

# TEXAS REGISTER

## In This Issue...

Emergency amendments to the 1979-80 Migratory Game Bird Proclamation adopted by the Texas Parks and Wildlife Department; effective date—October 29 ..... 3856

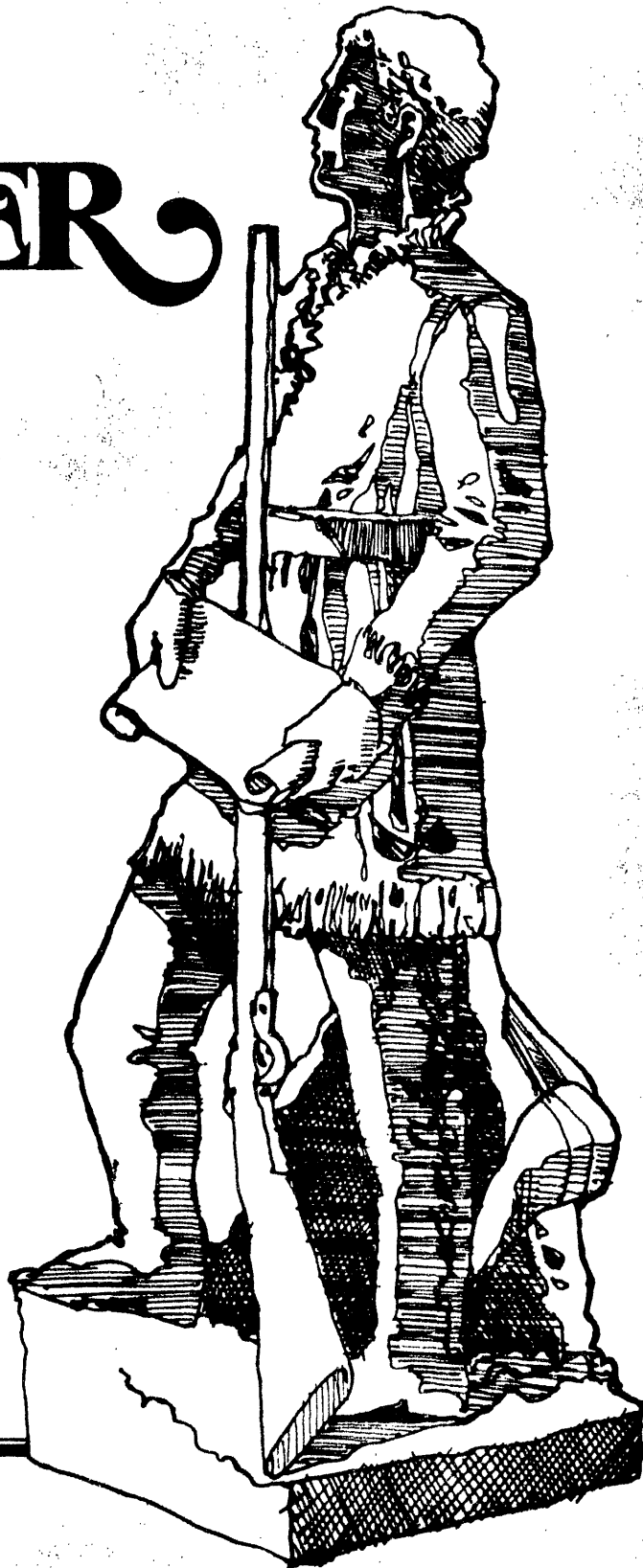
Emergency guidelines concerning Case Management System for delinquent youth adopted by the Texas Youth Council; effective date—October 12 ..... 3858

New general provisions and rulemaking procedures proposed by the State Aircraft Pooling Board; proposed date of adoption—November 23 ..... 3863

Rules for administering energy development contracts proposed for amendment by Texas Energy and Natural Resources Advisory Council; proposed date of adoption—November 23 ..... 3866

Private sewage facility regulations for Lake Crook Watershed proposed by the Texas Department of Water Resources; proposed date of adoption—November 23 ..... 3874

Foundation School Program minimum salary schedule amended by Texas Education Agency; effective date—November 6 ..... 3879



**Office of the Secretary of State**

Because no procedures currently exist for the classification of violent offenders and for the determination of their length of stay in Texas Youth Council facilities, the council adopts on an emergency basis rules ensuring that decisions made about the placement and movement of delinquent youth will be done in a consistent and equitable manner. Among the guidelines adopted are criteria that must be considered in every case: the likelihood that, if given the opportunity, the student will commit a crime against persons or property; the extent to which a student has progressed toward predefined and periodically reviewed goals involving the acquisition and application of basic academic, career development, and social skills; and the extent to which a student cannot rely on his or her family or other resources for support.

The Texas Energy and Natural Resources Advisory Council proposes amendments to its rules administering energy development contracts that support the research, development, and demonstration of alternate energy supplies and energy conservation technologies; such as research and development of solar energy, geothermal energy, biomass energy, and the development of energy conservation measures such as dehumidification, thermal storage, and improved irrigation systems. The proposed amendments delete materials related only to the previous biennium and incorporate terminology consistent with current legislation. For example, the amendments specify that the funded projects must have specific application to the energy needs of Texas; and that the proposal solicitation process will be established by internal assessment of energy related research and development needs and activities, by interaction with the council and related state agency personnel, and by open consultation with concerned citizens and experts not employed by the State of Texas.

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

*Artwork: Gary Thornton*



The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year, except March 9, June 1, November 27, and December 28, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711, telephone (512) 475-7886. The *Register* contains executive orders of the governor; summaries of attorney general's opinions and summaries of requests for opinions; emergency rules, proposed rules, and adopted rules of state agencies; notices of open meetings; and miscellaneous notices of general interest to the public of Texas. Subscriptions are \$40 for units of Texas state government and nonprofit schools and libraries in Texas, and \$60 for all others. Six-month subscriptions are also available for \$30 and \$45, respectively. Back issues, when available, are \$1.50 each.



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

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the Texas Register Division director provided no such republication shall bear the legend "*Texas Register*" or "Official" without the written permission of the director, Texas Register Division. Published under the Texas Civil Statutes, Article 6252-13a. Second-class postage is paid at Austin, Texas, and additional entry offices.

POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711.

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.

#### *Texas Register Division*

Linda Camp  
Charlotte Scroggins  
Suki Ginn

Bill Lalla, Director  
Gail Myrick  
Linda Garrett  
Lindy Whittington

Karrie Key  
Glenna Donnell  
Emma Dawn

## The Governor

### Appointments

- 3854 *Texas Board of Architectural Examiners*
- 3854 *State Board of Registration for Professional Engineers*

## The Attorney General

### Requests for Opinions

- 3855 *RQ-197 (concerning definition of commercial finfish fishermen)*
- 3855 *RQ-198 (concerning county assessment and collection of state ad valorem taxes after January 1, 1980)*

### Opinions

- 3855 *MW-68 (concerning authorization for supplemental compensation by school board)*

## Emergency Rules

### Texas Parks and Wildlife Department

- 3856 *Fisheries*
- 3856 *Wildlife*

### Railroad Commission of Texas

- 3857 *Transportation Division*

### Texas Youth Council

- 3858 *General Provisions*

## Proposed Rules

### State Aircraft Pooling Board

- 3863 *General Provisions*
- 3863 *Rulemaking Procedure*

### Texas State Board of Dental Examiners

- 3864 *Dentistry*
- 3865 *Conduct*

### Texas Energy and Natural Resources Advisory Council

- 3866 *Texas Energy Development Fund*

### Texas Department of Labor and Standards

- 3872 *Manufactured Housing Division*

### Railroad Commission of Texas

- 3872 *Oil and Gas Division*

### Office of the Secretary of State

- 3873 *Elections*

### Texas Department of Water Resources

- 3874 *Private Sewage Facility Regulations*

### Texas Youth Council

- 3877 *General Provisions*

## Adopted Rules

### Texas Education Agency

- 3878 *Proprietary Schools and Veterans Education*
- 3879 *Foundation School Program*
- 3884 *Teacher Certification*
- 3884 *Professional Environment*
- 3884 *Texas School for the Blind and Texas School for the Deaf*

### Texas Department of Human Resources

- 3886 *Child Welfare Services*

### Texas Board of Licensure for Nursing Home Administrators

- 3891 *Administrative Authority*
- 3892 *Application*
- 3893 *Examination*

### 3894 *Education*

### 3895 *License Certificates*

### 3895 *Inactive Status*

### 3896 *Complaint Procedures*

### 3896 *Disciplinary Action*

### 3897 *Hearing Procedures*

### 3898 *Reinstatement of Licenses*

## Savings and Loan Department of Texas

### 3899 *Fees and Charges*

### 3899 *Loans*

## Open Meetings

### 3901 *State of Texas Aircraft Pooling Board*

### 3901 *Texas Commission on Alcoholism*

### 3901 *Texas Board of Architectural Examiners*

### 3901 *State Bar of Texas*

### 3901 *State Board of Barber Examiners*

### 3902 *Texas Department of Community Affairs*

### 3902 *Texas Education Agency*

### 3902 *Employees Retirement System of Texas*

### 3902 *Office of the Governor*

### 3902 *Texas Department of Health*

### 3903 *Texas Department of Human Resources*

### 3903 *Texas Industrial Commission*

### 3903 *State Board of Insurance*

### 3903 *Texas Department of Labor and Standards*

### 3904 *North Texas State University*

### 3904 *Board of Pardons and Paroles*

### 3904 *Texas Parks and Wildlife Department*

### 3905 *Texas Board of Private Investigators and Private Security Agencies*

### 3905 *Texas State Board of Public Accountancy*

### 3905 *Public Utility Commission of Texas*

### 3906 *State Purchasing and General Services Commission*

### 3906 *Railroad Commission of Texas*

### 3906 *State Securities Board*

### 3906 *Board for Lease of State-Owned Lands*

### 3906 *Stephen F. Austin State University*

### 3906 *Texas Water Commission*

### 3907 *Texas Turnpike Authority*

### 3907 *Regional Agencies*

## In Addition

### Texas Air Control Board

### 3909 *Applications for Construction Permits*

### Office of the Governor and Legislative

### Budget Board

### 3909 *Instructions for Report on the Use of Private Consultants*

### Railroad Commission of Texas

### 3910 *Memorandum to All Oil and Gas Operators*

### Senate

### 3911 *Special Committee on Higher Education Financing in Texas*

### Texas Register

### 3911 *Correction of Error*

### 3911 *Publication of Index*

### Texas Water Commission

### 3911 *Applications for Waste Discharge Permits*

## Appointments

### Texas Board of Architectural Examiners

*Pursuant to Senate Bill 551, Acts of the 66th Legislature, Regular Session, for a six-year term to expire June 21, 1985:*

Trammel S. Crow  
2100 Stemmons Freeway  
Dallas, Texas 75207 (public member)

Mr. Crow is being appointed to a new position on the board.

### State Board of Registration for Professional Engineers

*For a six-year term to expire September 26, 1985:*

Frank B. Harrell  
1330 Mercantile Bank Building  
Dallas, Texas 75201

Mr. Harrell is being reappointed.

Issued in Austin, Texas, on October 11, 1979.

Doc. No. 796966      William P. Clements, Jr.  
Governor of Texas

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



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

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

## Requests for Opinions

### Summary of Request for Opinion RQ-197

Request from Ray Farabee, Natural Resources Committee, house of representatives, Austin.

#### *Summary of Request:*

(1) Does the definition of commercial finfish fishermen in Article 47.001, Parks and Wildlife Code, include all members of a family who catch finfish together if only one member sells the finfish and the other members work without receiving wages?

(2) Are the provisions of Article 47.003, Parks and Wildlife Code, constitutional in that they limit eligibility for commercial finfish fishermen's licenses to persons meeting certain occupational criteria?

Doc. No. 796997

### Summary of Request for Opinion RQ-198

Request from Kenneth E. Graeber, executive director, School Tax Assessment Practices Board, Austin.

*Summary of Request:* Are counties required to assess and collect the state ad valorem tax after January 1, 1980?

Doc. No. 796998

## Opinions

### Summary of Opinion MW-68

Request from M. L. Brockett, commissioner of education, Texas Education Agency, Austin, concerning whether a school board may authorize supplemental compensation.

*Summary of Opinion:* An independent school district may provide for salary increases for teachers and employees for a current school year if it receives additional consideration. It may also adopt a policy to provide additional salary increases for subsequent years; however, the obligation arises only when the contracts are executed.

Issued in Austin, Texas, on October 16, 1979.

Doc. No. 796999

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

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

# EMERGENCY RULES

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

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

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

## Texas Parks and Wildlife Department Fisheries

### Closure of Oystering Area 127.30.28

The Texas Parks and Wildlife Commission adopts on an emergency basis Rule 127.30.28.001, relating to closing the public oyster reefs in Chambers and Galveston Counties to the taking of oysters. The commission delayed the normal November 1 opening of the oyster season until December 15, 1979, based on findings that the public reefs would be damaged by the taking of oysters which are undersized and weakened by excessive flooding. The commission, having found imminent peril to the public welfare, required the closure as an emergency measure to protect the resource from further damage.

This rule is promulgated under the authority of Section 76.115, Texas Parks and Wildlife Code.

.001. *Closure of Oystering Area*. Effective November 1, 1979, the public oyster reefs in Chambers and Galveston Counties are closed to the taking of oysters until December 15, 1979.

Issued in Austin, Texas, on October 15, 1979.

Doc. No. 796980      Maurine Ray  
                                 Administrative Assistant  
                                 Texas Parks and Wildlife Department

Effective Date: November 1, 1979

Expiration Date: December 15, 1979

For further information, please call (512) 475-4835.

## Wildlife

### Migratory Game Bird Proclamation, 1979-80 127.70.02

The Texas Parks and Wildlife Commission adopts emergency amendments to Rules 127.70.02.015 and .016, which are a part of the Migratory Game Bird Proclamation, 1979-80. The commission is responsible for establishing seasons, bag limits, means, and methods for harvesting migratory game

birds. Regulations for hunting migratory game birds may be set by the state only within a framework established by the U.S. Fish and Wildlife Service. The federal framework for species is not issued to the state until shortly before the season is established in order to base regulations on the most current biological data. Therefore, the commission finds that an imminent peril to the public welfare and compliance with the federal framework requires implementation of these emergency amendments in order to prevent undue waste of a renewable resource and adopts these amendments and authorizes the executive director to implement these amendments on an emergency basis and to file these amendments with the Office of the Secretary of State for publication in the *Texas Register* in compliance with Article 6252-13a, Texas Revised Civil Statutes.

These amendments are promulgated under the authority of Chapter 64, Subchapter C, Texas Parks and Wildlife Code.

#### .015. *Open Seasons.*

(a) (No change.)

(b) The season is closed on migratory game birds on public roads and highways, on rights-of-way of public roads and highways, and on state and federal wildlife preserves and sanctuaries unless an open season is otherwise provided.

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

(6) *Ducks and coots.*

(A) *High Plains Mallard Management Unit: October 30, 1979, through January 20, 1980, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from the international toll bridge at Del Rio, thence northward following U.S. Highway 277 through San Angelo to Abilene, thence along State Highway 351 from Abilene to Albany and U.S. Highway 283 from Albany to Vernon, thence easterly along U.S. Highway 183 to the point of intersection with the Texas-Oklahoma state line in Wilbarger County.*

(B) *Other portions of the state: November 10 through November 25 and December 8, 1979, through January 20, 1980, from one-half hour before sunrise to sunset.*

(C) *Special provision: the season is closed on black-bellied whistling (tree) ducks and masked ducks in all counties.*

(7) *Geese.*

(A) *West of U.S. Highway 81: October 30, 1979, through January 20, 1980.*

(B) *East of U.S. Highway 81—snow, blue, and Ross' geese: October 29, 1979, through January 20, 1980. Canada and white-fronted geese: October 29 through November 25, 1979, and December 8, 1979, through January 20, 1980.*

(C) *Shooting hours—entire state: One-half hour before sunrise to sunset.*

(8) *Sandhill (Little Brown) cranes.*

(A) *Zone A: October 30, 1979, through January 30, 1980, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from the international toll bridge at Del Rio, Val Verde County; thence northward following U.S. Highway 277 to its junction with U.S. Highway 87 at San Angelo, Tom Green County; thence northwesterly following U.S. Highway 87, and including all of Howard and Lynn Counties, to its junction with U.S. 287 at Dumas, Moore County; thence north-*



westerly following U.S. Highway 287 to the point of intersection with Texas-Oklahoma state line in Dallam County.

(B) Zone B: December 4, 1979, through January 30, 1980, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from San Angelo along U.S. Highway 277 to Abilene, thence along State Highway 351 from Abilene to Albany and U.S. Highway 283 from Albany to Vernon; thence easterly along U.S. Highway 183 to the point of intersection with the Texas-Oklahoma state line in Wilbarger County, and east of a line from San Angelo along U.S. Highway 87 excluding all of Howard and Lynn Counties, to the junction of Highways 87 and 287 at Dumas, Moore County; and thence along U.S. Highway 287 from Dumas to the point of intersection with the Texas-Oklahoma state line in Dallam County.

(C) Special provision: A special permit, issued free of charge by the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, is required of any person to hunt, shoot, or kill Lesser Sandhill cranes (Little Brown cranes) in areas where an open season is provided under this proclamation. Permits will be issued upon written request.

(9) Common snipe or Wilson's snipe or jacksnipe: November 3, 1979, through February 17, 1980, from one-half hour before sunrise to sunset.

(10) Woodcock: November 17, 1979, through January 20, 1980, from one-half hour before sunrise to sunset.

#### 016. Bag and Possession Limits.

(a) (No change.)

(b) The bag and possession limits are as follows:

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

(6) Ducks and coots.

(A) Ducks. The daily bag limit is from one to 10 ducks in the aggregate, the specific daily limit depending upon the sexes and species taken as determined by the following 100-point system. Canvasbacks are 100 points. Hen mallards, Mexican-like ducks, wood ducks, mottled ducks, hooded mergansers, and red-heads are 70 points each. Blue-winged teal, green-winged teal, cinnamon teal, pintail, gadwalls, scaups, shoveler, wigeon (bald-pate), and mergansers, except hooded, are 10 points. All other species and sexes of ducks are 20 points. The daily bag limit will be reached when the point value of the last bird taken when added to the bag reaches or exceeds 100 points. Possession limit: Possession limit shall be the maximum number of birds of species and sex which could have legally been taken in two days.

(B) Coots. The daily bag limit on coots is 15. The possession limit is 30.

(7) Geese.

(A) West of U.S. Highway 81: Daily bag limit is five, not to include more than two Canada or white-fronted geese in the aggregate. Possession limit is five, not to include more than four Canada or white-fronted geese in the aggregate.

(B) East of U.S. Highway 81: Daily bag limit is five, not to include more than one Canada goose or one white-fronted goose. Possession limit is five, not to include more than two Canada or two white-fronted geese or one of each. No Canada or white-fronted geese may be

taken during the period of November 26 through December 7, 1979.

(8) Sandhill (Little Brown) cranes. Bag limit: three; possession limit: six.

(9) Common snipe, Wilson's snipe, or jacksnipe. Bag limit: eight; possession limit: 16.

(10) Woodcock. Bag limit: five; possession limit: 10.

(c)-(h) (No change.)

Issued in Austin, Texas, on October 12, 1979.

Doc. No. 796920      Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife Department

Effective Date: October 29, 1979

Expiration Date: February 26, 1980

For further information, please call (512) 475-4875.

## Railroad Commission of Texas

### Transportation Division

#### Emergency Rate Applications 051.03.50

Fuel costs have escalated dramatically in the last 10 months. From its own records, the commission has determined that the price of diesel fuel has increased 100% or more in that time period for some carriers. The normal procedures established by the commission for processing rate applications cannot effectively respond to such rapidly escalating costs. On June 5, 1979, the commission originally adopted these emergency procedures to respond to this problem. These procedures are still necessary until the prices of fuel have stabilized; therefore, effective October 15, 1979, the commission is renewing the effectiveness of emergency Rule 051.03.50.105 for a period of 60 days. The text of the emergency rule was published in the June 12, 1979, issue of the *Texas Register* (4 TexReg 2123).

Failure to readopt emergency procedures will result in a serious curtailment of transportation services essential to the public health, safety, and welfare of the citizens of Texas. Pursuant to the provisions of Texas Revised Civil Statutes Annotated, Article 6252-13a, Section 5(d) (Vernon Supplement 1978), the commission is satisfied that an imminent peril to essential transportation services requires adoption of this rule on fewer than 30 days notice.

This rule is promulgated under the authority of Texas Revised Civil Statutes Annotated, Article 911b, Section 4 (Vernon 1964).

Issued in Austin, Texas, on October 15, 1979.

Doc. No. 796970      John H. Poerner  
Chairman  
Railroad Commission of Texas

Effective Date: October 15, 1979

Expiration Date: December 14, 1979

For further information, please call (512) 445-1331.

## Texas Youth Council

### General Provisions

#### Case Management System for Delinquent Youth

203.01.10

The Texas Youth Council is proposing to adopt these rules on an emergency basis in order to meet its statutory duty of public protection while providing due process safeguards to its wards who are alleged to have committed certain felonies involving violence. No procedure currently exists for the classification of violent offenders and the determination of their length of stay. The Youth Council has determined that the possibility of premature release of violent offenders poses an imminent threat to the public safety. These rules are being simultaneously proposed for permanent adoption.

This system is the set of policies, criteria, guidelines, and procedures that are used by Texas Youth Council (TYC) staff in their decision-making about the placement or transfer of youth into or between TYC training schools and halfway houses, residential contract programs, parole, and discharge. Included in these proposed rules is the definition of violent offenders, nonviolent offenders, and violators of CINS probation and the criteria for classification into a category as well as the basis for and procedures to reclassify a youth into another category.

The purpose of these proposed rules is to provide and formalize a well defined set of guidelines that are to be used in the program placement and movement of delinquent youth within the TYC system. These guidelines will be available to all child care staff to ensure that decisions made about the program placement and movement of delinquent youth will be done in a consistent, equitable manner. The development of the Case Management System has taken significant time and resources and has had extensive review of professional and administrative staff at all levels of the agency.

These rules are proposed under the authority of Article 5143d, Vernon's Annotated Civil Statutes.

**.001. Purpose.** The purpose of the Case Management System for delinquents is to ensure and support the planned management of individual student cases. The Case Management System for delinquents does not apply to federal offenders housed within Texas Youth Council training schools. The Case Management System provides definitions of terms, identifies three criteria to be used in the management of individual student cases, and delineates policy for managing cases from program assignment through discharge.

#### **.002. Definitions.**

(a) **Violent offenders.** Violent offenders are those students who have been committed, recommitted, reclassified, or revoked for the commission or attempted commission of one or more of the following crimes against persons:

- (1) murder;
- (2) voluntary manslaughter;
- (3) kidnapping;
- (4) aggravated kidnapping;
- (5) sexual abuse;
- (6) aggravated sexual abuse;
- (7) sexual abuse of a child;
- (8) aggravated assault;
- (9) deadly assault on a peace officer;

- (10) robbery;
- (11) aggravated robbery;
- (12) rape;
- (13) aggravated rape;
- (14) rape of a child;
- (15) arson.

All of the offenses listed above are defined in Titles 5 and 7, Texas Penal Code.

(b) **Nonviolent offenders.** Nonviolent offenders are all other students who are committed, recommitted, or revoked, with the exception of violators of CINS probation. A student who is adjudicated delinquent for a violent or nonviolent offense, placed on probation, and subsequently has his probation revoked for a CINS offense shall be classified as a non-violent offender.

(c) **Violators of CINS probation.** Violators of CINS probation are those students committed to the Texas Youth Council for violating the terms of their probation through conduct indicating a need for supervision (as defined in Article 51.04(a), Title 3, Texas Family Code), after having been placed on probation for the same type of conduct.

(d) **Residential programs.** Residential programs are the Statewide Reception Center, TYC training schools the TYC Wilderness Program (including the Wilderness Challenge Program), TYC halfway houses, residential contract programs, and TYC homes for dependent and neglected youth.

(e) **Parole.** The following TYC students are considered to be on parole and must be afforded a parole revocation hearing prior to their reassignment to a TYC training school:

(1) students who have been released from TYC-operated or residential contract programs and who are now living at home;

(2) students committed to TYC as delinquents under Title 3 of the Texas Family Code and assigned to TYC D&N homes;

(3) students who had previously been released home on parole but have been reassigned, without revocation, to a TYC halfway house or residential contract program because of difficulties experienced while at home on parole.

**.003. Criteria.** Criteria to be used in the management of individual student cases are:

(1) **public protection**—the extent to which a student constitutes a threat to the public safety (i.e., the likelihood that, if given the opportunity, the student will commit a crime against persons or property);

(2) **treatment**—the extent to which a student has progressed toward predefined and periodically reviewed goals involving the acquisition and application of basic academic, career development, and interpersonal skills (as identified on the student's IPP (Individual Program Plan));

(3) **care and supervision**—the extent to which a student is dependent on the Texas Youth Council, and cannot rely on his family or other resources, for the provision of food, shelter, clothing, and other life necessities.

#### **.004. Program Assignment.**

(a) **Policy.** The reception and initial screening of students, and the assignment of students to TYC-operated or TYC contract programs, are responsibilities of the Statewide Reception Center, the Waco Mobile Diagnostic Unit, the El Paso Diversionary Program, and, in selected instances, Residential Contract Program staff attached to the Status Offender Project. The three criteria defined in Rule .003 are to



be utilized in the initial screening of students and in the assignment of students to TYC-operated and TYC contract programs.

(b) Guidelines.

(1) Violent offenders. Violent offenders shall be assigned to TYC training schools.

(2) Nonviolent offenders.

(A) Nonviolent offenders who are a threat to the public safety or who are highly likely to attempt an escape from an open setting shall be assigned to TYC training schools.

(B) Nonviolent offenders who are not a threat to the public safety and who are not highly likely to attempt an escape from an open setting shall be assigned to programs other than TYC training schools.

(3) Violators of CINS probation.

(A) Violators of CINS probation who are a threat to the public safety or who are highly likely to attempt an escape from an open setting shall be assigned to TYC training schools.

(B) Violators of CINS probation who are not a threat to the public safety and who are not highly likely to attempt an escape from an open setting shall be assigned to programs other than TYC training schools.

**.005. Transfer.**

(a) Policy. Students may be transferred between programs within established guidelines. A transfer is the administrative reassignment of a student from one program to another without a parole revocation hearing. The three criteria defined in Rule .003 are to be used in making all transfer decisions.

(b) Guidelines.

(1) Transfers between training schools. Students shall not be transferred from one training school to another except for clearly defined programmatic reasons.

(2) Transfers into training schools. Students shall not be transferred from the Wilderness Program, TYC halfway houses, or residential contract programs into training schools unless:

(A) they have committed a crime against persons or property;

(B) they refuse to cooperate with program expectations as defined in their IPP; or

(C) there are clearly defined programmatic reasons for the transfer.

Transfers into training schools always require a transfer hearing.

(3) Transfers out of training schools. Students shall be transferred from training schools into the TYC Wilderness Program, TYC halfway houses, or residential contract programs if programmatic concerns dictate an intermediate step prior to release home on parole.

(4) Transfers between nontraining school residential programs. Students shall not be transferred from one nontraining school residential program (e.g., the TYC Wilderness Program, TYC halfway houses, residential contract programs) to another except for clearly defined programmatic reasons.

(5) Transfers from parole to TYC halfway houses and residential contract programs. Students living at home on parole may be transferred into TYC halfway houses or residential contract programs if bedspace is available and, in the

opinion of parole staff, such a transfer is programmatically appropriate.

(6) Transfers to facilities of other state agencies. Students may be transferred to facilities of other state agencies (e.g., Vernon Drug Center, state hospitals) if such a transfer is programmatically appropriate.

**.006. Reclassification.**

(a) Policy. A student committed or recommitted to TYC as a nonviolent offender or violator of CINS probation who commits a violent offense while in the care and custody of TYC shall be reclassified as a violent offender.

Reclassification is the administrative redefinition of a student who is not on parole from a violator of CINS probation or nonviolent offender to a violent offender. Reclassification shall occur only as a result of a formal fact-finding hearing conducted by a TYC hearings examiner.

(b) Guidelines.

(1) Request for hearing. Requests for reclassification hearings shall be made to the Hearings Department, Central Office of the Texas Youth Council, Austin, Texas.

(A) Training school superintendents, including the superintendent of the TYC Wilderness Program, have the authority to request reclassification hearings for students assigned to their respective programs.

(B) Halfway house superintendents have the authority to request reclassification hearings for those students not on parole assigned to their respective programs.

(C) Area parole supervisors have the authority to request reclassification hearings for students not on parole assigned to residential contract programs within their respective areas.

(2) Fact-finding phase. The fact-finding phase of reclassification hearings shall be conducted in accordance with procedural rules promulgated in Rule 203.42.09.013(a)-(b). If the formal finding-of-fact does not substantiate the commission of a violent offense, the case shall be dismissed. Dismissal of a case does not preclude the initiation of transfer procedures as defined in Rule .005.

(3) Dispositional phase. If the formal finding-of-fact substantiates the commission of a violent offense, dispositional options are:

(A) If the student is currently assigned to a TYC training school, and if there are no mitigating circumstances related to the student's commission of the violent offense, the hearings examiner shall reclassify the student as a violent offender and direct that the student remain in the training school for at least an additional 12 months (see parole release policy for violent offenders in Rule .009(b)(1)). If clearly defined mitigating circumstances are present, the hearings examiner may elect not to reclassify the student as a violent offender, but shall report his findings to the training school superintendent who may initiate other appropriate disciplinary action.

(B) If the student has previously been in a TYC training school, is currently assigned to the TYC Wilderness Program, a TYC halfway house or a residential contract program, and there are no mitigating circumstances related to the student's commission of the violent offense, the hearings examiner shall reclassify the student as a violent offender and direct that the student be returned to the TYC training school from which he was most recently released, where the student shall remain for at least an additional 12 months (see parole release policy for violent offenders in Rule .009(b)(1)). If clearly defined mitigating circumstances are

present, the hearings examiner may elect not to reclassify the student as a violent offender, but shall report his findings to the program administrator (or to the area parole supervisor in cases involving students assigned to residential contract programs) who may initiate other appropriate disciplinary action, including transfer procedures as defined in Rule .005.

