardless of the individual's current eligibility. Even though legal action is planned against the household member, the administrative fraud hearing may still be conducted. Fraud hearings are not conducted if the amount is less than \$35. The burden of proving fraud is on DHR.

(c) If the administrative fraud hearing determines that the case does not involve fraud, the worker, household, and investigative unit are notified of the decision by the hearing officer and collection action is taken by the worker as a non-fraud claim.

.010. Worker Evaluation of Suspected Fraud.

(a) Once an overissuance is discovered, the certification worker must review the case to determine whether or not it should be processed for suspected fraud or as an error or misunderstanding. As a part of this review, the worker computes the amount of the overissuance as known at that time.

(b) Overissuances not suspected to be fraudulent and those which the fraud hearing officer or a court determines not to be fraudulent are considered errors or misunderstand-

ings. For overissuance involving suspected fraud, workers must adjust the current basis of issuance before referring the case for investigation. No contact is made with the household at this time regarding the overissuance.

(c) (No change.)

.012. Facts Support Fraud.

(a) If the investigative unit collects sufficient evidence to document that fraud does exist, the investigators will recommend processing the case through an administrative fraud hearing, through the courts, through both procedures, or not at all. If the decision is to hold an administrative fraud hearing, the case is referred to the fraud hearing officer for that region. The hearing officer sends notice of the hearing to the household and conducts the fraud hearing. The fraud hearing officer is responsible for making the final administrative determination of fraud.

(b) If the administrative fraud hearing determines that the case does not involve fraud, the worker, household, and investigative unit are notified of the decision by the hearing officer and collection action is taken by the worker as a non-fraud claim.

Doc. No. 804357

326.15.73.016, .017

These rules are adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.016. Participation during Investigation. An investigation or a pending fraud hearing does not affect the suspect individual's or the household's right to be certified and participate in the Food Stamp Program. The household's eligibility and benefit level pending a final decision must be determined in the same manner as for any other household. Also, if the worker has facts to substantiate that the household is ineligible or eligible for fewer benefits while awaiting a decision, the worker must take steps to reduce or terminate the household's benefits. Action is taken to adjust benefits even if the facts allowing for the adverse action led to the suspicion of fraud and any resulting fraud hearing.

.017. Disqualification

(a) Individuals determined through an administrative fraud hearing to have committed fraud against the Food Stamp Program are ineligible to participate in the program for three months. Only the guilty individual, and not the entire household, is disqualified for fraud.

(b) In addition, a court may order an individual disqualified for not less than six nor more than 24 months if the court finds that individual guilty of fraud. Unless contrary to a court order, a six-month disqualification will be imposed if the court fails to specify a disqualification period.

(c) If the guilty individual fails to agree to make restitution, the disqualification period shall continue until the person agrees to make restitution. Either the disqualified person or remaining household members may make restitution during the disqualification period.

Doc. No. 804358

Claims against Households 326.15.75.019, .020

These rules are amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.019. Changes in Household Composition. If a household's membership has changed since the overissuance occurred, the worker must initiate collection action against the head of the household. If the head of the household is dead or cannot be found, collection action is taken against the household containing a majority of the individuals who were members at the time the overissuance occurred.

.020. Size and Frequency of the Payments

(a) All claims should be collected in one lump sum whenever possible. However, if the household is financially unable to pay this way, payments are acceptable in regular installments. Installment payments should be as large as possible. Payments of less than \$5.00 a month should not be accepted except in the most unusual circumstances.

(b) (No change.)

Doc No 804359

326.15.75.022

This rule is adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.022. When Repayment Schedule Is Not Met—Fraud.

(a) If a household member fails to make a payment in accordance with the established cash repayment schedule, Investigations Division will either renegotiate the repayment agreement or order that recoupment be initiated. Recoupment is accomplished by reducing the household's monthly allotment and crediting the amount recouped to the outstanding claim. A notice of adverse action is not required.

(b) Recoupment is terminated only when the outstanding fraud claim is paid in full, or when the three years limit for collection action is reached, or upon notification by memorandum from the investigator that cash repayment has resumed. The household must receive their full entitlement the first month after notification from the investigator is received.

(c) The monthly amount to be recouped from the household will be the lesser of 25% of the household's monthly allotment or the fraudulent individual's pro rata share of the allotment.

Doc. No. 804360

ATP System 326.15.92.021, .026

These rules are amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective June 1, 1980.

.021. Supplemental ATPs. Supplemental ATPs are issued separately from initial ATPs. This kind of ATP can be used to provide increased benefits to a household as a result of reported changes. Supplemental ATPs are also used in restoring benefits lost to households because of DHR error. Manual ATPs are always used to restore supplemental benefits to households whether or not they are currently certified.

.026. Holds. Holds are used in non-PA cases to temporarily suspend the issuance of monthly ATPs issued by State Office. Holds are used in the following situations:

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

(3) When recoupment action has been initiated against the household, a case must remain on hold for the duration of the time recoupment is in effect.

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804361 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: June 1, 1980

Proposal Publication Date: N/A

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

326.15.92.024

This rule is amended under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective July 10, 1980.

.024. Other Issuance of MATPs. MATPs are authorized:

(1)-(7) (No change.)

(8) To replace a mail issuance not received by the household.

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804362 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: July 10, 1980

Proposal Publication Date: N/A

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

Mail Issuance System 326.15.94.001-.007

The Texas Department of Human Resources has withdrawn from consideration for adoption proposed new Rules 326.15.94.001-.007 concerning the policies and procedures of a mail issuance system in the Food Stamp Program. The texts of Rules .001-.007 were published in the February 1, 1980, issue of the *Texas Register* (5 TexReg 310).

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804363 Susan L. Johnson, Assistant Chief
Systems and Procedures Bureau
Texas Department of Human Resources

Filed: June 6, 1980, 9:22 a.m.

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

326.15.94.001-.008

These rules are adopted under the authority of the Human Resources Code, Title 2, pursuant to federal requirements, to be effective July 10, 1980.

.001. Introduction.

(a) Certain non-PA or PA households which live more than 30 miles from the nearest issuance office may elect to receive their regular monthly food stamp allotment through the mail, rather than through the ATP system. They will, however, receive ATPs for supplemental or restored benefits. In order to receive this service, the household must sign an

application form requesting mail issuance and must return a receipt form to State Office each month confirming that the mail issuance has been received. Failure to return the receipt twice in six months results in cancellation of mail issuance and the household will revert to the ATP system.

(b) The worker must explain the mail issuance system to all households potentially entitled to receive this service at initial certification, recertification, or at any time the household requests such information or indicates it is having difficulty getting to the issuance office to redeem its ATPs.

(c) The household may request that its food stamps be mailed to an authorized representative living outside the household. This may be desirable in situations when there is a high frequency of theft or undelivered issuances in the household's neighborhood. Two consecutive reports of nondelivery must result in corrective action to ensure receipt of benefits by the household. MATPs are used to replace mailed stamps which were not received.

(d) Households which are moving, or which otherwise have unstable addresses, should be encouraged to use the regular ATP system until their situation stabilizes sufficiently for mail issuance. Workers should emphasize to the household the importance of immediately reporting any changes in address so that benefits are received without interruption.

.002. Eligibility. A household is eligible to choose mail issuance only if it meets all of the following criteria:

(1) lives more than 30 miles from the nearest issuance facility;

(2) declines to continue travelling to that facility to get its food stamps;

(3) does not ordinarily travel more than 30 miles to a place where it conducts personal business, including the use of its food stamps. This place must contain an operating issuance facility so that the household would be able to obtain its food stamps at the time it normally makes the trip.

.003. Application.

(a) The application form for mail issuance must be given or mailed to any such household entitled to receive mail issuance and must be acted upon promptly.

(b) The application must be signed and dated by the head of the household, spouse, or authorized representative, and is countersigned by the worker to document the household's authorization or nonauthorization for mail issuance. The form is also used for supervisory concurrence if required for reinstatement. The worker should ensure the household is thoroughly familiar with its rights and responsibilities as outlined on the application form.

(c) Although the application form need not be signed in the presence of the worker, it is appropriate for the worker to confirm with the household its intentions regarding mail issuance if circumstances are questionable. This will ensure the household receives its benefits in a timely manner.

(d) An approved application for mail issuance remains in effect for initial determinations and any subsequent redeterminations until cancelled. However, the household's eligibility for continued mail issuance must be reviewed at each subsequent certification.

.004. Authorization.

(a) Prior to authorization, the worker must determine whether mail issuance for the household has been previously cancelled for failure to send in its receipt card, or repeated re-

ports of nondelivery of food stamps. The worker authorizes mail issuance for the household. The authorization will be effective and the household will begin to receive its food stamps through the mail the following month; or, if the entries are not completed until after cut-off, mail issuance will be effective the second month following. ATPs will be received in the interim.

(b) The schedule for mail issuances is different from the schedule used for mailing ATP cards. Therefore, the worker should ensure the household knows when the food stamps are scheduled to be mailed. The direct relationship between the last digit of the case number and the mailing day should be emphasized for client understanding.

.005. Receipt for Mail Issuance.

(a) An acknowledgement of receipt of mailed food stamps and a stamped self-addressed envelope will be included with the household's mail issuance. The acknowledgement serves as both an address card for mailing the stamps to the household and a receipt for the stamps.

(b) Immediately on receiving its issuance, the head of household, spouse, or authorized representative must sign and date the acknowledgement and return it to the State Office. The acknowledgement must be mailed by the household in time to be received in State Office before cut-off of the following month. Should the household fail to return the acknowledgement, a computer-generated notice will be included in the household's next mail issuance. This notice will remind the household to send in its acknowledgement so that it may continue receiving food stamps by mail.

(c) State Office will automatically cancel mail issuance for households for these households will be automatically converted to the regular ATP system.

(d) A household that did not receive its mail issuance will not be penalized for failing to return a signed receipt card. If the household reports nondelivery, the issuance of a MATP will automatically exempt the household from the return receipt requirement for that month.

