

# TEXAS REGISTER

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Office of the Secretary of State

USPS Publication Number 120090

# NOTES ON THE ISSUE

On an emergency basis, the Criminal Justice Division of the Governor's Office is amending rules concerning the Mini-Block Program, which grants federal funds for the development of criminal justice programs in cities and counties. The cities or counties must submit to the Governor's Office for consideration plans which identify problems and needs in the criminal justice systems and develop projects to meet those needs. Among programs eligible for federal funding are narcotics programs; training of cadets, law enforcement officers, and criminal justice personnel; jail planning; and organized crime control. Amendments made include a change of the deadline for notifying the Criminal Justice Division of participation in the Mini-Block Program. The date has been changed from March 30, 1978, to January 31, 1978, because of an advanced deadline for submitting the division's state plan to the Law Enforcement Assistance Administration. Another amendment allows counties with a population of 200,000 or more to be eligible for participation without the three-project restriction formerly imposed. The division is also proposing the amendments for permanent adoption.

The Railroad Commission is revising its rules of practice and procedure by proposing the repeal of existing rules and the adoption of new rules. The new proposals include general rules, applicable to all divisions, and special rules, applicable only to certain divisions within the commission.

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

*Artwork: Gary Thornton*

## TEXAS REGISTER



Office of the  
Secretary of State

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## Requests for Opinion

### Summary of Request for Opinion RQ-1799

Request for opinion sent to the Attorney General's Opinion Committee by G. L. "Lynn" Tate, commissioner, Texas Department of Labor and Standards, Austin.

**Summary of Request:** Can a person who is not a citizen of the United States but who has been legally admitted to the United States be licensed under Article 5221a-6?

Doc. No. 780077

### Summary of Request for Opinion RQ-1800

Request for opinion sent to the Attorney General's Opinion Committee by Henry Wade, district attorney, Dallas County, Dallas.

**Summary of Request:** May Dallas County contract with a YWCA Rape Crisis Center for the performance of services designed to encourage enforcement of the criminal laws involving sexual assault?

Doc. No. 780119

### Summary of Request for Opinion RQ-1802

Request for opinion sent to the Attorney General's Opinion Committee by J. Clayton Strange, assistant city attorney, Austin.

**Summary of Request:** Is a list of applicants for appointment as municipal court judge public under the Open Records Act?

Issued in Austin, Texas, on January 5, 1978.

Doc. No. 780120

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

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

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

**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.

## Office of the Governor

### Criminal Justice Division

#### Mini-Block Participation 001.55.18

Due to a change of date requirement for advising the Criminal Justice Division of whether or not eligible cities and counties will participate in the mini-block program, to avoid unnecessary duplication of document submission, and because of revisions in the preparation of mini-block program notification sheets, the Criminal Justice Division is promulgating emergency amendments to Rule 001.55.18.001-.019 to become effective immediately upon filing with the secretary of state.

Rule .001 has been changed to allow all cities and counties with a population of 200,000 or more to be eligible to participate in the mini-block program with the three-project restriction removed.

The official deadline date for cities and counties to notify CJD regarding mini-block participation has been changed in Rule .002 from March 30 to January 31. Earlier notification of intent to participate in the program was necessitated by the Law Enforcement Assistance Administration's (LEAA) assignment of a new date for the submission of the 1979 *Criminal Justice Plan for Texas*. In addition, language in this rule has been revised to require that a city or county notify CJD in writing "whether" (instead of "if") it intends to participate in the program.

The language in Rule .003 has been modified deleting certain information required to be submitted with local plans and the type of information to be submitted by the unit of local government. These changes have been made to reduce unnecessary duplication of effort by units of local government where information already is on file with CJD.

The second sentence of Rule .004 has been reworded to clarify the function of the CJD Advisory Board.

Due to an LEAA requirement, Rule .005 has been reworded to indicate that those projects requested in the regional or metropolitan plan which are not approved are automatically disapproved.

Rule .008 has been modified to include the requirement of submission of executed mini-block grant conditions with other implementation materials required by this rule rather than with the local plan. In addition, the city or county must adopt a resolution authorizing implementation of each mini-block project within 45 days preceding project implementation.

Clarifying language has been added to Rules .009 and .010 to specify that priorities refer to those priorities expressed in the regional or metropolitan plan.

Wording has been added to Rules .017 and .018 to more clearly define funds as grant funds.

A new rule, .020, has been added whereby, on official notification of intent to participate in mini-block, the mini-block participant automatically waives the normal 90-day application review requirement imposed on CJD.

These rules and guidelines are promulgated by the Law Enforcement Assistance Administration under the authority of Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968 as amended by Public Law 91-644, Omnibus Crime Control Act of 1970, Public Law 93-83, Omnibus Crime Control Act of 1973, and Public Law 94-503, Crime Control Act of 1976; Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974; and Public Law 95-115, Juvenile Justice Amendments of 1977.

**.001. Eligibility.** Cities and counties with a population [of 250,000 or more, and cities and counties with a population] of 200,000 or more [which have three or more projects in the final recommended budget by the Criminal Justice Division Advisory Board,] are eligible under this rule and guideline.

**.002. Participation.** Eligible cities and counties must notify the Criminal Justice Division (CJD) in writing on or before **January 31** [March 30] of each year **whether** [if] they desire to participate under this rule and guideline. Such notice shall be given by the mayor or county judge to CJD's director of System Research and Planning.

**.003. Regional and Metropolitan Plan Requirements.** Participating cities or counties must attach to the regional or metropolitan plan submitted in accordance with the CJD guidelines for local plans the following:

(a) Executed mini-block grant conditions promulgated by CJD.]

(a)(b) Personnel or merit system procedures.

(b)(c) Policy or procedure on procurement.

(c)(d) Policy or procedure on travel.

(d)(e) Policy on equipment control.

(e)(f) Total **city or county** budget in summary for criminal justice activities.

(f)(g) Completed A-95 review and comments **and Form 424, or certification of date the mini-block plan was submitted to the appropriate A-95 clearinghouse for review and comment.**

(h) Review and comments by the chief financial officer of the governmental unit must be submitted on each project notification sheet and a certification that all budgetary items are in compliance with local policy.]

(g) **Prior participants may submit a certification of prior submission and copies of changes, if any, for items (a) through (d).**

**.004. Date of Consideration for Recommendations for Approval.** The Criminal Justice Division Advisory Board (CJDAB) will consider projects eligible for inclusion in miniblock that are contained in the metropolitan or regional plan with the attachments required in .003. The **CJDAB will consider proposals** for recommendations for approval or disapproval to the governor (will be) at the meeting at which it considers the *Criminal Justice Plan for Texas*, including budgets for Part C and E and JJDP funds based on proposed projects, subject to .005.

**.005. Approval.** Approval of projects under this rule and guideline are subject to congressional appropriations and allocations for Part C and E and JJDP funds. **Upon notification of approval of projects, all other projects requested by the applicant in the regional or metropolitan plan are automatically disapproved.**

**.006. Implementation of Projects.** Individual projects must be implemented within 30 days of the date contained in the project notification sheet. CJD may, on written request, extend the implementation date for a maximum of 30 additional days. All projects must be implemented by September 30 of the budget year. Failure to implement the project within this timeframe shall drop the project from the approved projects and the project funds shall revert to the Criminal Justice Division for redistribution throughout the state for unbudgeted projects. Projects may not be implemented sooner than the date reflected in the project notification sheet without the prior written approval of CJD. Under no condition [.] can a project be implemented earlier than October 1 of the budget year from which it is funded. Requests for changes in project implementation dates should be addressed to CJD's director of Administrative Systems and Control.

**.007. Cancellation of Projects.** The participating city or county shall notify the CJD (director of Administrative Systems and Control) by resolution of the cancellation of any approved project immediately on the determination to cancel the project. The project shall be dropped from the approved projects and the project funds shall revert to the Criminal Justice Division for redistribution throughout the state for unbudgeted projects.

**.008. Implementation Resolution.** **Within 45 days preceding the implementation date of each project, the [The] participating city or county shall adopt and submit a resolution stating the implementation of the project, [to implement each project,] the agency's EEO certification, [and] a copy of the project notification sheet, and executed miniblock grant conditions [within 30 days preceding the implementation of the project].** The [This] resolution must clearly reflect the commitment of the applicable required cash contributions from local funds and the applicable in-kind contribution, if any, which must have LEAA approval prior to implementation, for JJDP projects. The participating city or county must accept in writing within 30 days any special conditions required by the Criminal Justice Division. Documentation required by this paragraph shall be submitted to CJD's director of Administrative Systems and Control.

**.009. Statewide Comprehensive Plan.** The Criminal Justice Division shall, if necessary, make adjustments in project priorities **expressed in regional and metropolitan plans** to ensure a statewide comprehensive plan as required

by the current amendments to the Crime Control Act and Juvenile Justice and Delinquency Prevention Act.

**.010. Maintenance of Effort.** The Criminal Justice Division shall, if necessary, make adjustments in **project priorities expressed in regional and metropolitan plans** to ensure the maintenance of efforts required for juvenile justice and corrections projects from Part C funds.

**.017. Failure to Comply with Any Applicable Law Enforcement Assistance Administration Rule or Guideline or Criminal Justice Division Rule or Guideline.** Failure of a participant to comply with any LEAA rule or guideline or CJD rule or guideline may result in a withholding of all **grant** funds.

**.018. Termination of Funds.** Failure of a participant to comply with any LEAA rule or guideline or CJD rule or guideline within 30 days after funds are withheld may result in a termination of all **grant** funds.

**.020. Waiver of 90-Day Rule.** Participants under this rule and guideline automatically waive the provisions of Section 303(a)(15), Crime Control Act of 1976, also known as the 90-Day Rule.

Issued in Austin, Texas, on January 3, 1978.

Doc. No. 780094      Robert C. Flowers  
Criminal Justice Division  
Office of the Governor

Effective Date: January 4, 1978

Expiration Date: May 5, 1978

For further information, please call (512) 475-6065.

## State Board of Insurance Nonprofit Legal Services Corporation Supervision, Requirements 059.23.02

The State Board of Insurance has amended on an emergency basis subsections B, D, and E of Section V of Rule 059.23.02.001 of the Rules and Regulations for Prepaid Legal Services Corporations and Contracts. The board is of the opinion that the charge of fees for prepaid legal services agents examinations, licenses, renewals, and appointments is unauthorized. Accordingly, subsections B, D, and E of Section V of Rule 059.23.02.001, which require such fees, are amended to delete the requirement. The board is of the opinion that an imminent peril to the public welfare requires the adoption of the amendment on an emergency basis so that the board not have a requirement for the payment of such fees. This emergency amendment is effective for 120 days from the date of its filing with the secretary of state.

This rule is promulgated under authority of Texas Insurance Code Annotated, Articles 5.13-1 and 23.23.

**.001. Prepaid Legal Services Corporations and Contracts.**  
Section V: Licensing of agents.

(B) Examination.

(1) Qualifications.

[(a)] Each applicant for a license to solicit prepaid legal services shall submit to a personal written examination

administered by the commissioner to determine competence with respect to prepaid legal services contracts and shall pass the same to the satisfaction of the commissioner. The applicant for a license to solicit prepaid legal services shall score a minimum of 75 on said examination. Any applicant holding a currently valid insurance agent's license issued pursuant to Article 21.07, Article 21.07-1, or Article 21.14 of the code shall receive a temporary license *issued* to solicit prepaid legal services contracts to be effective without examination, but to expire on the last day of the month after the board promulgates a list of study material for such examination and administers the first such examination.

(b) The fee for taking the examination shall be \$10 which shall be processed and administered as are other fees for the taking of the agent's examination.

(2) Scheduling.

(a) The Agents License Section of the Licensing Division shall make provisions for and regularly schedule such examinations for qualified applicants as may from time to time be needed.

(b) Upon approval of the application for license, the applicant may, upon written request, be scheduled for examination. Such written request shall be submitted at least 10 days prior to the applicant's intention to sit for the examination.

(D) **Renewals** [Fees].

(1) Application.

(a) An applicant who does not currently hold a license under the authority of Articles 21.07, 21.07-1, or 21.14, of the code, and wishes to solicit prepaid legal services offered by a licensed insurance company, shall submit fees normally charged an applicant under the provisions of the applicable statutes under which the sponsoring company would normally submit their applications for license.

(b) An applicant who wishes to represent a non-profit legal services corporation shall pay an application fee of \$10 at the time of filing an application for a license.

(2) Renewal.

(1)(a) Each license issued to an agent shall expire one year from the date of its issue, unless an application to qualify for the renewal of such license shall be filed with the board [and fee paid] on or before such date, in which event the license sought to be renewed shall continue in full force and effect until renewed or renewal is denied.

(b) An application for the renewal of a currently valid license to solicit prepaid legal services shall be accompanied by a fee of \$10, in addition to any other license renewal fee required by Articles 21.07, 21.07-1, or 21.14 of the code.

(2)(c) If the applicant holds a license under the authority of Articles 21.07, 21.07-1, or 21.14 of the code, and is qualified to solicit prepaid legal services during the term of that license, the authority to solicit said services will expire on the same date such license will expire unless renewed prior to the expiration date [in accordance with the preceding paragraph].

(E) Appointment.

(1) Any company engaged in the business of prepaid legal services may appoint an agent, qualified under these regulations, and who holds a license under authority of Articles 21.07, 21.07-1, or 21.14 of the code, by filing an additional appointment form (Appendix E) clearly marked "Pre-

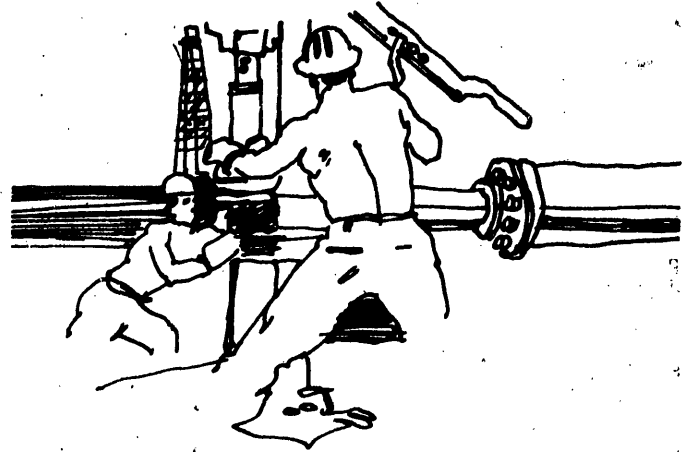
paid Legal Services." [The agent shall be required to pay a fee of four dollars for each appointment.]

Issued in Austin, Texas on December 30, 1977.

Doc. No. 780058 Pat Wagner  
Chief Clerk  
State Board of Insurance

Effective Date: January 4, 1978  
Expiration Date: May 5, 1978

For further information, please call (512) 475-4509.