(C) If the student has not previously been in a TYC training school, is currently assigned to the TYC Wilderness Program, a TYC halfway house or a residential contract program, and there are no mitigating circumstances related to the student's commission of the violent offense, the hearings examiner shall reclassify the student as a violent offender and direct that the student be transported to the Statewide Reception Center for reassignment to a TYC training school for at least an additional 12 months (see parole release policy for violent offenders in Rule .009). If clearly defined mitigating circumstances are present, the hearings examiner may elect not to reclassify the student as a violent offender, but shall report his findings to the program administrator (or to the area parole supervisor in cases involving students assigned to residential contract programs) who may initiate other appropriate disciplinary action, including transfer procedures as defined in Rule .005.

**.007. Disposition upon return from escape or attempted escape.** A major staff responsibility in all TYC-operated residential programs is the prevention of escapes. In evaluating students for release on parole, staff shall weigh heavily any escapes or attempted escapes on the student's record. Students shall be clearly informed that escapes and attempted escapes may result in longer lengths of stay in residential programs. Students assigned to the TYC Wilderness Program, TYC halfway houses, and residential contract programs shall be informed that escapes or attempted escapes may result in reassignment to a TYC training school through transfer or revocation.

**.008. Preparole Furlough.**

(a) Policy. Preparole furloughs are to be distinguished, in purpose and use, from other types of furloughs used in TYC (i.e., maternity, emergency, precontract, and administrative). When used, preparole furloughs are to be viewed as an important part of the evaluation of an individual student for release home on parole. While it is recommended that preparole furloughs be used prior to releasing a student home on parole, the use of a preparole furlough is not mandatory.

(b) Guidelines.

(1) Purpose. The preparole furlough is used to evaluate both the student's ability to function at home under the conditions of parole and the student's home as an acceptable and appropriate parole placement. Purposeful preparole furloughs require cooperation and clear communication between the staff of residential programs and TYC parole staff.

(2) Responsibilities of residential programs. Staff of residential programs shall not request furlough approval from TYC parole staff unless they have determined an anticipated parole release date for the student. The anticipated parole release date shall be no later than six weeks from the time that furlough approval is requested. Upon the student's return from a preparole furlough, residential program staff shall evaluate the furlough jointly with TYC parole staff and shall communicate their intention to release/not release the student to TYC parole staff at the earliest possible date.

(3) Parole responsibilities. Upon receiving a request for furlough approval from a residential program, TYC parole staff shall approve/disapprove the request and notify the requesting residential program within two weeks. Upon the student's return to the residential program from his preparole furlough, TYC parole staff shall evaluate the furlough jointly with staff of the residential program. No later than the student's anticipated parole release date, parole staff shall identify the student's home as an acceptable parole placement or shall have arranged for an acceptable alternative.

**.009. Parole Release.**

(a) Policy. Evaluations of individual students for release on parole are to be conducted in a manner consistent with the Child Care Program requirements which mandate that each student shall have a completed IPP within 30 days following admission to TYC and that the IPP shall be formally reviewed with the student at three-month intervals following admission. The three criteria defined in Rule .003 are to be incorporated into the formal IPP reviews and are to be used in evaluating the student's current placement at the time of each formal review. When it is determined that a student will be paroled out of state upon completion of the program, required information regarding the anticipated out-of-state placement shall be forwarded to the interstate compact administrator so that arrangements may be made for supervision of the student (arrangements for out-of-state supervision requires a minimum of six to eight weeks to complete).

(b) Guidelines.

(1) Violent offenders.

(A) Length of stay. Violent offenders are to serve at least 12 months in a TYC training school. All violent offenders must be evaluated for release on parole at their 12-month IPP review.

(B) Training school responsibilities. Should training school staff, in evaluating the student's placement at the 12-month IPP review, decide to continue residential care in the training school, the training school staff shall retain the continuing responsibility to formally review the student's IPP, and to evaluate the student for release on parole, at three-month intervals.

(C) Responsibilities of other residential programs. Should the student be transferred to another residential program, the staff of the receiving program shall retain identical responsibilities. If the residential program to which the student is transferred is a residential contract program or a TYC D&N home, parole staff shall work with the staff of the residential program to ensure a formal IPP review, and an evaluation for release on parole, at three-month intervals.

(D) Parole responsibilities. Should the student be released on parole, staff shall assume responsibility for continuing the formal IPP reviews at three-month intervals.

(2) Nonviolent offenders.

(A) Length of stay. All nonviolent offenders must be evaluated for release on parole not later than their six-month IPP review.

(B) Responsibilities of residential programs. Should program staff, in evaluating the student's placement at the six-month IPP review, decide to continue residential care in that program, the staff of that program shall retain the continuing responsibility to formally review the student's IPP, and to evaluate the student for release on parole, at one-month intervals. Should the student be transferred to

another residential program, the staff of the receiving program shall assume identical responsibilities. If the residential program in which the student is initially placed, or to which the student is transferred, is a residential contract program or a TYC D&N home, parole staff shall work with the staff of the residential program to ensure a formal IPP review, and an evaluation for release on parole, at three-month intervals.

(C) Parole responsibilities. Should the student be released on parole, parole staff shall assume responsibility for continuing the formal IPP reviews at three-month intervals.

(3) Violators of CINS probation.

(A) Length of stay. All violators of CINS probation must be evaluated no later than their six-month IPP review.

(B) Responsibilities of residential programs. Should program staff, in evaluating the student's placement at the six-month IPP review, decide not to release the student on parole, but rather to continue residential care in that program, the staff of that program shall retain the continuing responsibility to formally review the student's IPP, and to evaluate the student for release on parole, at one-month intervals. Should the student be transferred to another residential program, the staff of the receiving program shall assume identical responsibilities. If the residential program in which the student is initially placed, or to which the student is transferred, is a residential contract program or a TYC D&N home, parole staff shall work with the staff of the residential program to ensure a formal IPP review, and an evaluation for release on parole, at three-month intervals.

(C) Parole responsibilities. Should the student be released on parole, parole staff shall assume responsibility for continuing the formal IPP reviews at three-month intervals.

**.010. Parole Revocation.**

(a) Policy. The TYC parole revocation process is an administrative procedure which serves two purposes: (1) to systematically examine alleged parolee violations of the Texas Penal Code or of specific conditions of parole through formal fact-finding and within the framework of due process, and (2) to determine, based upon the formal finding-of-fact, whether or not to revoke parole and reassign the parolee to a TYC training school. A parole revocation hearing may be held, and parole may be revoked, when a parolee commits any of the following types of violations: (1) violent offenses (see list of violent offenses in Rule .002(a) above), (2) non-violent offenses, and (3) CINS offenses, victimless criminal offenses, violations of TYC parole rules, or repeated refusal to cooperate with program expectations as defined in the student's IPP.

(b) Guidelines.

(1) Request for hearing. Parole officers shall have the discretion to request parole revocation hearings. Hearings shall be requested only when, in the parole officer's opinion, the student's parole should be revoked and the student should be reassigned to a TYC training school. Requests for parole revocation hearings shall be made to the Hearings Department, Central Office.

(2) Fact-finding phase. The fact-finding phase of parole revocation hearings shall be conducted in accordance with procedural rules promulgated in Rule 203.42.09.013(a)-(b). If the formal finding-of-fact does not substantiate the commission of the alleged violation(s), the

case shall be dismissed and the student shall remain on parole.

(3) Dispositional phase. If the formal finding-of-fact substantiates the commission of the alleged violation(s), dispositional options are as follows:

(A) Violent offenses.

(i) If the parolee has previously been in a TYC training school, has committed a violent offense, and there are no mitigating circumstances related to the student's commission of the violent offense, the hearings examiner shall revoke the student's parole and direct that the student be returned to the TYC training school from which he was most recently released, where the student shall remain for at least an additional 12 months (see parole release policy for violent offenders in Rule .009(b)(1)). If clearly defined mitigating circumstances are present, the hearings examiner may elect to return the student to the training school from which he was most recently released, but not under conditions pursuant to the commission of a violent offense. In such instances, the staff of the receiving TYC training school shall evaluate the student for release on parole within six months (refer to parole release policy for nonviolent offenders and violators of CINS probation in Rule .009). In the presence of clearly defined mitigating circumstances, the hearings examiner may also elect not to revoke the student's parole.

(ii) If the parolee has not previously been in a TYC training school, has committed a violent offense, and there are no mitigating circumstances related to the student's commission of the violent offense, the hearings examiner shall revoke the student's parole and direct that the student be transported to the Statewide Reception Center for reassignment to a TYC training school for at least an additional 12 months (see parole release policy for violent offenders in Rule .009(b)(1)). If clearly defined mitigating circumstances are present, the hearings examiner may elect to have the student transported to the Statewide Reception Center for reassignment to a TYC training school, but not under conditions pursuant to the commission of a violent offense. In such instances, the staff of the receiving TYC training school shall evaluate the student for release on parole within six months (refer to parole release policy for nonviolent offenders and violators of CINS probation in Rule .009(b)(2 and (3)). In the presence of clearly defined mitigating circumstances, the hearings examiner may also elect not to revoke the student's parole.

(B) Nonviolent offenses.

(i) If the parolee has previously been in a TYC training school, has committed a nonviolent offense, and there are no mitigating circumstances related to the student's commission of the offense, and if, in the opinion of the hearings examiner, the student represents a threat to the public safety, the hearings examiner shall revoke the student's parole and direct that the student be returned to the TYC training school from which he was most recently released. The staff of the receiving training school shall evaluate the student for release on parole within six months (see parole release policy for nonviolent offenders in Rule .009(b)(2)). If clearly mitigating circumstances are present, or if, in the opinion of the hearings examiner, the student does not represent a threat to the public safety, the hearings examiner may elect not to revoke the student's parole.

(ii) If the parolee has not previously been in a TYC training school, has committed a nonviolent offense, and there are no mitigating circumstances related to the stu-

dent's commission of the offense, and if, in the opinion of the hearings examiner, the student represents a threat to the public safety, the hearings examiner shall direct that the student be transported to the Statewide Reception Center for reassignment to a TYC training school. The staff of the receiving TYC training school shall evaluate the student for release on parole within six months (see parole release policy for nonviolent offenders in 43.080 (b)(2)). If clearly defined mitigating circumstances are present, or if, in the opinion of the hearings examiner, the student does not represent a threat to the public safety, the hearings examiner may elect not to revoke the student's parole.

(C) CINS offenses, victimless criminal offenses, violation of TYC parole rules, or noncooperation with IPP.

(i) If the parolee has previously been in a TYC training school, and has committed a CINS offense, a victimless criminal offense, has violated TYC parole rules, or has repeatedly refused to cooperate with program expectations as defined on his IPP; if, in the opinion of the hearings examiner, the student represents a threat to the public safety; and if, in the opinion of the hearings examiner, the parole officer has exhausted all appropriate and available resources (e.g., TYC halfway houses, residential contract programs, nonresidential services), the hearings examiner shall revoke the student's parole and direct that the student be returned to the TYC training school from which he was most recently released. The staff of the receiving TYC training school shall evaluate the student for release on parole within six months (see parole release policy for violators of CINS probation in Rule .009(b)(3)). If, in the opinion of the hearings examiner, the student does not represent a threat to the public safety; and if, in the opinion of the hearings examiner, parole staff have not exhausted all appropriate and available resources, the hearings examiner may elect not to revoke the student's parole.

(ii) If the parolee has not previously been in a TYC training school, and has committed a CINS offense, a victimless criminal offense, has violated TYC parole rules, or has repeatedly refused to cooperate with program expectations as defined on his IPP; if, in the opinion of the hearings examiner, the student represents a threat to the public safety; and if, in the opinion of the hearings examiner, the parole officer has exhausted all appropriate and available resources (e.g., TYC halfway houses, residential contract programs, nonresidential services), the hearings examiner shall revoke the student's parole and direct that the student

be transported to the Statewide Reception Center for reassignment to a TYC training school. The staff of the receiving TYC training school shall evaluate the student for release on parole within six months (see parole release policy for violators of CINS probation in Rule .009(b)(3)). If, in the opinion of the hearings examiner, the student does not represent a threat to the public safety; and if, in the opinion of the hearings examiner, parole staff have not exhausted all appropriate and available resources, the hearings examiner may elect not to revoke the student's parole.

(D) Offenses governing disposition. If there is more than one reason for parole revocation, the most serious reason shall govern disposition. If the student whose parole is being revoked is already classified as a violent offender, the reason for which his parole is being revoked shall govern disposition (e.g., a violent offender whose parole is being revoked for the commission of a nonviolent offense shall be returned to the TYC training school from which he was most recently released, where he shall be evaluated for release on parole within six months).

(4) Out-of-state revocation. The revocation and return of TYC students who have been paroled out of state shall be coordinated by the director of hearings and the interstate compact administrator.

#### .011. Discharge.

##### (a) Policy.

(1) A delinquent student shall be discharged when he reaches his 18th birthday or when TYC is satisfied that discharge will best serve his welfare and the protection of the public.

(2) The administrator of parole, administrator of the Halfway House Program, administration of the Residential Contract Program, and director of institutions shall establish criteria for their respective programs for discharge prior to a student's 18th birthday. Criteria for discharge must be approved by the assistant executive director for child care.

##### (b) (Reserved for expansion.)

Issued in Austin, Texas, on October 11, 1979.

Doc. No. 796934

Ron Jackson  
Executive Director  
Texas Youth Council

Effective Date: October 12, 1979

Expiration Date: January 10, 1980

For further information, please call (512) 452-8111.

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.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

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

## State Aircraft Pooling Board

### General Provisions 012.01.00

The State of Texas Aircraft Pooling Board proposes to adopt Rules 012.01.00.001-.008, concerning the practice and procedures governing the meeting of this board and the records that will be available for public inspection.

These rules have no fiscal implications for units of local government of the state, according to State Aircraft Pooling Board personnel.

Public comment on the proposed adoption of Rules .001-.008 is invited. Comments may be submitted by telephoning the office of Barbara Mitchell, administrative assistant to the board, at (512) 475-8301, or by writing to Barbara Mitchell at Room G-12, John H. Reagan Building, Austin, Texas 78701.

These rules are promulgated under the authority of Chapter 746, Acts of the 66th Legislature, 1979 (Article 4413(34b), Vernon's Texas Civil Statutes), and Chapter 61, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

**.001. Board Meetings—Regular.** The board will meet once per month, on the first Tuesday of each month at a time and place to be determined by the chairman. The chairman shall post or cause to be posted with the Office of the Secretary of State the requisite notice so as to comply in all respects with the provisions of the Administrative Procedure and Texas Register Act and the Open Meetings Act, Article 6252-17, Vernon's Texas Civil Statutes.

**.002. Board Meetings—Called.** From time to time as circumstances may warrant, the chairman may call special meetings of the board. When such meetings are called, the chairman shall notify the members, either by letter or by telephone, not less than 24 hours prior to the meeting, and shall post or cause to be posted with the Office of the Secretary of State the requisite notice, as set forth in Rule .001, above.

**.003. Quorum.** Two voting members of the board constitute a quorum for transacting business.

**.004. Agenda.** When deemed necessary by the chairman, an agenda shall be prepared and submitted to the members of the board within a reasonable time, but not to exceed 24 hours, before the meeting.

**.005. Parliamentary Authority.** Subject to applicability, the current edition of *Robert's Rules of Order* shall govern the conduct of board meetings.

**.006. Minutes.** The chairman or member acting as chairman shall keep or cause to be kept a complete record of the proceedings of the meetings of the board, including all motions and their outcome, all decisions, all orders, and any other official actions of the board the chairman deems it necessary or advisable to record.

**.007. Access to Information.** The minutes of the meetings of the board shall be open for public inspection at the office of the board during reasonable business hours. The rules, minutes, orders, decisions, and policy statements of the board shall be indexed for public access and maintained in the office of the board.

**.008. Fees.** The board by order may assess reasonable fees to be charged the agencies using services provided by the board. Such fees collected shall be utilized for the purchase or lease of state aircraft and to defray the operating expenses of the board.

Doc. No 796984

### Rulemaking Procedure 012.02.00

The State of Texas Aircraft Pooling Board proposes to adopt Rules 012.02.00.001-.005, concerning rulemaking procedure for the adoption, amendment, or repeal of rules and petitioning by interested persons.

These rules have no fiscal implications for units of local government of the state, according to State Aircraft Pooling Board personnel.

Public comment on the proposed adoption of Rules .001-.005 is invited. Comments may be submitted by telephoning the office of Barbara Mitchell, administrative assistant to the board, at (512) 475-8301, or by writing to Barbara Mitchell, Room G-12, John H. Reagan Building, Austin, Texas 78701.

These rules are promulgated under the authority of Chapter 746, Acts of the 66th Legislature, 1979 (Article 4413(34b), Vernon's Texas Civil Statutes), and Chapter 61, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

**.001. Purpose.** The board may promulgate and adopt rules, as authorized and required by statute, necessary for the performance of its duties: to establish and maintain a pool of state-owned and leased aircraft in order that the state may conduct its business in an orderly, expeditious, and efficient manner.

**.002. Adoption, Amendment, or Repeal of Rules.** All adoptions, amendments, or repeal of rules must be in compliance with the provisions of the Administrative Procedure and Texas Register Act (Texas Revised Civil Statutes, Article 6252-13a) and related legislation. The board may use infor-

mal conference and consultations as means of obtaining the viewpoints and advice of interested persons concerning contemplated rulemaking. The board may appoint advisory committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rulemaking.

**.003. Petition for Adoption of Rules.** Any interested person may petition the board requesting the amendment, adoption, or repeal of a rule. Such petition must be in writing and signed by the person or persons requesting the amendment, adoption, or repeal. A petition will be deemed to be filed only when a signed copy for each board member is received at the office of the board, together with any fee required by statute or agency rule. A petition may be in any legible form, but must contain at least the following information:

(1) The full name, complete mailing address, and telephone number of the person or persons on whose behalf the petition is filed.

(2) The category number and title under which it is proposed that the action be taken. If the request is to amend or repeal an existing rule, the existing rule must be identified by number and title.

(3) An explanation of the proposed rule, or an explanation of the amendment or reason for repeal if an amendment or repeal is being requested. The explanation should include any relevant background necessary to an understanding of the rule and must include a statement of any foreseeable effects of the requested action should that action be taken.

(4) A statement of the statutory or other authority under which the requested action may be taken.

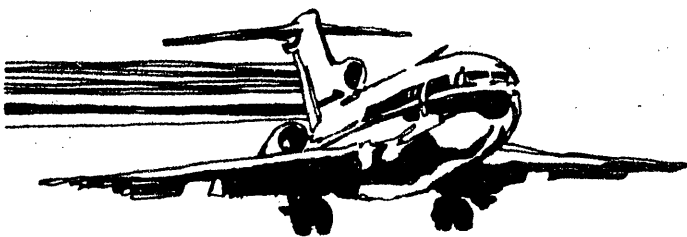
**.004. Petition Decision by Board.** Within 60 days after submission of a petition requesting the adoption of a rule, the board must either deny the petition in writing, stating its reasons for the denial, or initiate rulemaking proceedings in accordance with Rule .002.

**.005. Effective Date.** These rules take effect 20 days after filed for adoption with the Texas Register Division

Issued in Austin, Texas, on October 16, 1979.

Doc. No. 796985      Barbara Mitchell  
Administrative Assistant to the Board  
State of Texas Aircraft Pooling Board

Proposed Date of Adoption November 23, 1979  
For further information, please call (512) 475-8301.



## Texas State Board of Dental Examiners Dentistry

### Patients—Procedures 382.01.02

The Texas State Board of Dental Examiners is proposing an amendment to Rule 382.01.02.001 because the dental schools in Texas are no longer able to furnish dental patients for the ever-increasing number of dental applicants for examination. The board will publish guidelines for patient acceptability for future dental examinations. The board is also proposing an amendment to Rule .002 because the three dental schools have advised the board that they can no longer accept the responsibility of graduates of other schools.

The board has determined that these amendments will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon these amendments should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

These amendments are proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

**.001. Examination Patients.** [The board, with the school's aid, furnishes the patients, and at the examination the board will assign a patient or patients to each dental applicant.] *It is the sole responsibility and obligation of each dental applicant to furnish the dental patient(s) upon whom such applicant will perform the dental work or service assigned by a member of the Texas State Board of Dental Examiners to be completed on the dental examination. Guidelines detailing dental patient acceptability will be furnished each applicant upon receipt of his completed application. Each applicant must secure from his dental examination patient(s) a consent and release form prepared by the board properly signed and sworn to by such patient(s) and delivered to the designated member or staff person of the board. No member of the faculty of any dental school can be a patient. Each applicant will be required to do a thorough diagnosis and treatment plan [for the patient assigned to him] on his patient. This will be presented to a member or members of the board for evaluation. The board will assign the applicant such operations as are called for in the treatment plan as the board may deem advisable. The assignment will be of such nature which, in the opinion of the board, can be completed during the time allotted for the practical portion of the examination. Each applicant will perform all assigned operations and procedures necessary for his patients. The technique used in these operations and procedures will be of the applicant's own choosing, judgment, and skill, unless directed otherwise by a member of the Texas State Board of Dental Examiners.*

### **.002. Examination Procedures.**

(a) (No change.)

(b) In the event an applicant fails to complete any portion of the examination, the applicant will leave with the school any bridges, etc., not acceptable or incomplete for recasting, etc., and the school [will assume all remakes of such work without charge only to the extent of the particular incomplete part undertaken on the examination] *only assume "remakes" of such work without charge for the*



*graduates of the dental school where the examination is held and then only to the extent of the particular incomplete or unacceptable part undertaken on the examination.*

(c)-(f) (No change.)

Doc. No. 796925

## Conduct

The Texas State Board of Dental Examiners is proposing Rules 382.19.02.005, 382.19.03.004, and 382.19.04.005. It is the opinion of the majority of the board that to permit certain language on signs and not permit same in other media is unreasonable and could be considered in violation of federal decisions; therefore, the board proposes to extend the language in Rule 382.19.01.005 on signs to include telephone directories, special announcements, and newspapers.

The board has determined that these new rules will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon the new rules should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

## Newspaper and Professional Card Listings 382.19.02

This new rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.005. *Content.* The use of the terminology in Rule 382.19.01.005, Abbreviations and Designations, shall apply to newspapers and professional card listings.

Doc. No. 796926

## Special Announcements 382.19.03

This new rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.004. *Content.* The use of the terminology in Rule 382.19.01.005, Abbreviations and Designations, shall apply to special announcements.

Doc. No. 796927

## Telephone Directory Listing 382.19.04

This new rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.005. *Content.* The use of the terminology in Rule 382.19.01.005, Abbreviations and Designations, shall apply to telephone directory listings.

Doc. No. 796928

## Fair Dealing 382.19.15

The Texas State Board of Dental Examiners is proposing an amendment to Rule 382.19.15.004. The board feels that the question of ownership of dental records such as x-rays is of

sufficient importance to be discussed, heard, and voted upon in a public hearing.

The board has determined that this amendment will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon this amendment should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

This rule amendment is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

### .004. *Records and Their Transfer.*

(a) A Texas dental licensee practicing dentistry in Texas shall make, maintain, and keep adequate records of the diagnosis made and the treatment performed for and upon each of his dental patients for reference, identification, and protection of the patient and the dentist for a period of not less than two years, and such records shall be available for inspection by the patient after and upon appointment with the dentist and also by the officers, agents, or employees of the Texas State Board of Dental Examiners. This shall not prohibit the transfer of records to another dentist for continued treatment or to an agreed designated consultant for ascertainment of facts. *Where a patient requests x-rays to be made and delivered to the patient as the property of such patient or where x-rays are made for a dental patient and the patient has paid therefor and no contract or agreement for further dental services or treatment has been made or agreed upon, then said x-rays shall be delivered to the patient as such patient's private property upon said patient's written request therefor.*

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

Doc. No. 796929

## Advertising 382.19.20

The Texas State Board of Dental Examiners proposes to amend Rule 382.19.20.001. The amendment to paragraph (3) pertaining to application of fluoride is a reasonable extension of prophylaxis treatment. The addition of paragraph (6) regarding "family rates" has been suggested by practitioners, and the board feels such should be the subject of a public hearing. Therefore, the board proposes this amendment for discussion, hearings, and possible adoption.

The board has determined that the amendment will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon the amendment should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

The amendment is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.001. *Routine Dental Services.* A routine dental service is defined as that service which does not alter the natural dentition or supporting structures. Any advertised routine dental service shall include all professionally recognized components within generally accepted standards and precludes the purchase of any additional goods or services in order to

receive the advertised service. The Texas State Board of Dental Examiners has determined that the following listed dental services are routine dental services and may be advertised in conformity with the laws and rules and regulations governing same, to wit:

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

(3) Prophylaxis shall include all necessary hard and soft deposit removal and the polishing of exposed tooth structure and the application of topical fluoride when advisable.

(4)-(5) (No change.)

(6) The term "family rates" may be used in any advertisement of routine dental services provided same is actually made available upon patient request.

Doc. No. 796930

## Annual Registration 382.19.22

The Texas State Board of Dental Examiners is proposing Rule 382.19.22.001. The statute pertaining to the practice of dental hygiene states that a dental hygienist shall annually apply for renewal of her certificate "in the manner and within the time prescribed by the board in its rules and regulations;" therefore, in order to comply with the law, this new rule is necessary.

The board has determined that this new rule will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon this new rule should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

This new rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.001. *Registration Information.* Registration of dentists, dental hygienists, dental laboratories, dental technicians, and other professions or businesses under the jurisdiction of the Texas State Board of Dental Examiners shall be on an annual basis. Every person so registering shall file with said board a written application setting forth such facts as the board may require. All registrations must be received in the office of the Texas State Board of Dental Examiners in the amount set by the board on or before March 1 of each calendar year.

Issued in Austin, Texas, on October 10, 1979.

Doc. No. 796931      Carl C. Hardin, Jr.  
Executive Director  
Texas State Board of Dental Examiners

Proposed Date of Adoption: November 23, 1979  
For further information, please call (512) 475-2443.

## Texas Energy and Natural Resources Advisory Council

### Texas Energy Development Fund 161.01.00

The Texas Energy Development Act of 1977, Article 4413(47b), Vernon's Annotated Civil Statutes, created the Energy Development Fund (EDF) "to support research in and development of solar, geothermal, lignite, biomass, wind, con-

servation, and other alternate abundant energy resource technologies." Pursuant to this legislation, a plan for administering the fund was published on September 27, 1977 for consideration in a process of "public hearing and appropriate review." Comments were received through October and in a public hearing on October 28, 1977, from about 40 interested citizens. On the basis of this review, the plan was revised and adopted by the Texas Energy Advisory Council on December 2, 1977, and published as rules in the *Texas Register* on December 16, 1977 (2 TexReg 4836). Under Senate Bill 921, 66th Legislature, Regular Session, the Texas Energy Development Act, *supra*, was amended to support "research, development, and demonstration of alternate energy supplies and energy conservation technologies of importance to Texas" with the Texas Energy and Natural Resources Advisory Council to "provide for the administration of the fund." Under House Bill 558, 66th Legislature, Regular Session, funds were appropriated for energy development grants to the Texas Energy Advisory Council which was merged into the Texas Energy and Natural Resources Advisory Council by Senate Bill 921.

The Texas Energy and Natural Resources Advisory Council proposes to adopt as its rules for administering energy development contracts the rules previously adopted under the Texas Energy Development Act of 1977 subject to the amendments as indicated in the text which follows. These amendments are primarily to delete materials related only to the previous biennium and to incorporate terminology consistent with current legislation.

There are no fiscal implications to administering the rule either for the state or units of local government in excess of funds appropriated to the agency.

Public comment on the proposed amendments to Rules 161.01.00.001, .006 is invited. Comments may be submitted by telephoning the office of Dr. Roy Ray, Jr., manager, Technology Development Section, at (512) 475-5588, or by writing to Dr. Ray at 411 West 13th Street, Austin, Texas 78701.

These amendments are proposed under the authority of Senate Bill 921, 66th Legislature, Regular Session, and Article 4413(47b), Section 6, Vernon's Annotated Civil Statutes, as amended.

#### .001. *Criteria for Funding.*

(a) On the basis of the language of the Energy Development Act, *supra*, and expressed concerns of energy policy makers, *energy development contracts shall be awarded on the basis of the following general funding criteria* (the Energy Development Fund awards should give primary consideration to the following general funding criteria):

(1) that projects have specific application to the *energy needs of Texas* (Texas energy situation);

(2) that projects bring *energy* technology closer to commercialization, and that the technology *show* (shows) promise for significant contribution within the next 25 years, with preference for projects demonstrating current or near term economic feasibility;

(3) (No change.)

(4) that the projects neither be redundant nor substitute for existing funding (for the specified technologies); and

(5) that the projects fall within *the scope of research, development, and demonstration related to alternate energy supplies and energy conservation tech-*

**nologies** [one or more of the six technology categories designated in the legislation].

(b) In addition to these general criteria, funding of specific projects will be contingent upon meeting the standards set forth with regard to Solicitation and Submission of Proposals (*Rule .002*) and Evaluation and Selection of Proposals (*Rule .003*).

(c) Furthermore, careful consideration must be given to the limited size of the initial fund (\$1.5 million) and the limited funds initially available for administration purposes (\$150,000). These factors dictate a simplified procedure which can be administered efficiently by a small staff.]

*.002. Solicitation and Submission of Proposals.* [To arrive at an acceptable] The procedure for solicitation and submission of proposals[,] is based on consideration of [must be given to] (1) the kinds of problems being encountered in Texas to which energy RD&D might speak, (2) the levels of funding necessary to obtain significant results, and (3) the potential for stimulating participation by other agencies, organizations, or individuals.

(1)(a) [Proposal priorities. *Proposal priorities will be established by internal assessment of energy-related RD&D needs and activities, by interaction with the council and related state agency personnel, and by open consultation with identified external experts and concerned citizens in the research areas of council interest. The proposal solicitation process will then be initiated on the basis of these established priorities.*

[The following list indicates potential projects identified as worthy of consideration in the specified technology areas. Those marked with an asterisk (\*) would likely require matching funds and are of such nature that matching funds might reasonably be attracted. There is no intention that this list be considered comprehensive or exclusive. Within the limits of available funds, it is anticipated that one or more contracts will be awarded in each of the listed areas provided acceptable proposals are received. The rationale for identification of these proposal priorities appears in Volume I of the Texas Energy Development Fund Plan. The category funding totals listed are target figures set on the basis of perceived needs at the time of publication and do not represent fixed budgets. They attempt to balance the outlay of available funds and to provide proposers with a general idea of anticipated funding levels. Funds will be transferable between categories on the basis of evaluation of proposals received subject to final council approval. Contingency funds have been included to allow greater flexibility in responding to unforeseen developments.