.006. Household Reports Nondelivery of Stamps

(a) When a household reports that it has not received a mail issuance, the worker must:

(1) Determine whether food stamps were mailed to the household. If the case was on hold as of the previous cut-off because a mail issuance was returned as undeliverable, or for any other reason, the household's benefits have been temporarily suspended and were not mailed as scheduled. If benefits are to be provided for the current month, it will be necessary to issue the household a manual ATP.

(2) If the food stamps were mailed, determine that sufficient time has elapsed for the household to receive its mail issuance. Sufficient time must not exceed five days.

(3) An affidavit for lost food stamp benefits must be executed by the household or its authorized representative to certify that its mail issuance has not been received.

(b) The department is required to issue replacement benefits to the household within five working days after the household reported its nondelivery to the appropriate certification office.

.007. Repeated Reports of Nondelivery.

(a) After two consecutive reports of nondelivery concerning the same household, the worker must take one of the following actions:

(1) Arrange for the household to receive its mail issuance at a different, more secure, mailing address. This option may be used when the household prefers to continue receiving its food stamps through the mail, and if a suitable alternate address can be found. The household may wish to designate an authorized representative at the new address to receive its food stamps. The designation of an alternate address must be in writing.

(2) Cancel mail issuance; the household will receive its benefits through the ATP system.

(b) If, after one attempt to designate a secure alternate mailing address, the household's issuances continue to be lost in the mail in consecutive months, the household must be converted to the ATP system.

.008. Reinstatement of Mail Issuance.

(a) Households whose mail issuance has been cancelled the first time for cause may apply to have this service reinstated after a minimum interval of at least one benefit month.

(b) Before reinstating mail issuance, the worker must make a documented determination that the factors which caused the previous cancellation have been resolved.

(c) After the first reinstatement, any further requests for reinstatement of mail issuance may be granted only if six months have passed since the last cancellation. Reinstatements may be granted sooner if the supervisor concurs. Thorough documentation of the circumstances is required in these situations.

(d) Households whose mail issuance was cancelled at their own request may be reinstated without reference to this section.

Issued in Austin, Texas, on June 5, 1980.

Doc. No. 804364 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: July 10, 1980
Proposal Publication Date: N/A
For further information, please call (512) 441-3355.

State Board of Insurance

Rating and Policy Forms

Fixing Rate of Automobile Insurance 059.05.01

The State Board of Insurance has amended Rule 059.05.01.005, which adopted by reference the Rules and Rates Governing the Insurance of Automobiles and Standard Endorsements II. The changes are corrective in nature or editorial clarifications. The changes involve the following pages in the June 1, 1980, Texas Automobile Manual:

Manual Section	Page Number or Identification
Index	(a) and (b)
General Rules Section	14, 15, and 16
Commercial Section	37 and 38
Public Section	43 and 49
Garage Section	51 and 55
Miscellaneous Section	69, 70, and 78
Endorsement Section	index pages (a), (b), (c), and (d) and page (i), (ii), and (iii) of endorsement/rule schedule pages 8, 31, 55, 61, 98, 115, and 122 and page 9, endorsement 35.

The amendments were adopted as proposed except two additional editorial changes were included. The first additional change was the substitution of the word "manual" in place of "part" in Rule 83 on page 55. The second change was the addition of a dash (—) in the title of endorsement 35 on page 9 of the endorsement supplement.

These amendments are adopted under the authority of Articles 5.01 and 5.06 of the Texas Insurance Code, as amended.

.005. *Insuring of Automobiles and Standard Endorsements II.* The State Board of Insurance adopts by reference the rules contained in the Insuring of Automobiles and Standard Endorsements II as amended June 1, 1980. This document is published by and available from the Texas Automobile Insurance Service Office, Suite 350, American Bank Tower, 221 West 6th Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Issued in Austin, Texas, on June 2, 1980.

Doc. No. 804331 Pat Wagner
Chief Clerk
State Board of Insurance

Effective Date: June 26, 1980
Proposal Publication Date: April 11, 1980
For further information, please call (512) 475-3486.

Texas State Board of Physical Therapy Examiners

Definitions 394.01.00.003

Under the authority of Article 4512e, Vernon's Annotated Civil Statutes, the Texas State Board of Physical Therapy Examiners has amended Rule 394.01.00.003 to read as follows:

.003. *Physical Therapist Assistant.* "Physical therapist assistant" means a person who assists a physical therapist in the practice of physical therapy and whose activities require an understanding of physical therapy. A licensed physical therapist assistant is one who has satisfied the requirements as set forth in Section 9 of this Act. The licensed physical therapist assistant practices under the direction of a licensed physical therapist. The direction of the licensed physical therapist assistant shall include:

(1) A licensed physical therapist shall be responsible for and participate in the patient's care.

(2) A licensed physical therapist must be on call and readily available for on-site supervision of the assistant.

(3) A licensed physical therapist or a licensed physical therapist assistant must have in evidence written treatment plans formulated by the licensed physical therapist for each patient under his care. Treatment plans shall be revised following periodic re-evaluations by the licensed physical therapist.

(4) The physical therapist may assign to the physical therapist assistant responsibilities within the limits of their learning experiences as defined in the Accreditation Handbook, the American Physical Therapy Association—January 1979. Refer to Standard VI, Criterion B Sub 2, pages B-9, 10; but the licensed physical therapist assistant may not be delegated to:

(A) Specify and/or perform definitive (decisive, conclusive, final) physical therapy evaluative and assessment procedures.

(B) Plan or alter treatment programs or goals except by direction from the licensed physical therapist.

(C) Make recommendations regarding wheel chairs, orthoses, prostheses, other assistive devices, and architectural barriers to persons other than the licensed physical therapist.

(D) File progress notes or other documents for permanent record until they are approved by the licensed physical therapist or sign progress notes which include assessment findings used to design or modify patient care plans. Nothing above shall preclude the licensed physical therapist assistant from responding to acute changes in the patient's physiological state.

Doc. No. 804368

394.01.00.004

Under the authority of Article 4512e, Vernon's Annotated Civil Statutes, the Texas State Board of Physical Therapy Examiners has amended Rule 394.01.00.004 to read as follows:

004. Physical Therapy Aide. "Physical therapy aide" means a person who aids in the practice of physical therapy and whose activities require on-the-job training by the licensed physical therapist and on-site supervision by the licensed physical therapist or licensed physical therapist assistant. Since the licensed physical therapist has the responsibility for supervising the treatments comprising his practice, on-site supervision is interpreted to mean that the licensed physical therapist is on premise and readily available to respond, if necessary, during any given treatment procedure.

Doc. No. 804369

Denial, Suspension, Revocation, Grounds 394.16.00

Under authority of Article 4512e, Vernon's Annotated Civil Statutes, the Texas State Board of Physical Therapy Examiners has amended Rule 394.16.00.001 to read as follows:

001. Grounds for Denial, Suspension, or Revocation of a License. A license may be denied, or after hearing, suspended or revoked if the applicant or licensee has:

(1) Practiced physical therapy other than upon the referral of a physician licensed to practice medicine by the Texas State Board of Medical Examiners or the Texas State Board of Dental Examiners in this state, or a doctor licensed to practice chiropractic by the Texas Board of Chiropractic Examiners; or, in the case of practice as a licensed physical therapist assistant, has practiced other than under the direction of a licensed physical therapist.

(2) Used drugs or intoxicating liquors to an extent which affects his professional competency.

(3) Been convicted for violating any municipal, state, or federal narcotic law

(4) Been convicted of a felony or a crime involving moral turpitude

(5) Obtained or attempted to obtain a license by fraud or deception.

(6) Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant. Gross negligence shall include (but not be limited to) having:

(A) permitted patients to be treated by physical therapist assistants or physical therapy aides prior to an initial evaluation or in the absence of regular subsequent evaluations;

(B) sanctioned patient care by aides without the on-site supervision of a licensed physical therapist or physical therapist assistant;

(C) endangered the patient by failing to inspect and maintain equipment.

(7) Been adjudged mentally incompetent by a court of competent jurisdiction.

(8) Been guilty of conduct unbecoming a person licensed as a physical therapist or physical therapist assistant or of conduct detrimental to the best interest of the public.

(9) Been guilty of soliciting patients, advertising, or any form of self-aggrandizement. The following is included for interpretive purposes:

(A) Advertisement shall not be interpreted to mean providing the consumer with:

(i) accurate information regarding qualifications to practice physical therapy;

(ii) information stating the physical therapist's ability to communicate in specified foreign languages;

(iii) statements concerning acceptable financial arrangements;

(iv) office and telephone answering service hours;

(v) information about fees for physical therapy services, provided:

(I) the description of the treatment is given;

(II) the period of time for which the fee schedule is included;

(III) the publication date is evident.

(B) The physical therapist shall not:

(i) use any form of communication containing false, fraudulent, misleading, deceptive, self laudatory, or unfair statement or claim;

(ii) make statements which promise favorable results following a course or series of treatments;

(iii) attempt to obtain patients by persuasion, influence, or bribery;

(iv) employ printed or verbal communications which are unacceptable to the standards of the local medical community.

Issued in Austin, Texas, on June 2, 1980.

Doc. No. 804370

Lois M. Smith

Executive Director

Texas State Board of Physical Therapy
Examiners

Effective Date: June 27, 1980

Proposal Publication Date: May 2, 1980

For further information, please call (512) 475-7956.

Railroad Commission of Texas

Oil and Gas Division

Natural Gas Policy Act (NGPA) 051.02.04

The Railroad Commission of Texas has withdrawn from consideration for adoption proposed Rules 051.02.04.001-.004 concerning requests for certain category determinations under the Natural Gas Policy Act of 1978, Public Law 95-621. The texts of Rules .001-.004 were published in the August 7, 1979, issue of the *Texas Register* (4 TexReg 2730).

Issued in Austin, Texas, on June 6, 1980.