## Railroad Commission of Texas Transportation Division Miscellaneous 051.03.17

Pursuant to Section 5 of the Administrative Procedure and Texas Register Act of 1975, Texas Revised Civil Statutes Annotated, Article 6252-13a (Supplement 1976), the Railroad Commission of Texas has amended on an emergency basis, effective immediately, Section (f) of Regulation 051.03.17.015, postponing the compliance date originally set forth in the June 6, 1977, adoption of Regulation 051.03.17.015: Approval of Agreement Between Carriers Concerning Group Representation, Motor Transportation Regulations Before the Transportation Division.

Pursuant to the above-referenced statutory authority, the Railroad Commission of Texas had previously adopted, by regular rulemaking procedures, Regulation 051.03.17.015. Section (f) of the regulation required approval of the subject agreements on or before January 1, 1978. A combination of circumstances has made it impossible to grant approval of any agreements by the deadline, and the effect of this emergency adoption is to amend Section (f) and extend the deadline until May 1, 1978. Failure to adopt the emergency amendment would have serious consequences and represent imminent peril to the continued regulatory functions of the



commission necessary to provide transportation services to the public.

For these reasons, Section (f) of Regulation 051.03.17.015 has been amended to read as follows:

**.015. Approval of Agreements Between Carriers, Shippers, and Other Parties in Interest Concerning Group Representation.**

(f) Limitation on group appearances. From and after **May 1** [January 1], 1978, the commission will not permit appearances by and on behalf of groups of carriers unless it is shown that the agreement and procedures under which such group is organized have met the requirements of this regulation and have been duly approved by the commission

hereunder. This limitation shall not preclude joint representation of carriers who appear in their individual capacities.

Issued in Austin, Texas on January 4, 1978.

Doc. No. 780060

James H. Cowden, Director  
Transportation Division  
Railroad Commission of Texas

Effective Date: January 4, 1978

Expiration Date: May 5, 1978

For further information, please call (512) 475-4738.

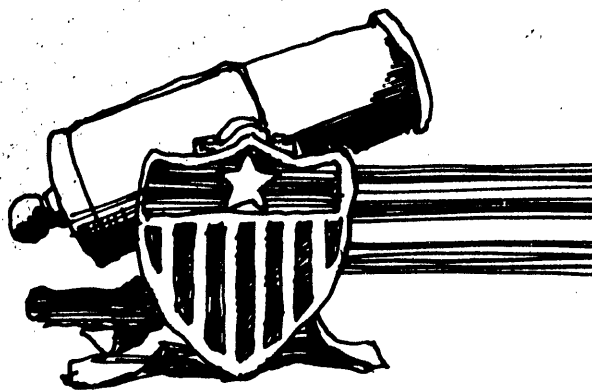


An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

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.



475-6065, or by writing Mr. Whatley at 411 West 13th, Austin, Texas 78701.

These rules and guidelines are proposed under the authority of Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968 as amended by Public Law 91-644, Omnibus Crime Control Act of 1970, Public Law 93-83, Omnibus Crime Control Act of 1973, and Public Law 94-503, Crime Control Act of 1976; Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974; Public Law 95-115, Juvenile Justice Amendments of 1977; and rules and guidelines promulgated by the Law Enforcement Assistance Administration. The proposed date of adoption is February 12, 1978.

Doc. No. 780095

## State Board of Insurance Nonprofit Legal Services Corporation Supervision, Requirements 059.23.02

The State Board of Insurance is proposing for permanent adoption the emergency rule it adopts in this issue.

The State Board of Insurance has relied on its Agents Licensing Section to determine the fiscal information necessary for the proposed rule. The fiscal implications are expected to be minor in that only six persons have been licensed as prepaid legal agents thus far with five more pending. All fees (examination, licenses, and renewals) are \$10, except that appointment fees are four dollars. The savings in administrative expenses for not collecting and processing the fees is expected to be negligible. The fiscal implications for the first five years of the amended rule is expected to also be insignificant, as persons or organizations have shown little interest in marketing legal services. There have been no new applications by an entity to market legal services for more than a year. There should be no fiscal implications for units of local governments.

Public comment on the proposed amendment to Rule 059.23.02.001 is invited. Persons should submit their comments in writing to W. O. Sanders, Manager, License Division, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786. Comments will be accepted until February 13, 1978.

This rule is proposed under the authority of Texas Insurance Code Annotated, Articles 5.13-1 and 23.23. The proposed date of adoption is February 12, 1978.

Doc. No. 780059

## Texas Board of Pardons and Paroles

### Parole

#### Terms and Conditions of Parole 205.03.02

The Texas Board of Pardons and Paroles is proposing to amend Rule 205.03.02.006 regarding employment of persons

## Office of the Governor Criminal Justice Division

### Mini-Block Participation 001.55.18

The Criminal Justice Division is proposing for permanent adoption the amendments to the emergency rules, Rules 001.55.18.001-019, and the permanent adoption of a new rule, .020, it adopts in this issue.

The proposed amendments would have no fiscal implications for the state or for units of local government.

Public comment on the proposal is invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning Willis Whatley, General Counsel, Criminal Justice Division, Office of the Governor at (512)

under parole supervision in positions requiring contact with others who have a criminal background. The present rule sets out an exception to parole rule 9, which was renumbered as parole rule f(1). Thus, it becomes necessary to amend this rule to reflect that change in numbering.

The executive director of the Board of Pardons and Paroles has determined that no fiscal implications will ensue as result of the promulgation, adoption, and implementation of this amendment to any governmental subdivision.

The Texas Board of Pardons and Paroles proposes to adopt this amendment 30 days after publication.

Public comment on this amendment to Rule 205.03.02.006 is invited. Such comment will be accepted for 20 days following publication and should be directed to John G. Jasuta, Staff Attorney, Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, Austin, Texas 78701.

This amendment is promulgated under the authority of Article 42.12, Section 15(d), Texas Code of Criminal Procedure (Supplement 1967).

**.006. Employment of Parolees in Positions Requiring Contact with Persons of Criminal Background.** As an exception to parole rule f(1) (9) and annual report rule 3, a parolee may accept employment with approved halfway house programs, drug abuse, or alcohol abuse programs upon the specific approval of the director of Parole Supervision.

Issued in Austin, Texas, on January 5, 1978.

Doc. No. 780106      George G. Killinger, Ph.D.  
Chairman  
Texas Board of Pardons and Paroles

Proposed Date of Adoption: February 12, 1978

For further information, please call (512) 475-3675.

## Railroad Commission of Texas Practice and Procedure

The Railroad Commission of Texas is proposing to repeal all of its existing rules of practice and procedure. The commission plans to adopt general rules of practice and procedure, applicable to practice before all divisions of the commission. The commission also plans to adopt special rules of practice and procedure to accommodate any unique requirements of a particular division. Proposed general and special rules of practice and procedure appear elsewhere in this issue of the *Register*.

The staff of the railroad commission has determined that the proposed repeal of its existing rules of practice and procedure will have no fiscal implications for state or local governments.

Public comment on the proposed repeal of existing rules of practice and procedure is invited. Comments should be submitted in writing to John G. Soule, Assistant Special Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted until Friday, February 24, 1978.

The repeal of existing rules is proposed under the authority of Article 6252-13a, Revised Civil Statutes. To be repealed are the following rules:

### Commission-Wide Rules/Practice and Procedure 051.01.01

.011-.016  
.021-.025  
.031-.039  
.041-.044  
.051-.054  
.061-.069  
.071-.078  
.081-.084  
.091-.093  
.101-.106

### Transportation Division/General and Special Rules of Practice and Procedure 051.03.50

.001-.056  
.101-.104

### Gas Utilities Division/Special Rules of Practice and Procedure 051.04.02

.012-.013  
.032-.035  
.044-.046  
.081-.082  
.091

### Liquefied Petroleum Gas Division/Safety Rules 051.05.03

.017  
.019

### Surface Mining and Reclamation Division/Practice and Procedure 051.07.01.001

### Surface Mining and Reclamation Division/Special Exceptions to Chapter I 051.07.02

.011-.012  
.024  
.030-.036  
.050-.051  
.100-.101

For the sake of economy, the text of rules to be repealed is not being published in the *Register*. The text is on file with the *Register*. To purchase copies of existing rules, contact the appropriate division of the Railroad Commission.

Doc. Nos. 780061-780066

## Commission-Wide Rules

### General Rules of Practice and Procedure 051.01.50

The Railroad Commission is proposing to adopt general rules of practice and procedure, 051.01.50.001-.050, which will apply to practice before all divisions of the commission. Elsewhere in this issue of the *Register*, the commission is proposing to adopt special rules of practice and procedure for certain divisions, to accommodate unique requirements of those divisions and to be applicable to practice before those divisions only. Also, elsewhere in this issue of the *Register*, the commission is proposing to repeal all of its existing general and special rules of practice and procedure.

The commission has determined that a uniform set of relatively simple rules of practice and procedure, applicable to practice before all divisions of the commission, will benefit the public, persons interested and participating in proceedings before the commission, the commission staff, and the commission, by eliminating unnecessary discrepancies and complexities in procedures applicable to practice before different divisions of the commission.

The staff of the Railroad Commission has determined that the proposed rules will have no fiscal implications for state or local government.

Comments on the proposed rules are invited. Comments should be submitted in writing to John G. Soule, Assistant Special Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted until Friday, February 24, 1978.

These rules are proposed under authority of Revised Civil Statutes, Article 6252-13a.

**.001. Definitions.**

(a) As used in these rules,

(1) "APA" means the Administrative Procedure and Texas Register Act, as amended, Texas Revised Civil Statutes Annotated, Article 6252-13a (Supplement 1976-1977).

(2) "Authorized representative" means the person representing anyone before the commission pursuant to these rules.

(3) "Commission" means the Railroad Commission of Texas.

(4) "Commissioner" means one of the elected or appointed members of the commission.

(5) "Director" means the person designated by the commission as the administrative head of one of the divisions.

(6) "Division" means any of the administrative subdivisions of the commission to which these rules apply.

(b) Definitions contained in the APA shall apply to these rules.

(c) As used in these rules, "may" indicates permission or discretion to act and "shall" indicates required or mandatory action.

**.002. Purpose and Scope of Rules.**

(a) The purpose of these rules is to provide a system of procedures for practice before all divisions of the Railroad Commission of Texas, providing for the just disposition of proceedings and for public participation in the decision-making process.

(b) These rules shall govern the institution, conduct, and determination of commission proceedings required or permitted by law, whether instituted by order of the commission or by the filing with the commission of an application, complaint, petition, or any other pleading. These rules shall not be construed so as to enlarge, diminish, modify, or otherwise alter the jurisdiction, powers or authority of the commission, or the substantive rights of any person or agency.

(c) These rules apply to proceedings before the Gas Utilities Division, the Liquefied Petroleum Gas Division, the Oil and Gas Division, the Surface Mining and Reclamation Division, and the Transportation Division.

(d) Any division may adopt special rules of practice and procedure to be applicable only to proceedings before that division. Special rules shall be adopted only when a division

has unique requirements which have not and cannot be accommodated within these rules. When a special rule is in conflict with any of these rules, the special rule shall control.

**.003. Suspension of Rules.** The commission may suspend the operation of one or more of its general or special rules of practice and procedure if there exists a public emergency or imperative public necessity and the commission ascertains that suspension will best serve the public interest and will not unduly prejudice the rights of any party.

**.004. Violation of Procedural Rules.** In addition to any other penalty authorized by law or by commission rule, the willful violation of any general or special rule of practice and procedure shall be sufficient cause for the commission to enter an order holding the offender in contempt and subjecting him to such just, reasonable, and lawful disciplinary action as the commission may prescribe.

**.005. Conduct and Decorum.** Every party, authorized representative, witness, or other participant in commission proceedings shall conduct himself with proper dignity, courtesy, and respect for the commission, the director, the examiner, the parties, witnesses, and all other participants. Disorderly conduct will not be tolerated. All authorized representatives shall observe the standards of ethical conduct prescribed for attorneys at law by the State Bar of Texas. Violation of this rule shall be sufficient cause for the examiner to recess the hearing and to request that the commission take appropriate action. The commission may deny an offending party the right to participate further in the proceeding for such period of time and under such conditions as may be just and reasonable or may take such other action as it deems just and reasonable.

**.006. Ex Parte Communications.** *Ex parte* communications are prohibited in contested cases as provided in Section 17 of the APA.

**.007. Computation and Extensions of Time.**

(a) In computing any period of time prescribed or permitted by the director or the examiner, or by rule or order of the commission, the day of the act, event, or default from which the period of time begins to run shall not be included, but the last day of the period being computed shall be included, unless it is a Saturday, Sunday, or official state holiday, in which event the period shall continue to run until the end of the next day which is not a Saturday, Sunday, or official state holiday.

(b) Unless otherwise provided by statute or special rule, the time for filing any pleading or other document may be extended by the director or the examiner. Except for good cause shown, a motion for extension of time to file shall be filed with the director prior to the applicable deadline. Such motion shall show that there is good cause for an extension of time and that the need for the extension is not caused by the negligence, indifference, or lack of diligence of the person filing the motion. A copy of any such motion shall be served contemporaneously with the filing thereof upon all parties of record.

**.008. Testimony Under Oath or Affirmation.** Testimony in all commission hearings shall be presented under oath or affirmation administered by the examiner or the court reporter.

**.009. Rulemaking Procedures.** Rulemaking shall be accomplished by the commission pursuant to Sections 1 through 12 of the APA.

**.010. Petition for Adoption of Rules.**

(a) Any interested person or agency may petition the commission requesting adoption of a rule. Petitions shall be in writing, shall be filed with the director of the appropriate division, and shall comply with the following requirements:

(1) Each requested rule must be submitted by separate petition.

(2) Each petition must state the name and address of the petitioner.

(3) Each petition shall include:

(A) a brief explanation of the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is proposed to be promulgated; and

(D) a justification for adoption of the rule.

(b) The director shall review all petitions for compliance with the requirements of this rule. If any petition does not so comply, the petitioner shall be notified, with an explanation as to why it is deficient. The petitioner shall thereafter have the right to file a corrected petition which does comply with the requirements of this rule.

(c) Upon receipt of a petition which complies with the requirements of this rule, the director shall present the petition to the commission, together with his recommendation as to whether or not a rulemaking proceeding should be initiated. Thereafter, within 60 days of the date the petition was properly submitted, the commission either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings in accordance with the APA and these rules. The commission may modify any proposed rule filed pursuant to this rule to ensure that it conforms to the format of other commission rules, or as may be necessary for proper filing with the *Texas Register*.

**.011. Classification of Pleadings.** Pleadings filed in proceedings before the commission shall be designated as one of the following: application, petition, complaint, notice of protest, answer, motion, exceptions, brief, or if authorized by these rules, response or reply to one of the preceding. Regardless of any error in the designation of a pleading, it shall be accorded its true status in the proceeding in which it is filed.

**.012. Filing of Pleadings and Other Documents.**

(a) All pleadings and other documents relating to any proceeding pending or to be instituted before the commission shall be filed with the appropriate director. Except as provided in (b) below, pleadings and other documents shall be deemed filed only when actually received by the director, accompanied by any required filing fee. Filings which do not substantially comply with these rules in all material respects shall not be deemed to have been filed until corrected. Unless otherwise specified by statute or by commission rule, all filings shall be accompanied by at least three copies.