[(1) Solar..... \$325,000

[(A) S-1. Appropriate Technologies Development. Identify and/or develop solar applications which address regional needs, particularly in the design and construction of buildings and building environmental systems. Appropriate technologies include those technologies readily available and capable of being accepted by the building industry, but not now commonly used. Also included would be construction techniques and indigenous materials with particular promise for lowering cost and energy consumption.

[(B) \*S-2. Monitoring and Evaluation of Existing Solar Systems. Assistance in monitoring and evaluation of presently working solar systems and/or buildings with installed solar units. Description of test buildings and systems should be provided, including control buildings if available.

Instrumentation is flexible, but should be described if provided by proposer. Reporting format should follow that provided by NBS publication, "Thermal Data Requirements and Performance Evaluation Standards for the National Solar Heating and Cooling Demonstration Program" for active systems, and as nearly as possible for passive systems. All contractors for monitoring and evaluation projects will be required to meet, together with TEAC staff, to develop report formats. If instrumentation is required, TEAC will use competitive bid process to obtain such. Where specific instrumentation is part of proposal, costs should be listed specifically. Participation by utility is preferred.

[(C) \*S-3. Industrial and/or Agricultural Applications. Demonstration of industrial or agricultural solar technology applications such as process heat or steam or large solar greenhouse. Proposers must be willing to share a major portion of the cost, and the project should be designed for actual use (i.e., require industry participation and use). Proposer should also describe how the system proposed is useful in other similar applications as well as the specifics of the system itself, and all previous steps taken to conserve energy.

[(D) \*S-4. Cooling, Dehumidification, and Related Technology Development. New and innovative concepts for system development in the area of solar cooling and/or solar rejuvenated dehumidification, or hybrid systems. Proposers should describe concept in as much detail as possible and describe market significance and potential economic competitiveness of system envisioned, work performed to date, RD&D needs, and effect on development of state support, including potential for subsequent federal or private support.

[(E) \*S-5. Small-Scale Solar-Thermal Electric Technology Development. Accelerate development of thermal electric systems or subsystems. Emphasis is on potential for mass production and widespread application for on-site power generation or co-generation. Proposers must specify the present state of development in detail and anticipated progress during the contract period for the proposed cost. Proposer should describe how state funds can best be used to accelerate development work and what product (result) is expected. A breakdown of costs shared by proposer should be provided. In addition, proposer should indicate time schedule for continuing the work in progress if no state funds are made available. Proposer should describe system/energy cost and manufacturing and marketing potential.

[(F) S-6. Solar Handbook for Homeowners, Builders, and/or Architects. Compilation of solar information for decision-making on systems selection and economics for retrofit or construction of new homes in terms useful to homeowners, architects, and/or builders/installers. Material could be assembled in one or more manuals, dependent on proposer's organization plan. Proposer should draw from previous work (California retrofit manual, "Solar for Your Existing Home," the "Floridian's Guide to Solar Energy," and the LASL "Solar Energy Guide," in particular) and make allowance for climatological variations in Texas. Proposer should describe the approach to be used and the distribution plan and cost.

[(G) \*S-7. Consumer Protection. Support for a consumer protection effort, preferably by an industry-related group or organization. Primary concern is advertising verification for commercial products and systems. Proposer should describe present activities, the relation to solar industry, the relationship with the state attorney general and/or

the FTC (proposed or existing), and procedures for providing service. Individuals involved should be identified.

[For further information contact Robert J. King: (512) 475-5588.

[(2) Geothermal..... \$175,000

[(A) \*G-1. Gulf Coast Systems Analysis. Support a systems analysis of Texas Gulf Coast geopressured resources. The analysis should address questions such as: (1) is the resource economically recoverable? (2) does a demand exist which can use the energy derived? (3) do sufficient environmental, legal, and regulatory policies exist to ensure orderly development? and (4) what will be the impact of development on the coastal population? Methodology of analysis and format of results should be acceptable to U.S. Department of Energy.

[(B) \*G-2. Trans-Pecos Heat Flow Investigation. Investigate and analyze heat flow and other important geophysical characteristics of the geothermal resources in the Trans-Pecos area. Using knowledge available on the resource through existing oil well data, geologic and geochemical indicators, plus geophysical information developed under the project, contractors should determine the potential size and significance of the geothermal resource in west Texas. Contractor should investigate potential resource applications and develop a basic resource management plan to guide future research objectives and directions.

[(C) \*G-3. Geothermal Demonstration. Demonstrate the technical feasibility of geothermal energy utilization in Texas. Energy use can be for space heating, process heating, or any other purpose for which general applicability to other sites exists. Preference will be given to public facilities in which energy conservation efforts have previously been made. Demonstration should include monitoring of system performance and energy savings. Project results should include discussion of technical and economic feasibility of utilizing similar geothermal resources at other locations in Texas.

[For further information contact David M. White: (512) 475-5588.

[(3) Lignite..... \$225,000

[(A) \*L-1. Reserve Estimation. Develop a detailed estimate of economically recoverable lignite reserves in Texas. Reserve estimates should be disaggregated to the county or other appropriate level and segregated according to lignite characteristics. Contractor should have a solid background in Texas lignite geology and mining technology. Methodology used and format of results should be acceptable to U.S. Department of Energy.

[(B) \*L-2. Water Impacts from Surface Mining. Research, develop, and/or demonstrate technology to reduce adverse water impacts from surface mining. Research may include, but is not limited to, water pollution control, reducing hydrology disturbances, or restoration of aquifers. Proposals should address significance of proposed project in meeting requirements imposed by recent regulatory changes resulting from Federal Surface Mining Control and Reclamation Act of 1977.

[(C) \*L-3. Technology Development (Gasification, Liquefaction, Refining, and/or Advanced Combustion). Research, develop, and/or demonstrate technology which will be of particular importance to the mining, transportation, or utilization of lignite. Areas of interest include, but are not limited to correlation of lignite characteristics and process

behavior, gasification (conventional or in situ), fluidized bed combustion, lignite utilization as a feedstock or transportation fuel, and utilization of lignite waste products. Specific attention should be given to the potential economic cost/benefit of the proposed research and/or technology and the environmental benefits which might result. Funding of more than one project is anticipated.

[(D) \*L-4. Environmental Assessment and Research Plan. Develop a plan directed at identifying economically, environmentally, and socially acceptable development alternatives for Gulf Coast lignite. In development of the plan, contractor should (1) assess the future supply and demand for the resource under differing development scenarios, (2) estimate the potential environmental and social impacts lignite development will have under the above scenarios, and (3) identify potential constraints on lignite development which could be removed by either technology development or changes in public policy. Systems considered should include land, water, air, economics, and the overall quality of life. Contractor should communicate with concerned engineers and scientists throughout the state in order to assure diversity of opinions and expertise.

[(E) \*L-5. University Coal Research Laboratory. Provide matching funds to a single university submitting a proposal to U.S. Department of Energy (DOE) for establishment and operation of a regional coal research laboratory as described in Title VIII of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87). Evaluation of university to receive funding support will be made by candidate universities and/or outside experts and will be based on capability of university to satisfy DOE guidelines.

[For further information contact David M. White: (512) 475-5588.

[(4) Biomass..... \$75,000

[(A) \*B-1. Demonstration of Conversion to Fuels of Agricultural and/or Industrial Products or Wastes Design and/or construction of a pilot- or demonstration-size system, preferably to be used by agricultural or other industry-sector participant. This project could also include provision of matching funds for a federally funded demonstration. Proposers should provide preliminary system design, description of present facilities, and proposed use of fuels generated. Proposers should detail private, university, or federal funds used for the project and anticipated economic or other benefits. Proposer should also describe the significance of this project as a demonstration, its applicability to other similar situations in Texas, and proposed methods for disseminating information and experience gained from the project. The proposer should also show a commitment to construct such a plant if the state funds are to be used for design work, and show financial responsibility and capability to complete the project.

[For further information contact Robert J. King: (512) 475-5588.

[(5) Wind..... \$100,000

[(A) W-1. Wind Power Availability Mapping. Mapping for public use of wind speed and direction data now existing in the private sector. Private industry or representatives of numerous industries for air quality monitoring purposes may propose to make public those portions of data collected pertinent to consideration of wind energy conversion, or for use by architects or engineers in structural or building environmental design. Proposer should specifically describe stations available, data collected, accuracy, geographic dis-

tribution, and ability to provide data in a format compatible with current public data available through Texas Natural Resources Information System (TNRIS). Proposer should also briefly describe ability to perform potential second stage project to evaluate need for further development of monitoring stations if any.

[(B) W-2. Monitoring and Evaluation of Existing Systems. Performance monitoring and evaluation of existing systems or as part of a state-supported demonstration. Recording and reporting format is to be negotiated with the TEAC staff and other contractors, but proposal should include suggested methods as well as instrumentation.

[(C) \*W-3. Wind System Component Development. Development of wind systems or subsystems needed to provide efficient linkage from existing wind energy collection systems to selected applications. Also, projects for RD&D of new and innovative wind energy conversion systems or components will be considered where their significance can be clearly shown. Proposer should also describe related past work performed and potential for future federal or private support. Proposer should describe effect of state funding on projected development schedule where appropriate. Proposer should also present matching costs or services to be provided.

[(D) \*W-4. Task-Specific Small System Demonstration. Specific task performance or electrical power production by small wind systems. Proposer should describe the significance of the proposed demonstration for other similar applications in Texas, as well as system specifics. Proposer should describe accessibility of demonstration to potential user groups. Participation by a user is required. Proposer and/or proposing team must share a significant portion of demonstration costs (may include in-kind services, peripheral equipment, etc.). Electric power generation demonstrations proposed should include participation by a local utility.

[For further information contact Robert J. King: (512) 475-5588.

[(6) Conservation.....\$200,000

[(A) \*C-1. Dehumidification. Research and development of an efficient system to dehumidify air within a structure. The desired results of the project would be to develop a piece of equipment capable of dehumidifying air at close to ambient temperature. In order to maintain efficiency it would be most desirable that the dehumidification occur with neither a substantial increase nor decrease in the temperature of the air being dehumidified.

[(B) C-2. Air Movement and Distribution/Ventilation Demonstration. Demonstrate methods for maintaining desirable comfort levels within a building by the use of air movement, distribution, and ventilation. The major area of concentration should be in residential housing. It would be desirable to demonstrate the feasibility of raising building summertime temperature while maintaining comfort levels through air movement. The results of this project could be combined with those of a dehumidification project to achieve a more efficient alternative to the present system of air conditioning.

[(C) \*C-3. Hot Water Heating. Develop and demonstrate more efficient methods for heating domestic hot water. The project should concentrate on commercial and residential uses of hot water. Expected results would include the feasibility of eliminating hot water for certain uses, of waste heat use from air conditioning and refrigeration equipment to heat water, and of more efficient methods for storing

hot water. An economic analysis relating investment in retrofit to the amount of energy saved should also be addressed. It would be desirable to develop standard systems which could be commercialized as a retrofit item to be installed in existing construction.

[(D) \*C-4. Thermal Storage. Research and development of economically feasible methods for storing thermal energy in residential housing. The systems investigated would store thermal energy on a daily cycle. Such a system would produce cooled water or ice using off-peak electric power and would then cool a residence during the day using the stored cooling capacity. The system would be used as a method for shifting peak power to off-peak hours and for increasing air conditioning efficiency. Consideration of use of the proposed storage system for winter heating should also be included. As a project result, specific recommendations would be developed concerning the most economically feasible system which could be used in new and existing residential construction.

[(E) \*C-5. Improved Irrigation Systems. Develop and demonstrate improved agricultural irrigation systems which would have particular applicability to Texas. The project would investigate methods for reducing the energy consumed for irrigation throughout the state, especially in the High Plains area. The results of the project would not necessarily be the development of new hardware but possibly the demonstration of how present-day equipment could be used to best advantage. This project could also coincide with one which would use such alternative energy sources as wind or solar. Proposer should describe the economic feasibility of the proposed system.

[For further information contact Roy R. Ray: (512) 475-5588.

[(7) Special Projects.....\$100,000

[(A) \*SP-1. Regional Development Bank Analysis. Determine the feasibility of establishing a regional development bank for the purpose of accumulating capital for promotion of energy-related development projects. The study would address such issues as (1) legal and institutional requirements for the operation of a regional bank potentially serving more than one state, (2) relationship to existing banking institutions, (3) specification of investment areas eligible for funding from the bank, (4) the states to be involved in the definition of the "region," and (5) alternative methods of bank financing. Econometric modeling work would be required in order to investigate which investment categories would have the most influence on regional economic development.

[(B) SP-2. Economics of Energy Alternatives. Estimate current costs of doing specific jobs with alternate energy sources or combinations thereof. Include specific applications in agriculture, industry, electric power generation, home heating and air-conditioning, and transportation systems, identifying specific parts of the process most subject to cost reduction as development reaches commercial levels.

[(C) \*SP-3. Local Energy Development Impact Assessment. Further develop capability to assess local area impacts from various energy development projects. Work should focus on methodology for anticipating development effects on economic growth, employment, public services and financial structures of local communities. Focus should be on specifically identifying potential constraints to and mitigating actions for the development of alternate energy technologies in Texas.

[For further information contact Milton L. Holloway: (512) 475-5588.

[Subtotal, Planned

Solicitation	\$1,200,000
Contingency Funding	150,000
EDF Administration Cost	150,000
Total EDF Expenditures	\$1,500,000

(2)(b) Proposal solicitation process. *Proposals will be solicited by the issuance of "statements of program intent" (SPI).* [The adoption and distribution of this plan constitutes a solicitation for proposals which address any of the identified categories. The deadline for submission of proposals is January 31, 1978. Those who anticipate submitting proposals in response to the plan must return the detachable form on the back cover to be received no later than January 10, 1978. This will allow adequate provision for additional information to be provided equally to all prospective proposers. As need arises, additional proposals will be solicited by the issuance of "statements of program intent" (SPI).] Each SPI will include the following:

- (A)(1) description of project objective;
- (B)(2) description of funding considerations;
- (C)(3) explanation of review criteria and procedures;
- (D)(4) deadline and address for proposal submission;
- (E)(5) target date for contract award;
- (F)(6) detailed guidelines for proposal contents;
- (G)(7) designation of contact person for additional information;
- (H)(8) statement of contract terms and required completion date; and
- (I)(9) statement regarding proprietary information and patents.

[This plan and] *All* [subsequent] SPIs will be published in the *Texas Register* and will be distributed to state depository libraries, to appropriate journals and periodicals, and to a mailing list of those who indicate interest in receiving them. Notice of the availability of the [plan and subsequent] SPIs will be communicated by news release through the Capitol Press and other appropriate media. Release of [the plan or any] *an* SPI in no way guarantees that all or any of the funds designated will be awarded. The council retains the right to make no award in the event that no acceptable proposal is submitted in a given area.

(3)(c) Submission of proposals. The *proposal* [proposed] format will be designed to insure sufficient information for evaluation, but the staff reserves the right to request further information if necessary. Voluminous proposals are neither necessary nor desired due to staff and budgetary limitations. Five to 10 double-spaced typed pages, excluding appendices, should ordinarily be adequate. *Unless otherwise indicated with regard to a specific solicitation, 10 copies of the full proposal must be received in the Energy Analysis and Development Division offices on or before the submission deadline for the proposal to receive consideration under a given solicitation.* Proposals should address the following concerns:

- (A)(1) *project classification:*
  - (i)(A) project title and number as listed in plan or in the [a] specific SPI, or
  - (ii)(B) category title (e.g., solar, wind, lignite, etc.) if not addressing a specific identified project (in which

case the proposal should include a statement of how the project meets the funding criteria outlined in *Rule .001* above [the plan]);

(B)(2) discussion of how the proposer intends to fulfill the requirements of the project, including description of end product in detail identifying existence of proprietary information and any subcontracts planned;

(C)(3) availability of matching funds and/or services *indicating amount and sources;*

(D)(4) *verifiable* resumes of principals and subcontractors (including names, addresses, and phone numbers) and a summary of pertinent experience of proposing organization;

(E)(5) site(s) of proposed project;

(F)(6) time schedule for work to be performed by principals and subcontractors;

(G)(7) itemized cost breakdown, including profit margin *and indication of application of matching funds;*

(H)(8) economic justification of the project including present costs and anticipated cost reductions or proposals for obtaining cost data;

(I)(9) suggested monitoring procedures;

(J)(10) other information as indicated by specific project descriptions; and

(K)(11) *clear identification of any proprietary information* [more than one project may be addressed in a given proposal in which case the advantages of such a combination should be described].

(4)(d) Eligible proposers. In order to assure equitable distribution of the funds and to avoid conflict of interest, the following criteria are established for acceptability of proposers:

(A)(1) Texas-based proposers will be given priority consideration, and only in unusual circumstances will this priority be disregarded;

(B)(2) projects to be conducted in Texas will be given priority consideration, and only in unusual circumstances will this priority be disregarded;

(C)(3) *individual* members of the council, *TENRAC* [TEAC] staff *members*, or their immediate families are not eligible; and

(D)(4) members of the pool of technical experts are eligible to submit proposals in which case their participation in the evaluation process will be appropriately limited.

(5)(e) Unsolicited proposals. *Any proposal which is not responsive to a specific solicitation as described in Rule .002(2) is an unsolicited proposal provided it satisfies the general requirements of Rule .002(3). Unsolicited proposals will receive appropriate consideration within time and funding limitations in accordance with accepted evaluation and selection procedures (Rule .003).* [Any proposal which addresses one or more of the seven categories or projects listed in the plan which is received by January 31, 1978, is a solicited proposal, even if it does not respond to an identified priority project or a specific SPI. Proposals received after January 31, 1978, which fall under one or more of the technology categories addressed by this plan will be received on an unsolicited basis and will be reviewed only as staff time and funds allow. Proposals submitted to the fund which fail to address any of the seven categories addressed in this plan will not be considered.]

(6)(f) *Preproposals. Funding inquiries which describe potential development projects but which do not satisfy the requirements for proposal submission will be*



considered preproposals which may become the basis of subsequent proposal solicitation or request for submission of an unsolicited proposal. [Subsequent solicitations. On the basis of continuing study of the technology areas, input from technical experts and energy policy makers, and review of proposals received, the TEAC staff may issue SPIs. The previous description of procedures will also apply to subsequent solicitations.]

**.003. Evaluation and Selection of Proposals.**

(a) Upon receipt, proposals will be referred to the *TENRAC* [TEAC] staff member responsible for the related technology area. The responsible *TENRAC* [TEAC] staff member will review each proposal and will forward the proposals to an impartial group of technical experts (as described in Rule .003(b) below) for evaluation. The *TENRAC* [TEAC] staff will make every effort to obtain reviews for each proposal by at least one technically qualified person in each of the following fields: federal research and development, state agency, university, and private industry.

(b) A pool of technical experts will be selected by the *director of the Energy Analysis and Development Division* [TEAC director]. Specific proposal evaluators will be selected from this pool by the responsible *TENRAC* [TEAC] staff member in consultation with the *manager of the Technology Development Section* [Energy Development Fund administrator]. This selection will be made in a manner which will minimize conflicts [conflict] of interest while maintaining the highest available level of expertise in the proposal area. Evaluators will be required to indicate potential conflicts of interest so that evaluations can be weighed accordingly. For protection of proprietary information, evaluators will sign statements of confidentiality.

(c) In addition to providing specific comments, each of the evaluators will rate the proposals in the following categories, [excellent, good, supportable, poor, or unsound in the following categories.] where appropriate:

(1) degree to which the proposal is responsive to the fund's overall purpose and funding criteria and/or the specific purpose of an individual solicitation [accomplishes the requirements of projects identified in the plan, specific SPIs, or the plan's overall purpose and funding critical];

(2)-(9) (No change.)

(10) other information as may be required [by plan or SPI] for a specific project.

(d) Each responsible *TENRAC* [TEAC] staff member will prepare for the *Technology Development Review Committee* [EDF Review Committee and designated Advisory Committee members] a summary of all proposals submitted in his project area, a summary of the evaluations, and identification of potential conflicts of interest. This committee will be composed of the *director of the Energy Analysis and Development Division* and the *manager and professional staff members of the Technology Development Section*. [EDF administrator, the director of TEAC, and the TEAC professional staff members. It will consult with the designated Advisory Committee members in arriving at its recommendations.]

(e) On the basis of this information and its own investigation, the Review Committee will submit to the *executive director* [council] its recommendations with regard to each proposal. [(1) recommend; (2) recommend subject to award of matching funds or services; (3) not recommend; or (4) defer for further consideration.] Upon approval of the

*executive director with appropriate concurrence of the council, the director of the Energy Analysis and Development Division will be authorized to enter into contract arrangements with the proposing party.* [Upon formal TEAC approval, the director of TEAC will be authorized to enter into appropriate contract arrangements with the proposing party.]

**.004. Project Reporting Requirements.** A contract technical monitor will be designated either from among the *TENRAC* [TEAC] staff or outside consultants for each contract. This person will be responsible for monitoring the progress of the contract to assure that the *Texas Energy and Natural Resources Advisory Council* [Texas Energy Advisory Council] is receiving satisfactory performance of contract terms. Contract progress reports will be submitted by the contractor at scheduled intervals during the contract period. The requirements and dates for each progress report will be identified in the contract itself. In addition, the contractor will be required to submit within 30 [90] days of project completion *three copies of a draft final written report for review and evaluation. When agreement is reached as to final report form and content, the contractor will be required to submit a camera-ready original and 25 copies of the final report which shall then be the basis for final payment authorization.* [a final written report suitable for publication which will be used in the process of final contract evaluation. A final contract evaluation will be prepared by the contract monitor, and based on such evaluation, final payment shall be authorized.]

[When necessary, up to 5.0% of the contracted funds for each project will be reserved for employment of the contract monitor. Acceptable suggestions for monitoring procedures which will obviate the necessity of monitoring by outside consultants will release the 5.0% for application to the project itself.]

**.005. Disbursement of Contracted Funds and Project Cost Accounting.**

(a) Two vehicles for contracting will be used for *contracts under the Energy Development Act* [the Energy Development Fund]. An "interagency contract" governed by the *State Purchasing and General Services Commission* [Board of Control] will be used for contracting with state agencies and state universities. For private contractors, a "professional services" contract between the contractor and the *council* [fund] will be drawn. In both instances, contracts entered into shall contain terms and conditions considered appropriate to protect the interests of the state and those of the contractor.

(b) State of Texas [agency] contractors will be paid on an actual cost reimbursement basis provided for by *State Purchasing and General Services Commission* [State Board of Control] rules and regulations. *Private* [Other] contractors will be paid on a fixed contract amount basis in most cases; however, consideration will be given to special circumstances requiring some other basis of compensation. *Unless otherwise provided* [In most cases], payment for services rendered shall be upon completion of predetermined phases of the project and after certification by the contract monitor. In *instances* [cases] in which more frequent payments are *requested* [required] due to the nature of the work performed or the condition of the contractor, *a case-by-case review will be made and appropriate accommodations provided when possible* [payments will be made on a

monthly basis after certification of the contract monitor. State of Texas *entities* [agencies] shall be reimbursed, based upon their actual costs incurred, upon submission and approval of proper invoices and supporting documentation. Other contractors shall be paid on the basis provided in the contract upon submission of proper vouchers. *In each case*, 10% of the contract amount shall be retained for final payment until after receipt and acceptance of all required reports and documentation.

(c) Contractors shall maintain satisfactory financial accounts, books, papers, documents, and records, and shall make same available for examination and audit by the staff of *TENRAC* [the TEAC] and other authorized representatives of the state. Such materials shall be retained by the contractor for three years following final payment and termination of the contract. Accounting by contractors shall be in a manner consistent with generally accepted accounting procedures.

#### .006. Dissemination of Results.

(a) Results of all projects completed under contract with the *agency* [fund] will be submitted in the form of a written report or other printed material (including data, charts, computer programs, maps, or drawings) which will then become public information. Contractors will be available for brief presentations of results as required by *TENRAC* [the TEAC, including a symposium for Texas legislators and other interested policymakers in early February 1979]. When the final result includes a demonstration, specific hardware or a proprietary process, provisions will be made on a case-by-case basis. It is expected that machinery, buildings, and building systems will be subject to period of inspections or monitoring by the state or its designated representative or be made accessible to the public as appropriate. Specific provisions will be made in each contract to cover this contingency initially, as well as to establish eventual ownership at the conclusion of a period of monitoring and/or accessibility.

(b) In the event that federal, private, university, or other state agency funding is also used for completion of a project, public availability of results, *patent application authority*, and terms for monitoring, inspection, and ownership will be negotiated with all the parties involved in accordance with applicable federal and state regulations.

(c) *In the absence of statutory or contractual limitations* [when no such third parties are involved], the contractor may apply for patents on any discoveries made through his project. If the contractor does not wish to make the application, he shall notify the contract monitor, and the state may request and receive title to the discovery. If the contractor receives a patent, the State of Texas shall be entitled to an irrevocable, nonexclusive, royalty-free license to use for governmental purposes under the patent.

Issued in Austin, Texas, on October 16, 1979.

Doc. No. 796979 Milton L. Holloway, Director  
Energy Analysis and Development  
Division  
Texas Energy and Natural Resources  
Advisory Council

Proposed Date of Adoption: November 23, 1979  
For further information, please call (512) 475-5588.

## Texas Department of Labor and Standards

### Manufactured Housing Division

#### Fee Structure 063.55.09

(Editor's note: The Texas Department of Labor and Standards is proposing for permanent adoption Rules 063.55.09.001 and .002, which it recently adopted on an emergency basis. The texts of these rules were published in the August 21, 1979, issue (4 TexReg 2920).)

The Texas Department of Labor and Standards Manufactured Housing Division proposes to adopt Rule 063.55.09.001, concerning mobile home installation inspection fees, and Rule .002, concerning fees for certificate of registration. Because the Texas Manufactured Housing Standards Act, Senate Bill 636, became effective September 1, 1979, these fee structure rules have been adopted on an emergency basis to enable manufactured housing manufacturers, retailers, and installers to comply with the requirements of that law. These rules are separate from those rules promulgated under the Texas Mobile Homes Standards Act, effective May 13, 1977. A public hearing on these emergency rules was held in Austin on August 7, 1979.

The department has determined that the adoption and implementation of these rules will have no fiscal implication on the state or the local units of government.

Public comment on these rules is invited and should be submitted in writing no later than 30 days after publication of these rules in the *Texas Register*. Send all comments to Janice Kuntz, attorney, Manufactured Housing Division, Texas Department of Labor and Standards, Box 12157, Austin, Texas 78711.

These rules are proposed under the authority of Texas Revised Civil Statutes, Article 5221f.

Issued in Austin, Texas, on October 9, 1979.

Doc. No. 796978 Lias B. "Bubba" Steen  
Commissioner  
Texas Department of Labor and  
Standards

Proposed Date of Adoption: November 23, 1979  
For further information, please call (512) 475-0155.

## Railroad Commission of Texas

### Oil and Gas Division

(Editor's note: The Railroad Commission of Texas is proposing for permanent adoption the amendments to Rules 051.02.02.038 and 051.02.03.003, which it recently adopted on an emergency basis. The texts of the amended rules were published in the Emergency Rules section of the September 25, 1979, issue (4 TexReg 3452 and 3453).)

#### Rules Having Statewide General Application to Oil, Gas, and Geothermal Resource Operations within the State of Texas 051.02.02

The Railroad Commission of Texas is proposing to amend Rule 051.02.02.038, by adding a subsection (d). This subsec-

tion was added as an emergency amendment, effective September 17, 1979. The amendment relates to the obtaining of an "effective and efficient" finding as described in 18 Code of Federal Regulations 271.305(b)(2) promulgated by the Federal Energy Regulatory Commission (FERC) under the authority of the Natural Gas Policy Act of 1978 (NGPA), Public Law 95-621. The amendment was adopted on an emergency basis because final rules relating to Section 103 of the NGPA were adopted by the FERC, effective August 20, 1979. Thousands of wells in Texas are potentially affected by the FERC's rules, making an effective and efficient procedure for processing requests for "effective and efficient" findings absolutely essential. The commission now proposes to adopt the amendment on a regular and permanent basis.

The staff of the Railroad Commission has determined that this amendment has no fiscal implications for units of local government. The amendment will save the state government approximately \$88,000 per year. If the proposed amendment is adopted, only one engineer and a part-time secretary will be hired at a total annual cost of approximately \$22,000. If the amendment is not adopted, four examiners and two secretaries would have to be hired at a total cost of approximately \$110,000 per year.

Public comment on the proposed adoption of subsection (d) of Rule .038 is invited. Comments may be submitted in writing to John G. Soule, general counsel, Oil and Gas, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be received for a period of 30 days from date of publication in the *Texas Register*.

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

Doc. No. 796905

### Natural Gas Policy Act (NGPA) Determination Procedures 051.02.03

The Railroad Commission of Texas is proposing to amend Rule 051.02.03.003, by adding a new paragraph following the text of the present subsection (c). This language was added by emergency amendment, effective September 17, 1979. The amendment relates to the obtaining of an "effective and efficient" finding as described in 18 Code of Federal Regulations 271.305(b)(2) promulgated by the Federal Energy Regulatory Commission (FERC) under the authority of the Natural Gas Policy Act of 1978 (NGPA), Public Law 95-621. This amendment merely cross-references readers of the commission's NGPA rules to related provisions in its statewide rules. The amendment was adopted on an emergency basis because final rules relating to Section 103 of the NGPA were adopted by the FERC, effective August 20, 1979. Thousands of wells in Texas are potentially affected by the FERC's rules, making an effective and efficient procedure for processing requests for "effective and efficient" findings absolutely essential. The commission now proposes to adopt the amendment on a regular and permanent basis.

The staff of the Railroad Commission has determined that this amendment has no fiscal implications to the state or units of local government.