Doc. No. 804372 Carla S. Doyne
Office of General Counsel
Railroad Commission of Texas

Filed: June 6, 1980, 11:47 a.m.

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

State Board of Veterinary Medical Examiners

Licensing

Examinations 405.01.01

Under authority granted in Section 7 of Article 7465a of Vernon's Annotated Texas Statutes, the Texas State Board of Veterinary Medical Examiners has adopted Rule 405.01.01.008.

.008. Overall Average.

(a) To be eligible for a license, an applicant for the examination must attain an overall minimum average grade of 75 on all subjects with a minimum grade of 50 on any one subject in the short answer or station identification type practical. The minimum scores on any one subject of less than 50 must be reviewed by the members of the board before the individual is required to be re-examined on the subject failed. Upon re-examination, the applicant must attain a minimum score of 75 on the subject in which he was re-examined. The member of the board whose subject was failed is to submit the applicant's papers and a key to the board office for submission to the other board members for concurrence in the failure and imposition of the re-examination requirement. In the event the applicant is required to retake any part of the examination, at the discretion and direction of the board, it may be administered by the staff at the board offices in Austin, or at any other place designated by the board. All examinations administered under this rule shall be administered on the same day and within 45 days from the date of the letter notifying the applicants of failure requiring re-examination. One unsuccessful attempt to obtain a passing score of 75 on the below 50 failure will result in the applicant being required to participate in the full short answer examination at the next regularly scheduled examination or subsequent thereto.

(b) Three unsuccessful attempts by an applicant to pass the veterinary licensing examination required by the Texas board shall bar such applicant from all future examinations; provided, however, following the expiration of not less than one year from date of the third examination failed, if the applicant presents evidence satisfactory to the

Texas State Board of Veterinary Medical Examiners of remedial educational experiences, then the board in its sole discretion may authorize an additional examination.

Doc. No. 804366

General Rules of Practice and Procedure 405.03.00

Under authority granted in Section 7 of Article 7465a of Vernon's Annotated Texas Statutes, the Texas State Board of Veterinary Medical Examiners has adopted Rule 405.03.00.020.

.020. *Subpoena Fees and Expenses of Witnesses.* A witness or deponent who may or may not be a party and who is subpoenaed, compelled, or requested to attend any hearing or proceeding to testify or to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of the proceeding under the authority of this section is entitled to receive:

(1) mileage of \$.18 per mile if by private car, actual train or bus fare, or economy air fare, for going to and returning from the place of the hearing or the place where the deposition is taken if the place is outside the city, town, village, or area of such person's residence;

(2) a fee of \$25 a day for each day or part of a day the person is necessarily present as a witness or deponent; meal expense not to exceed \$15 per day; further, such person is entitled to be paid an additional fee not to exceed \$50 for each required overnight lodging;

(3) fees to which a witness or deponent is entitled under this section shall be paid by the agency from the funds deposited by the party or agency at whose request the witness appears or the deposition is taken, on presentation of proper vouchers sworn by the witnesses and approved by the agency.

Issued in Austin, Texas, on June 6, 1980.

Doc. No. 804367 T. D. Weaver
Executive Secretary
State Board of Veterinary Medical
Examiners

Effective Date: June 27, 1980

Proposal Publication Date: February 19, 1980

For further information, please call (512) 475-3933.



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

Texas Department of Agriculture

Tuesday, June 17, 1980, 9 a.m., 10 a.m., and 11 a.m. The Agricultural Protective Act Division of the Texas Department of Agriculture will meet in Suite 120 of the TDA District Office, 1949 Stemmons Freeway, Dallas. According to the agenda summary, the division will discuss allegations against Cragar Watermelon Company, Tyler, for failure to pay for produce allegedly purchased by it from three different persons.

Additional information may be obtained from Bobby Champion, P.O. Box 12847, Austin, Texas 78711, telephone (512) 475-4303.

Filed: June 5, 1980, 4:31 p.m.
Doc. No. 804340

State Banking Board

Thursday, June 26, 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 First State Bank, to be located in Cypress, Texas.

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

Filed: June 6, 1980, 3:56 p.m.
Doc. No. 804404

State Bar of Texas

Wednesday, June 11, 1980, 9 a.m. An emergency addition has been made to the agenda of a meeting of the Board of Directors of the State Bar of Texas held in Reunion Ball Room E at the Hyatt Regency Hotel, 300 Reunion Boulevard, Dallas. The supplemental agenda included reports of the Legal Assistants Committee and the Continuing Professional Competency Committee. Although the State Bar office in Austin requested all committees to contact the office about agenda items by approximately June 1, 1980, these committees only contacted the executive director on Friday, June 6, 1980, and informed him that the report of the Legal Assis-

tants Committee and the Continuing Professional Competency Committee would require some action by the State Bar Board of Directors at the meeting if the committees' recommendations were to be implemented.

Additional information may be obtained from Gary McNeil, 1414 Colorado Street, Austin, Texas, telephone (512) 475-2065.

Filed: June 9, 1980, 11:03 a.m.
Doc. No. 804416

State Commission for the Blind

Friday, June 13, 1980, 9:30 a.m. The State Commission for the Blind will meet in emergency session in Suite 511 of the Stokes Building, 314 West 11th Street, Austin. According to the agenda, the board will review minutes of meetings of March 14, 1980, and April 22, 1980; conduct a work session on agency programs and budgets; review client appeal; adopt Facilities Manual; review Business Enterprise Program policy; consider VRH transfer; and meet in executive session to discuss a personnel matter pursuant to Article 6252, Section 2(g), Vernon's Annotated Civil Statutes. Urgent necessity requires this meeting on less than seven days' notice because of an imminent deadline in presenting budget materials to the legislature.

Additional information may be obtained from Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, telephone (512) 475-6810.

Filed: June 6, 1980, 11:02 a.m.
Doc. No. 804381

Texas Board of Chiropractic Examiners

Thursday, June 12, 1980, 7 p.m. The Board of the Texas Board of Chiropractic Examiners held an emergency meeting in the Cantanaran Room, Emerald Beach Holiday Inn, 1102 South Shoreline Drive, Corpus Christi. According to the agenda, the board considered the adoption of new rules governing licensure examinations and advertising; budget requirements for the 1982-83 biennium; and other business matters. Urgent public necessity required that this meeting be held on less than seven days' notice because of the deadline for submission of the budget and the approval of new rules.

Additional information may be obtained from Kevin Holcomb, 5555 North Lamar, Building H-103, Austin, Texas 78751, telephone (512) 453-1703.

Filed: June 5, 1980, 2:58 p.m.
Doc. No. 804334

Texas Commission for the Deaf

Saturday, June 21, 1980, 9 a.m.-5 p.m. The Texas Commission for the Deaf will meet in the Independent School District board room, 801 Leopard, Corpus Christi. A summary of the agenda includes the call to order; introduction of commission members; review of previous minutes; action on routine business matters; a public hearing on proposed Rule 332.01.02, concerning services practices (adoption); action on proposed

Rule 332.01.04, concerning the Board of Evaluation of Interpreters: qualifications of interpreters for the deaf; review of action on TCD budget estimates (1982-83); review of TCD contract proposals to the Texas Department of Human Resources; and a report from the Board of Evaluation of Interpreters.

Additional information may be obtained from Debi Richardson, 510 South Congress, Suite 106, Austin, Texas, telephone (512) 475-2492.

Filed: June 9, 1980, 9:41 a.m.
Doc. No. 804419

Texas State Board of Dental Examiners

Saturday, June 14, 1980, 10 a.m., and may be recessed day-to-day until June 16, 1980. The Texas State Board of Dental Examiners has added additional items to the agenda of a meeting to be held at the Baylor College of Dentistry, Dallas. According to the agenda summary, the additional items are: discussion of rules for dental labs and technicians; assignments to national board; requests for review of failing grades; request for change in exam schedules; appointment to Hygiene Advisory Committee; discussion of examiner's manual; requests for three offices; discussion of complimentary letter; discussion of litigation suit; discussion of examination guidelines and bench guidelines; discussion of Denturism Review; discussion of applicant who left examination; discussion of reimbursement for the Health Advisory Committee; discussion of per diem allowance for investigators; executive director's conferences with dentists as per Administrative Procedure Code; and discussion of TSBDE's rules and regulations. The board will be giving dental and dental hygiene examinations, June 13-16, 1980, and the board may recess the above meeting from day-to-day.

Additional information may be obtained from Carl C. Hardin, Jr., 7th and Brazos, 718 Southwest Tower, Austin, Texas 78701, telephone (512) 475-2443.

Filed: June 6, 1980, 4:04 p.m.
Doc. No. 804392

Employees Retirement System of Texas

Friday, June 20, 1980, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at 18th and Brazos Streets, Austin. According to the agenda summary, the board will consider the following: minutes of April 15, 1980, meeting; presentation by three bidding carriers on their proposals for coverage under Uniform Group Insurance Program, effective September 1, 1980; report from Commissioner of Insurance regarding bids received; report from consulting actuaries on bids received from carriers; selection of carrier; request from HMO's for participation in Uniform Group Insurance Program; rate proposal effective September 1, 1980 for currently participating HMO's; action on proposed Rule 83.11 (335.80.00.114); report on service retirements, occupational deaths, Article 6228f beneficiaries; report on investment of retirement funds; appointment of member to In-

vestment Advisory Committee; proposals for decision of appeals of Betty Lou Brinkley, Anna J. Phelps and Alex Rives. The board will also set a date for the next meeting.

Additional information may be obtained from Joseph N. Murphy, Jr., Box 13207, Austin, Texas 78711, telephone (512) 476-6431.