(b) Unless the examiner gives prior notice to the contrary, if any document is sent to the division by first-class United States mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing same, and if it is received

not more than 10 days tardily, it shall be deemed timely filed. A legible postmark affixed by the United States Postal Service shall be *prima facie* evidence of the date of mailing.

**.013. Form and Content of Pleadings.**

(a) Unless otherwise permitted or required by commission rules or by statute, pleadings shall contain a statement of the objectives of the pleading and a concise statement of supporting facts.

(b) Pleadings shall be typewritten or printed on white paper no more than eight and one-half inches wide and no more than 14 inches long, with inside margins of at least one inch. Exhibits attached to pleadings shall be the same size or folded to the same size and shall have the same margins. Unless a pleading is printed, the impression shall be on one side of the paper only and shall be double spaced, except that footnotes and lengthy quotations may be single spaced. Reproductions are acceptable, provided that all copies are clear and permanently legible.

(c) The original of every pleading filed with the commission shall be signed in ink by the party filing same or by his authorized representative. Pleadings shall contain the business address and telephone number of the party filing same and, if by authorized representative, the business address and telephone number of such representative.

**.014. Service.**

(a) A copy of any pleading or document filed by any party in any proceeding before the commission shall be mailed or otherwise delivered by the party filing same to every other known party of record at the time of filing. If a party is represented by an authorized representative, service shall be made on that representative.

(b) All pleadings shall include a certification that copies have been served on all parties of record, stating the names and addresses of those served, together with the date and manner of service.

(c) Unless otherwise proved by competent evidence introduced at hearing, a pleading or other document shall be deemed to have been received by a party, on whom it has been served in accordance with these rules, three days after it was mailed or on the date received if delivered in person.

(d) The failure of any party to serve a pleading on other parties as required by this rule shall be sufficient grounds for the director or the examiner to strike the pleading from the record or to take other appropriate action.

(e) The commission shall serve documents by appropriate mailing or personal delivery. Where personal service is required by law, service by registered or certified mail to the person's last known address shall be deemed sufficient. The date of service by the commission is the date of mailing, if mailed, or the date of personal delivery.

**.015. Sufficiency of Pleadings.** If the director or the examiner finds that a pleading does not substantially comply in all material respects with the commission's rules, the filing party shall be notified as to the nature of the deficiency or deficiencies. Unless precluded by operation of law, the party who filed the pleading shall thereafter have the right to file a corrected pleading. The filing of a corrected pleading shall not be permitted to delay any proceeding unless the director or the examiner determines that such delay is necessary in order to prevent injustice and to protect the public interest, nor shall the filing of a corrected pleading relate back to the deficient pleading's filing date for purposes of commencing or

tolling the running of a period of time established by law or by commission rule.

**.016. Motions.** Unless dictated into the record during a pre-hearing conference or hearing at which a court reporter is present, all motions relating to any proceeding pending before the commission shall be made in writing and shall state the relief sought and the specific reasons and grounds therefor. If the motion is based upon alleged facts which are not a matter of record, it shall be supported by sworn affidavit. Motions filed prior to a final decision shall generally be acted on by the director or the examiner. The director shall have the discretion to determine whether or not motions properly addressed to and requesting action by the commission itself should be presented for immediate consideration or should be presented at the time a final decision is considered. Notice of action on any motion shall be served on all parties of record.

**.017. Responsive Pleadings.** Unless otherwise specified by the director or examiner, responsive pleadings shall be filed within seven days after receipt of the pleading to which response is being made. Unless otherwise precluded by law or by these rules, the commission, the director, or the examiner is not precluded from taking action on a pleading before the expiration of time for filing responsive pleadings if required. Action taken under such conditions is subject to later modification based on timely responsive pleadings.

**.018. Amended Pleadings.**

(a) Except as provided in Section (b) of this rule or unless otherwise provided by commission rule or by statute, a pleading may be amended as a matter of course at any time within 20 days after it is filed or at least five days prior to the hearing date, whichever is earlier. Otherwise, a party may amend his pleading only by leave of the director or examiner or by written consent of all adverse parties. Leave to amend shall be granted when justice so requires.

(b) Absent approval of the director or examiner and issuance of additional notice as required by the APA, an application, petition, or complaint, upon which original notice has been issued, may not be amended so as to broaden or enlarge the scope thereof.

**.019. Incorporation of Commission Records by Reference.** Any pleading which refers to any part of any document or entry in the official files and records of the commission shall name the specific file, report, or docket number and the specific matters in that file, report, or docket to which reference is being made. Such reference shall not relieve any party of the necessity of alleging in detail and offering competent evidence on facts necessary to sustain its burden of proof, nor shall it constitute a requirement that the referenced material be officially noticed by the commission other than in accordance with these rules.

**.020. Classification of Parties.** Parties to contested cases before the commission are applicants, protestants, petitioners, complainants, respondents, and intervenors. Regardless of errors as to designation in their pleadings, parties shall be accorded their true status in a proceeding.

**.021. Appearances and Representation.**

(a) Any person or agency who has a justiciable or administratively cognizable interest and who is not an applicant, petitioner, complainant, protestant, or other party named by the commission, and who desires to be designated a

party and to appear in any proceeding before the commission shall file a petition for leave to intervene within 20 days of the original notice of hearing or at least five days prior to the hearing date, whichever is earlier. A notice of protest shall be filed only when a division has adopted a special rule of practice and procedure setting forth the requirements for filing such a pleading, or as provided by order of the commission initiating the proceeding. A copy of any petition for leave to intervene or notice of protest shall be served as provided by commission rule or in the notice of hearing.

(b) The director or examiner shall act on all petitions for leave to intervene. All appearances shall be subject to a motion to strike for having been improperly admitted.

(c) A party may appear and be represented by an attorney authorized to practice law before the highest court of any state or before any federal court. A natural person who is a party may appear on his own behalf. On motion by any party, subject to objection by any other party to the proceeding, the examiner, in his sole discretion, where the interests of justice so require, and the conduct of the proceeding will not be unduly affected or the record unduly burdened, may permit a party to be represented by a *bona fide*, regular officer or employee of that party. Authorized representatives shall note their capacity as such on the first pleading or other document they file on behalf of a party they represent. This section does not apply to persons appearing as witnesses.

**.022. Docketing and Notice.** When a director receives an application or other pleading which complies with commission rules and is intended to institute a nonrulemaking proceeding, he shall docket it as a pending case, shall assign one or more examiners to the case, and shall cause service of notice thereof in accordance with commission rules and applicable law.

**.023. Show Cause Proceedings.** In response to a written complaint, or *sua sponte*, the commission or the director may issue an order commanding a person or agency subject to the commission's jurisdiction to appear at a public hearing and show cause why it should not be compelled to do the act required or why the commission should not take the action proposed.

**.024. Prepared Written Testimony and Exhibits.** The commission, a director, or an examiner may require or permit that prepared written testimony and exhibits be filed and served on all other parties of record at some specified date prior to the hearing. Failure to file prepared testimony and exhibits as required under this rule shall be sufficient cause for the evidence which was to be included in such testimony and exhibits to be ruled inadmissible or for the commission, director, or examiner to take such other appropriate action as may be just and reasonable.

**.025. Postponements and Continuances.** Motions for postponement or continuance of proceedings duly set for hearing shall be filed not less than five days prior to the date of hearing, except for good cause shown. Such motion shall set forth, under oath, the grounds upon which the moving party seeks such action and shall make reference to any prior motions for postponement or continuance filed by the moving party in the same proceeding.

**.026. Consolidation and Joint Hearings.** When proceedings involving common questions of law or fact are pending before the commission, the director, on his own initiative or

on the motion of any party, may consolidate the proceedings, or direct that there be a joint hearing without formal consolidation, and may take such other action as may tend to avoid unnecessary costs or delay.

**.027. Pre-hearing Conferences.** In any proceeding, the director or examiner, on his own motion or on the motion of any party, may direct the parties or their authorized representatives to appear at a pre-hearing conference to consider:

- (a) motions and other preliminary matters relating to the proceedings;
  - (b) settlement of the case or simplification of the issues;
  - (c) the necessity or desirability of amended pleadings;
  - (d) the possibility of obtaining admissions or stipulations which will avoid the unnecessary introduction of evidence;
  - (e) the limitation of the number of witnesses;
  - (f) the specific procedures to be followed at the hearing;
- and
- (g) such other matters as may aid in the disposition of the proceeding.

Matters considered at a pre-hearing conference shall be incorporated into rulings where appropriate and conveyed by the examiner to the parties in writing.

**.028. Stipulations.** No stipulation or agreement between the parties or their representatives with regard to any matter involved in any proceeding before the commission shall be considered unless it has been reduced to writing and signed by the parties or their authorized representatives or dictated into the record during the course of a pre-hearing conference or hearing at which a court reporter is present. This rule does not limit a party's ability to waive or modify by stipulation any right or privilege afforded by these rules, unless otherwise precluded by law.

**.029. Discovery in Contested Cases.** Parties may obtain discovery by one or more of the methods and in accordance with the procedures set forth in Sections 14 and 14a of the APA. Except for good cause shown, motions for discovery orders shall be filed no less than 30 days prior to the hearing date. Discovery orders include the following: subpoenas, commissions for the taking of depositions, necessary protective orders, and rulings on the sums necessary to be deposited to cover the cost of subpoenas or depositions. The motion shall be accompanied by a sworn statement indicating that after due diligence the information cannot be obtained by agreement of the parties. Answers to motions for discovery orders may be filed by the party or parties to whom the requested discovery order will be directed. Such answers must be filed within seven days of the day on which the motion was filed, or as directed by the examiner. Failure to file an answer shall be deemed a waiver of objections to the requested discovery order. Motions for discovery orders shall be acted on by the director or the examiner, but not before expiration of time for filing answers. The commission, any commissioner, the director, or the examiner may issue discovery orders.

**.030. Dismissal.** The commission may dismiss with or without prejudice any proceeding under such conditions and for such reasons as it finds to be just and reasonable. A director may dismiss without prejudice a proceeding at the request of the initiating party. Dismissal may be pursuant to a mo-

tion filed by any party of record or on the initiative of the director or the commission.

**.031. Place and Nature of Hearings.** All hearings conducted in any proceeding shall be open to the public and, except as otherwise required by law, shall be held in Austin, Texas, unless for good cause and in the public interest the commission designates another place of hearing.

**.032. Presiding Officer.**

(a) Hearings may be conducted by one or more of the commissioners, by a director, or by one or more commission employees designated as examiners, any or all of whom are referred to in these rules as the examiner.

(b) Subject to any limitations imposed by law or by commission rule, the examiner shall have broad discretion in regulating the course and conduct of any hearing over which he is presiding. The examiner shall have, but not be limited to, the authority:

- (1) to administer oaths and affirmations;
- (2) to call and examine witnesses;
- (3) to make necessary rulings during a hearing;
- (4) to issue discovery orders as provided by these rules;

(5) to submit a proposal for decision, including findings of fact and conclusions of law and such recommended orders as may be supported by the record and are within the commission's statutory authority; and

(6) to take any other action not prohibited by law or by commission rule which is necessary for a fair, just, and proper hearing.

(c) If, prior to a final decision by the commission, the assigned examiner in any case ceases to serve as examiner for any reason, the director may assign another examiner to complete the case without the necessity of that examiner repeating or duplicating any duty or function performed by the previous examiner, other than reading the record.

**.033. Hearing Procedures.** At the opening of a hearing, the examiner shall make a concise statement for the record outlining the scope and purpose of the hearing. After the examiner's opening statement, appearances shall be entered by all parties. In contested cases, all parties shall be permitted to make an opening statement, to offer direct evidence and testimony, to cross-examine witnesses, and to present supporting argument. The examiner may direct that closing argument be made in writing. Clarifying questions on *voir dire* will be permitted when necessary, but shall not be substituted for cross-examination. During the hearing the parties shall go off-the-record only with the examiner's permission. Relevant off-the-record discussions shall be summarized for the record by the examiner.

**.034. Reporters and Transcripts.**

(a) In all contested proceedings, unless waived by all parties of record and approved by the director or examiner, and in any uncontested or preliminary proceeding when requested by any party of record or required by the director or examiner, a reporter employed by the commission shall make and transcribe a stenographic record of the hearing or proceeding. The reporter shall provide as many copies of the transcript as may be required for the purposes of the commission. No copies of the transcript will be furnished free of charge to the parties by the commission, but copies may be purchased from the official reporter upon payment of ap-



propriate charges. The commission shall approve rates to be charged by its reporters on transcripts that are sold. The rates shall not exceed rates authorized by law to be charged by official court reporters for district courts in the State of Texas.

(b) At the option of the party initiating the proceeding and with the approval of the director or the examiner, or if a commission reporter is unavailable, the parties may employ a stenographic court reporter to make and transcribe the record. The original transcript shall be transmitted to the commission for inclusion in the record, with the cost of the original assessed one-half against the party initiating the proceeding and one-half equally against all other parties of record. Copies of the transcript shall be made available to all parties requesting same at a cost not to exceed the cost authorized by law to be charged by official court reporters for district courts in the State of Texas.

(c) Suggested corrections to the transcript will be entertained only as to matters of substance. All requests for changes in the transcript must be made in writing and, unless otherwise authorized by the examiner, must be filed within 10 days after the transcript is filed with the division, with a copy served contemporaneously on all parties of record. If no objections are filed within 20 days after the transcript is filed with the division, and the examiner agrees with the suggested corrections, he shall direct the corrections to be made and the manner of making them. If objections have been filed or if the examiner disagrees with the suggested corrections, the examiner, with the aid of whatever oral or written argument and testimony he deems necessary, shall determine what, if any, corrections shall be made.

**.035. Formal Exceptions Not Required.** Formal exceptions to rulings made by the examiner during a hearing are not required. A party need only make known to the examiner the ruling he desires or his objection to a ruling and the grounds therefor.

**.036. Rules of Evidence and Official Notice.**

(a) The rules of evidence in contested cases before the commission shall be as provided in Section 14 of the APA.

(b) Official notice in contested cases before the commission shall be accomplished as provided in Section 14 of the APA.

**.037. Documentary Evidence.** Documentary evidence may be received in the form of copies or excerpts if the original is not readily available or is not in a readily usable form. On request, any party of record shall be given an opportunity to compare the copy with the original. When numerous documents are offered into evidence, the examiner may limit those admitted to a number which are typical and representative. In his discretion, the examiner may require or permit the abstracting of relevant data from a document and may require the presentation of the information in exhibit form. All parties of record shall have the right to examine the documents to be abstracted. A party desiring to examine underlying documents shall exercise that right at its earliest opportunity. A party's right to examine underlying documents may be deemed by the examiner to be satisfied by the right to discover and examine those documents pursuant to the APA and these rules. The documents underlying any exhibits made available to other parties for the first time at a hearing shall be available for inspection at the hearing unless prior

arrangements have been made and agreed to by all parties or directed by the examiner.