Public comment on the proposed amendment is invited. Comments may be submitted in writing to John G. Soule, general

counsel, Oil and Gas, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be received for a period of 30 days from the date of publication in the *Texas Register*.

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

Issued in Austin, Texas, on October 12, 1979.

Doc. No. 796906      John G. Soule, General Counsel  
Oil and Gas  
Railroad Commission of Texas

Proposed Date of Adoption: November 23, 1979

For further information, please call (512) 445-1281.



### Office of the Secretary of State Elections

#### Suffrage 004.30.05

The secretary of state as chief elections officer of the State of Texas is proposing to adopt Rule 004.30.05.243, which would clarify the provisions of House Bill 434, 66th Legislature, Regular Session, 1979. House Bill 434 amends Article 5.05, Subdivision 1, Subsection (a) of the Election Code to expand the category of registered voters eligible to cast absentee ballots to include persons whose employment requires participation in the administration of an election.

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

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

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

**.243. Voters Whose Employment Involves Administration of an Election May Vote Absentee.** Any qualified voter of this state who is required by reason of his employment to participate in the administration of an election shall be eligible to vote absentee in any election held on the same day as the election in the administration of which he participates.

Issued in Austin, Texas, on October 4, 1979.

Doc. No. 796981      George W. Strake, Jr.  
Secretary of State

Proposed Date of Adoption: November 23, 1979  
For further information, please call (512) 475-3091.

## Texas Department of Water Resources Private Sewage Facility Regulations Lake Crook Watershed 157.31.11

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, are proposing to adopt Rules 157.31.11.001-.014, concerning the establishment of a regulated zone around Lake Crook; promulgating rules and regulations for the control of sewage within the area which is not disposed of in organized disposal systems; providing for licensing of private sewage facilities; and designating the Paris-Lamar County Health Department to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein. The Texas Water Quality Board, a predecessor agency to the Texas Department of Water Resources, adopted Rules 130.12.11.002-.014, concerning the regulation of private sewage facilities within the watershed of Lake Crook. The proposed rules adopt the substantive provisions of Texas Water Quality Board Rules 130.12.11.002-.014, with changes made in nomenclature and inclusion of an approved fee schedule.

Lake Crook, located in North Central Lamar County, is the principal water supply for the City of Paris. The lake is also an important source of water-based recreation. Both of these uses require that the waters of Lake Crook be maintained in a condition of good quality.

Among the potential sources of pollution which must be controlled in order to maintain a good quality of water is sewage from subdivisions and individual dwellings within the Lake Crook Watershed. Sewage discharged into public disposal systems is regulated through the permit system of the department; therefore, this subchapter is concerned with the control of sewage not discharged into public disposal systems. These discharges are of special concern because of two factors. First, the area within the Lake Crook Watershed is expected to continue to increase in population density in the future. Second, soil investigations indicate that much of the soil found in the Lake Crook Watershed does not possess absorption characteristics suitable for private sewage facilities.

The staff of the department has determined that the rules, as proposed, will have no known fiscal implications. Any costs to state and local governments for implementation will be financed by license fees provided in these proposed rules.

Comments regarding these proposed private sewage facility regulations are invited. Please direct any comments or in-

quiries to Larry R. Soward, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311. These proposed rules, as well as any comments received, will be presented to the Texas Water Commission and the Texas Water Development Board for adoption no less than 30 days after publication. Copies of these proposed rules may be examined in or obtained from the Texas Water Commission. Copies may also be examined in the Office of the Secretary of State, Texas Register Division.

These rules are proposed under the authority of the Texas Water Code, Section 26.031.

### .001. Definitions.

(a) "Department" means the Texas Department of Water Resources.

(b) "Commission" means the Texas Water Commission.

(c) "Board" means the Texas Water Development Board.

(d) "Licensing authority" means the Paris-Lamar County Health Department acting under the jurisdiction of the commissioners court of Lamar County.

(e) "Lake Crook Watershed" means the areas in Lamar County from which surface waters drain into Lake Crook including the areas drained by Little Pine Creek, Pine Creek, South Branch, and their tributaries.

(f) "Organized disposal system" means any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit issued by the Texas Water Commission.

(g) "Septic tank" means a vented, watertight tank which serves as a sedimentation and sludge digestion chamber which is placed between the house sewer and the soil absorption field.

(h) "Septic tank system" means a system for disposing of sewage through soil absorption and consisting of the following components: the house sewer; the septic tank; and soil absorption field.

(i) "Sewage" means waterborne human or other domestic waste.

(j) "Private sewage facilities" means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for disposal of sewage other than by organized disposal systems.

(k) "Subdivision" means:

(1) a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(2) any four or more contiguous lots or tracts, each of which is less than one acre in size.

(l) "Soil absorption field" is that part of a septic tank system consisting of drainage tiles and surrounding permeable soil used for the subsurface disposal of septic tank effluent.

**.002. Sewerage Facilities.** No sewerage facilities of any kind may be located within the Lake Crook Watershed except for those of organized disposal systems operating under a valid permit issued by the commission or private sewage facilities licensed by the licensing authority in accordance with this subchapter or licensed by the licensing authority prior to the effective date of this subchapter.

**.003. Delegation of Licensing Function.** The commission hereby designates the Paris-Lamar County Health Department to perform the licensing function and the administration of the licensing system, including all appropriate powers of inspection, collecting of fees, testing, and enforcement. Any person owning private sewage disposal facilities within the Lake Crook Watershed shall permit employees of the licensing authority to make such reasonable inspection of sewage disposal facilities as may be required to determine whether these facilities comply with this subchapter.

**.004. Rules Governing Licenses for Private Sewage Facilities in the Lake Crook Watershed.**

(a) No private sewage facility or part thereof may be installed or used in the Lake Crook Watershed unless a license therefor has been issued by the licensing authority in accordance with this subchapter or licensed by the licensing authority prior to the effective date of this subchapter.

(b) Except as provided in Rule .004(d), a subdivision lot which lies within the Lake Crook Watershed and which has a minimum lot size of less than one acre must be connected to an organized disposal system operating under a valid permit issued by the commission and may not be served by a private sewage facility. A subdivision lot which lies within the Lake Crook Watershed and which has a minimum lot size of at least one acre may be served by private sewage facilities provided the licensing authority finds after appropriate tests and inspections that the nature of the soils, the drainage of the area, and other pertinent factors will permit the use of the facilities. A subdivision lot lying partially within the Lake Crook Watershed is not required to be licensed if the private sewage facilities are located on the tract so as to fall outside the boundaries of the watershed.

(c) A lot or tract located within the Lake Crook Watershed which is not part of a subdivision may be served by private sewage facilities located within the Lake Crook Watershed, provided the lot or tract in question contains at least 15,000 square feet and the licensing authority finds after appropriate inspections and tests that the nature of the soils, the drainage of the area, and other pertinent factors will permit the use of the facilities. In making such determination, the licensing authority shall consider the location of the property, the proposed use of the property, the proposed location of the private sewage facilities on the property, the proposed loading of the facilities, the probable density of development in the area, and other relevant factors.

(d) The licensing authority may issue a temporary license for a private sewage facility for a period not to exceed two years under circumstances otherwise prohibited herein if it finds that the installation of such private facilities for such a period will not cause pollution or injury to public health. The licensing authority may grant an extension of a license issued in accordance with this subsection for a period of up to two years if it finds that continued operation of the private sewage facilities will not cause pollution or injury to public health.

**.005. Procedure for Obtaining Approval for Planned Subdivisions Utilizing Private Sewage Facilities.** Any developer or other person interested in creating a subdivision using private sewage facilities for disposal of sewage shall obtain the licensing authority's prior approval for such facilities. An application for such approval shall be filed with the licensing authority and shall set forth the name and address of the person making it, the address or location of the subdivision, and

a map or plat showing boundary lines of the subdivision and of the lots within the subdivision, and such soil percolation test results and such other data as may be necessary to permit the determination of the matters required by Rule .004(b). All soil percolation tests must be certified by a registered professional engineer, registered sanitarian, or soil testing laboratory approved by the licensing authority, and the licensing authority shall be given an opportunity to witness the tests of the soil as they are conducted. The licensing authority shall examine the application and make such additional inspections and tests as the authority shall consider necessary. A copy of the licensing authority's written recommendation shall be furnished the applicant. If the licensing authority finds that the subdivision has a minimum lot size of at least one acre and that the use of private sewage facilities would be suitable for private sewage facility development and the remainder is not suitable, it may specify those lots which are found suitable and those which are not found suitable. The licensing authority's approval of a subdivision, or a part thereof, for private sewage facilities shall not constitute a license for such facilities within the subdivision but shall be a prerequisite to the filing of an application for a license within a subdivision, and all facilities installed within the subdivision must be licensed in the manner provided below.

**.006. Licensing Procedure; Fees.** The following procedures shall govern the issuance of licenses for private sewage facilities within the Lake Crook Watershed.

(1) Application forms may be obtained from the offices of the county judge of Lamar County, or from the licensing authority. The form of the application shall be specified by the licensing authority. In order to initiate action on an application for a license, the completed application must be filed with the licensing authority. The application shall include the name and address of the person making the application, the address or location of the property on which the facilities are to be built, the legal description and the dimensions of the property, the proposed use of the property including a description of the structures proposed to be served, the plans for the facilities, a plot plan showing the location of the facilities in relation to boundary lines of the lot, the proposed loading of the facilities, and the applicant's certificate that the facilities are designed in accordance with requirements and directives of the Texas Department of Health, where applicable. If the applicant proposes to install a septic tank system, he shall certify that the system is designed in accordance with the latest standards set out by the Texas Department of Health. If the property involved is not part of a recorded subdivision, the application shall be accompanied by a map or aerial photograph of sufficient detail to clearly locate the land on which the facilities will be constructed, with the location of the facilities shown thereon.

(2) Within 30 days after receipt of the application, the licensing authority will perform such inspections and tests as it may deem necessary, which may include percolation tests as prescribed in the latest standards of the Texas Department of Health, a site inspection, and other such tests and inspections as the licensing authority may consider appropriate. If the licensing authority approves the application, it shall so notify the applicant. If the application is approved, the private sewage facilities may be constructed in accordance with the plans submitted with the application. If the application is disapproved as submitted, but the licensing authority is of the opinion that a facility of a different type or

design may be constructed on the property, it shall advise the applicant in writing of the necessary changes.

(3) All private sewage facilities shall be constructed in accordance with the plans approved by the licensing authority, and any deviation from the plans must be approved by the licensing authority. The construction of the facilities shall be subject to inspection by the licensing authority at all reasonable times and upon a final inspection to insure compliance with this subchapter. The license shall be issued to the applicant by the licensing authority when all requirements have been met.

(4) The licensing authority may require the payment of reasonable license fees by the applicant for a license, including fees for periodic renewal of a license. The amount of the fees shall not exceed the reasonable cost of performing the licensing function and administering the licensing system. The fee schedule will be in accordance with Rule .014 of this subchapter.

**.007. Term of License.** Licenses for private sewage facilities issued under this subchapter other than temporary licenses issued pursuant to Rule .005(d) shall be effective for a term of 10 years. Licenses shall be renewed for successive terms of 10 years if the licensing authority finds that the lot or tract in question may continue to be served by the facilities without causing pollution which may directly or indirectly injure public health. Any license issued under this subchapter shall automatically terminate if there is a subdivision or resubdivision of the property served by the private sewage facilities, or if the property is used for a purpose other than that described in the license, or if the loading of the facilities is increased beyond that stated in the license. If the licensing authority determines to amend, revoke, or suspend the license for reasons other than those mentioned above, a hearing will be afforded to the license holder before the action is taken.

**.008. Operation and Maintenance.** Private sewage facilities licensed under this subchapter shall be operated and maintained in accordance with the latest standards set out by the Texas Department of Health. Maintenance and servicing of all private sewage facilities shall be performed by the licensing authority or by servicing organizations approved by the licensing authority. All wastes removed from the facilities must be hauled to an organized disposal system for final disposal. Policies for acceptance of all sewage, sludge, or other waste will be established by the owner of the organized disposal system receiving the wastes. All facilities licensed under this subchapter shall be subject to inspection by the authority at all reasonable times for the purpose of determining compliance with the terms of the license and this subchapter.

**.009. Existing Sewage Disposal Facilities and Existing Subdivisions.**

(a) Private sewage facilities existing within the Lake Crook Watershed as of October 15, 1971, are required to obtain a conditional license (as stated herein). This conditional license shall automatically terminate if the facility is changed, the loading on the facility is significantly increased from that existing on October 15, 1971, or there is a subdivision or resubdivision of the property served by the facilities. The minimum lot size required by this subchapter does not apply to those subdivisions which have been platted and properly recorded prior to October 15, 1971. Tracts of land of less than 15,000 square feet in size as of October 15, 1971,

and which are not located in a platted subdivision are also not affected by the minimum lot size requirements of this subchapter. Any license issued under the authority of this subsection shall be conditional and shall be for a period not to exceed five years. The licensing authority shall grant an extension of a license issued in accordance with this subsection unless it finds that continued operation of the private sewage facilities will cause pollution or injury to public health.

(b) If the licensing authority finds after investigation that certain areas of land pose too great a threat to the quality of the waters in the lake to be exempt from the provisions of this subchapter, a conditional license will not issue. Such areas, whether they are platted or not, or whether they have come into being before or after October 15, 1971, expressly come under its terms.

**.010. Exceptions.** It is the intention of the department that this subchapter shall be strictly enforced. It is recognized, however, that some situations may arise whereby the strict and literal enforcement of the terms of this subchapter would impose undue hardships and would not be necessary to protect and enhance the quality of the waters in the lake. It is the department's intention that exceptions only be granted in those circumstances where the granting of an exception would not pose potential harm to the quality of the waters in the lake. In the event a person desires to be granted an exception to the terms of this subchapter, an application for each exception shall be filed with the licensing authority. This application shall set out the exact particulars of the exception requested and confirm all data which would substantiate a finding that an exception is warranted. The licensing authority will review all such requests and issue a statement which either grants or denies the application. This statement shall set out the reason for the decision of the licensing authority.

**.011. Terms and Conditions of Appeal.** The department intends that any disputes concerning the application of these rules to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met;

(2) the aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Department of Water Resources who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**.012. Enforcement of This Subchapter.**

(a) Criminal penalty (Section 26.214, Texas Water Code).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.



(2) Jurisdiction for prosecution of a suit under this subsection is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this subsection is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

.013. *Severability.* If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this subchapter which can be given effect without the invalid provisions or application, and to this end the provisions of this subchapter are declared severable.

.014. *Fee Schedule.* The following represents the approved fee schedule for the private sewage facilities regulatory program in the Lake Crook Watershed:

- (1) approval of application—\$10;
- (2) issuance of license after construction—\$25.

Issued in Austin, Texas, on October 16, 1979.

Doc. No. 796986      Mary Ann Helmer  
Chief Clerk  
Texas Water Commission

Bruce Bigelow  
General Counsel  
Texas Department of Water Resources

Proposed Date of Adoption: November 23, 1979  
For further information, please call (512) 475-1311.



## Texas Youth Council

### General Provisions

#### Case Management System for Delinquent Youth

203.01.10

(Editor's note: The Texas Youth Council is proposing for permanent adoption new Rules 203.01.10.001-.011, which it adopts on an emergency basis in this issue. The texts of the rules appear in the Emergency Rules section.)

The Texas Youth Council proposes to adopt the Case Management System for delinquent youth. This system is the set of policies, criteria, guidelines, and procedures that are used by Texas Youth Council (TYC) staff in their decision-making about the placement or transfer of youth into or between TYC training schools and halfway houses, residential contract programs, parole, and discharge. Included in these proposed rules is the definition of violent offenders, nonviolent offenders, and violators of CINS probation and the criteria for classification into a category as well as the basis for and procedures to reclassify a youth into another category.

The purpose of these proposed rules is to provide and formalize a well defined set of guidelines that are to be used in the program placement and movement of delinquent youth within the TYC system. These guidelines will be available to all child care staff to ensure that decisions made about the program placement and movement youth will be done in a consistent, equitable manner. The development of the Case Management System has taken significant time and resources and has had extensive review of professional and administrative staff at all levels of the agency.

The Fiscal Division of TYC has determined that the implementation of these procedures has limited fiscal implications; some occasional travel expense may be required of TYC hearings examiners to conduct transfer hearings.

Inquiries about these rules should be addressed to Richard Kiebusch, Ph.D., P.O. Box 9999, Austin, Texas 78766, telephone (512) 452-8111.

These new rules are proposed under the authority of Article 5143d, Vernon's Annotated Civil Statutes.

Issued in Austin, Texas, on October 11, 1979.

Doc. No. 796935      Ron Jackson  
Executive Director  
Texas Youth Council

Proposed Date of Adoption: November 23, 1979  
For further information, please call (512) 452-8111.

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.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

**Numbering System**—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

## Texas Education Agency

### Proprietary Schools and Veterans Education

#### Guidelines and Minimum Standards for Operation of Texas Proprietary Schools 226.25.90

The Texas Education Agency has amended Rule 226.25.90.080 which sets out minimum standards for operation of Texas proprietary schools. Only paragraph (11), financial stability, is changed. The rest of the rule remains unchanged. The amendment to this rule will liberalize the kinds of financial reporting required of Texas proprietary schools. Public review and discussion of the proposed rule were held. The amended rule is adopted with no changes from the text as proposed.

The effective date of the amendment is November 30, 1979, for all financial statements due on or after that date.

This rule is promulgated under the authority of Section 32.22, Texas Education Code.

#### .080. Minimum Standards for Operation of Proprietary Schools.

- (a) (No change.)
- (b) Schools desiring issuance and renewal of certificate of approval shall adhere to the following standards.
  - (1)-(10) (No change.)
  - (11) Financial stability.
    - (A) The school shall have sufficient finances to establish and carry out a satisfactory program of education on a continuing basis.
    - (B) The prospective owner will furnish the director with his initial application for a certificate of approval, an audited statement of financial position (balance sheet) in a form consistent with generally accepted accounting principles as prescribed by the administrator and certified by an independent public accountant or certified public accountant. If the school will be owned by a sole proprietor, the balance sheet may be reviewed by the accountant, rather than audited. The prospective owner will also furnish such other evidence as may be deemed appropriate by the administrator to establish financial stability.

(C) Each certificated school will furnish annually acceptable financial statements in association with an independent public accountant or certified public accountant not later than 120 days from the close of the school's fiscal year. These statements will be in a form consistent with generally accepted accounting principles as prescribed by the administrator and must include the following:

- (i) (No change.)
- (ii) Statement of results of operation (statement of income and retained earnings). This statement must include the gross amount of tuition and fees earned net of refunds during the fiscal year for all courses approved under Title 2, Texas Education Code, for each school. In the event the school's accounting system is on a cash basis, the total tuition and fees collected during the fiscal year may be reported in lieu of the gross amount of tuition and fees earned.

(iii) (No change.)

(D) New schools.

(i) New schools will submit audited financial statements which have been certified by the public accountant or certified public accountant at the end of their first year of operation. Thereafter, schools will submit annual financial statements which have been reviewed, rather than audited, by an independent public accountant or certified public accountant. Exceptions to the requirement that the financial statements will be reviewed by the accountant may be made for the following schools:

(I) Schools whose gross annual income from student tuition and fees is \$50,000 or less, or

(II) Schools which do not collect from more than 10 students at any given time a combination of (1) more than one month's tuition and fees in advance and/or (2) after the school retains \$50 of tuition and fees, more than

(a) 10% of tuition and fees during the first week or 1/10 of the course, whichever is less,

(b) 25% of tuition and fees during the first quarter of the course,

(c) 50% of tuition and fees during the second quarter of the course,

(d) 75% of tuition and fees during the third quarter of the course.

(iii) Such schools must submit annual financial statements as set forth in subparagraphs (C)(i), (C)(ii), and (C)(iii) above; however, they need not be audited or reviewed but must be compiled by a public accountant or certified public accountant, and no opinion need be expressed. If a question arises as to the validity of the compiled or reviewed financial statements submitted or to the adequacy of the financial structure, the administrator may require an audit of a school, at the school's expense, certified by a public accountant or certified public accountant. Schools which are subsidiaries of another corporation may submit, in lieu of the statements required in subparagraphs (C)(i), (C)(ii), and (C)(iii) above, the annual audited financial statements of the parent corporation provided that:

(I) (No change.)

(II) the parent corporation assumes full responsibility for ensuring that each student enrolled in the subsidiary school receives either the training agreed upon or a refund as provided in the Texas Proprietary School Act and submits a certified resolution of its board of directors to this effect, and

(III) (No change.)

(E) Schools which participate in federal financial aid programs must submit a copy of each audit of such programs at the same time the audit report is submitted to the Department of Health, Education, and Welfare. If the school would otherwise submit compiled or reviewed annual financial statements as allowed under this minimum standard, and if the audit of the federal programs causes a question to arise as to the adequacy of the school's financial structure, the administrator may require an audit of the school, at the school's expense, certified by a public accountant or certified public accountant.

(F) Prior to a change in ownership of a proprietary school, the seller must furnish the director an acceptable audited statement of financial position (balance sheet) of the school in a form consistent with generally accepted accounting principles as prescribed by the administrator and certified by an independent public accountant or certified public accountant. The statement must include a detailed list of any student tuition refunds payable. The purchaser will furnish any evidence deemed appropriate by the administrator to establish financial stability.

(G) All financial statements must identify the name of the public accountant or certified public accountant associated with the statements and must be accompanied by the owner's affidavit that the statements are true and correct.

Issued in Austin, Texas, on October 16, 1979.

Doc. No. 796991      A. O. Bowen  
Commissioner of Education

Effective Date: November 30, 1979

Proposal Publication Date: September 7, 1979

For further information, please call (512) 475-7077.

## Foundation School Program

### Salary Schedule 226.41.05

The Texas Education Agency has amended Rule 226.41.05.010, concerning the minimum salary schedule under the Foundation School Program. The rule was amended in accordance with provisions of Senate Bill 350, 66th Legislature. Pay grades 1-3, covering educational aides and educational secretaries have been added to the rule, as well as special education related service personnel (pay grades 7 and 8) and teachers with the Ph.D., Bachelor of Laws, or Doctor of Jurisprudence degree (pay grade 9). No change was made in subsection (b), the administrative procedure section of the rule.

Public review and discussion of the proposed rule were held. The amended rule is adopted with one change from the text as proposed. In pay grade 8, physician, the required preparation and education have been amended to require an M.D. or D.O. degree, and licensure by the State of Texas.

This rule is promulgated under the authority of Sections 16.005 and 16.056, Texas Education Code.

#### .010. Minimum Salary Schedule.

##### (a) Policy.

(1) The allocation of Foundation School Program funds for salaries shall be based on the minimum salary schedule as required by law.

(2) The position descriptions, required certification, and education standards for positions in the public education compensation plan are as follows:

Pay grade: 1

Number months paid: 10, 11<sup>\*</sup>, 12<sup>\*</sup>

Class title: Educational Aide I

Description of positions assigned to class title:

Performs assigned routine tasks under direction and supervision of certified personnel as specified in TEA Bulletin 768, adopted 1976.

Required preparation and education:

High school diploma or certificate of equivalence, certified by standards of position.

Pay grade: 1

Number months paid: 10, 11<sup>\*</sup>, 12<sup>\*</sup>

Class title: Educational Secretary I

Description of positions assigned to class title:

Performs assigned routine clerical tasks under direction and supervision of professional personnel as specified in TEA Bulletin 768, adopted 1976.

Required preparation and education:

High school diploma or certificate of equivalence, certified by standards of position.

Pay grade: 2

Number months paid: 10, 11<sup>\*</sup>, 12<sup>\*</sup>

Class title: Educational Aide II

Description of positions assigned to class title:

Performs assigned tasks under general supervision of certified personnel as specified in TEA Bulletin 768, adopted 1976.

Required preparation and education:

High school diploma or certificate of equivalence, certified by standards of position.

Pay grade: 2

Number months paid: 10, 11<sup>\*</sup>, 12<sup>\*</sup>

Class title: Educational Secretary II

Description of positions assigned to class title:

Performs assigned clerical or secretarial tasks under general supervision of professional personnel as specified in TEA Bulletin 768, adopted 1976.

Required preparation and education:

High school diploma or certificate of equivalence, certified by standards of position.

Pay grade: 3

Number months paid: 10, 11<sup>\*</sup>, 12<sup>\*</sup>

Class title: Educational Aide III

Description of positions assigned to class title:

Performs and assumes task responsibilities under general guidance of certified personnel as specified in TEA Bulletin 768, adopted 1976.

Required preparation and education:

High school diploma or certificate of equivalence, certified by standards of position.

Pay grade: 3

Number months paid: 10, 11<sup>\*</sup>, 12<sup>\*</sup>

Class title: Educational Secretary III

Description of positions assigned to class title:

Performs and assumes secretarial task responsibilities under general guidance of professional personnel as specified in TEA Bulletin 768, adopted 1976.

**Required preparation and education:**

High school diploma or certificate of equivalence, certified by standards of position.

Pay grade: 4

Number months paid: 10

Class title: Teacher Trainee I

Description of positions assigned to class title:

Emergency permit. Teacher without degree. Teaches students under frequent supervisory check by principal, grade-level or department head.

Required preparation and education:

Normally no less than three years college.

Pay grade: 5

Number months paid: 10

Class title: Teacher Trainee II

Description of positions assigned to class title:

Emergency permit. Teacher with college degree but deficiencies in education preparation in professional or academic background. Teaches students under frequent supervisory check by principal, grade-level or department head.

Required preparation and education:

College degree but certain educational deficiencies.

Pay grade: 5

Number months paid: 10

Class title: Certified Nondegree Teacher

Description of positions assigned to class title:

Teaches at grade level or in teaching field for which prepared under general supervision only.

Required preparation and education:

Fully certified as teacher, but no college degree.

Pay grade: 7

Number of months paid: 10

Class title: Nurse

Description of positions assigned to class title:

School nurse

Required preparation and education:

R.N. with or without bachelor's degree.

Pay grade: 7

Number of months paid: 10

Class title: Teacher

Description of positions assigned to class title:

Teaches at grade level or in teaching field for which prepared, under general supervision

Required preparation and education:

Bachelor's degree, no deficiency in professional education or in teaching field. Fully certified.

Pay grade: 7

Number of months paid: 10, 11, 12

Class title: Vocational Teacher

Description of positions assigned to class title:

Teaches in approved vocational program, under general supervision.

Required preparation and education:

Bachelor's degree and/or certified in field.

Pay grade: 7

Number of months paid: 10, 11\*, 12\*

Class title: Special Education Teacher

Description of positions assigned to class title:

Teaches in approved special education program, under general supervision.

**Required preparation and education:**

Bachelor's degree and certified in field.

Pay grade: 7

Number months paid: 10, 11\*, 12\*

Class title: Special Education Related Service Personnel

Description of positions assigned to class title:

Provides special education related services which are not instructional in nature.

Required preparation and education:

Bachelor's degree in specialty and state or national licensure or appropriate certification.

Pay grade: 7

Number of months paid: 10

Class title: Librarian I

Description of positions assigned to class title:

Supervises school library/learning resources center or functions as one of several librarians or learning resource specialists on a major campus.

Required preparation and education:

Bachelor's degree; certified.

Pay grade: 7

Number of months paid: 10

Class title: Visiting Teacher I

Description of positions assigned to class title:

Works on personal, educational, family, and community problems with children, parents, school personnel, and community agencies, under general supervision.

Required preparation and education:

Bachelor's degree; certified.

Pay grade: 7

Number of months paid: 10

Class title: Guidance Associate

Description of positions assigned to class title:

Works under one-to-one supervision of fully certified counselor.

Required preparation and education:

Bachelor's degree; certified.

Pay grade: 8

Number of months paid: 10

Class title: Teacher

Description of positions assigned to class title:

Teaches at grade level or in teaching field for which prepared, under general supervision.

Required preparation and education:

Master's degree; fully certified.

Pay grade: 8

Number of months paid: 10

Class title: Nurse

Description of positions assigned to class title:

School nurse

Required preparation and education:

R.N. and master's degree.

Pay grade: 8

Number of months paid: 10, 11, 12

Class title: Vocational Teacher

Description of positions assigned to class title:

Teaches in approved vocational program, under general supervision.

Required preparation and education:

Master's degree; certified.

**Pay grade:** 8

**Number of months paid:** 10, 11\*, 12\*

**Class title:** Special Education Teacher

**Description of positions assigned to class title:**

Teaches in approved special education program, under general supervision.

**Required preparation and education:**

Master's degree; certified.

**Pay grade:** 8

**Number months paid:** 10, 11\*, 12\*

**Class title:** Special Education Related Service Personnel

**Description of positions assigned to class title:**

Provides special education related services which are not instructional in nature.

**Required preparation and education:**

Master's degree and state or national licensure or appropriate certification.

**Pay grade:** 8

**Number of months paid:** 10

**Class title:** Librarian II

**Description of positions assigned to class title:**

Supervises school library/learning resource center or functions as one of several librarians/learning resource specialists on a major campus.

**Required preparation and education:**

Master's degree; fully certified.

**Pay grade:** 8

**Number of months paid:** 10

**Class title:** Physician

**Description of positions assigned to class title:**

Serves as school physician.

**Required preparation and education:**

M.D. degree or D.O. degree, licensed by the State of Texas.

**Pay grade:** 9

**Number of months paid:** 10

**Class title:** Special Duty Teacher

**Description of positions assigned to class title:**

Teaches regular load at grade level or in teaching field for which prepared, under general supervision, and performs special duty as sponsor of major student program; directs after-hour recreation or "lighted library"; serves as team leader in team teaching; directs band or major music group; or serves as coach.

**Required preparation and education:**

Fully certified as teacher and special training for special duty assignment and holder of master's degree.

**Pay grade:** 9

**Number months paid:** 10

**Class title:** Teacher, Bachelor of Law or Doctor of Jurisprudence

**Description of positions assigned to class title:**

Teaches at grade level or in teaching field for which prepared, under general supervision.

**Required preparation and education:**

Bachelor of Laws or Doctor of Jurisprudence; fully certified.

**Pay grade:** 9

**Number months paid:** 10

**Class title:** Teacher, Doctor's degree

**Description of positions assigned to class title:**

Teaches at grade level or in teaching field for which prepared, under general supervision.