Filed: June 6, 1980, 9:31 a.m.
Doc. No. 804386



Texas Energy and Natural Resources Advisory Council

Wednesday, June 11, 1980, 9 a.m. The Texas Energy and Natural Resources Advisory Council met in emergency session in the Senate Chambers at the State Capitol. The council considered DOE's Electric Utility Oil Backout Program; report and recommendations from Advisory Committee on Industrial and Electric Utility Fuel Use Policy; nuclear power recommendations for council adoption; Texas energy outlook (annual report); the state's Agricultural Fuels Industry Development Plan; TENRAC budget request for next biennium; energy development fund contract recommendations; adoption of final rules for fuel allocation; and TENRAC's participation in DOE's residential conservation service. The meeting was held on an emergency basis because the nature of the material discussed required immediate scheduling.

Additional information may be obtained from Vickie Everhart, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-0414.

Filed: June 9, 1980, 11:19 a.m.
Doc. No. 804417

Texas Health Facilities Commission

Wednesday, June 18, 1980, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

certificate of need
John Peter Smith Hospital, Fort Worth
AH80-0214-001

Community Medical Supporters, Inc., Hempstead
AO79-1220-022
Sunnyvale Manor Nursing Home 1, Dallas
AN80-0201-009
United Health Care Corporation, Seattle
AO79-1016-006
Hidalgo County Health Center, Pharr
AS80-0304-011

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

Filed: June 6, 1980, 11:33 a.m.
Doc. No. 804380

State Department of Highways and Public Transportation

Monday, June 16, 1980, 9 a.m. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in the large hearing room, first floor, and Room 207, second floor, of the State Highway Building, 11th and Brazos, Austin. According to the agenda summary, public presentations will be made in the large hearing room, first floor, for various highway, bridge, and farm-to-market road requests in Eastland, Travis, and Smith Counties. A Docket is available in the second floor commission office in the State Highway Building. Upon completion of public presentations, the commission will meet 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. An agenda is available in the second floor office of minute clerk in the State Highway Building.

Additional information may be obtained from the office of the engineer-director, State Highway Building, Room 203, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: June 6, 1980, 2:42 p.m.
Doc. No. 804406

Texas Housing Agency

Monday, June 16, 1980, 9 a.m. The Board of Directors of the Texas Housing Agency will meet in the first floor conference room of the TDCA Building, 210 Barton Springs Road, Austin. According to the agenda, the following items will be considered: report of personnel search committee (executive session pursuant to Texas Revised Civil Statutes Annotated, Article 6252-17(2)(g)); interview of selected applicants for position of executive administrator (executive session pursuant to Texas Revised Civil Statutes Annotated, Article 6252-17(2)(g)); consideration of action on selection of executive administrator (executive session pursuant to Texas Revised Civil Statutes Annotated, article 6252-17(2)(g)); board action on selection of executive administrator; report of bond counsel and financial advisor; consideration of board action concerning selection of managing underwriter; and consideration of agenda and date for next meeting.

Additional information may be obtained from Sid Wieser, P. O. Box 13166, Austin, Texas 78711, telephone (512) 475-2431.

Filed: June 6, 1980, 3:42 p.m.
Doc. No. 804387

Texas Department of Human Resources

Tuesday, June 17, 1980, 10 a.m. The Texas Association of Licensed Children's Services of the Texas Department of Human Resources will meet in Room 2L1 at 706 Banister Lane in Austin. A summary of the agenda includes presentation of special family and children's project; discussion of permanent planning issues, i.e., Model Adoption Act; and joint planning for third annual conference on "children who wait."

Additional information may be obtained from David A. Brock, 1708 East Anderson Lane, Austin, Texas, telephone (512) 835-0440, extension 2418.

Filed: June 9, 1980, 10:29 a.m.
Doc. No. 804418

State Board of Insurance

Wednesday, July 2, 1980, 2 p.m. The State Board of Insurance will meet in Room 408 at 1110 San Jacinto, Austin. The board will consider a request by Driver Training Associates for certification as administrator of The Aetna Program for Driver Improvement in the State of Texas.

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

Filed: June 6, 1980, 10:35 a.m.
Doc. No. 804383

Tuesday, July 22, 1980, 10 a.m. The State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin, to consider a report from the staff and advisory committee on proposed advertising rules.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950

Filed: June 6, 1980, 3:51 p.m.
Doc. No. 804405

Texas Board of Land Surveying

Friday, June 27, 1980, 7:30 a.m. The Texas Board of Land Surveying will meet in Parlor D of the Sheraton Crest Inn, 11 East 1st Street, Austin. According to the agenda the board will review new applications, reconsider old applications, read correspondence; and interview.

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

Filed: June 5, 1980, 2:18 p.m.
Doc. No. 804338

Library Systems Act Advisory Board

Wednesday, June 18, 1980, 10 a.m. The Library Systems Act Advisory Board will meet in Room 202 of the Lorenzo de Zavala State Archives Building, 12th and Brazos Streets, Austin. According to the agenda, the board will begin a study of the Library Systems Act, as requested by the Library and Archives Commission; discuss policy interpretations of the rules and regulations related to accreditation of system members; and consider possible changes, deletions, additions to the rules and regulations for the 1982-83 biennium.

Additional information may be obtained from **Raymond Hitt**, P.O. Box 12927, Austin, Texas 78711.

Filed: June 9, 1980, 9:37 a.m.
Doc. No. 804421

State Board of Morticians

Tuesday, June 10, 1980, 10 a.m. The State Board of Morticians made an emergency addition to a meeting held at the Fort Worth Hilton Inn, 1701 Commerce Street, Fort Worth. According to the agenda summary, the board reviewed complaints for proper action, job descriptions and an application for reciprocity.

Additional information may be obtained from **Ann Lloyd**, 1513 IH 35 South, Austin, Texas 78741, telephone (512) 442-6721.

Filed: June 6, 1980, 3:53 p.m.
Doc. No. 804394

Texas Motor Vehicle Commission

Monday, June 16, 1980, 9 a.m. The Texas Motor Vehicle Commission will conduct a hearing in Suite 200 of the National Building, 815 Brazos Street, Austin, to receive evidence in Proceeding 199—Don McMillian Ford v. Ford Motor Company.

Additional information may be obtained from **Russell Harding**, 815 Brazos Street, National Building, Suite 200, Austin, Texas, telephone (512) 476-3587.

Filed: June 6, 1980, 10:36 a.m.
Doc. No. 804382

North Texas State University

Wednesday, June 18, 1980, 8:30 a.m. The Facilities Committee of the Board of Regents of the North Texas State University and Texas College of Osteopathic Medicine will meet in the second floor board room of the Administration Building, North Texas State University, Denton. According to the agenda, the committee will consider the following: executive session (Vernon's Civil Statutes, Article 6252-17, Section 2, paragraphs e, legal; f, real estate; and g, personnel); rehabilitation of the Main Auditorium; repair of Marquis Hall roof; Phase II, utility improvements, storm drainage; addition to the Oak Street Hall; shelving for A. M. Willis, Jr., Library; revised project budget—TCOM Medical Education II; approval of the plans and specifications through the design and development stage for Medical Education Building II; construction status report; minor alterations and remodeling report.

Additional information may be obtained from **Jan Dobbs**, P.O. Box 13108, N. T. Station, Denton, Texas 76203, telephone (817) 788-2198.

Filed: June 6, 1980, 4:02 p.m.
Doc. No. 804397

Wednesday, June 18, 1980, 9 a.m. The Budget and Finance Committee of the Board of Regents of North Texas State University and the Texas College of Osteopathic Medicine will meet in the second floor board room of the Administration Building, North Texas State University, Denton. According to the agenda, the committee will consider the following: tuition increase for the Intensive English Language Institute; discussion of North Texas State University budget for 1980-81; approval of Texas College of Osteopathic Medicine budget for 1980-81; summer teaching budget; personnel changes, additions, resignations and other business; interagency cooperation contract amendment; reallocations of state appropriations and budget supplements for various departments.

Additional information may be obtained from **Jan Dobbs**, P.O. Box 13108, N. T. Station, Denton, Texas 76203, telephone (817) 788-2198

Filed: June 6, 1980, 4:03 p.m.
Doc. No. 804398

Wednesday, June 18, 1980, 9:30 a.m. The Role and Scope Committee of the Board of Regents of North Texas State University and the Texas College of Osteopathic Medicine will meet in the second floor board room of the Administration Building, North Texas State University, Denton. The committee will consider promotion and tenure recommendations for 1980-81; recommendations for professor emeritus; leaves of absence without pay; faculty workload report, Spring 1980; and name change of existing room.

Additional information may be obtained from **Jan Dobbs**, P.O. Box 13108, N. T. Station, Denton, Texas 76203, telephone (817) 788-2198.

Filed: June 6, 1980, 4:03 p.m.
Doc. No. 804399



TEXAS
DEPARTMENT
PUBLIC SAFETY

Wednesday, June 18, 1980, 10 a.m. The Student Affairs Committee of the Board of Regents of North Texas State University and the Texas College of Osteopathic Medicine will meet in the second floor board room of the Administration Building, North Texas State University, Denton. The committee will discuss the dormitory residency requirement study.

Additional information may be obtained from Jan Dobbs, P.O. Box 13108, N. T. Station, Denton, Texas 76203, telephone (817) 788-2198

Filed: June 6, 1980, 4:03 p.m.
Doc. No. 804400

Wednesday, June 18, 1980, 10:30 a.m. The Board of Regents of North Texas State University and the Texas College of Osteopathic Medicine will meet in the second floor board room, Administration Building, North Texas State University, Denton. According to the agenda, the board will consider the following items: personnel changes, additions, resignations, and other business; signature authorization; interagency cooperation contract amendment; reallocations of state appropriations and budget supplements for various departments; approval of the plans and specifications through the design and development stage for the Medical Education Building II; approval of the revised budget for the construction of the Medical Education Building II; and approval of 1980-81 operating budget.

Additional information may be obtained from Jan Dobbs, P.O. Box 13108, N. T. Station, Denton, Texas 76203, telephone (817) 788-2198.