**.038. Admissibility of Written Testimony.** When a proceeding will be expedited and the interests of the parties will not be substantially prejudiced, direct testimony may be received in written form. The written testimony of a witness on direct examination, either in narrative or question and answer form, may be received as an exhibit and incorporated into the record without the necessity of its being read. A witness who is offering written testimony shall be sworn and shall identify the written testimony as a true and accurate representation of what his testimony would be if he were to testify orally, after which the witness shall submit himself to *voir dire* and cross-examination. Written testimony shall be subject to the same evidentiary objections as oral testimony. Written testimony shall be filed with the director and served on all parties of record so as to ensure receipt as required by the commission, director, or examiner. Written testimony prepared and circulated prior to the hearing in accordance with these rules shall be read into the record, in whole or in part, only when required or permitted by the examiner.

**.039. Limiting Number of Witnesses.** The examiner shall have the right in any proceeding to limit the number of witnesses whose testimony he finds will be merely cumulative.

**.040. Exhibits.**

(a) Exhibits to be offered in evidence at a hearing in any proceeding shall be of such a size as will not unduly encumber the record. Whenever practicable, exhibits shall conform to the size requirements established by these rules for pleadings. The pages of each exhibit shall be numbered consecutively. There shall be a brief statement on the first page of each exhibit as to what the exhibit purports to show.

(b) The original of each exhibit offered in evidence shall be tendered for identification and inclusion in the record. Additionally, copies of the exhibit shall be furnished to the examiner and to each party of record at or prior to the time the exhibit is offered in evidence.

(c) Unless specifically requested or permitted by the examiner, no exhibit shall be filed in any proceeding after conclusion of the hearing. If the examiner requests or permits the filing of a late-filed exhibit, copies shall be served on all parties of record, and all other parties of record shall be afforded an opportunity to make written response.

**.041. Offers of Proof.** In a contested case, when testimony is excluded by ruling of the examiner, the party offering the evidence shall be permitted to make an offer by dictating or submitting in writing the substance of the proposed testimony, prior to the close of the hearing. The examiner shall direct the manner in which the offer is made and may ask such questions of the witness as he deems necessary to satisfy himself that the evidence would be as represented.

**.042. Proposal for Decision.**

(a) When a proposal for decision is prepared as provided by Section 15 of the APA, copies shall be served by the director on all parties of record.

(b) In his discretion, and after notification to all parties, the examiner may direct a party to draft and submit proposed findings of fact or a proposal for decision which shall include proposed findings of fact and conclusions of law. The examiner may limit his request for proposed findings to any particular issue or issues of fact. The party's proposed find-



ings of fact shall be supported by concise and explicit statements of underlying facts developed from the record with specific reference to where in the record such facts appear. Only if the examiner requires the filing of proposed findings of fact or a proposal for decision shall the commission be required to rule on each of the proposed findings of fact as provided in Section 16 of the APA. If a party is permitted, but not required, to submit proposed findings or a proposal for decision, the commission shall not be required to rule on each of the party's proposed findings.

(c) A proposal for decision may be amended pursuant to exceptions, replies, or briefs submitted by the parties without again being served on the parties. Unless the amended proposal for decision is served on all parties, amendments adopted by the commission shall be noted and embodied with specificity in the commission's final order.

**.043. Exceptions and Replies.** Any party of record may file exceptions to a proposal for decision within 20 days after the date of service of that proposal. Replies to exceptions may be filed within 35 days after the date of service of the proposal. Exceptions and replies must be supported by evidence of record with a specific page reference to where in the record the evidence is located. Argument and reference to the record shall be grouped under the exception or reply to which they relate. Extensions of time within which to file exceptions and replies may be granted by the director or examiner. Such extensions shall be granted only under extraordinary circumstances when the interests of justice so require.

**.044. Briefs.**

(a) Briefs may be filed prior to the issuance of a proposal for decision only when requested or permitted by the examiner. The examiner may limit the scope of briefs requested or permitted to be filed under this section to a particular issue or set of issues presented by the case. The time for filing briefs under this section shall be as required by the examiner.

(b) Unless requested or permitted by the commission, briefs may be filed after issuance of a proposal for decision only if a majority of the commission did not hear the case or read the record. The time for filing briefs and reply briefs under this section shall be the same as provided for the filing of exceptions and replies under these rules.

(c) All briefs shall be filed with the appropriate director and shall contain, under appropriate headings and in the order indicated:

(1) a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to pages of the brief where they are cited;

(2) a short, plain statement of the nature of the proceeding without argument;

(3) a statement of the issues or points presented on brief;

(4) an argument containing contentions with respect to the issues or points presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on; and

(5) a short conclusion stating the precise relief sought.

**.045. Commission Action after a Proposal for Decision.** After the expiration of time for filing exceptions and replies as provided by these rules, the proposal for decision will be

considered by the commission at conference. The commission may adopt the proposal for decision, in whole or in part, or it may decline to adopt the proposal, in whole or in part. The commission may remand the proceeding for further consideration by the same or a different examiner. It may direct that further consideration by an examiner be accomplished with or without reopening the hearing. If, on remand, additional evidence is received which results in a substantial revision of the examiner's recommendation for final action, a new proposal for decision shall be prepared, in whole or in part, unless a majority of the commission has held the hearing or read the record on remand. If a new proposal for decision is prepared, it shall be clearly labeled as such and all parties of record shall have the right to file exceptions, replies, and briefs, as if the new proposal were the original proposal for decision. The commission is not limited to the specific types of actions outlined in this rule and may take any other action it deems to be just and reasonable.

**.046. Oral Argument Before the Commission.**

(a) Any party of record may file with the director prior to a final decision or before consideration of a motion for rehearing in any contested case a motion for oral argument before the commission. The motion for oral argument may be made by separate pleading or may be incorporated in a party's exceptions, replies, brief, or motion for rehearing.

(b) A motion for oral argument before the commission in any rulemaking proceeding may be filed by any person who has participated in that proceeding.

Except for good cause shown, motions for oral argument shall be filed at least five days prior to the date scheduled for commission consideration of a final decision or motion for rehearing in a contested case or for final action by the commission in a rulemaking proceeding.

**.047. Final Decisions in Contested Cases.** A final decision in a contested case shall be rendered within 60 days of the date on which the hearing is closed, unless, in a contested case heard by other than a majority of the commission, the examiner prescribes and announces at the conclusion of the hearing a longer period of time within which a final decision will be rendered. The final decision of the commission in any contested case shall be embodied in a final order which shall be identified as such.

**.048. Form, Content, and Service of Final Orders.** Final orders shall be signed by at least two commissioners. A final order in a contested case shall include, or adopt by reference to a proposal for decision, findings of fact and conclusions of law as required by the APA. If a party, pursuant to commission rule, is required by the examiner to submit proposed findings of fact, the final order shall include, or adopt by reference to a proposal for decision, a ruling on each proposed finding. A copy of the commission's final order shall be served on all parties of record.

**.049. Motions for Rehearing.** Motions for rehearing and replies to such motions may be filed in a contested case by any party of record pursuant to Section 16 of the APA. Motions for rehearing are actually motions for reconsideration and need not request an actual rehearing in order to be considered. Any filing seeking modification of a final order in any respect shall be considered a motion for rehearing, notwithstanding its actual designation or the specific relief sought. The granting of a motion for rehearing by the com-

mission does not necessarily mean the commission or an examiner will rehear the case. It means only that the commission will reconsider its final decision.

**.050. Administrative Finality of Decisions in Contested Cases.** A final order of the commission achieves administrative finality on the date it is appealable. In the absence of a timely motion for rehearing, a final order of the commission is appealable on the expiration of time for filing a motion for rehearing. If a timely motion for rehearing is filed, a final order is appealable on the date the motion is overruled by action of the commission or by operation of law. A final decision of the commission is not appealable if a motion for rehearing has been granted and a subsequent final order has not been issued. If the commission finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final order, and so recites in the order, a motion for rehearing is not required and it is immediately appealable.

Doc. No. 780067

## Transportation Division

### Special Rules of Practice and Procedure

#### 051.03.50

The Railroad Commission of Texas is proposing to adopt special rules of practice and procedure, 051.03.50.013, .021, .022, and .100-.104 applicable to practice before the Transportation Division only. See also general and special rules of practice and procedure proposed for adoption and repeal elsewhere in this issue of the *Register*. These rules are being proposed to satisfy the unique procedural requirements for practice before the Transportation Division.

The staff of the Railroad Commission has determined that the proposed rules will have no fiscal implications for state or local governments.

Comment on the proposed rules is invited. Comments should be submitted in writing to John G. Soule, Assistant Special Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted until Friday, February 24, 1978.

These rules are proposed under the authority of Revised Civil Statutes, Article 6252-13a.

**.013. Form and Content of Pleadings.** All pleadings filed with the Transportation Division shall be typewritten or printed on paper eight and one-half inches wide and 11 inches long with an inside margin at least one inch wide. Exhibits attached thereto shall be folded to the same size whenever practicable. In all other respects such pleadings shall meet the requirements set forth in the general rules of practice and procedure before the commission.

**.021. Appearances and Representation.** In addition to persons authorized by the commission's general rules of practice and procedure to represent parties before the commission, any party to a proceeding before the Transportation Division may appear and be represented by any person who is licensed to practice before the Interstate Commerce Commission.

#### **.022. Docketing and Notice.**

(a) Notice by publication. At least twice monthly, the director of the Transportation Division shall cause to be published a "Notice of Hearings." The "Notice of Hearings" shall give notice of all applications or other pleadings by which proceedings shall have been instituted in the Transportation Division since the last "Notice of Hearings." The "Notice of Hearings" shall contain the following:

(1) the name and address of the applicant or other party filing the pleading and the name and address of that party's authorized representative, if any;

(2) a concise statement of the action sought in the proceeding, with reference to the commission's source of jurisdiction and authority to take the action sought; and

(3) a statement of the procedure to be followed, including the requirements for filing a notice of protest.

The date of publication of the "Notice of Hearings" shall be the date on which it is published.

(b) Protested and unprotested dockets. Applications to which one or more notices of protest have been filed shall be assigned to the protested docket. Applications to which no notice of protest has been filed shall be assigned to the unprotested docket. The unprotested docket shall be handled as expeditiously as possible, particularly if the applicant has filed a written statement waiving any requirement for the preparation of a proposal for decision. An applicant whose application is placed on the unprotested docket shall not be relieved of sustaining his burden of proof imposed by law.

(c) Expedited procedure for applications. An application seeking institution of or change in any license or rate may be given expedited processing if, in addition to meeting all requirements ordinarily required for the filing of the type of application, the applicant submits with the application, in writing and under oath, all of the evidence that would otherwise support the same at an oral hearing held in connection therewith. Examples of such evidence are annual reports, affidavits of prospective witnesses, cost analyses of proposed charges, and blueprints and graphics. The director or his designee shall review each application requesting expedited processing and determine if it contains all information necessary to enable the commission to reach a favorable decision on it. The applicant shall state, in writing, that he expressly waives his opportunity for adjudicative hearing and any requirements for preparation of a proposal for decision. If approved by the director or his designee, such application shall be docketed as an "expedited" application and shall be placed in the division's "Notice of Hearings." If no protest has been filed against such application at the expiration of the period for filing same, an order approving the application shall be prepared and duly processed without further proceedings. However, if the director determines that such an application does not contain all necessary information for processing without an oral hearing, it will be docketed as a regular application and, if no notice of protest is filed shall be placed on the unprotested docket. Any application for expedited processing to which a protest has been filed shall be placed on the protested docket and shall be heard as a regular application.

#### **.100. Notice of Protest.**

(a) Anyone desiring to oppose the granting of any application before the Transportation Division may file a notice of protest. A notice of protest shall set forth the specific

grounds upon which it is made, including a concise statement of the protestant's interest in the proceeding. A copy of the notice of protest shall be served on the applicant.

(b) A notice of protest shall be filed within 15 days of the publication of the "Notice of Hearings" in which the application appears. The time for filing a notice of protest shall not be extended. An application may be set down for hearing prior to the deadline for filing notices of protest.

**.101. Expiration of Licenses Pending Application for Renewal or Continuation.** When a licensee has made timely and sufficient application for the renewal of a license or a new license for any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and in case the application is denied or the terms of the new license limited, until the last date for seeking review of the commission order or a later date fixed by order of the reviewing court.

**.102. Filing Fee Accompanying Application.** Every application seeking a license, approval of a lease, sale or transfer of any license, or prescription of rules, rates, or charges shall be accompanied by a filing fee in the sum of \$25, except for an application seeking a contract carrier permit or an approval of a lease, sale, or transfer of the same for which the fee is \$10, and except for an application seeking a motor transportation broker's license for which the filing fee is five dollars. All filing fees shall be retained by the commission.

**.103. Annual Subscriptions.** Any one who desires to apply for an annual subscription to the following items may do so by writing to: Warren E. Hawkins, Railroad Commission of Texas, Transportation Division, P.O. Drawer 12967, Austin, Texas 78711. Upon receipt of such request, an application form will be mailed to each applicant. The annual subscription charges are:

Subscription matter mailed as first class mail:

Text (Document)	Cost Per Copy
Transportation Notice of Hearing	\$ 6.30
Railroad Freight Circular and Order	15.75
Motor Freight Circular and Order	26.25

Tariff and supplement matter mailed as third class mail:

Tariff and Supplement	First Copy Free; \$1 for Additional Copy
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A copy of any of these documents is furnished to agencies of the U.S. Government, State of Texas agencies, county offices, city offices, and the news media at no charge. Every motor carrier operating under certificate or permit issued by the Railroad Commission of Texas in Texas intrastate commerce receives one copy of the Transportation Notice of Hearing and Motor Freight Circular at no charge. The specialized motor carriers and contract motor carriers subject to the provisions of Railroad Commission of Texas motor freight commodity tariffs receive one copy of each applicable tariff and supplement thereto at no charge. Additional copies, including supplements, will be furnished at a price of one dollar each. Requests for additional copies must be accompanied with the appropriate check made payable to the Texas state treasurer. All subscriptions cover a 12-month period from the filing date of the application form. A written request for renewal of subscription and a check made payable to the Texas state treasurer, if required, must be submitted 30 days

prior to the expiration date of a subscription. If, after the expiration date, a written request and remittance, if applicable, is not received, the subscriber's name will be removed from the agency's subscription list.

**.104. Penalty on Late-Filed Reinstatement Applications.** Any application to reinstate a certificate or permit filed after the deadline date as specified on the commission order canceling the certificate or permit will be assessed an additional penalty fee of \$1 a day for each day after the deadline date. In the event an initial application to reinstate is deemed insufficient by the director for whatever reason and a subsequent filing is made, the receipt date of the last application will be the governing date for determining the appropriate penalty.

Issued in Austin, Texas, on January 4, 1978.

Doc. No. 780068      Mack Wallace  
Chairman  
Railroad Commission of Texas

Proposed Date of Adoption: March 27, 1978

For further information, please call (512) 475-4686.