**Required preparation and education:**

Doctor's degree; fully certified.

**Pay grade:** 10

**Number of months paid:** 10

**Class title:** Visiting Teacher II

**Description of positions assigned to class title:**

Works on personal, educational, family, and community problems with children, parents, school personnel, and community agencies.

**Required preparation and education:**

Master's degree; certified.

**Pay grade:** 10

**Number of months paid:** 10, 11\*, 12\*

**Class title:** Counselor I, School Psychologist, Associate School Psychologist

**Description of positions assigned to class title:**

Provides guidance and counseling services to students.

**Required preparation and education:**

Fully certified.

**Pay grade:** 10

**Number of months paid:** 10, 11\*, 12\*

**Class title:** Education Diagnostician

**Description of positions assigned to class title:**

Provides educational diagnostic services and individual educational plan development.

**Required preparation and education:**

Fully certified

**Pay grade:** 10

**Number of months paid:** 10, 11\*, 12\*

**Class title:** Supervisor I

**Description of positions assigned to class title:**

Provides consultant services to teachers in a grade level or adjacent grades or in a teaching field or group of related fields.

**Required preparation and education:**

Fully certified.

**Pay grade:** 10

**Number months paid:** 10, 11\*, 12\*

**Class title:** Vocational Job Placement Coordinator

**Description of positions assigned to class title:**

Responsible for student job placement and employability skills.

**Required preparation and education:**

Master's degree, vocational counselor's certificate, three years' teaching/wage earning experience.

**Pay grade:** 10

**Number of months paid:** 10

**Class title:** Part-Time Principal

**Description of positions assigned to class title:**

Serves as part-time principal on campus with 11 or fewer teachers.

**Required preparation and education:**

Certified as administrator.

**Pay grade:** 10

**Number of months paid:** 10

**Class title:** Administrative Officer I

**Description of positions assigned to class title:**

Serves as principal functional assistant to superintendent or higher grade administrative officer.

**Required preparation and education:**

College degree; major or minor in assignment.

Pay grade: 10

Number of months paid: 10

Class title: Instructional Officer/Administrative Officer I

**Description of positions assigned to class title:**

Serves under the superintendent or higher grade instructional/administrative officer as key specialist for major instructional program.

**Required preparation and education:**

Fully certified<sup>1</sup> administrator or supervisor.

Pay grade: 11

Number of months paid: 10

Class title: Assistant Principal

**Description of positions assigned to class title:**

Serves as assistant principal on campus with 20 or more teachers.

**Required preparation and education:**

Certified as administrator or (assistant principal, 1972 prog.).

Pay grade: 11

Number of months paid: 10

Class title: Administrative Officer II

**Description of positions assigned to class title:**

Serves as assistant to superintendent or higher grade administrative officer.

**Required preparation and education:**

Same as Administrative Officer I plus experience in function.

Pay grade: 11

Number of months paid: 10

Class title: Instructional/Administrative Officer II

**Description of positions assigned to class title:**

Serves under the superintendent or higher grade instructional/administrative officer as key specialist for major instructional program.

**Required preparation and education:**

Fully certified<sup>1</sup> as administrator or supervisor.

Pay grade: 12

Number of months paid: 11

Class title: Principal

**Description of positions assigned to class title:**

Serves as full-time principal on campus with 19 or fewer teachers.

**Required preparation and education:**

Fully certified as administrator.

Pay grade: 12

Number of months paid: 10

Class title: Instructional Officer/Administrative Officer III

**Description of positions assigned to class title:**

Serves under the superintendent or higher grade instructional/administrative officer as key specialist for major instructional program.

**Required preparation and education:**

Fully certified<sup>1</sup> as administrator or supervisor.

Pay grade: 12

Number of months paid: 10

**Class title: Administrative Officer III****Description of positions assigned to class title:**

Directs major administrative activity, under supervision of superintendent or higher grade administrative officer.

**Required preparation and education:**

Same as Administrative Officer I plus minimum two years' related experience.

Pay grade: 13

Number of months paid: 11

Class title: Principal

**Description of positions assigned to class title:**

Serves as full-time principal on campus with 20-49 teachers.

**Required preparation and education:**

Fully certified as administrator.

Pay grade: 13

Number of months paid: 11

Class title: Instructional Officer IV/Administrative Officer

**Description of positions assigned to class title:**

Serves under superintendent or higher grade instructional/administrative officer as key specialist for major instructional program.

**Required preparation and education:**

Fully certified<sup>1</sup> as administrator or supervisor.

Pay grade: 13

Number of months paid: 12

Class title: Administrative Officer IV

**Description of positions assigned to class title:**

Serves assistant to superintendent or higher grade administrative officer.

**Required preparation and education:**

Same as Administrative Officer I plus three years experience in function.

Pay grade: 14

Number of months paid: 11

Class title: Principal

**Description of positions assigned to class title:**

Serves as full-time principal on campus with 50-99 teachers.

**Required preparation and education:**

Fully certified as administrator.

Pay grade: 14

Number of months paid: 12

Class title: Principal

**Description of positions assigned to class title:**

Serves as full-time principal on campus with 100 or more teachers.

**Required preparation and education:**

Fully certified as administrator.

Pay grade: 14

Number of months paid: 12

Class title: Superintendent

**Description of positions assigned to class title:**

Serves as superintendent of system of 400 ADA or less.

**Required preparation and education:**

Fully certified as administrator.

Pay grade: 14

Number of months paid: 12

Class title: Instructional/Administrative Officer V



**Description of positions assigned to class title:**

Serves under the superintendent or higher grade instructional officer to direct major instructional function.

**Required preparation and education:**

Fully certified\*\* as administrator or supervisor.

Pay grade: 14

Number of months paid: 12

Class title: Administrative Officer V

**Description of positions assigned to class title:**

Serves under superintendent or higher grade administrative officer in administrative capacity in personnel, business, accounting, planning, research, etc.

**Required preparation and education:**

Same as Administrative Officer I plus five years' related experience.

Pay grade: 15

Number of months paid: 12

Class title: Superintendent

**Description of positions assigned to class title:**

Serves as superintendent in system of 401-3,000 ADA.

**Required preparation and education:**

Fully certified as superintendent.

Pay grade: 15

Number of months paid: 12

Class title: Instructional/Administrative Officer VI

**Description of positions assigned to class title:**

Serves under superintendent or higher grade instructional administrative officer as high level director for major program.

**Required preparation and education:**

Fully certified as administrator or supervisor.

Pay grade: 15

Number of months paid: 12

Class title: Administrative Officer VI

**Description of positions assigned to class title:**

Serves under superintendent or higher grade administrative officer in administrative capacity in personnel, business, accounting, planning, research, etc.

**Required preparation and education:**

Same as Administrative Officer I plus five years' related experience.

Pay grade: 16

Number of months paid: 12

Class title: Superintendent

**Description of positions assigned to class title:**

Serves as superintendent in system of 3001-12,500.

**Required preparation and education:**

Fully certified as superintendent.

Pay grade: 16

Number of months paid: 12

Class title: Instructional/Administrative Officer VII

**Description of positions assigned to class title:**

Serves under superintendent or higher grade instructional/administrative officer coordinating group of major functions.

**Required preparation and education:**

Fully certified\*\* as administrator or supervisor.

Pay grade: 16

Number of months paid: 12

Class title: Administrative Officer VII

**Description of positions assigned to class title:**

Serves under superintendent or higher grade administrative officer in administrative capacity coordinating group of major functions in personnel, business, accounting, planning, research, etc.

**Required preparation and education:**

Same as Administrative Officer I plus five years' related experience.

Pay grade: 17

Number of months paid: 12

Class title: Superintendent

**Description of positions assigned to class title:**

Serves as superintendent in system of 12,501-50,000 ADA.

**Required preparation and education:**

Fully certified as superintendent.

Pay grade: 17

Number of months paid: 12

Class title: Instructional/Administrative Officer VIII

**Description of positions assigned to class title:**

Serves as coordinator of instructional functions under the supervision of the superintendent.

**Required preparation and education:**

Fully certified\* as administrator or supervisor.

Pay grade: 17

Number of months paid: 12

Class title: Administrative Officer VIII

**Description of positions assigned to class title:**

Serves under the superintendent in administrative capacity coordinating group of major functions in personnel, business, accounting, planning, research, etc.

**Required preparation and education:**

Same as Administrative Officer I plus seven years' related experience.

Pay grade: 18

Number of months paid: 12

Class title: Superintendent

**Description of positions assigned to class title:**

Serves as superintendent in system of more than 50,000 ADA.

**Required preparation and education:**

Fully certified as superintendent.

\*Special education and vocational education as approved.

\*\*Special education—fully certified with special education endorsement or certificate; vocational education—certified as vocational supervisor.

(b) (No change.)

Doc. No. 796992

**State Minimum Sick Leave 226.41.13**

The Texas Education Agency has amended Rule 226.41.13.010, concerning the state minimum sick leave program. Subsection (b)(4) of the rule has been amended by deletion of the provision that accumulated sick leave balances shall be reduced to zero for persons who are not employed for three consecutive years or who are not employed under the program within one year after terminating military service.

Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Section 13.904, Texas Education Code.

**.010. Eligibility, Accumulation of Leave; Claims for Funds.**

(a) Policy. A state minimum sick leave program providing five days per year sick leave with no limit on accumulation and transferable among districts shall be provided through the Foundation School Program for every teacher regularly employed in the public schools of Texas.

(b) Administrative procedure.

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

(4) Recording sick leave. Sick leave earned or used is recorded in half days and whole days only.

(5) (No change.)

Doc. No. 796993

## Teacher Certification

### Paraprofessional Certification 226.62.25

The Texas Education Agency has adopted Rule 226.62.25.010, concerning certification of paraprofessional personnel in school districts. Senate Bill 350, passed by the 66th Legislature, provided that each person employed in the public schools as an educational aide or an educational secretary must be certified according to standards established by the State Board of Education. The rule provides that educational aides and secretaries shall be safeguarded in the positions currently held for the 1979-80 school year. The rule directs the Commission on Standards for the Teaching Profession to recommend permanent certification standards for these positions to the State Board of Education by April 1, 1980.

Public review and discussion of the proposed new rule were held. The rule is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Section 16.056, Texas Education Code.

**.010. General Provisions.**

(a) Policy.

(1) Each person employed in the public schools of this state who is assigned to a position as an educational aide or educational secretary must be certified according to the certification requirements or standards for each position as established by rule adopted by the State Board of Education.

(2) Educational aides and educational secretaries shall be safeguarded for the 1979-80 school year. Permanent certification standards shall be recommended by the Commission on Standards for the Teaching Profession to the State Board of Education by April 1, 1980, to be effective for such personnel employed for the 1980-81 school year.

(b) Administrative procedure. (Reserved for expansion.)

Doc. No. 796994

## Professional Environment

### Employment Assurances 226.63.03

The Texas Education Agency has amended Rule 226.63.03.030, concerning the length of contracts for school personnel. The number of inservice training and preparation days has been changed from 10 to 8 to bring Texas Education Agency rules into accord with current law.

Public review and discussion of the proposed rule were held. The rule amendment is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Section 16.052, Texas Education Code.

**.030. Length of Contracts.**

(a) Policy. The length of contracts shall be in accordance with Policy 41.04, the School Year, and shall include eight days for inservice training and preparation as required by law.

(b) Administrative procedure. (Reserved for expansion.)

Doc. No. 796995

## Texas School for the Blind and Texas School for the Deaf

### Governance 226.81.01

The Texas Education Agency has adopted Rules 226.81.01.010, .020, .030, .040, and .050, concerning governance of the Texas School for the Blind and the Texas School for the Deaf. Senate Bill 1156, passed by the 66th Legislature, brought about changes in the governance structure for the Texas School for the Blind and the Texas School for the Deaf. The new governance structure calls for each school to be governed by a nine-member board. Board members are nominated by the State Board of Education, appointed by the governor, and confirmed by the senate.

The rules set out procedures for the selection of board members and the purposes for the schools. Rule .030 establishes a system of central services. Rule .040 addresses the route of appeal from decisions of the governing boards of the schools or the committee for central services operations. Rule .050 provides for organizational meetings and orientation for new board members. Public review and discussion of the proposed rules were held. The rules are adopted with no changes from the text as proposed.

These rules are promulgated under the authority of Sections 11.03, 11.031, 11.06, and 11.061, Texas Education Code.

**.010. Authorization in General.**

(a) Policy.

(1) The Texas School for the Blind and the Texas School for the Deaf, established by law, shall be governed by separate boards consisting of nine members. The governing board for the Texas School for the Blind will be composed of three members who are blind persons, three members who are parents of blind persons, and three members who are experienced in working with blind persons. The governing board for the Texas School for the Deaf will be composed of three members who are deaf persons, three members who are

parents of deaf persons, and three members who are experienced in working with deaf persons.

(2) The State Board of Education shall nominate three persons for each of the nine positions of the two governing boards. From the list of nominees approved by the State Board of Education, the governor shall make the appointments in accordance with statutes. The appointments shall be confirmed by the senate. In the event of a vacancy on either of the governing boards, the appointment process as specified will be followed.

(3) Except as provided for the initial appointees, members of the board serve for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the governor shall designate three members to serve for terms expiring in 1981, three in 1983, and three in 1985. The initial appointments shall be made in such a manner that the different categories of persons to serve on the board will also be staggered as to length of their terms.

(4) Members of the board serve without salary but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(5) The schools shall, within the limits set by statutes and policies of the State Board of Education, function as independent school districts.

(b) Administrative procedure. (Reserved for expansion.)

#### *.020. Purpose for the Schools.*

(a) Policy. The schools are constituted, funded, and operated for the following functions and purposes in concert with the statewide comprehensive programs for the visually handicapped and hearing impaired:

(1) to provide educational services on a day or residential basis to blind and deaf students for whom adequate educational opportunities are unavailable in their local or regional programs;

(2) to provide short-term services to blind and deaf students so that they may be better able to benefit from educational services available in their local communities;

(3) to serve multiply handicapped blind and deaf students who cannot be effectively assisted through community programs but whose developmental capacities are such that they should not be admitted to residential institutions operated by the Texas Department of Mental Health and Mental Retardation;

(4) to serve as a primary resource to school districts for promoting excellence in educational services for visually handicapped and hearing-impaired students;

(5) to serve as a training and staff development resource for those at the community level who are involved in providing educational and related services to visually handicapped and hearing-impaired students; and

(6) to serve as a research and demonstration facility to improve methods of providing educational services to meet the current and future educational needs of visually handicapped and hearing-impaired students.

(b) Administrative procedure. (Reserved for expansion.)

#### *.030. Central Services.*

(a) Policy.

(1) In order to provide an effective and economic operation for the Texas School for the Blind and the Texas School for the Deaf, a centralized service shall be operated.

Central services will provide accounting, other business office services, warehousing, maintenance, and other services as specified.

(2) Central services shall be under the policy direction of a committee composed of one member from the State Board of Education, appointed by the chairman of the State Board of Education, and the chairman from each of the governing boards for the Texas School for the Blind and the Texas School for the Deaf. The member from the State Board of Education shall serve as chairman of the committee. In the event of a vacancy on the committee for central services, the chairman of the State Board of Education will appoint the person to fill the vacancy.

(3) Central services shall be under the general direction of a director recommended by the committee through the commissioner of education and confirmed by the State Board of Education.

(4) The committee shall establish general policy for the operation of central services as well as other rules and regulations as necessary for the committee's efficient operation.

(5) The State Board of Education shall act upon appropriate requests, adopt budgets and budget amendments, and from time to time receive and act upon other reports relating to the effective and economic operations of the schools as well as other general accountability reports.

(b) Administrative procedure. (Reserved for expansion.)

#### *.040. Appeals and Review.*

(a) Policy.

(1) Actions of the governing board for the Texas School for the Blind or the governing board for the Texas School for the Deaf or the committee for central services operations may be appealed through the commissioner of education to the State Board of Education.

(2) The State Board of Education or a committee of the board shall from time to time review fiscal matters pertaining to the Texas School for the Blind, the Texas School for the Deaf, or Central Services. The State Board of Education or committee of the board may from time to time review activities, as authorized by statute, of either of the governing boards.

(b) Administrative procedure. (Reserved for expansion.)

#### *.050. Organizational Meetings.*

(a) Policy. The chairman of the State Board of Education shall, after the governor has appointed the governing board for the Texas School for the Blind and the governing board for the Texas School for the Deaf, establish the day, date, time, and place for the orientation and organizational meeting of the governing boards. The chairman of the State Board of Education shall designate the person to serve as chairman of each of the governing boards. As new members are appointed to the governing boards, the chairman of the State Board of Education shall designate the time and place for orientation meetings prior to new members assuming their responsibilities.

(b) Administrative procedure. (Reserved for expansion.)

Issued in Austin, Texas, on October 16, 1979.

Doc. No. 796996 A. O. Bowen  
Commissioner of Education

Effective Date: November 6, 1979

Proposal Publication Date: August 21, 24, 28, 31,  
September 4 & 7, 1979

For further information, please call (512) 475-7077.

## Texas Department of Human Resources

### Child Welfare Services

#### Laws and Department Objectives for Child Welfare Services 326.50.71

The Department of Human Resources adopts new rules concerning department objectives for child welfare services. These rules would establish priorities for the delivery of child protective services. This new policy is required for the administration of services for which resources are limited and for which there is an increasing demand due to a growing number of reports of children in need of protection. The department's Child Welfare Services Program acts as an agent of the state which is ultimately responsible for protecting children and seeking the child's best interest as prescribed by civil statutes.

These rule changes were proposed in the June 29, 1979, issue of the *Texas Register* (4 TexReg 2339). Comments were received regarding these proposed rule changes. Several of these concerned the lack of priority given to own home services; timeliness in beginning permanent planning services; lack of clarity within priorities; inappropriate priority of record keeping activities; lack of compliance with the Child Abuse Prevention and Treatment Act (42 United States Code Annotated, Section 501); deletion of permanency of harm as criteria for priority setting; change in the requirement for agreements with local officials; interpretation of criminal law by caseworkers; inappropriateness of one of the purposes for agreements with courts; and appropriateness of a caseworker's interviewing children on behalf of a criminal investigation when requested by law enforcement or the court. After evaluating the above recommendations, the department has determined that the following changes must be made. The priorities, and therefore the rules, have been rearranged and renamed so that the level of importance of own home services is apparent and in order to clarify the priorities. The word "serious" has been deleted from Rule .016(b) to maintain compliance with the Child Abuse Prevention and Treatment Act (42 United States Code Annotated, Section 501). Minor wording changes have been made to what were entitled intake priorities in order to maintain compliance with the Child Abuse Prevention and Treatment Act (42 United States Code Annotated, Section 501) and to clarify the meaning of the priorities. In addition, minor wording changes have been made to what were entitled non-intake priorities, in order to emphasize maintenance of child-placing agency certification rather than record keeping, and in

order to combine development of resources under one heading. This has resulted in the renumbering of the rules with the addition of Rule .020, Priority III Services and Responsibilities. The qualifier, "as soon as possible," has been added to the policy on initiation of permanency planning. The concept of permanency of harm has been deleted from the basis for assigning priorities. A policy that caseworkers should not interpret criminal laws or law enforcement agency actions has been added. The purpose for informing courts of DHR's policy which was believed to be inappropriate has been deleted. One general format rather than a choice among specific formats has been used to document arrangements to implement DHR's policy with local officials. A clarification has been made which indicates that child protective services staff may conduct the interview of a child victim or witness upon the request of local officials when the rationale for the request is the worker's special expertise in interviewing children. One of the comments indicated that resource development was in too high a priority (non-intake Priority II). After considering this concern, the department has determined that developing these resources will aid in accomplishing Priority I and II services and responsibilities and, therefore, is given an appropriate priority status.

The following rules are adopted under the authority of the Human Resources Code, Chapter 11 and with the approval of the Texas Board of Human Resources.

#### .016. Child Protective Services Goals and Objectives.

(a) To deliver protective services to children, the department has set goals and objectives.

(b) The department's first goal is to protect children from harm by their parents or others responsible for their care. Objectives of this goal are to:

(1) provide investigation of the child's situation to determine whether the child is in danger;

(2) elicit the cooperation of the family in protecting its children;

(3) obtain/provide remedial protective social services to children appropriate to their needs;

(4) obtain/provide rehabilitative protective social services to children's families to prevent further harm to the children (secondary prevention);

(5) take approved steps to remove the child from his home when needed to protect him from serious physical injury;

(6) keep records of harm the child has suffered, the results of the investigation, case planning, and services obtained/provided;

(7) respect parent's and children's legal rights while providing investigative, rehabilitative, remedial and/or removal protective social services, and while documenting these services.

(c) The other goal is to ensure that the children receiving protective services from DHR are given care that is consistent with their needs for permanency and belonging. Objectives are to:

(1) obtain/provide rehabilitative services to parents to maintain the integrity of the family;

(2) plan to maintain children in their own or a relative's home unless the danger to the child requires removal;

(3) provide temporary, planned child placement, social, and remedial services appropriate to the child's needs;

(4) assess the child's family situation and develop a time-limited rehabilitative plan for working with parents or

relatives toward return of the child to his own family or, if return is not possible, toward termination of parental rights;

(5) develop a permanent plan for the child as soon as possible after placement, preferably within one year of the child's placement with DHR. The following are permanency alternatives in the order of preference (depending on the child's safety, age, and emotional attachments):

- (A) return to own family;
- (B) legal adoption;
- (C) permanent foster care, which includes foster family, group, and institutional placements;
- (D) transfer of managing conservatorship to substitute parents;
- (E) emancipation;
- (F) permanent custodial care.

#### .017. Child Protective Services Priorities.

(a) The department has established priorities for statewide child protective service delivery based on the above goals and objectives. By establishing priorities, the department is stating which of the types of children's situations and which program responsibilities it will respond to before others, and which children it will not serve and which responsibilities it will not carry out unless the regions, with the help of their communities, are able to commit themselves to this service responsibility in addition to delivering the higher priority services and responsibilities. These priorities are subject to change as changes occur in department resources or in the population of children needing services. They are also subject to change as department responsibilities or minimal adequacy of services are redefined; or as communities give the department direction and resources for change.

(b) The assignment of priorities for delivery of child welfare services is based on the following elements.

(1) Staff's evaluation, based on the referral, of the degree of harm or danger to the child. The degree of harm is evaluated by an assessment of two factors.

(A) The degree of severity of the harm or threatened harm. The nature of the harm is an element considered in determining severity.

(B) The degree of immediacy of the danger of harm, including its actual occurrence. The child's age and condition and information about the perpetrator are considered in determining immediacy.

(2) The legal base for providing the services.

(3) The department's and community's resources for providing the services.

(c) The child abuse/neglect intake report can come from any source, including self-referrals, out-of-town inquiries (OTIs), or court-ordered social studies.

#### .018. Priority I Services and Responsibilities.

(a) Intake Services. Children in Priority I intake reports include those alleged or found to be abused, neglected, or otherwise in need of protection to the extent that they are in immediate danger of death or serious physical harm. Immediately upon receiving the report, but in no case later than 24 hours, the following must be done.

(1) The worker must attempt to inform the supervisor of the report and obtain approval of action to be taken.

(2) The department's protective services to the child must begin. The investigation must be conducted by worker level, or above, direct delivery staff.

(3) Law enforcement must be notified if the child has died, disappeared, or has a serious physical injury which has been confirmed by the worker, a hospital, teacher, or other reliable source. If the child's situation has not been confirmed by a reliable source, the worker should confirm that the child has suffered serious physical injury before notifying law enforcement of the child's situation.

(b) Priority I intake reports include the following:

(1) A child has died when there are other children in the family or household, or when the mother is pregnant.

(2) Any serious physical injury (fracture, head injury, or internal injury) has occurred to a child of any age.

(3) Parents are threatening serious injury or death to the child; or a child is threatening imminent suicide.

(4) A child is reported to have been burned.

(5) Any physical injury is reported of a child under age six when the social or medical history is compatible with child abuse. Any of the following may be part of a social or medical history which is compatible with child abuse: caretaker's explanation inconsistent with the injury; injury to vital or multiple areas; injury results from physical punishment; previous abuse/neglect; the family is in a crisis; the parents were abused as children; child is "special;" "battered child syndrome."

(6) Failure to thrive, including deliberate starvation, is reported.

(7) Any sexual abuse is reported of a child under age 12 (incest, prostitution, rape, or pornography).

(8) A preschooler is left alone.

(9) A child is without parental supervision or community support (responsible adults in close proximity who will offer limited supervision), deserted, lost, or abandoned.

(10) A child is lacking basic physical necessities; is starved or freezing.

(11) A child is in need of immediate medical attention.

(12) Any reports where the caretaker is behaving in a bizarre, psychotic, inebriated or drugged manner or threatening suicide in the presence of a child.

(13) A child appears or sounds in immediate serious distress or danger (locked in a car, closet, or house, or chained or tied up).

(c) Own home/foster care services. When the findings of the investigation of a Priority I intake report indicate that the child will need continuing protection, services to him in his own home or foster care services must be provided. If removal is necessary to protect the child, a court order should be sought before removal as the legal basis for the removal. In situations in which a child's health or physical safety is in immediate danger, an emergency removal would be appropriate if a court order cannot be obtained before removal without harming or endangering the child. The services for children in DHR's managing conservatorship must emphasize permanent planning for children.

(d) Maintenance of regional child-placing agency certification.

(e) Foster and adoptive home studies for children in the department's care.

(f) Foster care assistance and Medicaid eligibility.

(g) Congressional or legislative inquiries.

#### .019. Priority II Services and Responsibilities.

(a) Intake services. Priority II intake reports include all other children who are alleged or found to be abused, neglected, or otherwise in need of protection from any im-

mediated danger or harm. As soon as possible after receiving the report, but in no case more than the length of time agreed upon in the annual regional service plan between the region and the program manager for protective services for children, the region must begin intake services to these children. Law enforcement should be notified of Priority II harm to children in accord with discussions reached with local police departments. The notification should be made as soon as the worker confirms that the child's situation is the type about which the child welfare unit has agreed to notify the local law enforcement agency.

(b) Priority II intake reports include the following.

(1) Both child abuse and neglect are present.  
(2) Excessive physical punishment (life not in danger) is accompanied by emotional abuse.

(3) A child under age six is bruised on non-vital areas of the body when the social and medical histories are not compatible with child abuse.

(4) A child is sick (life not in danger) and there has been obvious delay in seeking medical attention.

(5) Chronic neglect reportedly is impairing growth and development.

(6) A child has been abandoned with a caretaker who refuses to keep the child.

(7) Severe emotional abuse or neglect is reported.

(8) Sexual abuse or exploitation of an adolescent (incest, rape, prostitution, or pornography) is reported.

(9) Severe exploitation is reported.

(10) A voluntary placement is requested where danger of, or potential abuse/neglect existed; there is no placement or service alternative to DHR; and the county is willing to pay for the child's care.

(11) A school-age or unmarried parent seeks help in planning for the safe birth and care of the baby where there is no other resource to help the youth.

(12) Runaways under Chapters 34 and 15, Texas Family Code, immediately needing services or placement for whom there are no resources other than DHR.

(13) Chronic truancy under Chapters 34 and 15, Texas Family Code, is reported when the school has taken every action possible, including court, for whom there are no resources other than DHR.

(14) DHR is court-ordered to provide services or placement for juveniles in need of supervision (CHINS).

(15) A youth needs available contracted services for juveniles or for unmarried or school-age parents and there are no resources other than DHR.

(16) Children for whom interstate protective placement is needed under the interstate compact on the placement of children, or other laws pertaining to the interstate placement of children.

(17) Monitoring reports of abuse/neglect in public schools and in facilities regulated by the Licensing Division.

(18) Court-ordered social studies on adoption petitions and on disputed conservatorships.

(c) Own home/foster care services. When the findings of the investigation of a Priority II intake report indicate that the child will need continuing protection, services to him in his own home or foster care services must be provided. If removal is necessary to protect these children, a court order should be sought before removal as the legal basis for removal. In situations in which a child's health or physical safety is in immediate danger, an emergency removal would be appropriate only if a court order can not be obtained prior

to removal without further harming or endangering the child.

(d) Development of community resources to assist DHR to provide Priority I and II services: volunteers, community and parent groups, and foster parent associations. As allowed by licensing standards, volunteers, case aides, and field placement students who are qualified and adequately supervised may be assigned primary responsibility for these services.

(e) Public information.

## .020. Priority III Services and Responsibilities.

(a) Intake services. Protective intake services for children not actually endangered or harmed may be delivered when regional and community needs exist and resources allow. As allowed by licensing standards, qualified and adequately supervised volunteers, case aides, or field placement students may be assigned primary responsibility for Priority III responsibilities and services.

(b) Priority III intake reports include the following.

(1) The report is of excessive discipline of a child over age six, without physical injuries or bruising, with a history that is not consistent with a pattern of abusive parenting.

(2) An older child is kept home from school to babysit.

(3) A child reportedly receives chronically poor care but does not appear to be functionally impaired.

(4) A child's physical needs are met in a manner less than acceptable by community standards, but the child is not functionally impaired.

(5) A situation of lack of supervision provides no indication of actual danger but suggests continuing contact with the family to prevent deterioration of the situation to abuse or neglect.

(6) A runaway, covered under Chapters 34 and 15, Texas Family Code, for whom there are no resources other than DHR, is reported.

(7) A child in need of supervision (CHINS) is referred by the community and there are no resources other than DHR.

(8) Families and children at high risk of abuse or neglect.

(c) Own home/foster care services. When the findings of the investigation indicate that the child and family need continuing contact to help the situation from deteriorating into abuse or neglect, services should be provided as resources allow. Removal would seldom be necessary to protect these children. Emergency removal procedures would rarely be applicable in these situations.

(d) Out-of-town inquiries not related to investigations of child abuse or neglect nor to child placing.

(e) Development of community resources to provide Priority III services.

(f) Public information for Priority III services.

Doc. No. 796922

## Protective Services for Children 326.50.72.048

The Department of Human Resources adopts the repeal of Rule 326.50.72.048, Criminal Investigations by Law Enforcement Officials, as it concurrently adopts new rules which will enable staff to more clearly distinguish between civil investigations which are the responsibility of child protective



services staff and criminal investigations which are the responsibility of law enforcement agencies. These rule changes were proposed in the June 29, 1979, issue of the *Texas Register* (4 TexReg 2341). The new rules establish the role of protective services personnel in those instances in which law enforcement agencies are carrying out investigations of criminal harm, danger, or injury to children. The old rule, now being repealed, was limited in its discussion of the obligations and restraints which apply to protective services workers during such criminal investigations. No comments were received regarding the repeal of this rule.