Filed: June 6, 1980, 4:03 p.m.
Doc. No. 804402

Wednesday, June 18, 1980, 10:30 a.m. The Board of Regents of North Texas State University will meet in the second floor board room of the Administration Building, North Texas State University, Denton. According to the agenda, the board will consider promotion and tenure recommendations for 1980-81; professor emeritus recommendations; leaves of absence without pay; faculty workload report, spring 1980; name change of existing room; 1980 summer teaching budget; and tuition increase for Intensive English Language Institute.

Additional information may be obtained from Jan Dobbs, P.O. Box 13108, N. T. Station, Denton, Texas 76203, telephone (817) 788-2198.

Filed: June 6, 1980, 4:03 p.m.
Doc. No. 804401

Wednesday, June 18, 1980, 11:30 a.m. The Board of Regents of North Texas State University and the Texas College of Osteopathic Medicine will meet in the second floor board room, Administration Building, North Texas State University, Denton. According to the agenda summary, the board will meet in executive session under the authority of Vernon's Civil Statutes, Article 6252-17, Section 2, paragraphs e, legal; f, real estate; and g, personnel.

Additional information may be obtained from Jan Dobbs, P.O. Box 13108, N. T. Station, Denton, Texas 76203, telephone (817) 788-2198.

Filed: June 6, 1980, 4:03 p.m.
Doc. No. 804403

Public Utility Commission of Texas

Wednesday, June 18, 1980, 3 p.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, on an application of Coleman County Electric Cooperative, Inc., to revise its tariff—Docket 3261.

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

Filed: June 9, 1980, 9:37 a.m.
Doc. No. 804420

Friday, June 20, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, on an application of Lamb County Electric Cooperative, Inc., for authority to increase rates within Bailey, Castro, Cochran, Hale, Hockley, and Lamb Counties—Docket 3270.

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

Filed: June 6, 1980, 10:34 a.m.
Doc. No. 804384

Thursday, June 26, 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, on a Public Utility Commission inquiry into rates and practices of Bartlett Electric Cooperative, Inc.—Docket 3258.

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

Filed: June 6, 1980, 10:35 a.m.
Doc. No. 804385

Wednesday, July 2, 1980, 10 a.m. The Hearings Division of the Public Utility Commission will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing conference on Docket 3138, application of Cannon Mobilfone, Inc., for a rate increase within LaSalle, Medina, Frio, and Atascosa Counties.

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

Filed: June 5, 1980, 2:18 p.m.
Doc. No. 804332

Thursday, July 17, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a rescheduled hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, on the merits in Docket 3202—complaint of Pine Forest Water Company against the City of Longview. The hearing was originally set for July 10, 1980.

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

Filed: June 5, 1980, 2:18 p.m.
Doc. No. 804333



Railroad Commission of Texas

Monday, June 8, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. Consideration of the following items on less than seven days' notice was required as a matter of urgent public necessity. These items were properly noticed for the conference of June 2, 1980, and were passed at that meeting: Dockets 84548A73; 84938A73; 85023A73; 3-12.691A83; 84.938; and 85.023.

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

Filed: June 6, 1980, 11:47 a.m.
Doc. No. 804378

Monday, June 9, 1980, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the addition concerned consideration of Gas Utilities Dockets 2642, 2643, 2644, 2655, and 2654. These dockets were considered on less than seven days' notice because urgent public necessity required the commission to review the material prior to the next scheduled meeting.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126.

Filed: June 6, 1980, 11:46 a.m.
Doc. No. 804377

Monday, June 9, 1980, 11:30 a.m. The Finance and Procurement Division of the Railroad Commission of Texas conducted an emergency meeting in Room 309, 1124 IH 35 South, Austin. According to the agenda, the division considered the commission's space requirements for offices in Austin and Midland. This was a joint meeting of the Purchasing and General Services Commission staff and members of the Texas Railroad Commission to conclude items to be incorporated in the respective agency's budget submission. Consideration on less than seven days notice was required as a matter of urgent public necessity because of the budget submission deadline.

Additional information may be obtained from H. Roger Dillon, 1124 IH 35 South, Austin, Texas 78704, telephone (512) 445-1226

Filed: June 6, 1980, 1:55 p.m.
Doc. No. 804407

Wednesday, June 11, 1980, 2 p.m. The Finance and Procurement Division of the Railroad Commission of Texas met in emergency session in Room 309, 1124 South IH 35, Austin. According to the agenda, the division reviewed and approved the activity priority ranking table for the 1982-83 budget submission; and considered the proposed expenditures for last quarter of fiscal year 1980. Urgent public necessity required the meeting on less than seven days' notice because the division needed to complete the priority table to meet the July 3 completion date of the commission's fiscal 1982-83 budget request; and approve purchases to meet the early shut-down date set by State Purchasing. Additionally, the last quarter expenditure report is due June 20 to the state comptroller.

Additional information may be obtained from Roger Dillon, P.O. Box 12967, Austin, Texas, telephone (512) 445-1226.

Filed: June 6, 1980, 11:46 a.m.
Doc. No. 804379

Texas Water Commission

Monday, June 9, 1980, 10 a.m. The Texas Water Commission has made an emergency addition to a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the additions concerned setting hearing dates for the following districts: Harris County Municipal Utility District 186, North Mission Glen Municipal Utility District, Palo Pinto County Municipal Utility District 1, Harris County Municipal Utility District 175, and Harris County Municipal Utility District 205. This is considered an emergency because, inasmuch as confirmation elections can only be scheduled for four times a year (general election year excepted—only three times), it is necessary that the commission consider the referenced petitions for the filing and setting of a hearing date as soon as possible to meet the August election deadline.

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

Filed: June 6, 1980, 4:06 p.m.
Doc. No. 804390

Monday, June 16, 1980, 10 a.m. The Texas Water Commission will meet in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider applications for district bond issues; water quality applications; amendments; renewals; water rights applications for amendments to certificates of adjudication; extension of time application; regular applications for filing and setting of hearing dates; and an amendment to a permit.

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

Filed: June 6, 1980, 4:06 p.m.
Doc. No. 804391

Wednesday, July 2, 1980, 10 a.m. The Texas Water Commission will conduct a hearing in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hear a petition for conversion of Erath County Water Control and Improvement District 1 into a municipal utility district.

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

Filed: June 6, 1980, 4:07 p.m.
Doc. No. 804396

Texas Water Commission

Thursday, July 10, 1980, 10 a.m. The Texas Water Commission will conduct a hearing in Room 618, 1700 North Congress Avenue, Stephen F. Austin Building, Austin. According to the agenda summary, the commission will consider an application by Garwood Irrigation Company (ACF-398D) for an amendment to Certified Filing 398, as amended, to authorize construction of the overflow structure, previously authorized to be built in the channel of the Colorado River, at an elevation one foot higher than previously authorized, and increasing impoundment to 86 acre-feet, in Colorado County.

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

Filed: June 5 1980, 4:12 p.m.
Doc. No. 804337

Regional Agencies

Meetings Filed June 5, 1980

The Education Service Center, Region VIII, Board of Directors, will meet at the Region VIII Education Service Center, 100 North Riddle Street, Mount Pleasant, on June 19, 1980, at 7 p.m. Further information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, telephone (214) 572-6676.

The Education Service Center, Region XI, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on June 17, 1980, at 7:30 p.m. Further information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, telephone (817) 625-5311.

The South Plains Association of Governments, Executive Commission, met in the South Plains Association of Governments' conference room, 1709 26th Street, Lubbock, on June 10, 1980, at 9 a.m. The Board of Directors also met at that location on June 10, 1980, at 10:30 a.m. Further information may be obtained from Jerry D. Casstevens, 1709 26th Street, Lubbock, Texas, telephone (806) 762-8721.

The Trinity River Authority of Texas, Utility Services Committee, met in the executive conference room at TRA's General Office, 2723 Avenue E East, Arlington, on June 11, 1980, at 9:30 a.m. Further information may be obtained from Geri Elliott, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

Doc. No. 804335

Meetings Filed June 6, 1980

The Central Plains MH/MR Center, Board of Trustees, will meet at 2601 Dimmit Road, Plainview, on June 19, 1980, at 7 p.m. Further information may be obtained from J. C. Thomas, 2700 Yonker, Plainview, Texas 79072, telephone (806) 296-2726.

The Permian Basin Regional Planning Commission, Board of Directors, met at the Air Terminal, Midland, on June 11, 1980, at 1:30 p.m. Further information may be obtained from Ernie Crawford, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

The South Texas Development Council, Board of Directors, will meet in the conference room, Building S-1, 600 South Sandman, Laredo, on June 13, 1980, at 2 p.m. Further information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78040, telephone (512) 722-3955.

The Tri-Region Health Systems Agency, Nortex Cardiovascular Task Force, will meet in the dining room Mediacenter Psychiatric Institute, 1505 8th Street, Wichita Falls, on June 19, 1980, at 7 p.m. Further information may be obtained from Linda Moody, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 804393

Meetings Filed June 9, 1980

The Capital Area Rural System, Board of Directors, will meet in the Law Library, second floor, County Courthouse, Lockhart, on June 13, 1980, at 10 a.m. Further information may be obtained from Gayle M. Sundeen, 1000 North Lamar, Austin, Texas 78703, telephone (512) 474-8315.

Doc. No. 804422



Texas Department of Community Affairs

Consultant Proposal Request

Notice of Invitation for Program Proposals. Pursuant to Article 6252-11c, Texas Revised Civil Statutes, the Texas Department of Community Affairs (TDCA), a prime sponsor under the auspices of the Comprehensive Employment and Training Act, announces its request for proposal (RFP) to deliver the manpower services described herein. TDCA is soliciting proposals to administer and operate private sector initiative programs.