## Gas Utilities Division

### Substantive Rules 051.04.03.011

The Railroad Commission of Texas is proposing to amend Rule 051.04.03.011 to modify the annual report filing requirements imposed by that rule. The commission believes that permitting certain utilities regulated by the Federal Energy Regulatory Commission and alleging to have no intrastate sales or transportation arrangements to file an FERC Form 2 or other annual report required by that agency in lieu of the annual report form provided by the Gas Utilities Division will substantially reduce the burden on such companies without significantly impairing the ability of the commission to adequately examine the information required.

The staff of the Gas Utilities Division has indicated that this rule imposes no additional fiscal requirements on state government.

Public comment on the proposed amendment to Rule 051.04.03.011 is invited. Comments should be submitted to Joseph J. Piotrowski, Jr., Director, Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

This rule is being promulgated under the authority of Texas Revised Civil Statutes Annotated, Articles 1446c (Supplement 1976-1977) and 6252-13a, Section 4(a)(1) (Supplement 1975). Public comments on the proposed rule will be accepted for 30 days after publication in the *Texas Register*.

**.011. Annual Report.** Each "gas utility," "public utility," or "utility" under the jurisdiction of the Railroad Commission of Texas shall file with the commission each year an annual report showing that information required by the commission to enable it to properly regulate natural gas utilities within the state. This annual report shall be made on a form approved by the Gas Utilities Division, printed, and distributed to all gas utilities by the division. This annual report shall be

made on a calendar year basis with the report being due not later than 90 days after December 31 of each calendar year.

*Any utility under the regulation of the Federal Energy Regulatory Commission (FERC) alleging that it makes no intrastate sales and engages in no intrastate transportation may file a copy of its FERC Form 2 or such other annual report as may be required by that agency in lieu of the annual report form prescribed by the Gas Utilities Division. Such report shall be accompanied by a sworn statement that the foregoing criteria have been met, and shall be accompanied or supplemented by such other information as the Gas Utilities Division may require. If, upon examination, the Gas Utilities Division determines that a utility filing under this provision should properly have filed an annual report on the form prescribed by the division, the utility shall be notified and required to file the appropriate report.*

This rule is made to comply with the orders issued in Gas Utilities Docket Nos. 1, 2, 5, and 6, which orders are hereby incorporated into this rule.

Doc. No. 780125

### 051.04.03.035

The Gas Utilities Division of the Railroad Commission of Texas is proposing to adopt Rule 051.04.03.035. This rule is proposed to promulgate a procedure for the reporting and investigation of the proposed sale, lease, or merger of gas utility facilities. The rule specifically places the burden upon the seller or lessor of the gas utility plant or the gas utility proposing to merge with another utility to report such sale, lease, or merger to the Gas Utilities Division which, upon the receipt of such report, is required to audit the gas utility system which is to be sold, leased, or merged, and make a safety evaluation report of the condition of the system to be sold, leased, or merged.

According to the staff of the Personnel and Budget Division of the Railroad Commission of Texas, the administration of this proposed rule for the balance of fiscal year 1978 will probably be \$15,479 and \$28,373 for each of the fiscal years 1979, 1980, 1981, and 1982.

Public comment on Proposed Rule 051.04.03.035 is invited. Persons should submit their comments in writing to Joseph J. Piotrowski, Jr., Director, Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted until 30 days subsequent to the publication of this rule in the *Texas Register*.

This rule is proposed pursuant to Texas Revised Civil Statutes Annotated, Article 1446c, Section 63 (Supplement 1976-1977) and Article 6053 (1962).

*.035. Reporting and Investigation of the Sale or Merger of Gas Utilities.* No gas utility may sell, acquire, lease, or rent any natural gas operating unit or natural gas system or merge or consolidate with another public utility operating in this state without first reporting such transaction and following the requirements of this rule. For the purposes of this rule, "natural gas operating unit" or "natural gas system" shall be defined as facilities for the transmission or distribution of natural gas which have transmitted natural gas in the

past or which are currently transmitting or distributing natural gas, including facilities located on a right of way acquired or that may be acquired by the right of eminent domain; facilities laid upon, over, or under any public road or highway of this state, or street or alley of any municipality, or the right of way of any railroad or other public utility; and facilities of any natural gas utility authorized by law to exercise the right of eminent domain. These terms shall not include the component parts of a natural gas operating unit or natural gas system which have been disconnected from a transmission or distribution system and are to be sold as materials, nor do the terms include a transmission or distribution system which has not been used to transmit or distribute natural gas.

(a) Requirements of reporting. Sixty days prior to the proposed sale, acquisition, lease, or rental of any operating units or systems, or merger or consolidation of the gas utility with another public utility, the gas utility shall file with the director of the Gas Utilities Division a sworn statement setting forth the following information:

- (1) the name of the gas utility;
- (2) the names of the officers, directors, partners, or proprietors of the gas utility;
- (3) the location of the operating unit or system;
- (4) the name of the business entity buying, acquiring, or leasing or being merged with the operating unit, system, or gas utility;
- (5) the names of the officers, directors, partners, or proprietors of the acquiring or merging business entity;
- (6) the book value and accumulated depreciation reserve of the operating unit or system to be sold utilizing the National Association of Regulatory Utility Commissioner's Uniform System of Accounts;
- (7) an estimate of the current cost less an adjustment for both present age and condition of the system and a statement of the sources upon which the estimate is formulated;
- (8) the sale price, rentals, or consideration to be obtained by the gas utility for the sale or lease of the operating plant or system; or the consideration for the merger of the system with a detailed explanation of the financing arrangements, if any;
- (9) a statement of the number of customers in each class served by the operating unit or system;
- (10) a list of the deposit accounts or other monies held for the benefit of the customers of the system; and
- (11) whether or not the operating unit or system is in compliance with the safety and filing requirements of the Gas Utilities Division.

(b) Requirements of investigation. The director of the Gas Utilities Division, upon receipt of the statement required in (a) above, shall direct that an audit and safety evaluation investigation be conducted on the operating unit or system to be sold, acquired, or leased. A copy of the audit report and safety evaluation report shall be forwarded to the gas utility and the proposed purchaser or lessor of the operating plant or system.

(c) The commission may order that a hearing be conducted before the sale, acquisition, or lease is consummated if it appears that such a hearing will be in the public interest; or is for consideration in excess of \$100,000; or if the proposed transaction is a merger or consolidation with another public utility operating in this state. Pending a decision of the com-

mission, the proposed sale acquisition or lease shall not be consummated.

(d) If the commission, upon the recommendation of the Gas Utilities Division, finds that the proposed sale, acquisition, lease, or merger is inconsistent with the public interest, it may order that the gas utility comply fully with all of the regulations of the Gas Utilities Division and orders of the commission before the sale, acquisition, lease, or merger is consummated.

(e) This rule shall not be applicable to the purchases of units of property for replacement or to the addition to the facilities of the public utility by construction.

(f) The commission may order that any sale, lease, or merger be denied if it deems such action is necessary to protect the public interest.

Issued in Austin, Texas, on January 4, 1978.

Doc. No. 780124      Joseph J. Piotrowski, Jr., Director  
Gas Utilities Division  
Railroad Commission of Texas

Proposed Date of Adoption: February 12, 1978

For further information, please call (512) 475-2747.

## Special Rules of Practice and Procedure 051.04.50

The Railroad Commission of Texas is proposing to adopt special rules of practice and procedure, 051.04.50.001, .012, .013, .022, .100, and .101, applicable to practice before the Gas Utilities Division only. See also general and special rules of practice and procedure proposed for adoption and repeal elsewhere in this issue of the *Register*. These rules are being proposed to satisfy the unique procedural requirements for practice before the Gas Utilities Division.

The staff of the Railroad Commission has determined that the proposed rules will have no fiscal implications for state or local governments.

Comment on the proposed rules is invited. Comments should be submitted in writing to John G. Soule, Assistant Special Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted until Friday, February 24, 1978.

These rules are proposed under the authority of Revised Civil Statutes, Article 6252-13a.

.001. *Definitions.* As used in these rules,

(a) *Bulletin* means a division publication printed twice monthly containing information about the division such as notices of hearings, final orders and decisions, rules, and other information of general interest to the public. It shall be sent to all persons and agencies requesting to be put on the *Bulletin* mailing list and paying the applicable fee.

(b) "Gas Utilities Division" or "division" means the administrative unit of the commission responsible for the regulation of the natural gas utility industry in Texas.

(c) "Gas utility" means gas utility as defined in the Cox Act, Texas Revised Civil Statutes Annotated, Article 6050 (1962) and the Public Utility Regulatory Act, Texas Revised Civil Statutes Annotated, Article 1446c, Section 3(c)(3) (Supplement 1976-1977).

(d) "Municipality" means a city, incorporated village, or town existing, created, or organized under the general, home rule, or special laws of the state.

(e) "PURA" means the Public Utility Regulatory Act, Texas Revised Civil Statutes Annotated, Article 1446c (Supplement 1976-1977).

.012. *Filing of Pleadings and Other Documents.*

(a) Five copies shall be filed of all briefs, exceptions to proposals for decision, and replies to exceptions.

(b) For purposes of any responsive documents (replies to exceptions, reply briefs, answers to motions, and similar instruments) for which the time period for filing is set in motion by the filing of another document, such initiating document shall be considered filed when actually received by the commission, whether on, before, or after the last day for filing the same.

(c) A statement of intent filed under Section 43(a) of PURA shall not be deemed filed until it complies in all respects with Rules 051.04.50.013 and 051.04.50.022 below and with any other applicable commission rule.

(d) All pleadings and other documents shall be filed at the offices of the division or mailed to: Director, Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Office hours are from 8-12 a.m. and 1-5 p.m. Monday through Friday. Offices are closed Saturday and Sunday and official state holidays.

.013. *Form and Content of Pleadings.* In addition to the information required in Rule 051.01.50.013 of the General Rules of Practice and Procedure, the following information shall be sworn to and contained in each statement of intent to change rates within the original jurisdiction of the commission:

(a) the proposed revisions of rates and schedules;  
(b) a statement providing justification for such change;  
(c) the effect the proposed change is expected to have on the revenues of the company from the area covered by the statement of intent;

(d) the class and number of utility customers affected within the area covered by the statement of intent, and the effect on customers within each class;

(e) a statement as to whether the proposed rates will or will not exceed 115 percent of the average of all rates for similar services in all municipalities served by the same utility within the same county;

(f) a statement as to whether or not the proposed change will result in a "major change," as that term is defined in Section 43(b) of PURA; and

(g) the effective date, stated as a date certain not in excess of three months after the date filed, of the proposed change in rates.

.022. *Docketing and Notice.*

(a) In all proceedings involving rate setting, the notice provided for by Rule 051.01.50.022 of the General Rules of Practice and Procedure shall include, in addition to any requirements of the APA, the information required by Rule 051.04.50.013 of these rules.

(b) In rate setting proceedings:

(1) Whether the commission has original or appellate jurisdiction, notice shall be given by:

(A) publication in the next Gas Utilities *Bulletin* published after issuance of the notice of hearing; and

(B) service on the parties by mail in accordance with (f) below.

(2) Notice shall also be given in rate proceedings involving only the commission's original jurisdiction in the following ways:

(A) When the applicant files a copy of its statement of intent to change rates with the division, it shall commence publication within five days thereafter of a notice of filing of a statement of intent. Such notice shall appear in conspicuous form and place once each week for four consecutive weeks in a newspaper having general circulation in each county containing territory affected by the proposal, and a publisher's affidavit shall be filed with the division prior to the effective date of the new rates. This publication shall include a summary of the proposed revisions, the effect the proposed change is expected to have on the revenues of the utility from the area covered by the statement, the class of customers affected and the effect on such customers, a statement that on request a complete copy of the statement will be furnished to a customer, and the address of the Gas Utilities Division to which affected customers may send complaints on the proposed change.

(B) In other than rural or environs proceedings, the applicant shall mail or deliver a copy of the proposed rate schedule to the mayor or city secretary of each affected municipality prior to the effective date of the new rates.

(3) Notice shall also be given in rate proceedings involving only the commission's appellate jurisdiction by serving all known parties in the original rate proceeding.

(c) In addition to the notice requirements of the APA, notice of all proposed rules shall be published in the *Bulletin*. The notice required by Section 5 of the APA shall be deemed to put interested parties on notice to inquire as to the hearing date of the proposed rule, if any, and to request being placed on the service list for any hearing on the proposed rule.

(d) In proceedings other than rate setting or rulemaking, notice shall be given by publication in the next Gas Utilities Division *Bulletin* published after issuance of notice of hearing.

(e) In any proceeding, the division may require a party to mail or deliver notice to affected persons or agencies.

(f) For purposes of computing the 10-day minimum for notice of hearing required by the APA, three days shall be added to that period when the notice is served on the parties by mail. The mailing shall be prepaid and addressed to the party's last known mailing address. There shall be a presumption of receipt of the mailed notice; provided, however, that a party may offer proof of failure to receive notice within the allowed three-day period. The minimum 10-day period shall begin on the fourth day after mailing and end on the 14th day after mailing.

#### 100. Procedure to Establish and Change Residential and Commercial Rates in Unincorporated Areas.

(a) For purposes of this rule, residential and commercial rates subject to the commission's original jurisdiction shall be classified as either "environs rates" or "special rates."

(1) "Environs rates" are residential and commercial rates for a gas utility applicable to natural gas sales and service in unincorporated areas adjacent to or near incorporated cities and towns, aside from "special rates" as defined in (2) below.

(2) "Special rates" for residential and commercial customers are rates established pursuant to commission orders applicable only to service by a given utility within a specified area and not specifically keyed to the rates charged in any incorporated area.

(b) Levels of environs rates.

(1) An environs rate set in accordance with this rule shall be the same rate as that in effect in the nearest incorporated area in Texas served by the same utility where gas is obtained from at least one common pipeline supplier or transmission system. The commission, on application by a utility, on complaint by any affected person, or on its own motion, may review the rate in or boundaries of a given environs area and may consent to or direct an adjustment where appropriate.

(2) Notwithstanding (a) and (b)(1) above, environs rates shall include any quality of service rules adopted by the commission, such as Rule 051.04.03.024 of the Substantive Rules of the Gas Utilities Division. Such quality of service rules shall apply to environs areas and become part of environs rates regardless of whether the same quality of service rules are in effect in the related incorporated area.

(c) Rate changes for environs rates. Rate changes in environs areas shall be made in accordance with the following procedures:

(1) When residential or commercial rates for an environs area are to be changed so as to be equivalent to the related incorporated area (city) rate and the proposed change does not constitute a "major change," the statement of intent for the environs area shall be filed after the rates in the related incorporated area (city) have become effective, publication shall be made as otherwise required, the commission shall be furnished a copy or statement of any action taken by the city with respect to the related statement of intent, and, in addition, the statement of intent to increase such environs rates shall include (in completed form) the following legend: "This is a Statement of Intent to change environs rates for the unincorporated areas in the vicinity of \_\_\_\_\_. This Statement of Intent is intended to produce the same residential and commercial rates which have been effective in the City of \_\_\_\_\_ and applies to the rates set out herein." All rate schedules filed with the environs statement of intent shall bear the following legend: "Effective on \_\_\_\_\_."