The repeal of Rule .048, Criminal Investigations by Law Enforcement Officials, is adopted under the authority of the Human Resources Code, Chapter 11, and with the approval of the Texas Board of Human Resources.

Doc. No. 796923

### 326.50.72.060-.063

The Department of Human Resources adopts new rules concerning staff obligations and restraints during law enforcement investigations of criminal child abuse and neglect. The department is concurrently adopting the repeal of Rule .048, Criminal Investigations by Law Enforcement Officials, which is limited in its discussion of the role of protective services staff.

The new rules require that department staff must be able to clearly distinguish between civil investigations which are the responsibility of child protective services staff and criminal investigations which are the responsibility of law enforcement agencies. Child protective services staff may not initiate or conduct criminal investigations or act on behalf of a law enforcement agency. These rule changes were proposed in June 29, 1979, issue of the *Texas Register* (4 TexReg 2342). Comments were received regarding these proposed rule changes and, after evaluating these recommendations, the department has determined that the following changes must be made. A policy that caseworkers should not interpret criminal laws or law enforcement agency actions has been added. A purpose given for informing courts of DHR's policy which was believed to be inappropriate has also been deleted. One general format rather than a choice among specific formats has been used to document arrangements to implement DHR's policy with local officials. A clarification has been made which indicates that child protective services staff may conduct the interview of a child victim or witness upon the request of local officials and when the rationale for the request is the worker's special expertise in interviewing children.

The following rules are adopted under the authority of the Human Resources Code, Chapter 11, and with the approval of the Texas Board of Human Resources.

#### .060. *Law Enforcement Investigations of Criminal Child Abuse and Neglect.*

(a) Law enforcement responsibility. Investigations of criminal danger, harm, or injury to children are the responsibility of law enforcement personnel. Criminal investigations are conducted by local law enforcement personnel, or at regional option and in accord with the law enforcement agency's preferences, by DHR's Investigation Division. DHR's child protective services staff has an obligation to notify a law enforcement agency of children having suffered serious harm or injury. When child protective services staff notifies

the law enforcement agency of serious harm or injury to a child, the law enforcement agency has the responsibility for deciding whether to take any action under criminal laws. The decision to initiate and conduct a criminal investigation of the child's situation lies solely with the law enforcement agency. Responsibility for initiating civil action to protect children remains with child protective services staff. If the law enforcement agency initiates an investigation of criminal child abuse/neglect, the criminal and civil investigations may be conducted during the same time. In all instances, the civil investigation is a separate investigation from the criminal investigation. Both investigations are appropriate in their own right and neither substitutes for, nor takes precedence over, the other.

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

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

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

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

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

(4) Be interviewed by the law enforcement agency.

(5) Otherwise cooperate with the law enforcement agency as possible within the above limitations.

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

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

(1) results of the civil investigation;

(2) initiation of court action to remove the child from his home or removing the child from his home in an emergency before obtaining a court order;

(3) plan to return a child to his home or to close the department's case.

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

**061. Harm or Injury to Children for Whom DHR is Obligated to Notify a Law Enforcement Agency.**

(a) Child protective services staff must notify a law enforcement agency of all the following:

(1) the death of a child (the DHR Investigation Division must also be notified of all child deaths);

(2) serious physical injury of a child, as this could be a felony offense;

(3) incest, pornography, prostitution, and rape of a child, as these could be felony offenses;

(4) DHR's filing a suit affecting the parent-child relationship to protect a child, as required by the Texas Family Code 34.05(e);

(5) the run away of a child in DHR conservatorship.

(6) the kidnap of a child in DHR conservatorship.

(b) When these have been confirmed by a worker, hospital, teacher, or other reliable source, the notification should be made immediately, but in no case later than 24 hours.

(c) Child protective services staff should notify the law enforcement agency of any other children's situations as requested by law enforcement, or when the worker and supervisor decide it is appropriate.

**062. Department Work with the Family When Law Enforcement Has Been Notified of the Child's Harm or Injury.**

(a) The worker should tell the family when the department notifies a law enforcement agency of the child's situation. In this instance or when law enforcement is notified of a family the department is serving by someone other than DHR, the worker should explain the following to the family:

(1) There are civil and criminal laws; social work professionals are involved in carrying out civil laws and law enforcement professionals are involved in enforcing criminal laws. The worker should tell the family that he or she is a social worker, not a police officer.

(2) The worker will try to determine who hurt the child only for the purpose of protecting the child, not for the purpose of punishing the abuser.

(3) The law enforcement agency, not the child protective services staff, decides whether to conduct a criminal investigation. If the law enforcement agency decides to conduct a criminal investigation or have the Investigation Division conduct a criminal investigation, it will be conducted separately from the worker's investigation although both investigations may be conducted during the same period of time.

(4) While DHR policy requires the worker to furnish requested information to a law enforcement agency when they ask for it, DHR policy also prohibits the child protective services staff from conducting the criminal investigation for them. DHR Investigation Division staff may seek information from the family or collaterals for the purpose of giving the information to the law enforcement agency or, with the knowledge and consent of the local law enforcement agency, of conducting the criminal investigation. The family or col-

lateral will know when they are being interviewed by a child protective worker or by an Investigation Division staff member by the credentials presented.

(5) What the family tells the worker cannot be withheld as confidential from the civil or criminal court, county or district attorney, or law enforcement agency. No staff member of the department can withhold information about the family from the law enforcement agency or protect the abuser from the consequences of his acts under criminal law.

(6) The district attorney, not the worker, supervisor, or any other DHR staff, decides whether to file criminal charges against, and to prosecute, the abuser. The worker will usually have the opportunity to make recommendations to the district attorney about how different punishment alternatives will affect the child.

(7) During the criminal investigation and trial, if these occur, the worker should try to help the family understand what is happening. The worker should assist the family, or refer them for assistance, with financial or emotional problems resulting from the law enforcement agency's intervention. The worker should assist the family to make child care arrangements if necessitated by incarceration of the child's parent(s). The worker should not interpret the law or the law enforcement agency's actions.

**063. Documented Arrangements with Local Officials.**

(a) Child protective services staff must discuss the department's policy to notify a law enforcement agency of serious harm or injury to children with the regional Investigation Division unit, law enforcement agencies in the county, and with the county/district attorney. Child protective services staff may seek the assistance of county child welfare boards, Investigation Division staff, the regional attorney, or other individuals designated by the region in these efforts.

(b) The child protective services supervisor or program director must document the arrangements made for each county during discussions with local officials.

(c) Department procedures require that child protective services staff report the death of every child reported to them, or, in an open protective services case, including a child in foster care, to the Investigation Division. Department policy allows child protective services staff to request the assistance of the Investigation Division as needed in other child protective services cases.

(d) The purpose of discussions with law enforcement agencies is to ensure that the goals of the civil investigation can be accomplished when the law enforcement agency decides to conduct a criminal investigation of the child's situation. Discussions leading to agreements of understanding with law enforcement agencies should include acknowledging the separate respective disciplines of law enforcement and child protective services and their common responsibilities and different goals for:

(1) Protecting children from harm.

(2) Receiving community reports about harm to children.

(3) Notifying each other of serious harm or injury to children.

(4) Investigating reports received. The law enforcement agency conducts a criminal investigation and child protective services staff conducts a civil investigation of the report.

(e) Discussions with law enforcement should include the Investigation Division's roles in the civil and criminal in-

vestigations, whether to ask the county/district attorney(s) to be a party to this agreement, or whether to just inform them of the aspect of the agreement. The discussion with law enforcement should include:

(1) Situations of harm or injury to children for whom law enforcement expects child protective services to notify them and vice versa.

(2) Instances in which child protective services should first notify:

(A) the local law enforcement agency, which will then carry the primary responsibility for the criminal investigation and possibly request the assistance of the Investigation Division;

(B) the Investigation Division, which will then be the preliminary criminal investigator with the knowledge and consent of the local law enforcement agency.

(3) The specific format of communication between child protective services, the local law enforcement agency, and the Investigation Division when all are involved with the same family.

(4) Procedures for discussing the mutual case with the county/district attorney.

(5) The means by which conflicts caused by different purposes and methods are to be reconciled.

(6) Protection of the confidentiality of the complainant's name

(7) Other areas of material concern. Child protective services may request investigatory assistance to establish the civil case or police protection for the child or department staff. The law enforcement agency may request help for the family to cope with the criminal process or help in making child care plans for children of incarcerated parents. Working together may also include joint training, mutual support, and joint presentation of the annual county police and/or child welfare budgets.

(f) The purpose of documented discussions with county/district attorneys is to protect the interests of the child during a criminal court case involving the alleged abuser. The discussions may include:

(1) Procedures for determining whether a protective services child, siblings, or other family members should testify in a criminal court case involving the alleged abuser.

(2) Procedures for child protective services to have input regarding bail recommendations and dispositional alternatives involving the alleged abuser.

(3) Types of information the county/district attorney will usually want from child protective services staff. The limitations on child protective services staff carrying out the criminal investigation and the assistance available from the department's Investigation Division should be made clear. Information that prosecutors may want in order to decide between dispositional alternatives in criminal cases is as follows:

(A) facilities available for treatment of abusive parents;

(B) financial resources available for such treatment;

(C) attitudes of the parent;

(D) nature of the abuse/neglect;

(E) any previous treatment of the parents;

(F) care and protection of the child during the period of treatment or incarceration;

(G) effects on the safety of the child when placing a parent on probation.

(4) Child protective services staff should discuss with the county/district attorney whether to ask the local law enforcement agency to be a party to this documented discussion, or whether to just inform them of the aspects of the discussion.

(g) The purposes of informing county and district courts of the department's policies are:

(1) To prepare for the possibility of both civil and criminal cases arising out of an incident of abuse.

(2) Discussions with the courts may include:

(A) what civil actions the courts would deem appropriate to provide protection or permanency for children during the months or years required to resolve a criminal case involving the alleged abuser;

(B) reasons why a protective services child and/or siblings might be safe and should be kept in their own home during the pendency of a criminal case involving the alleged abuser.

(h) Child protective services should ask the county/district attorney to be part of, or inform the attorney of the outcome of, these discussions.

Issued in Austin, Texas, on October 12, 1979.

Doc. No. 796924

Jerome Chapman

Commissioner

Texas Department of Human Resources

Effective Date: November 2, 1979

Proposal Publication Date: June 29, 1979

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

## Texas Board of Licensure for Nursing Home Administrators

### Administrative Authority 391.01.00.001

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.01.00.001, Administrative Authority, as follows:

.001. *General Definitions.* Whenever used in these rules and regulations, unless expressly otherwise stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

(1)-(4) (No change.)

(5) "Nursing home" means any institution or facility now or hereafter licensed as a "nursing home" or "custodial care home" by the Texas Department of Health under the provisions of Article 4442C, Vernon's Texas Civil Statutes, or any amendment thereto.

(6) (No change.)

Doc. No. 796942

### 391.01.00.002

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session of the legislature, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.01.00.002, Board Meetings, as follows:

## .002. Board Meetings.

(a) The board shall have a minimum of four meetings per year.

(b) (No change.)

Doc. No. 796943

## 391.01.00.004

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session of the legislature, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.01.00.004, Administrative Authority, as follows:

### .004. Officers and Duties of the Board.

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

(e) The executive secretary or board employee, designated by the board, shall receive all monies payable to the board and shall deposit the same in the state treasury. No money shall be paid out of such fund other than by voucher bearing the signatures of the chairman of the board and the executive secretary or any two individuals (board members or board employees) as designated by the board. Such vouchers may be issued only to defray the expenses of the board in carrying out the provisions of the Texas Nursing Home Administrators Licensure Act.

(f) A majority of the voting membership of the board shall constitute a quorum. All members of the board, excluding ex officio members or their delegates, are entitled to vote.

(g) (No change.)

Doc. No. 796944

## Application 391.02.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.02.00.002, Administrators-in-Training, as follows:

### .002. Administrators-in-Training.

(a) Purpose. The rules set forth in this part have been promulgated by the Texas Board of Licensure for Nursing Home Administrators in order to establish certification requirements for Administrators-in-Training. AITs under the auspices of an approved college are bound by the college rules.

(b) Administrators-in-training certificate to be granted by the board to any nursing home administrator-in-training who fulfills the requirements of this part of the rules of this agency. During the time in which the administrator-in-training possesses such a certificate, he shall be known as an "administrator-in-training," referred to sometimes in these rules as "trainee." Administrators-in-training certificates will be issued only after receipt by the board of each item listed under subsection (d).

(c) (No change.)

(d) Requirement for applicants.

(1) General requirements.

(A) An administrator in-training certificate may be issued to any qualified person who meets the requirements imposed by these rules; however, no person shall receive a license as a nursing home administrator prior to reaching age

18 years. A birth certificate or other acceptable proof of age shall be presented with the application.

(B) Each applicant shall establish to the satisfaction of the board that he is of good moral character. Good moral character shall be defined to include but shall not be limited to the following:

(i) Applicant shall not have been convicted in a court of competent jurisdiction of a misdemeanor or a felony involving moral turpitude; and

(ii) Applicant shall not have recorded against him a civil judgment involving fraudulent conduct.

Two letters of reference from licensed nursing home administrators shall accompany the application.

(C) Each applicant must establish to the satisfaction of the board that he is in sound physical and mental health. A statement to this effect from the applicant's physician shall be filed with the application.

(2) Educational requirements.

(A) Each applicant shall have graduated from an accredited high school or achieved a passing score on the general education and development examination. A photostatic copy of the applicant's highest education achievement such as GED test results, high school diploma, or college transcript shall accompany the application.

(B) Each applicant shall enroll in a 200-hour curriculum of a program in nursing home administration approved by the board. This requirement does not apply to any individual who has been awarded a masters degree in long-term health care administration, a bachelors degree in long-term health care administration, a bachelors degree in a related field, or an associate degree in long-term health care administration.

(3) (No change.)

(e)-(f) (No change.)

(g) Training requirements and procedures.

(1) Six month internship for administrators-in-training. Trainees as administrators in-training shall serve an internship for a period of six months in a nursing home licensed by the Texas Department of Health. The quality of such internship training shall be of a grade and character acceptable to the board.

(2) Training agreement signed and submitted to the board. Administrators-in-training and the approved preceptor shall sign the training agreement form and training plan form, both of which shall be provided by the board, and shall submit the signed agreement and plan to the board for approval.

(3) Change in preceptor

(A) In the event that the approved preceptor is unable for any reason to fulfill the approved plan to an administrator-in-training, it is the responsibility of the trainee to secure a new approved preceptor as soon as possible, but not more than two weeks from the date the training under the previous preceptor would be discontinued. In special circumstances, the board upon application, therefor, may authorize additional time in which a trainee may secure a new preceptor.

(B) (No change.)

(4)-(7) (No change.)

(8) Other requirements. The administrator-in-training shall not have any other employment unless such employment is approved by the board upon application by the administrator-in-training.

(9)-(12) (No change.)

(h) Fees. Each applicant for an administrator-in-training certificate shall submit a cashier's check or money order payable to the Texas Board of Licensure for Nursing Home Administrators to cover an application fee of \$70 which is not refundable.

Doc. No. 796945

### Examination 391.03.00.001

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.03.00.001, Scheduling of Examinations and Reexaminations, as follows:

*.001. Scheduling of Examinations and Reexaminations.*

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

(c) Written confirmation of the applicants' intentions to sit for the exams must be submitted to the board office at least 10 days prior to the scheduled exam. Applicants must submit a copy of their scheduling letter upon registration for each exam.

(d) Following the closing of every examination the questions submitted and the answers made thereto by the applicant together with a record stating in detail the results of the examination for each candidate shall be kept by the board for a period of two years. These may be destroyed at the end of such period (or as required by state law).

Doc. No. 796946

### 391.03.00.002

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.03.00.002, Preexamination Requirements; Conditions Precedent, as follows:

*.002. Preexamination Requirements; Conditions Precedent.*

(a) No person shall be admitted to or be permitted to take an examination for a nursing home administrator unless he shall have first submitted evidence satisfactory to the board that he meets the qualifications for licensure provided by law. (Article 4442d, Vernon's Annotated Civil Statutes, Section 9, Paragraphs 1 and 2).

(b) (No change.)

Doc. No. 796947

### 391.03.00.003

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.03.00.003, Requirements for Licensure, as follows:

*.003. Requirements for Licensure.*

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

(c) All college applicants as listed in (1) through (5) of subsection (b) must submit a completed application at least three weeks prior to examination. The application must be accompanied by a copy of the degree or an official transcript, or a letter from the instructor under authority of the educa-

tional institution, certifying that the applicant has completed 75% of the internship requirement.

(d) Definitions.

(1) The six-month internship shall consist of six months of actual training under a certified preceptor in a nursing home under a program approved by the board.

(2) The 200-hour course in Nursing Home Administration shall consist of a curriculum approved by the board.

(e) Failure of either the suitability examination or the state board examination. In the event of failure of the suitability examination and/or the state board examination, the applicant must apply again to take, and must pass, the examination or examinations failed. Under certain circumstances, such as repeated failure of said examinations, the board in its discretion may impose upon such applicant whatever conditions the board deems appropriate under the circumstances in order to qualify such applicant for an administrator's license. No license shall be issued to any person who does not pass all required examinations.

(f) Failure of National Association Board Examination. Any applicant, regardless of qualifications, who fails the National Association Board Examination is eligible to attempt to pass said examination two additional times in order to obtain an administrator's license. If the examination is not passed in these two additional attempts, the applicant is not eligible to take the examination again without petitioning the board for special consideration. The board in its discretion may impose upon such applicant whatever conditions the board deems appropriate under the circumstances in order to qualify such applicant for an administrator's license. No license shall be issued to any person who does not pass all required examinations.

(g) Passage of examinations. Any person who passes the National Association Board Examination and who has passed the suitability and state board examinations shall be issued an administrator's license by the board, provided the applicant met all other requirements for licensure.

Doc. No. 796948

### 391.03.00.005

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.03.00.005, Subjects for Examination, as follows:

*.005. Subjects for Examination.*

(a) Every applicant for a license as a nursing home administrator, after meeting the requirements for qualifications for examination as set forth in Rule .002 of these rules and regulations, shall successfully pass a written and/or oral examination which shall include, but need not be limited to the following subjects:

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

(b) (No change.)

Doc. No. 796949

### 391.03.00.006

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session

of the legislature, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.03.00.006, Grading Examinations, as follows:

**.006. Grading Examinations.**

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

(e) If an oral examination is used, totally or as part of the examination process, the board or the examiners designated for such purpose, shall use as a basis for such oral examination a written prepared outline of subject matter based upon or similar to the requirements of Rule .005(a). The board shall designate weighted values to the subject matter for such oral examination.

(f) An analysis of the individual's performance on each examination will be provided upon written request to each individual who fails an examination administered by the board.

Doc. No. 796950

## Education 391.04.00.002

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.04.00.002, Approval of Programs of Study, as follows:

**.002. Approval of Programs of Study.**

(a) Programs of study in accredited educational institutions. A program of study designed to train and qualify applicants for licensure as nursing home administrators as required by the state licensing statute and these rules and regulations offered by any accredited university or college shall be deemed acceptable and approved for such purpose; provided, however, that:

(1) such program shall have been registered with the board as required by Rule .001 of these rules and regulations; and

(2)-(3) (No change.)

(b) Jointly sponsored programs of study. Any program offered by an educational institution, except as provided under subsection (a) of this rule, or association or professional society shall be approved by the board; provided however:

(1) such program shall have been registered with the board as required by Rule .001 of these rules and regulations;

(2) such program shall include the subject areas as outlined in Rule .002 (2);

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

Doc. No. 796951

## 391.04.00.003

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure has amended Rule 391.04.00.003, Continuing Education Programs of Study, as follows:

**.003. Continuing Education Programs of Study.**

(a) All licensed nursing home administrators are required to have a minimum of 40 hours of continuing education for each two year licensure period in a continuing education program approved by the board in order to obtain license renewal. The following are recognized by the board as acceptable continuing education requirement programs:

(1) Time spent in participating in seminars approved by the board. For each hour of time spent in each seminar, the licensed nursing home administrator is entitled to one hour of credit in the continuing education requirement program.

(2) Time spent in college as reflected by college credits according to the transcript submitted to the board. Credit for 10 hours of continuing education shall be allowed for each three hour college course completed dealing with the core of knowledge as outlined under Rule .002 (a)(2).

(3) Time spent at a regularly scheduled chapter meeting; however, for each regular chapter meeting, the licensed nursing home administrator is entitled to one-half hour credit toward the continuing education requirement program, and no more than six hours credit per licensing period may be obtained through time spent at regularly scheduled chapter meetings.

(4) Credit of 15 hours continuing education will be given to administrators who attend preceptor seminars. An additional 15 hours will be awarded a preceptor who completes training a student in the required internship program prescribed elsewhere in these rules. No partial credit shall be given in the event that the required training is not fully completed.

All credit toward the continuing education requirement, regardless of which of the above four areas serves as the source for such credit, shall be subject to approval or disapproval by the board upon the board's investigation and study of the program or function serving as the basis for the time spent in continuing education by licensed nursing home administrator. All sources of credit for continuing education are to be considered by the board on their merits, and no approval of any program, course, or source of credit toward the continuing education requirement shall be made without the board's consideration.

(b) A program of study designed to meet the requirements and the qualifications for reregistration of a license as nursing home administrator under and pursuant to the state licensing statute and these rules and regulations shall:

(1) be registered as required under Rule .001 of these rules and regulations; and

(2) contain a minimum of six classroom hours of academic work; and

(3) include subject areas selected from the list of subjects provided for in Rule .002; and

(4) be submitted to the board of approval prior to announcement and/or publication at least six weeks prior to the anticipated registration of students.

(c) Upon completion of an approved program of study, the sponsors of the program shall issue certificates of attendance satisfactory to the board.

(d) Nothing contained in this rule shall preclude the board from providing for any program of study which excludes subjects which shall be in derogation of or in conflict with the teachings and practice of any recognized religious faith; provided, however, any applicant seeking to be admitted to such program of study hereunder shall submit evidence satisfactory to the board that he is in fact an adherent of such recognized religious faith.

(e) Each administrator-in-training who receives a license as a nursing home administrator is exempt from 20 hours of the continuing education requirements described elsewhere herein during the licensure year in which he receives his license, but is required to meet the full number of



hours prescribed for continuing education for all subsequent years. A licensure year begins July 1 and ends June 30.

(f) In the event that a licensed nursing home administrator moves from the State of Texas after having obtained his license in the state, such administrator may keep his license in full force and effect by paying the biennial license fee. While such administrator is not in the State of Texas, he shall not be required to meet the continuing education requirements described elsewhere in these rules; however, when such administrator returns to Texas for the purpose of residing or engaging in the practice of nursing home administration in Texas, then such administrator shall again be subject to all the rules and regulations imposed upon nursing home administrators, including the continuing education requirement, and must complete 20 hours of continuing education for each licensing year (July 1 to June 30) during which he resides in Texas or engages in the practice of nursing home administration in Texas, except such requirement may be waived by the board for good cause.

(g) Any nursing home administrator who participates as an instructor in a continuing education seminar approved by the board shall receive the same credit toward his continuing education requirement as a nursing home administrator in attendance at the seminar as a student.

(h) No credit shall be given for continuing education to any nursing home administrator who attends less than all of a seminar approved by the board for continuing education. No partial credit will be given.

(i) The curriculum areas for continuing education shall be:

- (1) management theory;
- (2) financial management;
- (3) patient care;
- (4) supplemental updates;
- (5) college;
- (6) miscellaneous.

No more than 15 hours in any one of the above curriculum areas shall be approved by the board toward meeting the continuing education requirements for any nursing home administrator, with the exception of college and miscellaneous.

Doc. No. 796952

## License Certificates 391.05.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session of the legislature, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.05.00.003, Registration of Licenses, as follows:

### .003. Registration of Licenses.

(a) Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and be issued a certificate of registration. Thereafter, such individual shall apply biennially on even numbered years to the board for a new certificate of registration and report any facts requested by the board on forms provided for such purpose. The license remains valid and is subject to renewal for 30 days after the expiration date of the license. The board shall notify each person licensed under this act of the expiration date of the person's license and the amount of the fee that is required for its renewal. The notice shall be mailed at least 30 days before the expiration date of the license.

(b) Upon making an application for a new certificate of registration such licensee shall pay a biennial registration fee to be set by the board not in excess of \$100.

(c) Upon receipt of such application for registration, and the registration fee the board shall issue a certificate of registration to such nursing home administrator.

(d) The license of a nursing home administrator who fails to comply with the provisions of this subsection and who continues to practice as a nursing home administrator may be suspended or revoked by the board.

(e) Only an individual who has qualified as a licensed and registered nursing home administrator and who holds a valid current registration certificate pursuant to the provisions of these rules for the current biennial registration period shall have the right and the privilege of using the title, "Nursing Home Administrator," and have the right and the privilege of using the abbreviation, "NHA," after his name. No other person shall use or shall be designated by such title or such abbreviation or any other words, letters, sign, card, or device tending to or intended to indicate that such person is a licensed and registered nursing home administrator.

(f) The board shall maintain a register of all applications for licensing and registration of nursing home administrators which shall show the place of residence and name of each applicant, the name and address of current employer or business connection of each applicant; the date of application, complete information of the educational and experience qualifications, date, the serial number of the license and of registration certificates issued to the applicant, and the date on which the board reviewed and acted upon the application. The board shall maintain a complete file of such other pertinent information as may be deemed necessary.

(g) Late renewal. Any license renewal application wherein all qualifications for renewal are satisfied but which is not submitted prior to expiration of the previous license is considered a late renewal application. A person renews an unexpired license or a license that has been expired for 30 days or less by paying to the board the renewal fee. A person renews a license that has been expired for more than 30 days but less than one year by paying to the board the renewal fee plus \$20. A person may not renew a license that has been expired for one year or more, but the person may obtain a new license by applying for the license in the manner that a person applies for an original license.

Doc. No. 796953

## Inactive Status 391.06.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has adopted Rule 391.06.00.001, Inactive Status, as follows:

.001. Inactive Status. Petitioners for inactive status must file their petitions for such status with the board on or before June 1 of the year in which his current license expires requesting inactive status for the next two-year licensure period. Petitions will not be accepted after June 1 of the year in which the current license expires.

(1) Petitioners who are granted inactive status by the board shall not practice nursing home administration.

(2) Petitioners who are granted inactive status by the board shall pay the renewal fee for the two-year licensure period for which inactive status is granted.

(3) Petitioners who are returned to active status, as nursing home administrators, who have been on inactive status for one renewal period (two years) or less, shall complete a pro rata portion of the continuing education required as follows: 20 hours of continuing education for each year of the licensing period to be determined by the date the application for active status was made to the board.

(4) Petitioners who are returned to active status as nursing home administrators who have been on inactive status for more than the two year renewal period must take and successfully pass the state board examination prior to being returned to active status.

(5) Inactive petitions must be filed every licensing period by June 1.

Doc. No. 796955

## Complaint Procedures 391.07.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session of the legislature, the Texas Board of Licensure for Nursing Home Administrators has adopted Rules 391.07.00.001-.004, Complaint Procedures, as follows:

### .001. Initiation of Investigations.

(a) Any person, public officer, association, or board may file reports of alleged violations of the Nursing Home Administrators Act or of these rules.

(b) Anonymous reports of alleged violations will be evaluated individually before an investigation is initiated.

(c) The agency on its own initiative may undertake an investigation with reasonable cause.

(d) Civil and administrative actions taken by the Department of Human Resources, Texas Department of Health, and other state agencies will be monitored and evaluated for possible violations of the Nursing Home Administrators Act or these rules.

(e) Every nursing home shall prominently display a sign containing the name, mailing address, and telephone number of the agency along with a statement informing consumers that complaints against nursing home administrators can be directed to the board.

### .002. Acknowledgment.

(a) When possible and appropriate, all complaints will be acknowledged in writing within 31 days of their receipt.

(b) Complainants submitting written allegations will be notified at least quarterly of the status of their investigation.

### .003 Filing of Formal Complaints.

(a) All complaints filed before the Board of Licensure for Nursing Home Administrators must be in writing, signed by the person bringing the complaint, notarized, and specifying the statute violated.

(b) The agency will determine within 31 days from the date of the filing of the complaint whether a hearing shall be held or the case dismissed.

(c) If a case is dismissed, both the complainant and the administrator will be notified of the dismissal.

(d) If the complaint is not dismissed, a hearing will be held within 61 days from the filing date unless such time is extended in writing by the agency.

### .004. Information Files.

(a) Information files will be maintained on all complaints received.

(b) Copies of orders and records of hearings shall be filed together in the office of the board, indexed, and made available for public inspection.

Doc. No. 796955

## Disciplinary Action 391.08.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session of the legislature, the Texas Board of Licensure for Nursing Home Administrators has amended Rules 391.08.00.001-.003, Disciplinary Action, as follows:

### .001. Refusal to Issue, Suspension of, and Revocation of Licenses.

(a) The board may suspend, revoke, or refuse to issue a license or certificate of registration for any nursing home administrator, nursing home administrator-in-training, or preceptor; or the board may reprimand or otherwise discipline a licensee, nursing home administrator in training, or preceptor, after due notice and opportunity to be heard at a formal hearing, upon substantial evidence that such applicant for license or registration or such nursing home administrator, nursing home administrator in training, or preceptor:

(1) Has willfully or repeatedly violated any of the provisions of the Texas Nursing Home Administrator's Licensure Act or rule of the board

(2) Has been guilty of conduct which is immoral or which, in the opinion of the board, is likely to injure the public. Immoral conduct shall be defined to include but shall not be limited to having recorded against him a civil judgment involving fraudulent conduct.

(3) Has willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home of which he is administrator.

(4) Has been guilty of fraud in securing his license.

(5) Has used alcohol intemperately or has used drugs in a manner which, in the opinion of the board, creates a hazard to patients.

(6) Has been adjudicated insane in a court of competent jurisdiction.

(7) Has been convicted in a court of competent jurisdiction of a misdemeanor or felony involving moral turpitude.