Qualifications Desired by TDCA. Offerors must evidence their capability to accomplish the requested services. Proposals must include specific items and documents which attest to the applicant's capability to provide the desired services. Selected offerors will be expected to assume responsibility for delivery of services under Title VII of CETA as appropriate and directed by TDCA. Proposals must include documentation of applicant's legal authority to contract with TDCA to provide these services. This shall be accomplished by completing and submitting a Contractor Certification of Eligibility form (TDCA Form 17-78-1 [78]) included in the request for proposal instructions which may be obtained from TDCA at the address below. Every proposal shall include a list of all persons employed by or offered employment by the offeror who at the time the proposal is submitted has been an employee of TDCA within six months prior to its submission.

Deadline for Submission of RFPs. The RFP will close as of 5 p.m. July 11, 1980, except for those proposals received postmarked on or before July 8, 1980.

Provision for Instructional Meeting. A meeting will be held to discuss and distribute request for proposal instructions on June 16, 1980, at 1:30 p.m. in the first floor auditorium of the TDCA Building, 210 Barton Springs Road, Austin. The project format which is the basis for this RFP is as follows:

An analysis of private sector linkages designed to conduct on-site surveys of Balance of State contractors, employers, and private sector task force members to determine the extent of linkages between employment and training programs and the private sector. Analyze the survey data and design a model private sector linkage system. The period of performance of service shall begin on or about October 1, 1980, and shall extend through March 31, 1981, at the option of TDCA. The contract amount shall not exceed \$150,000.

General Information. TDCA reserves the right to accept or reject any (or all) proposals submitted. TDCA is under no legal requirement to execute a resulting contract on the basis of this advertisement, and intends the material provided herein only as a means of identifying the various contractor alternatives and the general cost of the service desired by TDCA. TDCA intends to use responses hereto as a basis for further negotiation of specific project details with potential contractors. In the event that TDCA selects a contractor to provide the delivery of service provided herein, TDCA will base its choice on demonstrated competence and qualifications and the reasonableness of the fee for services. The request does not commit TDCA to pay for any costs incurred prior to execution of a contract and is subject to availability

of funds from the United States Department of Labor for this procurement. Issuance of this material in no way obligates TDCA to award a contract or to pay any costs incurred in the preparation of a response hereto. TDCA specifically reserves the right to vary all provisions set forth herein at any time prior to execution of a contract where TDCA deems such variances to be in the best interest of the State of Texas, and to otherwise act as it determines in its sole discretion.

Person to Contact. For further information regarding this notice, please contact L. C. Harris III, director, Manpower Services Division, at (512) 475-6216.

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

Doc. No. 804330 Jeanne Marcus, Director
Legal Division
Texas Department of Community Affairs

Filed: June 5, 1980, 11:06 a.m.

For further information, please call (512) 475-6216.

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 June 3 and 4, 1980.

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

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

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

St. Mary's Hospital of Port Arthur, Port Arthur
(6/3/80)

AH78-1109-020A (052980)

AMD/CN—Request to change the completion deadline from April 13, 1980, to September 30, 1980, in Certificate of Need AH78-1109-020, which authorized the purchase of data processing equipment to implement the Duke University Medical Center/IBM patient care system

Beaumont Medical Surgical Hospital, Beaumont
(6/3/80)

AH80-0530-113

EC—To acquire a Rohe diagnostic ultrasound unit with A-mode, B-scan, and M-mode capability and minor modifications to facility to accommodate installation of the equipment

St. Mary's Hospital, Galveston (6/3/80)

AH78-1109-010A (052980)

AMD/CN—Request to change the completion deadline from April 13, 1980, to February 28, 1982, in Certificate of Need AH78-1109-010, which authorized the purchase of data processing equipment to implement the Duke University Medical Center/IBM patient care system

St. Joseph Hospital, Houston (6/3/80)

AH78-1109-005A (052980)

AMD/CN—Request to change the completion deadline from April 13, 1980, to June 30, 1981, in Certificate of Need AH78-1109-005, which authorized the purchase of data processing equipment to implement the Duke University Medical Center/IBM patient care system

St. Elizabeth Hospital, Beaumont (6/3/80)

AH78-1109-015A (052980)

AMD/CN—Request to change the completion deadline from April 13, 1980, to October 31, 1981, in Certificate of Need AH78-1109-015, which authorized the purchase of data processing equipment to implement the Duke University Medical Center/IBM patient care system

Gaston Episcopal Hospital, Inc., Dallas (6/3/80)

AH77-0819-001T (052980)

T/EC—To add the name of Metropolitan Hospital Authority as a co-holder of Exemption Certificate
AH77-0819-001

Gaston Episcopal Hospital, Inc., Dallas (6/3/80)
AH80-0221-011T (052980)

T/EC—To add the name of Metropolitan Hospital Authority as a co-holder of Exemption Certificate
AH80-0221-011

Issued in Austin, Texas, on June 6, 1980.

Doc. No. 804376

O. A. Cassity III

Director of Hearings

Texas Health Facilities Commission

Filed: June 6, 1980, 11:32 a.m.

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

Texas Parks and Wildlife Department Consultant Proposal Request—Revised

A consultant proposal request to conduct a telephonic survey of at least 12,000 Texas citizens was published in the May 16, 1980, issue of the *Texas Register* (5 TexReg 1932).

The project requirements and deadline for receipt of offers are revised as follows:

(1) The telephone calls may be conducted at the consultant's place of business or at Texas Parks and Wildlife Department Headquarters, whichever provides the requested services for the most reasonable fee.

(2) The Texas Parks and Wildlife Department will furnish facilities and telephone equipment only if the offeror bids to perform the telephone calls at the Texas Parks and Wildlife Department Headquarters.

(3) Telephone interviews will be conducted from July through August 31, 1980.

(4) Deadline for receipt of offers is extended to June 20, 1980.

Issued in Austin, Texas, on May 30, 1980.

Doc. No. 804321

Charles D. Travis

Executive Director

Texas Parks and Wildlife Department

Filed: June 4, 1980, 3:11 p.m.

For further information, please call (512) 475-4991.

Railroad Commission of Texas Gas Utilities Division

Review of Commission Curtailment Policy— Public Meeting

In January of 1973, the commission issued an order in Gas Utilities Docket No. 489, relating to the approval by the commission of curtailment programs for natural gas transported and sold within the State of Texas. In this docket, the commission promulgated a curtailment priority schedule to control the flow of natural gas during times of shortage. Each gas utility within commission jurisdiction was additionally instructed to file a curtailment program for approval by the commission. It was further provided that until the commission had specifically approved a utility's curtailment program, the priority schedule contained in Docket No. 489 would be observed. Subsequently, some utilities secured approval of specific curtailment programs for the operation of their systems.

In the intervening period from the time of implementation of the general and specific curtailment plans until the present, there have been curtailments varying in magnitude and duration. Curtailments in recent periods in conjunction with developments in the applicable law and regulatory scheme

and changes in customers' operational capabilities suggest that existing curtailment plans may not be well suited to the demand and supply configuration of the energy market today. These considerations in part led to the commission's emergency amendment in Gas Utilities Docket No. 2336 on January 7, 1980, to all curtailment plans which placed certain interstate transactions at the lowest priority level. In Gas Utilities Docket No. 2336, the commission also sought comments on the existence and effectiveness of a system to voluntarily allocate and share natural gas among pipelines in cases of emergency shortage. The general conclusion of the participants was that a voluntary allocation plan was effective and much preferred over a mandatory scheme although it could be made more efficient if studies were conducted to identify and eliminate obstacles, regulatory and otherwise, to a fully coordinated system.

In order to develop recommendations on modifying the overall curtailment policy or specific plans, it is necessary to provide a public forum for the presentations of opinions and information of all interested persons or agencies. It is contemplated that the public meeting convened by this notice would be in the nature of a legislative fact finding and would form the foundation of future proceedings, including rulemaking, where the implementation of specific proposals would be examined. To continue the inquiry begun in Docket No. 2336, the opportunity will be taken at this time to solicit nominees to be appointed to a committee which will study the problems of a voluntary gas allocation system and report to the commission on any remedial action necessary to a more responsive and comprehensive system.

The Railroad Commission of Texas has authority pursuant to Texas Revised Civil Statutes Annotated, Article 6053 (Vernon 1962), to regulate and apportion the supply of gas between towns, cities, and corporations. Further, Texas Revised Civil Statutes Annotated, Article 1446c (Vernon Supplement 1980), authorizes the Railroad Commission to regulate rates, operations, and services of utilities in order to protect the public interest by assuring adequate and efficient service.

It is therefore directed that a public hearing be held on July 9, 1980, at 10 a.m. in Room 107 of the commission offices at 1124 South IH 35, Austin, to allow all gas utilities, other public utilities using natural gas as a fuel, municipalities, and any other interested persons or agencies to appear and present information, the focus of which should be upon but need not be limited to the following subjects:

(1) Reasons for past curtailments. Where applicable, comments should address:

(A) any identifiable causes of curtailment in recent heating seasons;

(B) the probability of future curtailments from those identified causes;

(C) what remedial actions, if any, have been taken to avoid future curtailments;

(D) what remedial measures, and the cost thereof, could be taken to avoid future curtailments;

(E) the possibility of future curtailments from other causes and the cost of any measures to forestall these curtailments.

(2) Available supplies of natural gas. Comments should include information concerning:

(A) whether the Railroad Commission should require gas utilities to have available at all times immediately accessible reserves of natural gas stored in sufficient quantities to enable the utility to meet extraordinary demand peaks;

(B) whether the commission should require gas utilities to acquire and maintain sufficient reserves to provide adequate supplies of natural gas during seasons of peak consumption;

(C) whether the Railroad Commission should seek to establish market mechanisms to allocate the supply of gas during times of curtailment such as a market for the future rights to purchase gas for periods of short duration;

(D) costs which customers of all classes would incur if the commission should require the implementation of (A)-(C) above, or any other course of action designed to ensure that all utilities have adequate supplies of natural gas.

(3) Delivery capacity. Comments relating to the capacity of a utility to deliver natural gas during periods of peak demand should include information concerning:

(A) factors relating to the interplay of weather and economics which were considered in developing the transportation and distribution systems currently in use in Texas;

(B) whether the commission should require utilities in Texas to adjust their delivery capabilities in order to meet extraordinary demand peaks occasioned by severe weather, and if so, what demand peak should be used;

(C) costs associated with providing utility systems which are capable of meeting the referenced peak demand.