(2) The utility shall give notice of the filing of a statement of intent to change environs rates as required by Section 43(a) of PURA and these rules.

(3) If the city suspends the rates in the related statement of intent after its effective date, the commission shall be notified and the environs rate shall be deemed automatically suspended as of the date the city acted.

(4) Nothing herein shall restrict the commission's power and duty on its own motion or upon complaint from any affected person at any time either prior to or within 30 days from the date when such change in rate has become effective to undertake such investigation and hearing as provided in Section 43(c) of PURA as may appear appropriate under the circumstances to determine fair and reasonable rates for the environs area in question, nor shall anything herein restrict the commission's power under Section 43(b) of PURA for good cause shown, to permit rate changes to become effective in the environs area sooner than 35 days following filing of the environs statement of intent.



(d) Other rate changes. This rule shall not apply to major rate changes or to changes in special area rates.

.101. *Statement of Intent to Participate.* In the event that the director of Gas Utilities receives a letter or other communication concerning a statement of intent filed pursuant to Section 43c of PURA, the director shall, within a reasonable time thereafter, forward to such affected person a complaint and statement of intent to participate. The complaint and statement of intent to participate must be signed, sworn to, and acknowledged before a notary public by the affected person. The complaint and statement of intent to participate shall state the complainant's name, address, the rate increase about which he complains, and a statement that the complainant or his representative will appear and participate through the presentation of evidence and arguments should a hearing be called by the commission to consider the rate increase. If the complaint and statement of intent to participate is not properly executed and returned to the director of Gas Utilities within 14 days after the mailing by the director then it will not be considered to be a proper "complaint by any affected person" pursuant to Section 43c of PURA requiring a hearing on the statement of intent. In the event that the initial complaint is received before the deadline contained in Section 43c of PURA and the complaint and statement of intent to participate is received after that date, it shall be deemed to relate back to the filing of the original complaint.

Doc. No. 780069

## Liquefied Petroleum Gas Division

### Special Rules of Practice and Procedure

#### 051.05.50

The Railroad Commission of Texas is proposing to adopt special rules of practice and procedure, 051.05.50.023 and .100, applicable to practice before the Liquefied Petroleum Gas Division only. See also general and special rules of practice and procedure proposed for adoption and repeal elsewhere in this issue of the *Register*. These rules are being proposed to satisfy the unique procedural requirements for practice before the Liquefied Petroleum Gas Division.

The staff of the Railroad Commission has determined that the proposed rules will have no fiscal implications for state or local governments.

Comments on the proposed rules are invited. Comments should be submitted in writing to John G. Soule, Assistant Special Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted until Friday, February 24, 1978.

These rules are proposed under the authority of Revised Civil Statutes, Article 6252-13a.

#### .023. *Answer Requirement in Commission-Called Hearing.*

(a) Filing of answer. The respondent/dealership in any cause of action for which a notice of hearing has been served and which cites such dealership to be in violation of the LP-Gas Code or any rule or standard promulgated by the Railroad Commission of Texas pursuant to its statutory authority shall have five days from the date notice is received

to file an answer to the charge or charges set out therein with the LP-Gas Division. Filing under this section shall be deemed accomplished when an answer is posted with the United States mail before or on due date, properly addressed, and stamped with sufficient postage, or at such other time as an answer is physically delivered to the LP-Gas Division, whichever occurs first.

(b) Content of answer. The answer shall contain a written statement signed by one authorized to bind the respondent/dealership which shall admit or deny, in whole or in part, the charge or charges stated in the notice of hearing or shall state the reason or reasons why it can neither admit nor deny the charges against it and shall specifically state that part, including any allegation of fact made therein, which is denied where the charge or charges are disputed in part only. In the event that the respondent denies all or part of the charge(s) contained in the notice of hearing, the answer shall contain a concise account of the facts which the respondent contends will refute all or any part of the charge(s) against it. The respondent may additionally plead in his answer as many several matters, whether of law or fact, as he may think necessary for his defense. Further, the answer shall contain a waiver of attorney where the respondent/dealership does not choose to be represented by counsel at hearing; such waiver will not deny the respondent the right to legal representation should the respondent actually appear at hearing with or through an attorney. The answer shall also contain a statement of respondent's intent to appear at hearing or, alternatively, its decision to suffer a default judgment.

(c) Form of answer. An answer made pursuant to this rule may be made on LPG Form No. 21, adopted for use by the LP-Gas Division and available to the public upon request directed to such division in Austin, Texas, or in any other form consistent with the commission's rules of practice and procedure.

#### .100. *Exceptions to Rules.*

(a) Filing the application for an exception. Any licensed LP-gas dealership may apply for an exception to any of the Safety Rules of the LP-Gas Division by filing an application for an exception with the Liquefied Petroleum Gas Division.

(b) Contents of the application.

(1) The application shall make specific reference to the provisions of the particular rule or rules from which exception is sought.

(2) The application shall state the specific nature of the exception sought, including all details necessary to comprehend the exact nature of the requested exception.

(3) The application shall contain a concise statement of the facts which support the applicant's request for exception, including the reasons such an exception is necessary, the public safety implications, and the social and economic implications of the exception.

(4) The application shall contain a description of the acreage upon which the exception, if granted, will be located should its location be stationary, which shall identify the site sufficiently to permit determination of property boundaries, and shall further state the ownership of such land and under what legal authority the applicant, if not the owner, is permitted occupancy.

(c) Notice requirements.



(1) By the applicant, Copies of both the application and the notice of hearing must be served upon all persons and/or business entities that are owners and/or occupants of property adjacent to the site where the proposed exception will be located, if such location is stationary, and all other interested persons or business entities, such as, but not limited to, the city council where exception will be sited at a stationary location within municipality limits or the county commission where exception will be sited at a stationary location within a rural area. The applicant shall mail copies of the application and of the notice of hearing by certified mail to all interested parties, return receipt requested, at such a time that interested parties shall receive copies at least 10 days prior to the date of hearing, and shall forward to the LP-Gas Division (1) the certificates of receipt attached to (2) a written affidavit stating that, to the best of the applicant's knowledge, all interested persons have been notified, as required herein, within the time strictures of this rule. If in fact all interested persons have not been notified, the reason for such failure to notify shall be stated in the affidavit and the name(s) and last known address(es) of such person(s) shall be stated if known. The affidavit must be signed by the applicant or his authorized representative.

(2) By the division. A copy of the notice shall be attached to the application and posted in a conspicuous place in the division's office in Austin, Texas, not less than 10 days prior to the date of hearing.

(d) Penalties. Incorrect information intentionally submitted by an applicant shall be punishable as provided in Section 91.143, Texas Natural Resources Code, and shall be sufficient grounds for dismissing or denying the application.

(e) Exceptions to the Safety Rules of the LP-Gas Division shall be granted only for good cause and when the exception will not imperil or tend to imperil the public health, safety, or welfare.

Doc. No. 780070

## Surface Mining and Reclamation Division

### Special Rules of Practice and Procedure 051.07.50

The Railroad Commission of Texas is proposing to adopt special rules of practice and procedure, 051.07.50.001, .021, .022, .031, and .100, applicable to practice before the Surface Mining and Reclamation Division only. See also general and special rules of practice and procedure proposed for adoption and repeal elsewhere in this issue of the *Register*. These rules are being proposed to satisfy the unique procedural requirements for practice before the Surface Mining and Reclamation Division.

The staff of the Railroad Commission has determined that the proposed rules will have no fiscal implications for state or local governments.

Comment on the proposed rules is invited. Comments should be submitted in writing to John G. Soule, Assistant Special Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted until Friday, February 24, 1978.

These rules are proposed under the authority of Revised Civil Statutes, Article 6252-13a.

#### .001. Definitions.

(a) "Party," as defined in the APA and used in the commission's General Rules of Practice and Procedure and the Surface Mining and Reclamation Division's Special Rules of Practice and Procedure, does not mean "party to the administrative proceedings" as defined in the Surface Mining and Reclamation Act, Chapter 131, Texas Natural Resources Code.

(b) "Person affected" means any person who is a resident of a county or any county adjacent or contiguous to the county in which a mining operation is or is proposed to be located, including any person who is doing business or owns land in the county or adjacent or contiguous county and any local government. Such person affected shall also demonstrate that he has suffered or will suffer actual injury or economic damage.

#### .021. Who May Appear.

(a) Any person or agency interested in a petition to declare lands unsuitable for surface mining or a petition for adoption of rules may appear formally before the commission or an examiner.

(b) In all regularly docketed cases, a person affected in a permit application proceeding and any other person or agency interested in a proceeding to designate lands as unsuitable for surface mining activities or to have such a designation terminated or petition for adoption of rules, may be permitted to appear in support of or in opposition to all or part of the particular proceeding by filing notice of the intent to participate at least five days in advance of the hearing date, and may present any relevant and proper testimony and evidence bearing upon the issues involved in the particular proceeding.

#### .022. Docketing and Notice

(a) At the time of submission of an application for a surface mining permit, renewal or transfer of an existing permit, or for release of all or part of a performance bond or deposit, the applicant shall publish notice of the ownership, location, and boundaries of the permit area sufficient so that the proposed operation or area covered by the bond to be reduced or released is readily locatable by local residents, and the location where the application is available for public inspection, which shall be with the county clerk(s) at the county courthouse(s) of the county(ies) where the surface mining operation(s) subject to the application are located. Such notice shall be placed in the local newspaper of greatest general circulation in the locality of the land affected at least once a week for four consecutive weeks. In addition, the commission shall contact various local governmental bodies, planning agencies, sewage and water treatment authorities or water companies having jurisdiction over or in the locality in which the proposed surface mining will take place, and the owners of record of all surface areas within 500 feet of any part of the permit area, including any persons residing on the property of the permit area, notifying them of the applicant's intention to surface mine a particularly described tract of land and indicating the applicant's permit number, if any, and where a copy of the proposed mining and reclamation plan may be inspected.

(b) In case the commission determines that a material error is made in the notice of an application for a permit or

notice of a public hearing, or that a material change is made in an application after notice has been issued, the commission shall cause revised notice to be issued. If the material change or error affecting the content of the notice does not come to the attention of the commission in sufficient time to make the correction in each of the newspaper publications, the commission shall reschedule the hearing and/or appropriately readjust the time limitation schedules provided in this section. If the change or error requiring the revised notice is that of an applicant for a permit or an amendment, the expense thereof shall be borne by that person; and, if the change or error is made by the agency, the agency will bear the expense.

.031. *Public Hearing.* Within 45 days after the last publication of the above notice, the commission shall determine, considering any objections which have been filed, if the application is of significance sufficient to warrant a public hearing. Notice of the date, time, nature of the hearing, location of such public hearing, a statement of the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of the statutes and rules involved, and a short and plain statement of the matters asserted shall be published by the commission in the newspaper of greatest general circulation in the locality at least once a week for three consecutive weeks prior to the scheduled hearing date, which date shall be within 30 days after deter-

mination that a public hearing is warranted. The same notice shall also be mailed to the applicant or petitioner, and to all persons who have expressed by written notification to the commission an interest in the pending permit application, revision, renewal, transfer, petition for designation of lands unsuitable for surface mining, or application for release or reduction of a performance bond and to any other person who, in the opinion of the commission, should be notified.

.100. *Comments and Objections.* Any person affected or any federal, state, or local governmental agency or authority shall have the right to file written objections to the application for a surface mining permit or for the renewal, revision, or transfer of such a permit, or for release of all or part of the performance bond or deposit with the commission within 30 days after the last publication of the above notice. Such comments shall be made a part of the record and one copy shall be furnished to the operator.

Issued in Austin, Texas, on January 4, 1978.

Doc. No. 780071

Mack Wallace  
Chairman  
Railroad Commission of Texas

Proposed Date of Adoption: March 27, 1978

For further information, please call (512) 475-4686.

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 Department of Corrections

### Inmate Conduct

#### Standards and Behavior Codes 202.01.30

The Texas Board of Corrections, by authority of Article 6166j, Texas Revised Civil Statutes, has adopted Rule 202.01.30.008(020) to read as follows:

##### .008. Visiting.

(020) Periods of visitation. Inmates may have a visit from approved visitors for any two-hour period on the following days and during the following times: Saturday, 8 a.m. to 5 p.m.; Sunday, 8 a.m. to 5 p.m. (includes noon hour).

Issued in Huntsville, Texas, on December 29, 1977.

Doc. No. 780079      Robert E. DeLong  
Assistant Director for General Counsel  
Texas Department of Corrections

Proposed Date of Adoption: January 25, 1978

For further information, please call (713) 295-6371.

## Texas Health Facilities Commission

### Definitions and Explanation of the Applicability of the Act

#### 315.11.00.002(f)

Pursuant to the authority of Sections 2.06(2), 3.01, and 3.02(c) of Article 4418(h), Texas Civil Statutes, the commission has adopted an amendment to Section (f) of Rule 315.11.00.002 with no changes from the text proposed in the December 2, 1977, issue of the *Texas Register* (2 TexReg

4615). Section (j), which was proposed for adoption, was not adopted by the commission.

##### .002. Explanation of Applicability of the Act.

(f) For purposes of Section 3.02(a)(1) and (2) of the act, the phrases "change the bed capacity of an existing facility" and "substantially expand a service currently offered" do not include, and no commission action is required for: the complete closing and cessation of delivery of health care services by a health care facility; the reduction of licensed beds by a facility; or the reduction in the level of care from ICF-III or skilled to ICF-II; or skilled to ICF-III; or nursing to custodial.

The term "provide a service not currently offered" includes the commencement of participation in the ICF-MR-V or ICF-MR-VI program.

Issued in Austin, Texas, on January 5, 1978.

Doc. No. 780107      Melvin Rowland  
Chairman  
Texas Health Facilities Commission

Effective Date: January 25, 1978

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

#### 315.11.00.002(j)

The Texas Health Facilities Commission has withdrawn from consideration proposed amendments to Section (j) of Rule 315.11.00.002 as published in the December 2, 1977, issue of the *Texas Register* (2 TexReg 4615).

Doc. No. 780108

## Texas Department of Human Resources

### General Licensing Procedures

The Department of Human Resources adopts the following amendments to its rules concerning procedures for day care licensing and agency and institutional licensing as proposed in the October 18, 1977, issue of the *Texas Register* (2 TexReg 3971). Several of the comments on the proposed material received dealt with portions of the published material which were not proposed changes and will be considered when further rule amendments are initiated.

While some of the comments were supportive of the reduction in the number of visits, three of those responding stated that the number of visits to facilities should not be cut; however, budget reductions make the change necessary. The following rules reflect minor technical and language changes for the purpose of further clarification.

#### Day Care Licensing Procedures 326.92.21

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Article 695a-3.

*.001. Pre-Application State—Initial Activities.*

(c) The licensing representative advises the person that a decision on the completed application and other documentation must be made within two months from the date the completed application is accepted.