(8) Has been grossly negligent in his duties as a nursing home administrator.

(9) Has paid, given, has caused to be paid or given, or offered to pay or to give any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home patronage.

(b) The failure of the nursing home to comply with the Texas Department of Health requirements for licensure of nursing homes may be considered by the board in determining whether or not the licensee meets standards for licensure as a nursing home administrator.

.002. Preceptors. If a preceptor is found to have violated any of the rules promulgated by the board or has failed or is failing to provide an administrator-in-training the opportunity to receive training at reasonable expense under proper supervision in all the administrative and operating activities

and functions of a nursing home, the board may institute disciplinary actions and impose such sanctions as it deems fit, including disqualification as an approved preceptor for a prescribed period of time.

**.003. Injunctions.**

(a) Upon petition to a district court, a person may be enjoined or restrained by the board from practicing nursing home administration who engages in conduct that is grounds for revocation or suspension of their license under Section 11 of the Nursing Home Administrators Act.

(b) Upon petition to a district court, a person may be enjoined or restrained by the board from practicing nursing home administration if he has not been duly licensed by this board though he practices or offers to practice nursing home administration in this state or uses any title, sign, card, or device to indicate that he is licensed.

Doc. No. 796956

## Hearing Procedures 391.09.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session of the legislature, the Texas Board of Licensure for Nursing Home Administrators has amended Rules 391.09.00.001, .002, .004, .005, and .007-.009, Hearing Procedures, as follows:

**.001. Purpose.** These rules cover the formal hearing procedures and practices that will be available to administrators who request formal hearings before the board or against whom a complaint requiring disciplinary actions is made. The intended effect of these procedures is to comply with the Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Revised Civil Statutes, and other formal hearing procedures required in various state health laws and to make the public aware of these procedures and practices.

**.002. Definitions.**

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

(d) "Hearing officer" means a duly designated and appointed person by the Board of Licensure for Nursing Home Administrators to conduct hearing under these rules on behalf of the board.

(e)-(h) (No change.)

(i) "Board" means the members of the Board of Directors, Texas Board of Licensure for Nursing Home Administrators.

(j)-(m) (No change.)

**.004. Notice.**

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

(c) Failure to appear after notice. If the administrator fails to appear or be represented at a hearing after receiving notice, the hearing officer may proceed with the hearing or take whatever action is fair and appropriate under the circumstances.

**.005. Subpoenas.**

(a) On the executive secretary's or hearing officer's own motion or on the written request of the administrator complained against, the executive secretary shall issue a subpoena to the appropriate sheriff or constable to require the attendance of witnesses and/or the production of documents at the hearing.

(b)-(f) (No change.)

**.007. Prehearing Conferences.**

(a) In a contested case, the executive secretary or hearing officer, on their own motion or the motion of the administrator complained against, may direct the parties involved to appear at a specified time and place for a conference prior to the hearing for the purpose of:

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

(b) (No change.)

(c) The hearing officer shall have the minutes of the conference recorded in an appropriate manner and will issue whatever orders are necessary covering the said matters or issues.

(d) (No change.)

**.008. The Hearing Procedure.**

(a) The board shall designate a hearing officer to hear testimony and issue a recommendation for its consideration. The final determination in each case will be made by the board.

(b) The hearing officer's duties. The hearing officer on the day and time designated shall:

(1)-(6) (No change.)

(c) Order of presentation.

(1) After making the necessary introductory and explanatory remarks on the purpose, etc., of the hearing, the hearing officer will begin receiving testimony and evidence from the witnesses.

(2)-(3) (No change.)

(4) The hearing officer may limit the number of witnesses whose testimony will be repetitious and establish time limits for testimony so long as all viewpoints are given a reasonable opportunity to be expressed.

(5) When the participants have concluded their testimony and evidence, the hearing officer will ask the audience if any interested person desires to make a statement. If so, the interested person will be allowed to make a statement subject to cross-examination and clarifying questions by any participant.

(6) At this point, the hearing officer may allow final arguments or take the case under advisement, note the time and close of the hearing. For sufficient cause, the record may be held open for a stated number of days for the purpose of receiving additional evidence into the record.

(d) Consolidation. The hearing officer may upon the motion of any party consolidate for hearing two or more proceedings which involve substantially the same parties or issues. This should take place, however, only with the consent of all parties to such proceedings, unless the hearing officer finds that such consolidation will be conducive to a fair, just, and proper hearing and will not result in unwarranted expense or undue delay.

(e) Conduct and decorum. Every participant shall exhibit in all hearings proper dignity, courtesy, and respect. The hearing officer is authorized to take whatever action deemed necessary and appropriate to maintain the proper level of decorum and conduct, including but not limited to:

(1) (No change.)

(2) Excluding from the hearing any person for such period and upon such conditions as the hearing officer deems fair and just.

(f) Recording. The hearing officer will keep a stenographic, magnetic tape recording and/or a court reporter to make a record of the proceedings. The board will bear the cost of the per diem or other fees for such a reporter.

Any party desiring a written transcript of the proceedings shall contract directly with such court reporter and be responsible for payment of same pursuant to the authority of Section 13(g) of the Administrative Procedure and Texas Register Act. In those cases when a magnetic tape recording of a formal hearing is made, the agency shall make such recording available to any party requesting permission to hear or, with appropriate protective measures, allow such recording to be duplicated. Upon appeal of any final order of the board, the board shall cause the hearing to be reduced to writing and timely filed with the court.

(g) Rules of evidence. The hearing officer, at any hearing, reopened hearing, or rehearing will apply the rules of evidence under Section 14(a) of the Administrative Procedure and Texas Register Act and also the following rules:

(1) Consolidation. The hearing officer may consolidate the testimony of parties if the evidence can be effectively consolidated into one document. The standard by which the desirability of consolidation should be judged is whether each party can offer unique or new evidence that has not been previously introduced. Any party, under oath, may make an offer of proof of the testimony or evidence excluded through consolidation. This should be dictated into the record or submitted in writing prior to the conclusion of the hearing.

(2) (No change.)

(3) Exhibits.

(A) (No change.)

(B) Introduction. The original of each exhibit shall be offered to the hearing officer for identification and shall be offered to the parties for inspection prior to being received into evidence. Exhibits which have been identified, objected to, and excluded shall be given an exhibit number for the purpose of identification and shall be included in the record under seal.

(h) (No change.)

(i) Agreements in writing. No stipulation or agreement between the board and the administrator in question, their attorneys, or representatives, with regard to any matter involved in any proceeding shall be enforced unless it shall have been reduced to writing and signed by the board, or their designee, and administrator or his authorized representative. It should be dictated into the record during the course of a hearing or incorporated in an order bearing written approval. This rule does not, however, limit the ability to waive, modify, or stipulate away any right or privilege afforded by these rules.

## .009. Action after the Hearing.

(a) Reopening of hearing for new evidence.

(1) The agency may reopen a hearing where new evidence is offered which was unobtainable or unavailable at the time of the hearing, but not after 15 days after the date of a rendition of a final decision or order.

(2)-(3) (No change.)

(b) Proposal for decision.

(1) If a proposal for decision is prepared by a hearing officer, copies shall be provided for all parties. The record of the hearing shall be delivered to the board within 30 days.

(2) The administrator, having the right and desire to file exceptions, briefs, shall file them with the hearing officer within 15 days.

(3) Parties desiring to do so shall file written replies to these exceptions and briefs as soon as possible after receiving them, within the time designated by the hearing officer.

(4) (No change.)

(c) At any time after the record has been closed in a contested case and prior to the administrative decision becoming final, all briefs, exceptions, written objections, motions, replies to the foregoing, and all other written documents shall be filed with the hearing officer. The party filing such documents shall provide copies of same to all other parties of record by registered mail or personal service. In addition, the party filing must certify in writing the names and addresses of the parties to whom copies have been furnished along with the date and manner of service.

(d) Final decisions.

(1) The final decision of the agency will be rendered by the board within 120 days from the date the complaint was filed, unless the deadline was properly extended.

(2) All final decisions shall be in writing and shall set forth the findings of fact and conclusions required by law, either in the body of the order or by reference to the proposal for decision submitted by the hearing officer.

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

(e) (No change.)

Doc. No. 796957

## Reinstatement of Licenses 391.11.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, and Senate Bill 276 passed by the 66th Session of the legislature, the Texas Board of Licensure for Nursing Home Administrators has repealed Rule 391.11.00.001, Reinstatement of Licenses. This rule has been repealed due to Senate Bill 276 passed by the 66th Session of the legislature. Under this bill the board is not authorized to reinstate licenses after September 1, 1979. Specific procedures regarding license renewals are mandated by Senate Bill 276 and rule out reinstatement procedures. The proposed repeal of this rule was published in the September 14, 1979, issue of the *Texas Register* (4 TexReg 3298).

Issued in Austin, Texas, on October 15, 1979:

Doc. No. 796958

Mable Staton  
Executive Secretary  
Texas Board of Licensure for Nursing  
Home Administrators

Effective Date: November 5, 1979

Proposal Publication Date: September 14, 1979

For further information, please call (512) 926-9530.



## Savings and Loan Department of Texas

### Fees and Charges 056.07.00

Under the authority of Article 342-114, Texas Revised Civil Statutes, the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas have adopted the following amendment to Rules .001 and .002.

**.001. Fee for Charter Application.** Applicants for new charters for savings and loan associations shall pay a fee of \$5,000. This fee shall be paid at the time of filing and shall include the cost of filing, processing, and hearing of said application. In addition, the applicant shall pay the cost of a formal record and any cost incurred by the department in connection with investigation and travel expenses.

**.002. Fee for Additional Office or Agency.** Applicants for additional offices and/or agencies under Chapters .02 and .03 of these rules and regulations, except mobile facilities under Chapter .02, shall pay a fee of \$2,500. This fee shall be paid at the time of filing and shall include the cost of filing, processing, and hearing of said application. In addition, the applicants shall pay the cost of a formal record and any cost incurred by the department in connection with investigation and travel expenses.

Doc. No. 796972

### Loans 056.08.00.001

Under the authority of Article 342-114, Texas Revised Civil Statutes, the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas have adopted the following amendments to Rule .001(b) and (d):

**.001. Definitions of Improved Real Estate, Home, and Business Property.**

(a) (No change.)

(b) For the purpose of this Chapter .08, the term "home" shall mean a structure designed for residential use by one family, or a structure designed for occupancy for one to four family units if one of such units is owner-occupied or the borrower in good faith intends so to do. The term also includes a townhouse or a condominium unit designed for residential use, provided the record owner thereof owns the underlying real estate or an undivided interest therein, and such property when owned in common with others is necessary or contributes to the use and enjoyment of such structure or unit.

(c) (No change.)

(d) For the purpose of this Chapter .08, the term "agency created by federal law" shall mean any agency whatsoever originally or otherwise created or sponsored by or under the laws of the United States of America, including but not limited to the Federal Housing Administration, the Veterans Administration, the Small Business Administration, Farmers Home Federal Loan Mortgage Corporation, and the Government National Mortgage Association.

Doc. No. 796973

### 056.08.00.002

Under the authority of Article 342-114, Texas Revised Civil Statutes, the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas have adopted the following amendments to Rule .002:

**.002. Terms and Conditions of Real Estate Loans.** Every association may make real estate loans to members upon the terms and conditions specified herein.

(1) All loans on improved real estate, except loans made on building lots or building sites as defined in Rule .001(a)(2) above, made by an association shall be repayable in equal monthly installments of principal and interest sufficient to amortize the full debt, both principal and interest, within a period not exceeding 40 years from the date the loan is made except in the following instances:

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

(D) Real estate loans containing a provision for a variable interest rate which may be adjusted up or down in relation to the movement in the index of the average "cost-of-funds to FSLIC insured savings and loan associations all districts" as computed by the Federal Home Loan Bank Board and published in the "Federal Home Loan Bank Board Journal," or to the movement of such other index as the commissioner shall approve, provided the association has made a bona fide offer to lend the same amount of money on a fixed rate for the entire term of the loan, and the borrower after comparing the options has in writing rejected the offer for a fixed rate and elected to take the alternative mortgage instrument which contains the following provisions:

(i) That interest rate adjustments (and loan payment charges resulting from them) may not be made more than once in any 12-month period, and the first adjustment shall not be made prior to one year after the date of the first regular monthly payment.

(ii) That any increase or decrease in the interest rate shall not exceed 1/2 of 1.0% per annum with a maximum net increase not to exceed 2.5% more than the original loan rate and in no event in excess of the legal rate applicable to the loan when made.

(iii) That downward adjustments shall be mandatory, but increases may be at the note holder's option. The fact that an association may not have invoked a permissible increase, in whole or in part, shall not be deemed a waiver of the association's right to invoke said increase at any time thereafter within the limits imposed by this clause.

(iv) That rate decreases shall be applied first to reduction of extended loan maturity (but not below original maturity), and then to reduction of monthly payments; however, loan terms shall not be reduced to such an extent that monthly payments would be increased.

(v) That the borrower shall be notified by written notice of any rate adjustment at least 30 days before the date the new rate will begin. The notification to the borrower shall include:

(I) current and new rates;

(II) old and new index rates;

(III) accumulated but unused rate changes, if

any;

(IV) current monthly payment and remaining

maturity;

(V) for increases, a description of borrower options, including the new payment and maturity if the loan is extended to the maximum; and

(VI) for decreases, a description of the way the decrease will be applied.

(vi) Upon notification of an increase in interest rate, the borrower shall have the following options:

(I) to request that loan maturity be extended up to a maximum of 40 years (but not to the extent that monthly payments would be reduced below the original loan payment amount);

(II) to repay the loan within 90 days after such notification, either in full or in part, without a prepayment charge, except where such collection is required by an agency created by federal law.\*

(III) not respond to the notice, in which event monthly payments will be adjusted upward to reflect the higher rate.

\*For the purpose of this subparagraph (D) of Chapter .08, a prepayment penalty shall be deemed to be required by an agency created by federal law if such penalty is stated to be required for any insurance, guaranty, or purchase by such agency in any rule, regulation, or order published by such agency or if an association uses any form of promissory note or other loan instrument containing such requirement by such agency. Notice required under this section shall be deemed given when it is deposited in the United States mail, postage prepaid, addressed to the current owner of the property described in the deed of trust securing the note and any other person personally liable on the loan, as those persons' names and addresses appear on the association's records at the time of giving notice.

If the prospective borrower has questions regarding any disclosure or action, she or he may contact the Savings and Loan Department, Box 1089, Austin, Texas 78767, 1004 Lavaca Street, Austin, Texas 78701, telephone (512) 475-7991.

(E) Real estate loans for home units containing a provision for graduated monthly payments during the first 10 years of the loan provided the full loan is structured to amortize both principal and interest within a period not exceeding 40 years from the date the loan is made, and which contain the following provisions:

(i) That monthly payments during the first five years of such loan shall be in an amount sufficient to pay the full interest charged on said loan together with prorated taxes, insurance, and governmental charges assessable for the period of payment. Sums paid in excess of required amount shall be credited to prepaid interest, principal, or escrow for taxes and insurance as optioned by borrower.

(ii) That monthly payments during the period after five years and before 10 years from the original date of said loan shall be in an amount sufficient to pay full interest charge, prorated taxes, insurance, and governmental charges together with a principal payment equal to the amount necessary to amortize the full loan within a period not to exceed 50 years.

(iii) That monthly payments after 10 years from the date of the original loan shall be in an amount sufficient to amortize the remaining balance due and owing on said loan together with such additional charges as may be legal or agreed upon, within a period not to exceed 30 years.

(2)-(3) (No change.)

Doc. No. 796974

## 056.08.00.007, .008

Under the authority of Article 342-114, Texas Revised Civil Statutes, the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas have adopted the following amendments to Rules .007 and .008:

.007. *Property Improvement Loans.* Any association may make improvement loans, secured or unsecured, for the maintenance, repair, modernization, improvement, and equipment of real estate, provided the net amount advanced, which shall not include future interest or premium charges for health, accident, credit life, and/or property insurance which may be added to the amount of the note, on any such loan shall not exceed the sum of \$40,000, and such loan is to be repaid in equal monthly installments of principal and interest sufficient to amortize the debt, both principal and interest, 241 months or less from the date the loan is made.

.008. *Consumer and Mobile Home Loans.* With regard to consumer and mobile home loans:

(1) (No change.)

(A) (No change.)

(B) An association may make loans on which the net amount advanced does not exceed \$40,000 to borrowers, and it may purchase participations in like loans as are secured by real estate which has an appraised value of as much as the net amount advanced and provided the loan shall be repayable in equal monthly installments of not more than 241 months from the date the loan is made.

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

(7) Definitions.

(A) (No change.)

(B) As used in the provisions of Chapter .08, the term "net amount advanced" shall mean all funds disbursed to the borrower or to others for the borrower's account to cover costs or expenses required in connection with the loan but shall not include the amount of future interest or premium charges for health, accident, credit life, and/or property insurance which may be added to the amount of the note.

Issued in Austin, Texas, on October 15, 1979.

Doc. No. 796975

L. Alvis Vandygriff  
Commissioner  
Savings and Loan Department of Texas

Effective Date: November 5, 1979

Proposal Publication Date: August 31, 1979

For further information, please call (512) 475-7991.





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*.

## State of Texas Aircraft Pooling Board

**Tuesday, October 23, 1979, 1:30 p.m.** The State of Texas Aircraft Pooling Board will meet in Conference Room G-B, John H. Reagan Building, Austin, to consider bids for the lease/purchase of Department of Agriculture aircraft; discussion of alternatives to leasing aircraft and discussion of scheduling office operation. The board will also consider short term rental for additional human resources' aircraft.

Additional information may be obtained from Barbara Mitchell, John H. Reagan Building, Room G-12, Austin, Texas, telephone (512) 475-8301.

Filed: October 15, 1979, 12:18 p.m.  
Doc. No. 796940

## Texas Commission on Alcoholism

**Saturday, October 27, 1979, 9 a.m.** The commission members of the Texas Commission on Alcoholism will meet in Room 503-G, Sam Houston Building, Austin. The meeting includes the following: approval of minutes; update on prevention and training projects; update of councils on alcoholism, churches, and professional organizations activities; status report on Title XX funding; report on Hispanic conference; approval of fiscal year 1980 operating budget; discussion on criminal justice conference; discussion on grant review procedure and RAA designation; and election of officers.

Additional information may be obtained from Sherman Lenin, 809 Sam Houston Building, Austin, Texas, telephone (512) 475-2577.

Filed: October 16, 1979, 2:49 p.m.  
Doc. No. 796987

## Texas Board of Architectural Examiners

**Thursday and Friday, November 1 and 2, 1979, 9 a.m. daily.** The Texas Board of Architectural Examiners will meet in the Venetian Room, Shamrock Hilton Hotel,

Houston. According to the agenda summary, the meeting includes the following: approval of minutes; hearings; rules and regulations; reinstatements; examinations; intern development program; alleged violations; reciprocity; and budget.

Additional information may be obtained from Philip D. Creer, 5555 North Lamar, Building H-117, Austin, Texas 78751, telephone (512) 458-1363.

Filed: October 15, 1979, 4:51 p.m.  
Doc. No. 796967

## State Bar of Texas

**Thursday-Saturday, October 25-27, 1979, 9 a.m. daily.** The Board of Directors of the State Bar of Texas will meet on the first floor, Texas Law Center, 14th and Colorado Streets, Austin. According to the agenda summary, the meeting includes the following: reports of president, president-elect, board chairman, executive director, Insurance Trust and Texas Lawyers Insurance Exchange, general counsel, judicial section, Texas Young Lawyers Association, Sites and Dates Committee, Grants Committee, Legal Specialization Committee, Federal Legislative Policy Committee, general counsel's Advisory Committee, Orientation for New Directors Committee, Policy Manual Revision Committee, Task Force Evaluation Committee, Audit and Finance Committee, Staff Efficiency Committee, Study Placing State Bar Forms on Magnetic Tapes Committee, Fact Finding Committee, standing and special committees, Texas Legal Protection Plan, Inc.; report of sections, discussions--Board of Legal Specialization, Texas Bar Foundation, Grant Project General reports, officers and directors liability insurance, and report on Professional Development Project.

Additional information may be obtained from Evelyn Avent, 1414 Colorado, Austin, Texas, telephone (512) 475-4746.

Filed: October 17, 1979, 11:04 a.m.  
Doc. No. 797003

## State Board of Barber Examiners

**Monday, November 5, 1979, 8 a.m.** The board members of the State Board of Barber Examiners will meet in Room H-11, 5555 North Lamar, Austin. The meeting includes the following: minutes of previous meeting; hours or working time required of out-of-state applicants; interview out-of-state applicants; signing teachers' licenses and school permits; adopt proposed Rule 378.01.03.032; sign to be displayed in each barber shop or salon; letters to board; examination schedule; and conference with shop owner where student barber was working. The board will also meet in executive session.

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

Filed: October 17, 1979, 9:48 a.m.  
Doc. No. 797001

**Monday, November 5, 1979, 1 p.m.** The board members of the State Board of Barber Examiners will conduct a hearing in Room H-111, 5555 North Lamar, Austin, concerning complaint against HairBerdasher Barber College, Waco.

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

Filed: October 17, 1979, 9:48 a.m.  
Doc. No. 797002

## Texas Department of Community Affairs

**Friday, October 19, 1979, 10 a.m.** The Governor's Committee on Aging met in emergency session in the executive director's conference room, 210 Barton Springs Road, Austin. The meeting included the following: approval of minutes; introduction of new members; consideration of committee action to express appreciation of outgoing members; address by committee chairman; consideration of committee action to ratify actions since last committee meeting; introduction of director of GCOA; consideration of plan of operation; consideration of committee action to delegate authority to coordinator of aging; and consideration of creation of subcommittees. The emergency status of this meeting was warranted by the urgent public necessity to consider agenda items.

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

Filed: October 17, 1979, 12:41 p.m.  
Doc. No. 797006

## Texas Education Agency

**Thursday, October 18, 1979, 8:30 a.m.** The State Advisory Committee for Career Education of the Texas Education Agency made an emergency change to the agenda of a meeting held in the office of the commissioner, Texas Education Agency, 201 East 11th Street, Austin. The change concerned the location of the part of the meeting at which the commissioner of education addressed the committee. The committee heard the commissioner's remarks at his office and then moved to the Quality Inn South, as originally scheduled, for the remainder of the meeting.

Additional information may be obtained from Walter Rambo, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-6838.

Filed: October 17, 1979, 4:57 p.m.  
Doc. No. 797021

**Thursday, October 25, 1979, 10 a.m. to 2:30 p.m.** The Curriculum Study Panel of the Texas Education Agency will hold its first meeting in the board room at 150 East Riverside Drive, Austin. The panel includes members of the State Board of Education, the House Committee on Public Education, the Senate Education Committee, and the Governor's

Advisory Committee on Education. The agenda includes orientation to previous studies and earlier recommendations regarding curriculum for Texas public schools; review of House Concurrent Resolution 90; discussion of proposed plan for a curriculum study mandated in House Concurrent Resolution 90; progress report on TEA task force activities and resources being utilized; adoption of curriculum study plan; and appointment of steering committee.

Additional information may be obtained from J. B. Morgan, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-7077.

Filed: October 6, 1979, 4:10 p.m.  
Doc. No. 796989

## Employees Retirement System of Texas

**Thursday, November 8, 1979, 9 a.m.** The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet in Room 503-G, Sam Houston Building, Austin, to consider the following items: election of chairperson and vice chairperson for 1979-80; review of group insurance experience, 1978-79; discussion of September 1979 enrollment data; and discussion of dental insurance.

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

Filed: October 16, 1979, 10:40 a.m.  
Doc. No. 796977

## Office of the Governor

**Tuesday, November 6, 1979, 2 p.m.** The Governor's Advisory Committee on Education will conduct a public hearing in the Camille Room, Rose Garden Center, West Front Street, Tyler, for the purpose of obtaining comments and recommendations from interested citizens regarding specific issues concerning the state elementary and secondary education system. Persons wishing to testify should notify the committee in writing or by telephone prior to the hearing or at the hearing. Persons will testify in the order of receipt by the committee of their request to be placed on the agenda and will be limited to no more than five minutes.

Additional information may be obtained from Thomas E. Anderson, Jr., 112 Sam Houston Building, Austin, Texas 78711, telephone (512) 475-0386.

Filed: October 18, 1979, 9:05 a.m.  
Doc. No. 797050

## Texas Department of Health

**Friday, October 26, 1979, 1 p.m.** The Texas Statewide Health Coordinating Council of the Texas Department of Health will meet in Lone Star Rooms 1, 2, and 3 of the Marriott Hotel, III 35 at U.S. 290, Austin. According to the agenda summary, the council will consider the following items: Annual Implementation Plans Review Committee report; Ap-

plication, Budget, and Project Review Committee report; Monitoring and Assessment Committee report; State Health Plan Review Committee report; State Medical Facilities Plan Review Committee report; state health planning and development agency/cooperative health statistics system—data activities update, elections of officers, appointment of Nominating Committee for members at large to Executive Committee; and appointment of Ad Hoc Bylaws Committee.

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

Filed: October 15, 1979, 4:50 p.m.  
Doc. No. 796968

## Texas Department of Human Resources

**Friday, October 26, 1979, 8:30 a.m.** The Texas Board of Human Resources will meet at the Starlite Inn, 3425 South First, Abilene. According to the agenda summary, the board will consider the following items: report on family violence project; proposed rules for state-paid foster care; proposed rules on revised application procedures for AFDC; establishment of single level of intermediate care in the nursing home program; nursing home payment regulations; reevaluation of dispensing fees in the Vendor Drug Program; request for drug evaluation study; proposed implementation of in-patient care in psychiatric hospitals under Title XIX; adjustments to fiscal year 1980 operating budget; and department housing.

Additional information may be obtained from Bill Woods, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6297.

Filed: October 18, 1979, 10:39 a.m.  
Doc. No. 797055

## Texas Industrial Commission

**Thursday and Friday, October 25 and 26, 1979, 10 a.m. and 9 a.m. respectively.** The Board of Commissioners of the Texas Industrial Commission will meet at the Ramada Inn, 1295 North 11th street, Beaumont, for a quarterly meeting, which, according to agenda summary, includes the following: October 25—opening remarks and action on industrial revenue bond applications; October 26—commissioners breakfast; action on prior minutes; action on financial statement; welcome and presentation by Beaumont Chamber of Commerce; Texas Industrial Development Council report; report on China mission by Gerald Brown; report on Taiwan mission by Edwin Latta; report on revenue bond seminars by Jerry Heare; report on energy program by Albert Rodriguez; and selection of next meeting site.

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

Filed: October 16, 1979, 9:29 a.m.  
Doc. No. 796976

## State Board of Insurance

**Wednesday, October 24, 1979, 9:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto Street, Austin, concerning name protest by Washington National Insurance Company, Evanston, Illinois, against Washington International Insurance Company, Phoenix, Arizona.

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

Filed: October 15, 1979, 2:11 p.m.  
Doc. No. 796963

**Wednesday, October 24, 1979, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 5841, stock purchase—Texas Life Insurance Company.

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

Filed: October 15, 1979, 2:12 p.m.  
Doc. No. 796964

**Thursday, October 25, 1979, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin, to conduct a hearing on Docket 5858—Eagle Life Insurance Company, San Antonio, to consider its application for extension of time within which to sell real estate.

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

Filed: October 15, 1979, 2:12 p.m.  
Doc. No. 796965

**Thursday, November 15, 1979, 10 a.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider insurance agents and brokers errors and omissions rate filing by Crum and Forster Insurance Companies.

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

Filed: October 18, 1979, 11:25 a.m.  
Doc. No. 797057

## Texas Department of Labor and Standards

**Tuesday, October 30, 1979, 10 a.m.** The Boiler Division of the Texas Department of Labor and Standards will meet in rescheduled session in Room 316, Sam Houston Building, Austin. According to the agenda summary, the division will consider whether the certificate of operation for Seller's

Boiler NB numbers 4613, 4650, 4658, and 4659 should be revoked or left in good standing. This meeting was originally scheduled for October 22, 1979.

Additional information may be obtained from Blake Travis, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-6560.

Filed: October 17, 1979, 11:09 a.m.  
Doc. No. 797004

## North Texas State University

**Friday, October 26, 1979, 9 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 on campus in Denton. The committee will consider the following: automated energy management system; Chesnut Street (parking lot number 6) repair; report on bids and award of contract for renovation of Marquis Hall.

Additional information may be obtained from John L. Carter, Jr., North Texas State University, Denton, Texas, telephone (817) 788-2134.

Filed: October 18, 1979, 11:29 a.m.  
Doc. No. 797061

## Board of Pardons and Paroles

**Monday-Friday, October 29-November 2, 1979, 9 a.m. daily.** The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

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

Filed: October 17, 1979, 2:32 p.m.  
Doc. No. 797011

**Wednesday, October 31, 1979, 9 a.m.** The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. According to the agenda, a parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

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

Filed: October 17, 1979, 2:33 p.m.  
Doc. No. 797012



## Texas Parks and Wildlife Department

**Thursday, October 25, 1979, 10 a.m.** The Texas Parks and Wildlife Commission will meet at the headquarters complex, Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will consider the following items: 1980 wildlife operational plan status/amendments; Monument Hill/Kreische Brewery State Historic Sites' development concept review, Fayette County; standard form concession contract interpretation; state grants to local governments receiving federal urban park/recreation recovery grants; Purtil Creek Park Site Phase I design/development review, Henderson and Van Zandt Counties; and presentation on Brown Cedar Cut proposal.

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

Filed: October 17, 1979, 3:19 p.m.  
Doc. No. 797013

**Thursday and Friday, October 25 and 26, 1979, beginning at 1:30 p.m. on Thursday.** The Texas Parks and Wildlife Commission will meet at the headquarters complex, Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will consider the following items: Galveston County saltwater fishing regulations; oyster stock status; national oceanic/atmospheric administration and Texas Parks and Wildlife Department agreement; Cessna 310J/Cessna 182M airplane replacement; fiscal year 1980 vehicle budget; land acquisition, Lake Bob Sandlin Park Site, Titus County/Lake Mineral Wells State Park, Parker County; Monument Hill/Kreische Brewery State Historic Sites' water system and arboriculture work, Fayette County; Caprock Canyons State Park development plan/budget, Briscoe County; existing state park capital improvement projects, Hackberry Park Site development plan/budget, Denton County; and fiscal year 1980 boat ramp construction program.