(4) Technical improvements. The commission is interested in technical improvements which can be made or procedures which can be adopted in order to ensure that a utility system operates at any given point in time as near as practicable to 100% of designed supply and capacity limits. Information presented should include data concerning:

(A) The design and installation of pipeline controls which would not be vulnerable to predictable weather extremes. In the alternative, the alteration of existing controls to make them impervious to weather conditions.

(B) Steps that can be taken to ensure that such controls are accessible to utility employees at all times. Particular attention should be devoted to:

(1) remote control devices; and

(2) the availability to gas utility employees of the equipment necessary to ensure access to controls at all times.

(C) The cost associated with implementing any technical improvements.

(5) Priority schedules. Assuming the commission should consider the establishment of new priority schedules, or the alteration of existing priority schedules, what specific changes must be made. Included should be information concerning:

(A) what classes of customers should be included in each priority classification and why;

(B) whether a priority schedule should result in total curtailment to a lower classification before any curtailments are initiated for the next higher classification;

(C) how the priority schedule will be operationally implemented during times of curtailment;

(D) the makeup and implementation of a comprehensive priority schedule which would be applied statewide to all gas utilities regulated by the Railroad Commission of Texas pursuant to either original or appellate jurisdiction;

(E) the effect that Texas Revised Civil Statutes Annotated, Article 6066f (Vernon Supplement 1980), would have on any priority schedule;

(F) the effect that the Natural Gas Policy Act of 1978 should have on any priority schedule;

(G) whether the commission should require the development of an entitlements program whereby customers in a curtailment plan may participate in intra-category or inter-category transfers of entitlements to natural gas in contemplation of curtailment. The objective of such a program would be to build in flexibility to a particular curtailment plan to make it more responsive to the economic decisions of a utility's customer while effecting an orderly reduction in deliveries.

It is further directed that any persons or agencies who intend to participate in this proceeding so indicate by filing with the acting director of the Gas Utilities Division of the Railroad Commission of Texas at P.O. Box 12967, Austin, Texas 78711, a statement of intent to participate along with a copy of the statement, testimony, and any supporting data which they will present orally at the hearing at least 10 days prior to the date of the hearing. This material need not be served on any other party, but will be available for inspection at the commission office.

It is further directed that all gas utilities shall serve a copy of this notice on all municipalities within which they serve or to whose city gate they deliver natural gas and on all industrial and agricultural customers, excluding other gas utilities to whom they provide natural gas service, by United States mail, postmarked no later than May 30, 1980.

It is further directed that all gas utilities shall file with the acting director of the Gas Utilities Division of the Railroad Commission of Texas a list of all municipalities, persons, or agencies on whom it has served notice no later than June 6, 1980.

It is further directed that, in the event that neither the commission nor any of its members is present to preside over and hold said hearing, the acting director or a hearings examiner of the Gas Utilities Division is hereby authorized and empowered to hold the same and to perform any act as provided in Texas Revised Civil Statutes Annotated, Article 6519a (Vernon Supplement 1980).

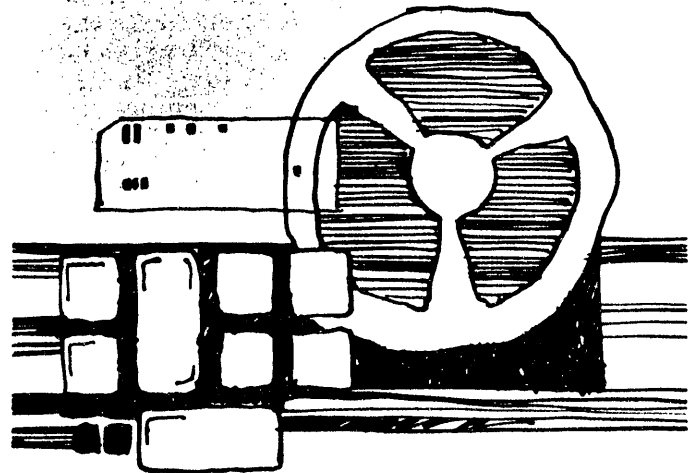
It is further directed that interested persons or agencies wishing to participate in the selection of members of a committee to be appointed by the division to study the operation of the voluntary gas allocation system should submit the nominee's name, affiliation, and professional credentials to the division no later than June 9, 1980. The Gas Utilities Division staff will select a committee from the nominees to meet independently and report to the commission what measures could be adopted to make the system more efficient.

Issued in Austin, Texas, on May 12, 1980.

Doc. No. 804371 John W. Camp, Acting Director
Gas Utilities Division
Railroad Commission of Texas

Filed: June 6, 1980, 11:48 a.m.

For further information, please call (512) 445-1126.



Office of the Secretary of State Election Law Interpretation No. GWS-5

Request from S. A. Guiberson, Texas state coordinator, National Unity Campaign for John B. Anderson, concerning under the Texas Election Code, who may legally sign the petition of an independent candidate for President.

Interpretation: In a letter dated May 7, 1980, you have asked me to render a formal interpretation on the following issue: Under the Texas Election Code, who may legally sign the petition of an independent candidate for President?

I am issuing this formal interpretation as chief election officer of the state (Vernon's Texas Election Code, Article 1.03, Subdivision 1). As such, it is my "responsibility to obtain and maintain uniformity in the application, operation, and interpretation of the election laws." *Id.* Thus, my responsibility is defined by a broad and unique grant of specific interpretive authority. See, e.g., Texas Attorney General Opinion No. H-407 (1974).

I conclude that any qualified voter who voted in the Democratic primary on May 3, 1980, or who did not vote in the primaries of either the Republican or Democratic Party on May 3, 1980, may sign the petition of an independent candidate for President.

Article 11.01b of the Texas Election Code prescribes the procedures by which an independent candidate "may have his name and the name of a vice-presidential running mate printed on the ballot. . ." (Vernon's Texas Election Code, Article 11.01b, Subdivision 1). It requires an independent candidate to file with the secretary of state "a petition of voters signed by qualified voters of the state. . ." *Id.*, Subdivision 2(4). Petitioners must therefore be qualified voters when they sign a petition, e.g., a voter is not qualified until his registration becomes effective.

Article 11.01b further provides that any "voter who voted in the general primary of any political party that held a presidential primary that year is ineligible to sign the petition of an independent candidate for president" (emphasis added) (Vernon's Texas Election Code, Article 11.01b, Subdivision 3). The general primary was held on May 3, 1980. See Ver-

non's Texas Election Code, Article 13.02. The key issue, therefore, is whether either the Democratic or Republican Party, the only parties to conduct a general primary, held a "presidential primary" this year.

The Election Code does not specifically define the phrase "presidential primary." The plain meaning of the phrase would denote an election held to select those delegates who will participate in the nomination of a presidential candidate at a national nominating convention. This same meaning of the phrase emerges from previously proposed and adopted legislation dealing specifically with presidential primaries as well as from a comparison of provisions in the current Election Code pertaining to independent candidates other than presidential candidates.

In 1975, for example, the 64th Legislature adopted a temporary presidential primary bill, commonly referred to as the "Bentsen Bill" (Acts 1975, 64th Legislature, page 630, Chapter 261, Sections 1, 2). This bill required "each party holding primary elections" in a presidential election year to hold a "presidential primary" that was described as an election held "for the purpose of electing a portion of the delegates to represent the state at the national convention" (Acts 1975, 64th Legislature, page 630, Chapter 261, Section 1).

Article 11.01b was enacted during the legislative session in 1977, immediately following the session in which the Bentsen Bill was adopted (Acts 1977, 65th Legislature, page 648, Chapter 240, Section 1). In addition, in 1977 the house passed legislation creating a "presidential primary." This legislation would have enacted a presidential primary substantially identical to that of the "Bentsen Bill." See House Bill 88, 65th Legislature, Section 1. See also House Bill 1340, 65th Legislature, Section 1; Senate Bill 494, 66th Legislature, Section 1. The legislature that enacted Article 11.01b, therefore, must have understood its use of the phrase "presidential primary" to mean what it meant in the Bentsen Bill and the bills proposed in that session; namely, an election held for the purpose of selecting a portion of the delegates to represent the state at the national conventions.

This is confirmed by a memorandum prepared for Representative McBee, chairman of the House Elections Committee, following the end of the 65th Legislative Session, by the Subcommittee on Presidential and General Primaries, and signed by Ms. McBee herself. I will refer to this memorandum, which was submitted as part of the Election Committee's interim report to the house of representatives of the 65th Legislature in September 1978, as the "McBee memo." See report of the House Committee on Elections, September 1978, at page 24 (hereafter "Elections Committee report"). The McBee memo made several recommendations to the legislature that was ultimately elected in November 1978. Elections Committee report, pages 33 and 34. The memo recommended a "system" by which certain candidates would "earn a . . . share of national delegates pledged to" the candidates. *Id.*, page 34. This "presidential primary" subcommittee, therefore, must likewise have understood the "presidential primary" it was discussing to mean an election held for the purpose of selecting delegates to represent the state at the national conventions.

Perhaps the most convincing piece of evidence on this score is Senate Bill 602, the much-commented upon presidential primary bill introduced in the most recent (1979) legislative ses-

sion by Senator Ogg (Senate Bill 602, 66th Legislature, Section 1). Senator Ogg was the sponsor of Article 11.01b itself, which was enacted as part of Senate Bill 1150 in the 65th Legislature (Acts 1977, 65th Legislature, page 647, Chapter 240, Section 1). See Texas Senate Journal, 65th Legislature, Volume II, page 2629. Senator Ogg's presidential primary bill defined "presidential primary" as "a primary election held to select delegates to a national presidential nominating convention of a political party" (Senate Bill 602, 66th Legislature, Section 1). The sponsor of Article 11.01b, therefore, has clearly indicated what he meant by the phrase "presidential primary."