(f) The amount of information to be provided in the pre-application stage will probably require a series of personal interviews. The number and frequency of the interviews must be determined by the licensing representative in relation to the person's understanding of licensing, pace of movement, and stage of planning. Normally, pre-application interviews are conducted at the licensing office.

*.009. Criteria for Issuance of a Provisional License.*

(f) A cover letter must accompany the provisional license to communicate other details. The cover letter must advise the licensee that in order for a biennial license to be issued, the law requires continued compliance with minimum standards, and that the facility will be visited at least three times during the provisional licensing period. The letter must also list any standards waived and reflect the date of expiration of the waiver.

*.010. Monitoring of Provisional Licensee.*

(a) The licensing representative monitors a facility to determine that all minimum standards are met on a continuing basis, especially those dealing with the presence of children. The licensing representative also provides regulatory assistance, when needed. After children are in care, three inspection visits are required to determine continuing compliance with standards. The standard-by-standard valuation required for a biennial license should be done during these visits. The licensing representative must make additional visits to investigate complaints or to follow up non-compliances that endanger the health or safety of children in care. The licensing representative should follow up other types of noncompliances by telephone call or letter or at the next inspection visit. The licensing representative must document telephone follow-ups.

*.011. First Biennial License/Certificate—Issuance.*

(d) A cover letter must accompany the biennial license/certificate. As a minimum, the cover letter must include: a listing of any waivers/variances and conditions related to the biennial license/certificate and expiration dates thereof; a statement that the facility must expect inspection visits by the licensing representative approximately every four months, at least one of which will be unannounced during the year; and a statement that all complaints will result in an investigation visit.

*.012. Post-Issuance Monitoring.*

(a) The licensing representative must inform the facility of the Licensing Division's policies about inspecting facilities after the issuance of a license/certificate. After biennial licensing/certification, the licensing representative must make inspection visits approximately every four months. These visits are made to substantiate that the facility continues to meet minimum standards. Inspection visits should not be more frequent unless the licensing representative can validate that more frequent visits are necessary. The licensing representative may follow up non-compliances that do not endanger the health or safety of children in care by telephone call or letter or at the next inspection visit. The licensing representative must document

all telephone follow-ups. If a visit must be made during the four-month interval to check compliance with unmet standards, that visit can count as one of the three annual inspection visits.

(b) The Child Care Licensing Act requires one unannounced, annual inspection visit to child care facilities. Other visits may be announced or unannounced except in an unusual situation, no more than six months should elapse without a visit.

(c) Inspection visits, whether announced or unannounced, must be planned and purposeful. Except in unusual circumstances, the person in charge at the facility should be informed of the purpose of the inspection visit. When inspection visits are announced, that is, arranged prior to the date of the inspection visit, and the purpose involves evaluating compliance with standards relating to records and other documents, the director should be advised of the records to be evaluated.

(d) Inspection visits should be made at different times of the facility's hours of operation. If the facility offers care in the evening or at night, inspection visits should be made at such times. Inspection visits at different times give the licensing representative an opportunity to determine compliance with standards related to specific aspects of the facility's operating schedule.

(e) There are two purposes which must be accomplished during every on-site facility inspection visit, whether announced or unannounced:

(1) The first is to determine the number of children present (except when the inspection visit is during a transitional period) and the number of staff present in order to determine compliance with the staff-child ratio. This may be done by looking at attendance records or counting children and staff.

(2) The second is to be constantly alert to the existence of any conditions that are hazardous to the children in care.

*.014. Evaluation after Expiration of Time Limit.*

(a) Following the expiration of the time limit set out in the Day Care Licensing Compliance Record or in the notification letter, the licensing representative determines if the deficiency has been corrected. The licensing representative must make a visit to follow up noncompliances that endanger the health or safety of children in care to determine that the noncompliances have been corrected. Other types of non-compliances should be followed up by telephone call or letter or at the next inspection visit. The licensing representative must document telephone follow-ups. If a visit must be made during the four-month interval to check compliance with unmet standards, that visit can count as one of the three annual inspection visits.

Doc. No. 780075

## Agency and Institutional Licensing Procedures 326.92.31

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Article 695a-3, Texas Civil Statutes.

*.011. Post-Issuance Monitoring.*

(a) The licensing representative is responsible for informing the facility of the Licensing Division's monitoring

responsibilities after the issuance of a license certificate. During the period of time a facility is operating under a provisional license, the licensing representative is responsible for making at least monthly inspection visits to substantiate whether the facility continues to meet minimum standards.

(b) After biennial licensing/certification, the licensing representative is responsible for making at least quarterly inspection visits to substantiate whether the facility continues to meet minimum standards. Inspection visits should not be more frequent unless the licensing representative can validate that more frequent visits are necessary. The licensing representative may follow up noncompliances that do not endanger the health or safety of children in care by telephone call or letter, or at the next inspection visit. The Child Care Licensing Act requires one unannounced inspection visit of all facilities annually; other inspection visits may or may not be announced.

(c) Inspection visits, whether quarterly or otherwise, and whether announced or unannounced, must be planned and purposeful. Except in rare circumstances, the person in charge at the facility should be informed of the purpose of the inspection visit. When an inspection visit is announced and its purpose is to evaluate compliance with standards relating to records and other documents, the director should be advised of the records to be evaluated and given some estimate of the length of time to be spent evaluating the records.

Issued in Austin, Texas, on January 4, 1978.

Doc. No. 780076 Jerome Chapman  
Commissioner  
Texas Department of Human  
Resources

Effective Date: January 25, 1978

For further information, please call (512) 475-4601.

## Railroad Commission of Texas

### Gas Utilities Division

#### Special Rules of Practice and Procedure

#### 051.04.02

The Gas Utilities Division of the Railroad Commission of Texas, by authority of Texas Revised Civil Statutes Annotated, Article 6252-13a, Section 4(a)(1) (Supplement 1975), has amended Rule 051.04.02.013, deleting reference to the location of the offices of the Gas Utilities Division. The commission believes that omitting reference to the location of the offices will eliminate the necessity for frequent amendments to the rule. The mailing address of the division, which remains constant when the offices are relocated, continues to be stated in the rule.

This rule has no fiscal implications for state government.  
(Source: Gas Utilities Division staff.)

Notice of the proposed rule was published in the *Texas Register* on October 18, 1977.

.013. *Filing of Documents.* The office hours of the Gas Utilities Division are from 8-12 and 1-5 Monday through Fri-

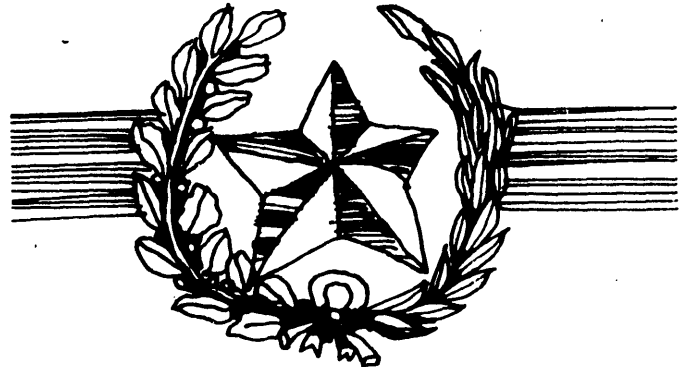
day. Offices are closed on Saturdays and Sundays and on certain state-observed holidays. All written communications may be mailed to: Director, Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

Issued in Austin, Texas, on January 4, 1978.

Doc. No. 780122 Mack Wallace  
Chairman  
Railroad Commission of Texas

Effective Date: January 26, 1978

For further information, please call (512) 475-2747.



#### Substantive Rules 051.04.03

The Gas Utilities Division of the Railroad Commission of Texas has amended Rule 051.04.02.017 to require the utilization of a single Uniform System of Accounts for Gas Utilities. The proposed amendment was published in the *Texas Register* on November 25, 1977, and comments were received for 30 days thereafter.

As adopted, the amendment differs from the proposed amendment in the following respects:

(1) The rule has been clarified to indicate that the requirement that each utility both operate and report under such a uniform system of accounts is not entirely applicable to those utilities also required to report to the Federal Energy Regulatory Commission (FERC). As modified, the rule limits the application to all reporting requirements and the maintenance of a readily accessible cross-reference system.

(2) An exception to the application of this rule has been made for any utilities permitted to file an FERC Form-2 in lieu of an annual report by any subsequent change to the commission's rules.

The amendment is adopted pursuant to Texas Revised Civil Statutes Annotated, Articles 1446c (Supplement 1976-1977) and 6252-13a, Section 4(a)(1) (Supplement 1975), and is to be effective on January 30, 1978.

.017. *System of Accounts.* Each gas utility, as defined by Texas Revised Civil Statutes Annotated, Article 6050 (1960) and 1446c (Supplement 1976), shall utilize the *National Association of Regulatory Utility Commissioners' Uniform System*

of Accounts for Class A and B Utilities (1972 Edition) for all operating and reporting purposes; provided however, that a utility also required to report to the Federal Energy Regulatory Commission under that agency's system of accounts may limit the use of the NARUC accounts to any reporting or audit requirements of the Railroad Commission of Texas. Any utility operating under the FERC account system pursuant to this provision shall maintain a readily accessible cross-reference system between that system and the NARUC account system. Such accounts shall be used regardless of any conflicting classification of such utility by virtue of its annual gas operating revenues. This uniform system of accounts shall be applicable to all gas utility and gas utility related operations regardless of location, except for those utilities permitted to file an FERC Form-2 in lieu of an annual report by Rule 051.04.03.011.

Issued in Austin, Texas, on January 4, 1978.

Doc. No. 780123 Mack Wallace  
Chairman  
Railroad Commission of Texas

Effective Date: January 30, 1978

For further information, please call (512) 475-2747.

## Texas Surplus Property Agency

### Plan of Operation 030.03.00

The Texas Surplus Property Agency adopts the amendment to Rule 030.03.00.001, which adopts by reference the *Texas (Temporary) Plan of Operation*. The amendment incorporates the provisions of the new *General Services Administration Donation Handbook* which became effective October 17, 1977. Public Law 94-519 enacted October 17, 1977, amends the Federal Property and Administrative Services Act of 1949 (40 United States Code 484) to permit the transfer of federal surplus personal property to state and local organizations for public purposes. Section 203(j) of the act provides that the administrator of the General Services Administration is authorized to transfer any personal property under the control of any executive agency which has been determined to be surplus property to the state agency in each state designated under state law as the agency responsible for distributing property through the Donation Program. In Texas, the designated agency is the Texas Surplus Property Agency created by House Bill 216, 62nd Legislature (Vernon's Annotated Revised Civil Statutes, Article 6252-6b).

General notice of the proposed plan was published in the *Texas Register* on April 15, 1977, and copies were made available at designated locations for public perusal. Interested persons were given 45 days during which to submit comments.

The amendment is adopted pursuant to the authority of Vernon's Annotated Revised Civil Statutes, Article 6252-6b, of the State of Texas.

.001. *Texas (Temporary) Plan of Operation*. The Texas Surplus Property Agency adopts by reference the rules contained in the October 17, 1977, *Texas (Temporary) Plan of*

*Operation*. This document serves as a guideline for this agency in the administration of the Donation Program within the State of Texas. This plan outlines to the administrator of the General Services Administration the methods by which this agency will implement the rules and regulations as set forth in the *G.S.A. Donation Handbook*. Copies of this document are available for public inspection at any Texas Surplus Property Agency office in the state.

Issued in San Antonio, Texas, on December 28, 1977.

Doc. No. 780121 Ray Underwood  
Executive Director  
Texas Surplus Property Agency

Effective Date: October 17, 1977

For further information, please call (512) 661-2381.

## Board of Vocational Nurse Examiners

### Administration

#### General Rules and Practice and Procedures 390.01.02

The Board of Vocational Nurse Examiners has withdrawn from consideration the proposed amendment to Rule 390.01.02.039 as published in the March 8, 1977, issue of the *Texas Register* (2 TexReg 835).

Doc. No. 780096

### Education

#### Vocational Nursing Education Standards 390.02.04

The Board of Vocational Nurse Examiners has withdrawn from consideration the proposed amendment to Rule 390.02.04.011 as published in the March 25, 1977, issue of the *Texas Register* (2 TexReg 1074).

Doc. No. 780097

### Licensing

#### Application for Licensure 390.03.01.007

Under the authority of Article 4528c, Vernon's Civil Statutes, the Board of Vocational Nurse Examiners has amended Rule 390.03.01.007 to read as follows.

.007. *Application for Re-Examination*. Applicants who fail the examination must submit re-examination application and fee. Applicants who fail the examination will be allowed to rewrite the examination within two years of first time scheduled, allowing four opportunities to write. Applicants who do not rewrite the examination within two years of first time scheduled must repeat the entire 12-month course.

Doc No 780098

**390.03.01.009**

Under the authority of Article 4528c, Vernon's Civil Statutes, the Board of Vocational Nurse Examiners has amended Rule 390.03.01.009 to read as follows:

*.009. Application Fee.* Application fees shall be payable to the Board of Vocational Nurse Examiners, 813 Sam Houston Building, Austin, Texas 78701. The board assumes no responsibility for loss in transit of cash remittances. Applications not accompanied by the proper fee will be returned to the applicant. The fee must be in the form of cashier's check or money order. Personal checks are not acceptable.

(a) Each application for license as a vocational nurse under subsection (a), (b), or (c), Section 5, and Section 7 of the act shall be accompanied by a fee of \$25 as stated in Section 9 of the act. The licensure fee is not refundable.

(b) When an application has been approved and applicant is scheduled by the board for examination, a temporary permit shall be issued. The permit for applicant writing examination shall be in force for 10 weeks following examination. The permit for reciprocity applicants shall be in force for four weeks following the examination. The temporary permit is not renewable.

Issued in Austin, Texas, on January 4, 1978.

Doc. No. 780099

Waldeen D. Wilson, R.N.  
Executive Secretary  
Board of Vocational Nurse  
Examiners

Effective Date: January 26, 1978

For further information, please call (512) 475-3771.



# 172 OPEN MEETINGS

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*.