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

Filed: October 17, 1979, 3:19 p.m.  
Doc. No. 797014

## Texas Board of Private Investigators and Private Security Agencies

*Thursday, October 18, 1979, 10 a.m.* The Texas Board of Private Investigators and Private Security Agencies made an emergency addition to the agenda of a meeting held in the Red Baron Room, Ramada Inn Gondolier, 1001 South IH 35, Austin. According to the agenda summary, the addition concerned discussion and possible board action on security guard uniforms. This emergency addition was warranted because of the problem caused by the similarity of security guard uniforms and uniforms of local police in some parts of the state. Consideration of this item on an emergency basis permitted the board to avoid calling an emergency meeting.

Additional information may be obtained from Clema D. Sanders, 501 South Congress, Suite 116, Austin, Texas 78704, telephone (512) 475-3944.

Filed: October 17, 1979, 1:29 p.m.  
Doc. No. 797007

## Texas State Board of Public Accountancy

*Thursday and Friday, October 25 and 26, 1979, 9 a.m. daily.* The Texas State Board of Public Accountancy will meet at 940 American Bank Tower, 221 West 6th, Austin. According to the agenda summary, the board will consider the following items: approval or ratification of CPA certificates; applications for registration of individuals or firms; and applications for the November 1979 CPA exam; report of nominating committee and election of officers; recent appointments and assignments for November 1979 CPA exam; public hearing on proposed rules of professional conduct; discussion of comments received at public hearing and adoption of rules of professional conduct; hearings; reports on pending lawsuits; NASBA meeting, and status of lease and office space; service contracts; enforcement matters; review of insurance coverage, status of computerization of board's activities, board publication, and financial statements; policy changes concerning staff authority to approve applications and close enforcement matters; and the definition of accounting hours.

Additional information may be obtained from Bob E. Bradley, 940 American Bank Tower, 221 West 6th Street, Austin, Texas 78701, telephone (512) 476-6971.

Filed: October 17, 1979, 3:26 p.m.  
Doc. No. 797016

## Public Utility Commission of Texas

*Wednesday, October 24, 1979, 9 a.m.* The Hearings Division of the Public Utility Commission of Texas will meet in emergency session to conduct a hearing in Suite 400N, 7800

Shoal Creek Boulevard, Austin, in Dockets 2620 and 2856, application of Water Suppliers, Inc., for a rate increase within Travis County and to amend its certificate of convenience and necessity, et al. Because the water company is in violation of an order which contemplates immediate refunds upon its violation, the hearing is necessary to determine the amount of the refunds and ensure that available funds for making refunds will not be dissipated by delay.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 18, 1979, 11:28  
Doc. No. 797060

*Thursday, October 25, 1979, 9 a.m.* The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, there will be an open meeting at which the commissioners will consider final orders and hear oral argument in the following dockets: 1909, 2055, 2651, 2247, 2567, 2571, 2677, 2643, 2660, 2674, 2716, 2725, 2470, 2498, 2356 & 2418, 2500, 2767, 2489, 2596, 2244, 2600, 2430, 2755, 2756, 2757, 2522, 2735, 2629, 2692, 2711, 2538, 2662, 2780, 2796, 2805, 2494, 2554, 2652, 2710, 2750, 2764, 2769, 2775, 2781, 2783, 2784, 2785, 2803, 2806, 2807, 2809, 2813, 2819, 2830, and 2831.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 15, 1979, 4:04 p.m.  
Doc. No. 796962

*Thursday, October 25, 1979, 9 a.m.* The Public Utility Commission of Texas has made an addition to the agenda of a meeting to be held in Suite 400N, 7800 Shoal Creek Boulevard, Austin. In addition to those items listed on the previously printed agenda, the commission will meet in executive session to discuss personnel matters.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 16, 1979, 4:08 p.m.  
Doc. No. 796990

*Friday, November 9, 1979, 9 a.m.* The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2743, application of Mid Texas Telephone Company to revise depreciation rates.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: October 17, 1979, 9:48 a.m.  
Doc. No. 797000

## State Purchasing and General Services Commission

*Friday, October 26, 1979, 10 a.m.* The State Purchasing and General Services Commission has made emergency additions to the agenda of a meeting to be held in Room 916, Lyndon B. Johnson Building, 111 East 17th Street, Austin. The additions concern review of bids for auctioneer services and a presentation from Savin Corporation.

Additional information may be obtained from Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, telephone (512) 475-2211.

Filed October 18, 1979, 11:19 a.m.  
Doc. No. 797056

## Railroad Commission of Texas

*Thursday, October 18, 1979, 11:30 a.m.* The Transportation Division of Railroad Commission of Texas met in emergency session in the commissioner's conference room, 1124 South IH 35, Austin, to consider proposed emergency Rule 051.03.02.023 to permit additional carriers to transport harvested uncooked peanuts within the State of Texas. This matter was considered on less than seven days notice because of an imminent peril to the public health, safety, and welfare caused by the unavailability of adequate transportation services resulting in significant losses of this crop, constituting an urgent public necessity for consideration.

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

Filed October 18, 1979, 9:29 a.m.  
Doc. No. 797048

## State Securities Board

*Thursday, November 1, 1979, 1:30 p.m.* The Securities Commissioner will conduct a hearing in Room 709, State Securities Board, LBJ Building, Austin. According to the agenda, the commissioner will determine whether the offering of shares by United Petrosearch, Inc., would not be fair, just, or equitable to any purchaser or purchasers of securities in said corporation and whether a cease and desist order should be issued to prohibit the sale of the securities of United Petrosearch, Inc.

Additional information may be obtained from Patrick Lanier, LBJ State Office Building, Room 709, Austin, Texas.

Filed October 15, 1979, 3:39 p.m.  
Doc. No. 796961

## Board for Lease of State-Owned Lands

*Thursday, October 25, 1979, 3 p.m.* The Board for Lease of Texas Mental Health and Mental Retardation of the Board for Lease of State-owned Lands will meet in Room 831 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to consider bids received at the October 2, 1979, oil and gas lease sale.

Additional information may be obtained from Linda Fisher, Room 835 Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas, telephone (512) 475-2071.

Filed: October 17, 1979, 11:18 a.m.  
Doc. No. 797005

## Stephen F. Austin State University

*Friday, October 26, 1979, 1:30 p.m.* The committees of the Board of Regents of Stephen F. Austin State University will meet in Room 307, Austin Building, on campus in Nacogdoches. According to the agenda summary, the committees will consider personnel matters; approval of contracts for architectural services; report on underenrolled classes; approval of final fiscal year 1979 budget standing; approval of curriculum changes; authorization to sell stocks; and approval of fiscal regulations.

Additional information may be obtained from Dr. William R. Johnson, Box 6078—SFA Station, Nacogdoches, Texas 75962, telephone (713) 569-2201.

Filed October 18, 1979, 11:25 a.m.  
Doc. No. 797058

*Saturday, October 27, 1979, 9 a.m.* The Board of Regents of Stephen F. Austin State University will meet in Room 307, Austin Building, on campus in Nacogdoches. According to the agenda summary, the committees will consider personnel matters; approval of contracts for architectural services; report on underenrolled classes; approval of final fiscal year 1979 budget standing; approval of curriculum changes; authorization to sell stocks; and approval of fiscal regulations.

Additional information may be obtained from Dr. William R. Johnson, Box 6078—SFA Station, Nacogdoches, Texas 75962, telephone (713) 569-2201.

Filed: October 18, 1979, 11:26 a.m.  
Doc. No. 797059

## Texas Water Commission

*Tuesday, October 30, 1979, 10 a.m.* The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will consider the application of Conservation Services, Inc., Port Arthur, for an amendment to Temporary Orders 79-6E and 79-6E-A to extend the time limits specified in Provision 5 of Order 79-6E an additional 120 days to February 22, 1980.

Additional information may be obtained from Larry R. Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: October 17, 1979, 3:01 p.m.  
Doc. No. 797015



**Wednesday, November 21, 1979, 10 a.m.** The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summaries, the commission will consider the following applications:

Gary Neal Sikes, Application 4004, for a permit to directly divert and use not to exceed 54 acre-feet of water from the San Bernard River, Brazos-Colorado Coastal Basin for irrigation purposes in Brazoria County

Texas Parks and Wildlife Department, Application 3938A, for an amendment to Permit 3656 to construct an off-channel reservoir immediately below the proposed dam and reservoir designated SCS Site 143A, Cedar Creek Watershed Project adjacent to Purvis Creek, tributary South Twin Creek, tributary Twin Creek, tributary Cedar Creek, tributary Trinity River, Trinity River Basin and impound water and divert and use water for industrial purposes in Henderson and Van Zandt Counties

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

Filed: October 15, 1979, 2:35 p.m.  
Doc Nos. 796959 & 796960

**Friday, November 30, 1979, 10 a.m.** The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application of the City of Plainview for approval of preliminary plans for construction of a levee or other improvements, Hale County.

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

Filed: October 16, 1979, 2:17 p.m.  
Doc. No. 796983

## Texas Turnpike Authority

**Friday, October 26, 1979, 10:30 a.m.** The Board of Directors of the Texas Turnpike Authority will meet in Room 1349, Houston Natural Gas Building, 1200 Travis Street, Houston. According to the agenda summary, the meeting includes consideration of the following items: ratification of actions of the Right-of-Way Acquisition Committee meeting of August 13, 1979; ratification of actions of the Permanent Contract Awards Committee meetings of August 13, September 5, and October 3, 1979; ratification of actions of the chairman of the board in executing contracts; approval of preliminary budgets of the Dallas North Tollway and the Mountain Creek Lake Bridge for calendar year 1980; amending the bylaws and rules of the authority. The board will also meet in executive session to consider pending or contemplated litigation; personnel matters; purchase or value of real property; authorization for the engineer-manager and general counsel to bring eminent domain proceedings; progress report on the Houston Ship Channel Bridge project; and acceptance of traffic engineer's initial feasibility assessments of proposed toll routes in the Houston and Dallas areas.

Additional information may be obtained from Harry Kabler, P.O. Box 5547, Arlington, Texas 76011, telephone (817) 261-3151.

Filed: October 17, 1979, 12:09 p.m.  
Doc. No. 797009

## Regional Agencies

### Meetings Filed October 15, 1979

**The Colorado River Municipal Water District**, Board of Directors, will meet at 400 East 24th Street, Big Spring, on October 25, 1979, at 10 a.m. Further information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, telephone (915) 267-6341.

**The Education Service Center, Region X**, Board of Directors, will meet in the board room, 400 East Spring Valley, Richardson, on October 24, 1979, at 12:30 p.m. Further information may be obtained from H. W. Goodgion, 400 East Spring Valley, Richardson, Texas, telephone (214) 231-6301.

**The Education Service Center, Region XX**, Board of Directors, will meet at 1314 Hines Avenue, Data Processing Center, San Antonio, on October 24, 1979, at 3 p.m. Further information may be obtained from Dr. Dwain M. Estes, 1550 N.E. Loop 410, San Antonio, Texas, telephone (512) 828-3551.

**The Lower Rio Grande Valley Development Council**, Board of Directors, will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on October 25, 1979, at 2 p.m. Further information may be obtained from Robert A. Chandler, Suite 207, First National Bank Building, McAllen, Texas 78501, telephone (512) 682-3481.

**The Panhandle Regional Planning Commission**, Project Notification and Review System Committee, met in emergency session in the Chamber of Commerce Conference Room, Amarillo Building, Third and Polk Streets, Amarillo, on October 18, 1979, at 1:30 p.m. Further information may be obtained from Henry Schwan, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

**The Panhandle Regional Planning Commission**, Resource Center for Health Promotion Task Force of the Panhandle Health Systems Agency, will meet at the Texas Tech University Regional Academic Health Center, 1400 Wallace Boulevard, on October 25, 1979, at 7:30 p.m. Further information may be obtained from E. L. Melin, 730 Amarillo Building, Amarillo, Texas 79105, telephone (806) 372-3381.

Doc. No. 797062

### Meetings Filed October 16, 1979

**The CETA Consortium, Region XI**, McLennan County Non-urban Administrative Unit, will meet at the County Courthouse, Waco, on October 25, 1979, at 10 a.m. Further information may be obtained from Nancy Miller, 130 North 6th Street, Waco, Texas, telephone (817) 756-1851.

**The Deep East Texas Council of Governments**, Board of Directors, will meet in the Senior Citizens Building (Old Hospital Building Annex), Newton, on October 25, 1979, at 2:30 p.m. Further information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

**The Child Study Clinic of Victoria** met at Totah's Restaurant, 2911 Houston Highway, Victoria, on October 22, 1979, at 12:15 p.m. Further information may be obtained from Eva Seger, M.D., 2008 North Navarro, Victoria, Texas 77901, telephone (512) 575-0681.

Doc No 796982

### Meetings Filed October 17, 1979

**The Heart of Texas Council of Governments**, Executive Committee, will meet at 700 Austin Avenue, third floor, Waco, on October 25, 1979, at noon. Further information may be obtained from Marcia Ross, 700 Austin Avenue, third floor, Waco, Texas 76701, telephone (817) 756-6631.

**The Heart of Texas Region MH/MR Center**, Board of Trustees, will meet in the conference room of the main center, 1401 North 18th Street, Waco, on October 23, 1979, at 3 p.m. Further information may be obtained from Dean Maberry, P.O. Box 1277, Waco, Texas 76703, telephone (817) 752-3451.

**The Lubbock Regional MH/MR Center** will meet at 1210 Texas Avenue, Lubbock, on October 23, 1979, at 4:30 p.m. Further information may be obtained from Ted Sparks, 1210 Texas Avenue, Lubbock, Texas 79401, telephone (806) 763-4213.

**The Northeast Texas Municipal Water District**, Board of Directors, met at 1003 Linda Drive, Daingerfield, on October 22, 1979, at 7 p.m. Further information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, telephone (214) 645-2241.

**The Upper Leon River Municipal Water District**, Board of Directors, will meet in the general office of the filter plant, Proctor Lake, Comanche, on October 25, 1979, at 7 p.m. Further information may be obtained from Lowell G. Pittman, Box 67, Comanche, Texas, telephone (817) 879-2258.

Doc. No. 797008

### Meetings Filed October 18, 1979

**The MH/MR Regional Center of East Texas**, Board of Trustees, will meet in the D&E Division Classroom, 524 East Front, Front and Beckham Shopping Center, Tyler, on October 25, 1979, at 4 p.m. Further information may be obtained from Richard J. DeSanto, 305 S. Broadway, 10th floor, Bryant Building, Tyler, Texas 75702, telephone (214) 597-1351.

**The Pecan Valley MH/MR Region**, Board of Trustees, will meet at the Lake Granbury Motor Inn and Restaurant, 1400 Highway 377, Granbury, on October 24, 1979, at 12:15 p.m. Further information may be obtained from Dr. Theresa Mulloy, 906 Lingleville Highway, Stephenville, Texas 76401, telephone (817) 968-4181.

**The Trinity River Authority of Texas**, Board of Directors, will meet in the SPJST Lodge 188, U.S. Highway 75, one and one-half miles north of Centerville, on October 24, 1979, at 10:30 a.m. Further information may be obtained from Geri Elliott, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

**The Tri-Region Health Systems Agency**, Facilities and Services Subcommittee, will meet in Santa Fe Room 2, Starlite Inn Motor Hotel, 3425 South First, Abilene, on October 31, 1979, at 10 a.m. The Project Review Committee will meet in Santa Fe 1 East Room of the Starlite Inn Motor Hotel on the same date at 11 a.m. The Executive Committee will meet in Santa Fe Room 3 of the Starlite Inn Motor Hotel on the same date at noon. Further information may be obtained from Angel Rivera, Ken Moody, and Vic Rhoads, respectively, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

**The West Central Texas Council of Governments**, Executive Committee, will meet at 1025 East North 10th Street, Abilene, on October 24, 1979, at 1 p.m. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 673-8544.

**The West Texas Health Systems Agency**, Governing Body, met in emergency session at the El Paso Chamber of Commerce Lockhart Room, 10 Civic Center, El Paso, on October 18, 1979, at 7:30 p.m. Further information may be obtained from Lucille Munday, 303 North Oregon, Suite 700, El Paso, Texas, telephone (915) 532-2910.

Doc. No. 797049

## Texas Air Control Board

### Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of October 9-12, 1979.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 6630 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

### Week Ending October 12, 1979

Stabilized Material Company, Spring; cement stabilized sand; Foxhollow No. 7; 7990; new source

Petro United, Inc., Seabrook; storage tank for crude butyls; 11666 Port Road; 5153B; modification

Petro United, Inc., Seabrook; storage tank for crude butyls; 11166 Port Road; 5152B; modification

Brownsville Chemicals, Inc., Brownsville; sulfuric acid contact process; Texas 48, RM 1792; 7981; new source

Evans Cooperage Company, Inc., Crosby; paint booth facility for steel drums; 10521 Sheldon Road; 7980; new source

Sabine County Hospital, Hemphill; XL-44 Pathological Incinerator; Highway 83 West; 7979; new source

Valley Faucet Division, U.S. Brass Corporation, Abilene; electroplating and related finishing processes; 2117 Interstate 20; 7982; new source

Gulf Oil Chemicals Company, Mont Belvieu; low density polyethylene; Cedar Bayou; 2462A; modification

Fosti Medstream Fueling and Service, Inc., Port Arthur; diesel fuel terminal; State Highway 87-North Dock facility; 7983; new source

Atlantes Industries, Inc., Midlothian; packaging of food grade lime; 500 North 9th Street; 7984; new source

W-K-M Valve Division, ACF Industries, Inc., Richmond; no-bake molding system; 126 Collins Road—Richmond Foundry; 7985; new source

Enserch Exploration, Inc., Decatur; ethane recovery plant; 7988; new source

Enserch Exploration, Inc., Weatherford; ethane recovery plant; Weatherford plant; 7987; new source

E. I. Du Pont De Nemours and Company, Inc., La Porte; formaldehyde storage tank; 7986; modification

Texas Industries, Inc., Dallas; central mix batch plant; 1925 North Pearl 7470A; modification

Chemical Manufacturing Exchange, Inc., Latexo; phosphonate and ammonium bixulfite production and liquid blending plant; 7989; new source

Issued in Austin, Texas, on October 15, 1979.

Doc. No. 796969 Ramon Dasch  
Hearing Examiner  
Texas Air Control Board

Filed: October 15, 1979, 4:51 p.m.

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

## Office of the Governor and Legislative Budget Board

### Instructions for Report on the Use of Private Consultants

Article 6252-11c, Vernon's Texas Civil Statutes, as amended by the 66th Legislature, addresses the use of private consultants by state agencies and stipulates certain reporting requirements to the Legislative Budget Board and Governor's Budget and Planning Office. Section 71 of the Article V provisions of House Bill 558, Acts of the 66th Legislature, Regular Session, stipulates fact-finding requirements by the governor with regard to the hiring of consultants, the cost of which will exceed \$10,000 per year with any individual or firm. Accordingly, these joint instructions are issued to define the procedures to be utilized in meeting these statutory requirements.

Copies of all consultant contracts in excess of \$10,000 per year with an individual or firm must be filed to meet reporting requirements regardless of funding source. The finding of fact compliance is restricted to funds appropriated in Articles II, III, and IV of House Bill 558. Thus, consultants employed from funds appropriated in Article I, V, and VI of House Bill 558 must comply only with the reporting requirements and the expenditure of such funds is not contingent upon a finding of fact by the governor.

### Instructions for Report on the Use of Private Consultants

These instructions pertain only to those consultant contracts for which statutory reporting and fact-finding provisions are required. A separate form should be completed for each such private consulting service to be utilized by a state agency, department, or university. The information should be submitted in accordance with the format described herein and copies should be filed at least 30 days before contracting to use a private consultant as follows:

Legislative Budget Office (one copy)  
Program Evaluation Section  
704 Sam Houston Building  
Austin, Texas 78701

Legislative Budget Office (one copy)  
P.O. Box 12666, Capitol Station  
Austin, Texas 78711

Governor's Budget and Planning Office (two copies)  
Executive Office Building  
411 West 13th Street  
Austin, Texas 78701

In those cases where the finding of fact provision is applicable, a copy will be returned to the agency indicating the finding of fact and should be attached to the voucher requisition for payment of services received.

For the purposes of this report, consultant service means "the human service of studying or advising an agency under an independent contract. The term includes routine work provided to an agency under an independent contract that is necessary to the functioning of the agency's programs. The term includes only services for which payment is made from funds that are appropriated by the legislature; that are generated by statutory functions of the agency; or that are received by the state from the federal government and that are awarded to the state without requiring the state to request the funds through a grant program."

Again, there are certain consultant contracts exempted from the reporting requirements and those are as follows:

- (1) those fees for services wherein the cost will not exceed \$10,000 per year;
- (2) services outlined in Section 2 of Article 6252-11c, Vernon's Texas Civil Statutes, which includes "...employment of registered professional engineers or registered architects for architectural or engineering studies or for the design or construction of state facilities, private legal counsel, investment counselors, actuaries, or physicians, dentists, or other medical or dental services providers."

Consultant contracts which are exempted from the fact-finding requirements are:

- (1) those fees for services wherein the cost will not exceed \$10,000 per year;
- (2) services obtained pursuant to Article 664-4, Vernon's Texas Civil Statutes, which includes "...the practice of accounting, architecture, optometry, medicine, or professional engineering as defined by the laws of the State of Texas or those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant or professional engineer in connection with his professional employment or practice."

#### Specific Instructions.

- (1) Name of agency.
- (2) Number of proposed study. Each private consultant study proposed after August 31, 1979, should be numbered consecutively and the number included in the report for identification.
- (3) Anticipated study completion date. The date the study is expected to be completed.
- (4) Name, title, and phone number of person completing this form.
- (5) Cost of study by fund. Reflect the anticipated total cost of the study and the portion each funding source will contribute to the total funding of the project.
- (6) Need for study. Detail the need for the study in terms of improvements that might result in agency operations or improved management of agency programs.
- (7) Alternative of internal study or contracting with another state agency. Indicate why an internal study is not a more feasible alternative. Further, list agencies contacted

and the reason contracting with other state agencies is not more viable than use of a private consultant.

(8) Consultant information. Provide the following information with regard to the consultant chosen:

- (a) the demonstrated competence, knowledge, and qualifications of the consultant.
- (b) why the proposed fee is reasonable in terms of the services to be received, and
- (c) other considerations being equal, please confirm that preference was given to a private consultant whose principal place of business is within the state or who will manage the consulting management wholly from one of its offices within the state.

Questions regarding the above instructions should be directed to Howard Richie Governor's Budget and Planning Office, telephone (512) 475-4415, Dorothy Featherling, Legislative Budget Board, telephone (512) 475-6565, or Sam Martin, Legislative Budget Board, telephone (512) 475-6565.

Issued in Austin, Texas, on September 27, 1979.

Doc. No. 796971      Paul T. Wrotenberg  
Director  
Governor's Office of Budget and Planning

Thomas M. Keel  
Director  
Legislative Budget Board

Filed: October 15, 1979, 4:49 p.m.  
For further information, please call (512) 475-6565.

## Railroad Commission of Texas

### Memorandum to All Oil and Gas Operators

The Railroad Commission (RRC) amended its statewide Rule 38 (051.02.02.038) by adding subsection (d). The amendment became effective September 17, 1979, on an emergency basis as an accommodation to operators because of the Federal Energy Regulatory Commission's (FERC) implementation of the final regulations under Section 103 of the Natural Gas Policy Act (NGPA). The FERC regulations now require an "explicit finding" that a new well on an "old proration unit" is necessary to "effectively and efficiently drain a portion of the proration unit that cannot be drained by the existing well on that unit." This finding must be made before the well is spudded in order to qualify for Section 103 pricing.

The RRC is of the opinion that only when a well requires a Rule 38 exception should the special finding be necessary to qualify under Section 103. However, the FERC's interpretation apparently requires that the finding be obtained prior to spudding many wells eligible for regular permits under state law (e.g., optional density). The RRC has filed a motion for rehearing with the FERC on these regulations.

Rule 38(d) was adopted for the operator who wishes to have an explicit finding before spudding as extra assurance that he will be eligible for Section 103 pricing. The rule provides that, based on the submission of certain evidence, the RRC staff may make the finding administratively. The necessary evidence to support the finding is detailed in (d)(1) of Rule 38, which states:

The operator shall file with the Director, Oil and Gas, at the Commission's Austin Office, a request for the finding, together with a copy of his application to drill (Form W-1) and plat and an affidavit with appropriate supporting geological, engineering, and other technical data upon which he relies in seeking the finding.

The major inquiry based on subsection (d)(1) is what constitutes "appropriate supporting geological, engineering, and other technical data." The basic thrust is that the new well must produce gas that otherwise would go unrecovered by an existing well on the proration unit. Thus, in a gas reservoir, an applicant should first submit a volumetric or other estimate of the gas-in-place under the existing proration unit. Second, a production graph and projected ultimate production for the existing well on the proration unit should be submitted. If these pieces of evidence show that the new well will drain gas the old well would never recover, the new well is entitled to the finding. Please note that the above-listed information is a bare minimum. It is always helpful to have as much supporting data as possible, and thus structure maps and other data may also be appropriate.

Finally, Rule 38(d) only applies to regular drilling permits. Although the RRC is certain other variations will be brought to its attention, presently it envisions only four situations in which Rule 38(d) will apply: first, when the field rules allow optional well densities (e.g., 320-acre proration units with an option to drill on 160 acres); second, when the field or portion thereof is an entity for density purposes; third, when a new well is drilled to replace an old well on the same unit; and fourth, when pursuant to a field rule hearing a new proration unit size, smaller than the previous one, is adopted.

It is the commission's hope that this memorandum clarifies this area. Please direct any questions to Brian Sullivan, telephone (512) 445-1284.

Issued in Austin, Texas, on October 11, 1979.

Doc. No. 796904      John G. Soule, General Counsel  
Oil and Gas  
Railroad Commission of Texas

Filed: October 12, 1979, 1:01 p.m.  
For further information, please call (512) 445-1284.

## Senate

### Special Committee on Higher Education Financing in Texas

#### Committee Meeting

A meeting of the Special Committee on Higher Education Financing in Texas will be held on Wednesday, October 31, 1979, beginning at 9 a.m. in Senate Conference Room 101 at the State Capitol.

Issued in Austin, Texas, on October 15, 1979.

Doc. No. 796941      Thomas M. Keel  
Legislative Budget Director

Filed: October 15, 1979, 12:36 p.m.  
For further information, please call (512) 475-3426.

## Texas Register

### Correction of Error

Adopted rules of the *Texas Energy and Natural Resources Advisory Council* relative to the calendar year 1980 Innovative Grants Program for Energy Conservation in the State of Texas contained several errors as published in the October 19, 1979, issue of the *Texas Register* (4 TexReg 3829). The rules were proposed by the Governor's Office of Energy Resources (4 TexReg 3202), which has since been reorganized and renamed the Texas Energy and Natural Resources Advisory Council. The rules as adopted should have been published under the name of the new agency and designated as 161.70.01.001-.007. The chapter designation for both the proposed and adopted versions of the rules should have been .70 rather than .79, and the chapter and subchapter titles on the adopted version should have read "Conservation Division" and "Local Government Programs Innovative Grants for Energy Conservation," respectively. Additionally, the effective date for adopted Rules 161.70.01.001-.007 is November 2, 1979.

### Publication of Index

The October 30, 1979, issue of the *Texas Register* will be the third quarterly index for 1979. No other documents will be included in that issue. Publication of rules and meeting notices will resume with the November 2, 1979, *Register*. The deadlines for submission of documents for the November 2 issue (Volume 4, Number 82) will be noon Friday, October 26, for all copy except notices of open meetings, and noon Monday, October 29, for open meeting notices.

## Texas Water Commission

### Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of October 8-12, 1979.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed action; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located, type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

## Week Ending October 12, 1979

Young K. Lee (Brazos Bend Motel), Missouri City, Fort Bend County; sewage treatment plant; intersection of U.S. Highway 90A and FM Road 359, just south of U.S. Highway 90A northeast of Richmond; new permit

Texas Department of Corrections (Jester Unit No. 1), Huntsville, Fort Bend County; sewage treatment plant; three miles upstream of the FM Road 1464 crossing; 11475; renewal

Greenridge Municipal Utility District, Houston, Fort Bend County; sewage treatment plant; intersection of South Belt and West Fuqua Street; 10960; renewal

Sienna Plantation Fresh Water Supply District, Bellaire, Fort Bend County; sewage treatment plant; approximately 2.5 miles south-southwest of the intersection of State Highways 6 and 288; new permit

Houston Armature Works, Inc., Houston, Fort Bend County; sewage treatment plant; 19000 Alameda Road, one mile south of FM Road 2234; 11631; renewal

City of League City (Plant No. 1), Galveston County; sewage treatment plant; on the east side of the north end of Winconsin Avenue; 10568-01; renewal

City of League City (Plant No. 2), Galveston County; sewage treatment plant; near the intersection of Seminole Drive and Park Drive; 10568-02; renewal

Amoco Chemicals Corporation, Galveston, Galveston County; chemical manufacturing plant; on South Sixth Street seven blocks south of Texas Avenue; 00451; amendment

Amoco Chemicals Corporation (Plant E), Texas City, Galveston County; sewage treatment plant; on the north bank of the Texas City Barge Canal; 00452; amendment

Missouri-Kansas-Texas Railroad Company, Denison, Grayson County; diesel locomotive fueling and servicing; north of the intersection of Ray Drive and Dove Lane; new permit

Amoco Texas Refining Company, Texas City, Galveston County; sewage treatment plant; 2401 Fifth Avenue; 00443; amendment

City of Gonzales, Gonzales County; sewage treatment plant; 1/2 mile east of U.S. Highway 183 and 1,000 feet south of St. Vincent Street; 10488; renewal

Galveston County WCID No. 8, Alta Loma, Galveston County; sewage treatment plant; on the north side of North Seventh Street, 3/4 mile east of its intersection with FM Road 646; 10174; renewal

Issued in Austin, Texas, on October 15, 1979.

Doc. No. 796988

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: October 15, 1979, 2:35 p.m.

For further information, please call (512) 475-1311.