Article 13.01 of the code, moreover, provides as follows:

The term "primary election," as used in this chapter, means an election held by the members of an organized political party for the purpose of nominating the candidates of such party to be voted for at a general or special election. . . .

All of the provisions governing independent candidates other than independent presidential candidates appear in Chapter 13 (see Vernon's Texas Election Code, Articles 13.50, 13.53), and are therefore subject to this definition. By parity of reasoning, the reference to a "presidential primary" in Chapter 11's provisions governing independent presidential candidates would denote an election held by a party for the purpose of selecting the delegates who will participate in nominating that party's presidential nominee.

Similarly, the provisions of Chapter 13 that govern petitions of all other than independent presidential candidates state that "no person who has voted at either the general primary election or the runoff primary election of any party shall sign an application in favor of anyone for an office for which a nomination was made at either such primary" (Vernon's Texas Election Code, Article 13.50, Subdivision 4 (emphasis added)). The general scheme of the code, therefore, makes a voter ineligible to sign an independent candidate's petitions only if he has participated in the nomination of one of that candidate's party opponents. Once again, by parity of reasoning a person would become ineligible to sign the petition of an independent candidate for President only if he had voted in an election held for the purpose of selecting delegates to a party's national presidential nominating convention—namely, a "presidential primary," a nominating primary for the office in question.

There is nothing in the Election Code that would suggest a meaning for the phrase "presidential primary" different from this consistent understanding and use of the phrase by the sponsor of Article 11.01b and the legislators responsible for enacting that article. I conclude, therefore, that a "presidential primary" within the meaning of Article 11.01b is an election held by a party for the purpose of selecting its delegates who will participate in the nomination of that party's presidential candidate at its national nominating convention.

The Republican presidential preference vote of May 3, 1980, was such a "presidential primary" because it was held for the purpose of selecting delegates to the Republican National Convention. The McBee memo itself called the Republican presidential preference vote "a presidential primary" (Elections Committee report, page 31). The Republican Party, therefore, held a "presidential primary" within the meaning of Article 11.01b; voters who voted in the Republican general primary are thus ineligible under that same article to sign petitions of independent candidates for President.

On the other hand, the Democrats held what they themselves called a "nonbinding presidential preference referendum." This was not a "presidential primary" because it was not held for the purpose of selecting or allocating those Democratic National Convention delegates who will participate in the selection of the Democrats' nominee for President. This analysis is confirmed once again by Senator Ogg, the sponsor of Article 11.01b. In his presidential primary bill this past session, Senator Ogg specifically defined a "nonbinding presidential referendum" as something other than a "presidential primary" (Senate Bill 602, 66th Legislature, Section 1). The Democrats, therefore, did not hold a "presidential primary" within the meaning of Article 11.01b when they conducted their "nonbinding presidential preference referendum."

Any other construction of Article 11.01b in the context of the Democrats' referendum, moreover, would raise serious constitutional issues. Many voters in Texas support candidates of one party in the state and local elections, but regularly support candidates of other parties in national elections. These voters have a right under the first amendment to the United States Constitution to associate freely with different political groups at different electoral levels. See *Yale v. Curvin*, 345 F. Supp. 447 (DRI 1972); *Developments in the Law—Elections*, 88 Harvard Law Review 1111, 1167 (1975). These voters could constitutionally be prohibited from signing independent petitions "where, . . . the political parties had access to the entire electorate, and an opportunity to commit voters on primary day, [so that there would be] nothing invidious in disqualifying those who have voted at a party primary from signing petitions for another party seeking ballot position for its candidates for the same offices." *American Party of Texas v. White*, 415 U.S. 767, 786 (1974) (emphasis added). Voters, however, did not have an opportunity to commit to a presidential candidate by their votes in the Democratic primary, since the presidential preference vote in that primary was nonbinding. To deny these voters the opportunity to participate in the nomination of a national candidate for president might well invidiously infringe on their rights of association under the first amendment to the United States Constitution.

Last, it would not be correct to argue that the precinct conventions held by the Democrats—which were held for the purpose of selecting those delegates who will participate in selecting a presidential nominee—amount to a "presidential primary" within the meaning of Article 11.01b. Under former Article 3154(a) of the Civil Statutes, enacted in 1951, the term "primary convention" was required to "have the same meaning as" the term "primary election" in the Election Code (Acts 1951, 52nd Legislature, Chapter 44, Section 4). This article, however, was repealed in 1967, and Articles 13.41 and 13.45a of the code were adopted in its place (Acts 1967, 60th Legislature, Chapter 723, Section 77(4)). Article 13.41 of the Election Code now refers to "duties relative to the holding of the primary election, . . . or the holding of any party convention" (emphasis added). This provision shows that in the current legislation, the holding of a convention is not to be considered a part of the primary election. Likewise, the legislative history of the phrase "presidential primary" shows that it refers to an election, not a convention. The Democrats, therefore, did not hold a "presidential primary" by selecting delegates to the national convention during their precinct conventions.

Because the Democrats did not hold a "presidential primary" within the meaning of Article 11.01b, voters in the Democrats' general primary are not ineligible to sign petitions of independent candidates for President. Consequently, only those persons who voted in the general primary of the Republican Party are ineligible under Article 11.01b to sign the petition of an independent candidate for President. All other qualified voters—including those who voted in the general primary of the Democratic Party—may sign the petition of an independent candidate for President.

Conclusion: A qualified voter who voted in the Republican primary on May 3, 1980, may not sign any petition of an independent candidate for President. Any other qualified voter, including anyone who voted in the Democratic primary on May 3, 1980, may sign the petition of an independent candidate for President.

Issued in Austin, Texas, on May 13, 1980.

Doc. No. 804375 George W. Strake, Jr.
Secretary of State

Filed: June 6, 1980, 11:34 a.m.

For further information, please call (512) 475-3091 or
1-800-252-9602.

Texas Register

Notice of Schedule Variation

In view of the state observance of Emancipation Day on June 19, deadlines for submission of documents for publication in the issue of the *Texas Register* dated June 24, 1980, have been changed. As previously scheduled, deadlines for submission of documents for publication in the June 24 issue are noon, Tuesday, June 17 (all copy except notices of open meetings), and noon Wednesday, June 18 (open meeting notices). The regular deadline schedule for submission of documents for publication will resume with the June 27, 1980, issue of the *Register*.

Texas Department of Water Resources

Public Hearing Notice

The Texas Department of Water Resources will conduct a public hearing beginning at 10 a.m. July 8, 1980, in Room 117 of the Sam Houston Building, 14th and San Jacinto Streets Austin, Texas 78711, on proposed fiscal year 1980 revisions to the Section 208 Water Quality Management Plans for the State of Texas. These revisions will provide a more accurate assessment of municipal facility needs, facility design information, and facility population projections by utilizing more recent facility-specific information than that available in the initial Section 208 Water Quality Management Plans. The proposed revisions to the Section 208 Water Quality Management Plans have been prepared subject to the requirements of the continuing planning process as identified in Title 40 of the Code of Federal Regulations, Part 35, Subpart G. These plans are developed and revised pursuant to Chapter 26, of the Texas Water Code and the Federal Clean Water Act.

Interested persons are encouraged to attend the hearing and to present relevant and material comments concerning the proposed revisions to the plans. Copies of the proposed fiscal year 1980 revisions will be available for review after June 6,

1980, in Room 511 (library) of the Stephen F. Austin Building at 1700 North Congress Avenue, or may be obtained by writing Dr. Clyde Bohmfalk, Construction Grants and Water Quality Planning Division, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711. Additionally, copies of the proposed revisions will be sent to all entities which are addressed in the fiscal year 1980 update.

The date selected for this hearing is intended to comply with deadlines set by statutes and regulation. Any publication or receipt of this notice less than 45 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date scheduled.

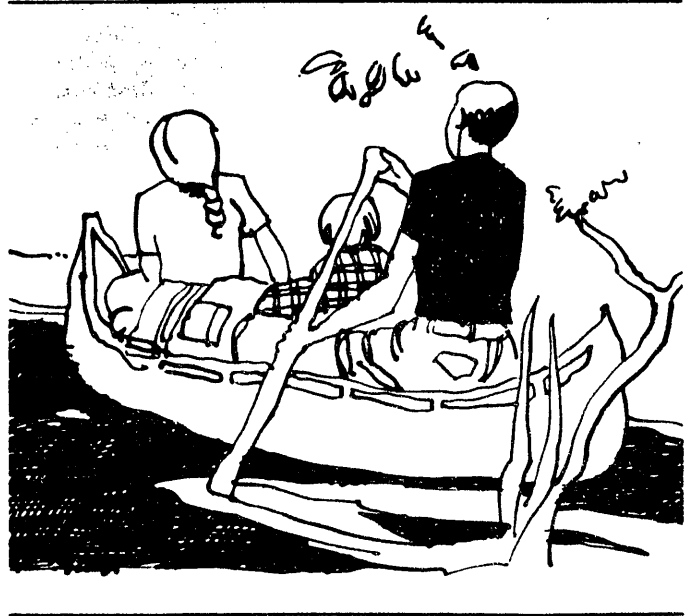
The hearing is being conducted pursuant to Sections 5.131 and 5.132 of the Texas Water Code, as amended, and Chapters 1 and 15 of the Rules of the Texas Water Development Board.

Issued in Austin, Texas, on May 23, 1980.

Doc. No. 804336 M. Reginald Arnold II
 General Counsel
 Texas Department of Water Resources

Filed, June 5, 1980, 4:13 p.m.

For further information, please call (512) 475-8261.



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*.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

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TITLE 16. ECONOMIC REGULATION
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TITLE 22. EXAMINING BOARDS
TITLE 25. HEALTH SERVICES
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TITLE 40. SOCIAL SERVICES AND ASSISTANCE
TITLE 43. TRANSPORTATION