## Coordinating Board, Texas College and University System

**Thursday, January 19, 1978, 9 a.m.** The Financial Planning Committee of the Coordinating Board, Texas College and University System, will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the committee will review and recommend action on: a policy on the employment of relatives; designation of formulas for the 1980-81 biennium for public senior colleges and universities and public community junior colleges; and final adoption of criteria for allocation of fiscal year 1978 funds appropriated for funding family practice residency programs.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: January 6, 1978, 10:51 a.m.  
Doc. No. 780113

**Thursday, January 19, 1978, 10 a.m.** The Community Junior College Committee of the Coordinating Board, Texas College and University System, will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the committee will review and recommend action on: community service and continuing education program plan amendments and project priority list for Title I grants; and amendments to community college rules concerning reporting for state funding and pertaining to community college and lower division senior college off-campus credit courses.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: January 6, 1978, 10:51 a.m.  
Doc. No. 780114

**Thursday, January 19, 1978, 10:30 a.m.** The Student Services Committee of the Coordinating Board, Texas College and University System, will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the committee will review and recommend action on: amendments to board rules pertaining to Texas Public Educational Grants Program; Tuition Equalization Grants Program; student residency at public community colleges; and increased loan limits for Hinson-Hazelwood College Student Loan Program.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: January 6, 1978, 10:51 a.m.  
Doc. No. 780115

**Thursday, January 19, 1978, 11 a.m.** The Campus Planning Committee of the Coordinating Board, Texas College and University System, will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the committee will review and recommend action on: requests for endorsement of construction and rehabilitation projects; requests for endorsement of acquisition of real property; amendments to board rules pertaining to Title VI-A of the Higher Education Act of 1965; and the criteria for approval of new construction and major repair and rehabilitation projects.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: January 6, 1978, 10:51 a.m.  
Doc. No. 780116

**Thursday, January 19, 1978, 1 p.m.** The Program Development Committee of the Coordinating Board, Texas College and University System, will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the committee will review and recommend action on: administrative hearing on the July 22, 1977, board decision to deny the Hypnosis Institute of Fort Worth a certificate of authority to award degrees; requests for new instructional programs; program inventories; and certification of adequate financing for institutions to initiate new programs or departments previously approved by the board.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: January 6, 1978, 10:51 a.m.  
Doc. No. 780117

**Friday, January 20, 1978, 9:30 a.m.** The Coordinating Board, Texas College and University System, will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the committee take action on: a policy for employment of relatives; designation of formulas; family practice residency program; construction and rehabilitation projects and acquisition of real property; rules on Title VI-A and approval of new construction; rules on student grants and loan program; community service annual plan and Title I grants; rules on community college certificate of authority to grant degrees; new instructional programs; program inventories; and adequate financing.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: January 6, 1978, 10:51 a.m.  
Doc. No. 780118

## Commission on Fire Protection Personnel Standards and Education

**Eight conferences in January and February, 1978.** The National Fire Academy Planning and Assistance Program Grant will conduct conferences from 10 a.m. to 3 p.m. at the following locations:

January 14—Hilton Inn, McAllen

February 1—Odessa College, 25th and Andrews Highway, Odessa

February 7—Tyler Junior College, 1400 East 5th Street, Tyler

February 10—San Antonio Convention Center, Room 31, Alamo and Market Streets, San Antonio

February 16—YMBL Hall, Fair Park, Gulf and Weiss Streets, Beaumont

February 22—City Hall, Conference Room, 900 Bagby Street, Houston

February 23—Rudder Conference Center, Room 404, A&M University, College Station

February 24—Villa Capri, Empress Room, 2400 North Inter-regional Highway, Austin

As summarized, the commission will receive input and recommendations from interested groups throughout the state for the promulgation of the five-year Statewide Fire Service Education and Training Plan funded by the National Fire Academy by a one-year grant.

Additional information may be obtained from Garland W. Fulbright, 8330 Burnet Road, Suite 122, Austin, Texas 78758, telephone (512) 459-8701.

Filed: January 6, 1978, 1:54 p.m.  
Doc. No. 780134

## General Land Office

**Tuesday, January 17, 1978, 2 p.m.** The Veterans Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the executive secretary's report, extension requests, and forfeiture action on veterans' tracts.

Additional information may be obtained from Richard Keahey, Room 738, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3766.

Filed: January 6, 1978, 1:53 p.m.  
Doc. No. 780135

## Texas Department of Health

**Saturday, January 14, 1978, 9:30 a.m.** The Texas Board of Health of the Texas Department of Health will meet in the board room, 1100 West 49th Street, Austin. The summarized agenda includes the following: commissioner's report; progress report, six-year plan; program review, Solid Waste Division; minimum licensing standards for personal care homes and institutions subject to licensure under Article 4442c, Vernon's Texas Civil Statutes; rules and regulations governing sanitary conditions of barber shops and barber schools and colleges; committee reports concerning personnel and board rules for procedures and policies; and election of a board secretary.

Additional information may be obtained from Jimmy Helm, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7488.

Filed: January 6, 1978, 4:17 p.m.  
Doc. No. 780143

**Saturday, January 21, 1978, 9:30 a.m.** The Hemophilia Advisory Committee of the Texas Department of Health will meet in the first floor conference room (No. 107), 1100 West 49th Street, Austin, to consider medical eligibility standards, possible additional funding sources, and development of application procedure.

Additional information may be obtained from Bob R. Barnes, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7241.

Filed: January 6, 1978, 10:52 a.m.  
Doc. No. 780110

**January 1978 Hearings.** The Texas Department of Health will conduct public hearings as follows:

**Tuesday, January 24**

9 a.m.—City Commission Chamber, City Hall, Kilgore; to consider application of the City of Kilgore to locate a solid waste disposal site east of Kilgore in Gregg County.

9 a.m.—County Courtroom, Liberty County Courthouse, Liberty; to consider the application of Liberty County to locate a solid waste disposal site near the towns of Hull and Daisetta.

9:30 a.m.—same location as above; to consider the applications of Liberty County to locate two solid waste disposal sites near the communities of Rye and Cleveland.

*Wednesday, January 25*

1 p.m.—Council Chamber, City Hall, 200 West Abram Street, Arlington; to consider the application of the City of Arlington to locate a solid waste disposal site approximately 2.5 miles north of the Dallas-Fort Worth Turnpike, west of FM Highway 157 and southwest of its intersection with the Chicago, Rock Island and Pacific Railroad in Tarrant County.

*Tuesday, January 31*

11:30 a.m.—Justice of the Peace Courtroom, Randall County Courthouse Annex, 4111 South Georgia Street, Amarillo; to consider the application of the City of Adrian to locate a solid waste disposal site five miles west of Adrian.

1:30 p.m.—same location as above; to consider the applications of the City of Panhandle to locate two solid waste disposal sites in Carson County.

11:30 a.m.—same location as above; to consider application of the City of Vega to locate a solid waste disposal site north northwest of Vega.

Additional information may be obtained Jack C. Carmichael, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7271.

Filed: January 9, 1978, 12:09 p.m.

Doc. No. 780148

## State Board of Insurance

*Wednesday, January 18, 1978, 2 p.m.* The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider the Insurance Company Professional Liability filing by National Union Fire Insurance Company and the Real Estate Appraisers Professional Liability filing by National Union Fire Insurance Company.

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

Filed: January 9, 1978, 12:06 p.m.

Doc. No. 780153

*Thursday, January 19, 1978, 10 a.m.* The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider the following, as summarized: filing by International Fidelity Insurance Company of a rate increase for bail bonds; filing by Insurance Services Office of a revision of rates and rules for accounts receivable and valuable papers and records policies; and filing by Ticor Mortgage Insurance Company of a Mortgage Pool Insurance Policy and applicable rates.

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

Filed: January 9, 1978, 12:06 p.m.

Doc. No. 780154

## State Board of Podiatry Examiners

*Thursday through Sunday, January 19-22, 1978.* The State Board of Podiatry Examiners will conduct hearings at the Villa Capri Motor Hotel, 2400 North Interregional Highway, Austin. The hearings will begin at 1 p.m. on January 19 and at 9 a.m. on January 20-22. The board will consider suspension or revocation of licenses to practice podiatry, hold a public hearing on proposed rules, and administer examination to applicants for a license, as summarized.

Additional information may be obtained from Joe C. Littrell, D.P.M., 2204 Washington Avenue, Waco, Texas 76701, telephone (817) 1811.

Filed: January 9, 1978, 11:40 a.m.

Doc. No. 780146

## Public Utility Commission of Texas

*Monday, January 16, 1978, 9 a.m.* The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a pre-hearing concerning an application of Continental Telephone Company of Texas to change rates (Docket No. 1529).

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: January 6, 1978, 3:51 p.m.

Doc. No. 780141

*Wednesday, March 1, 1978, 9 a.m.* The Hearings Division of the Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing on the merits of a petition of Mountain States Telephone and Telegraph Company for authority to change rates (Docket No. 1503), as summarized.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: January 6, 1978, 10:50 a.m.

Doc. No. 780111

## Railroad Commission of Texas

*Monday, January 9, 1978, 9 a.m.* The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the Ernest O.

Thompson Building, 10th and Colorado Streets, Austin. The summarized addition included consideration of the consent order regarding a statement of intent filed by Pioneer Natural Gas Company to change rates for industrial customers (Examiner Tom Hill, Docket Nos. 1185 and 1216).

Additional information may be obtained from Joy Wood, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: January 6, 1978, 3:46 p.m.

Doc. No. 780139

**Monday, January 9, 1978, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The summarized addition included consideration of the final order regarding an appeal of Southern Union Gas Company from actions by the cities and towns of Monahans, Wickett, Wink, Barstow, Pecos, Thorntonville, and Pyote, rejecting applications for an increase in natural gas rates (Examiner Glenn Johnson, Docket No. 667).

Additional information may be obtained from Joy Wood, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: January 6, 1978, 3:46 p.m.

Doc. No. 780140

**Monday, January 16, 1978, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the agenda includes consideration of: Charter International Oil Company, motion for rehearing, Examiner James P. Grove (Docket No. 735); and P. K. Gas Service, Inc., regarding application to establish rural rates in the unincorporated areas of Palo Pinto County, motion for interim rate relief, Examiner Phyllis Schunck (Docket No. 760).

Additional information may be obtained from Joy Wood, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: January 6, 1978, 11:23 a.m.

Doc. No. 780131

**Monday, January 16, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas has made an addition to the agenda of a meeting to be held in the 10th floor conference room, Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The commission will consider final adoption of Rule 051.02.99.001 (Gas Market Demand), published as a proposed rule on December 13, 1978 (2 TexReg 4763-4766).

Additional information may be obtained from Bob Harris, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: January 6, 1978, 11:23 a.m.

Doc. No. 780127

**Monday, January 16, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the agenda includes consideration of: various exceptions to Statewide Rule 38, Rule 37, and Rule 38 cases, unitization and secondary recovery, proper pluggings, field rules, exception to Statewide Rule 10 and Statewide Rule 14(B)(2); administrative new oil and gas field discoveries, exceptions to Statewide Rule 14(B)(2), Statewide Rule 11, Statewide Rule 28 and/or 29, and Statewide Rule 8(C).

Additional information may be obtained from Luci Castleberry, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: January 6, 1978, 11:23 a.m.

Doc. No. 780128

**Monday, January 16, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider a request for an operating name change, as summarized.

Additional information may be obtained from Sandy Mott, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-6155.

Filed: January 6, 1978, 11:22 a.m.

Doc. No. 780129

**Monday, January 16, 1978, 9 a.m.** The Surface Mining and Reclamation Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider the self-bonding proposals of ICI Americas, Inc., for their Darco Operation, as summarized.

Additional information may be obtained from Carmen Ramos, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-6520.

Filed: January 6, 1978, 11:24 a.m.

Doc. No. 780130

**Monday, January 16, 1978, 9 a.m.** The Transportation Division of the Railroad Commission of Texas has made an emergency addition to the agenda of a meeting to be held in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The commission will consider applications from: Claude Webb, for renewal of a motor broker's license; and Samuel Sullivan, for a new motor broker's license.

Additional information may be obtained from Denna Braun, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2088.

Filed: January 6, 1978, 11:25 a.m.  
Doc. No. 780126

**Monday, January 16, 1978, 9 a.m.** The Transportation Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the commission will consider contested applications to amend authority, for agency discontinuance, to sell authority, and for truck rate. Uncontested applications will be considered to amend authority, to consolidate authority, to divide authority, to amend ICC registration, for ICC registration; for ICC authority registration, for lease authority, for lease cancellation, for new authority, for interstate exempt authority; for reinstatement; to sell authority; for bus schedule change; and for truck rate.

Additional information may be obtained from Denna Braun, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2088.

Filed: January 6, 1978, 11:24 a.m.  
Doc. No. 780132

**Monday, January 23, 1978, 9 a.m.** The Liquefied Petroleum Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider renewal of Emergency Rule 051.05.03.023, Authorized Containers.

Additional information may be obtained from Sharon Gillespie, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-4352.

Filed: January 6, 1978, 11:26 a.m.  
Doc. No. 780133

## School Land Board

**Tuesday, January 17, 1978, 10 a.m.** The School Land Board will meet in Room 831, 1700 North Congress, Austin, to consider the following items, as summarized: four pooling agreements; one excess acreage application; 17 permit renewals regarding coastal public lands; one easement application; and one transfer request.

Additional information may be obtained from H. E. White, Room 749, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6491.

Filed: January 9, 1978, 11:40 a.m.  
Doc. No. 780145

## Structural Pest Control Board

**Tuesday, January 24, 1978, 9 a.m.** The Structural Pest Control Board will meet in Suite 123, Building H, 5555 North Lamar, Austin, to consider the following agenda, as summarized: appearance by Odean Puryear, doing business as Roberts Pest Control, at the board's request (9:30 a.m.); executive director's report; discussion of investigation report forms; discussion of termite inspection reports; and setting of date for next board meeting.

Additional information may be obtained from Charlie Chapman, Suite 123, Building H, 5555 North Lamar, Austin, Texas 78751, telephone (512) 454-3617.

Filed: January 9, 1978, 12:07 p.m.  
Doc. No. 780152

## Sunset Advisory Commission

**Monday, January 16, 1978, 9 a.m.** The Sunset Advisory Commission will meet in emergency session in Room 301 (Senate Finance Committee Room), State Capitol Building, to consider rules and to present staff reports, as summarized.

Additional information may be obtained from Bill Wells, Room 704, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-6565.

Filed: January 9, 1978, 11:39 a.m.  
Doc. No. 780147

## Tax Assessor Examiners Board

**Wednesday, January 11, 1978, 8:30 a.m.** The Tax Assessor Examiners Board met in emergency session in the Speaker's Conference Room, State Capitol Building, Austin. (This meeting was held on an emergency basis, due to holiday mail.) The agenda included the following: discussion of attorney general's opinion request; discussion of procedures and costs of printing various forms for registration and certification; final approval of application form and other forms pertaining to registration and certification; and executive session.

Additional information may be obtained from Carl S. Smith, 301 San Jacinto, Houston, Texas 77002, telephone (713) 221-5288.

Filed: January 5, 1978, 2:40 p.m.  
Doc. No. 780105

## State Board of Examiners for Teacher Education

**Friday, January 20, 1978, 8:30 a.m.** The State Board of Examiners for Teacher Education of the Texas Education Agency will meet in the conference room, Riverside Square North Building, 150 East Riverside Drive, Austin. As summarized, the board will consider the following: college/university progress reports; college/university approvals; college/university programs, regular and special; operating procedure for approval of teacher education institutions; proposed all-level teacher certificate in Generic Special Education; and other business.

Additional information may be obtained from Tom Walker, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475 3236.

Filed: January 6, 1978, 4:12 p.m.  
Doc. No. 780142

## Advisory Council for Technical-Vocational Education in Texas

**Thursday, January 26, 1978, 8:30 a.m.** The Adult Education/Special Services Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in the Cedar Room, Quality Inn South, 200 South Interstate 35, Austin. The committee will review the 1978 State Plan for Vocational Education; provide input into the 1979 State Plan for Adult Education; and hear an accountability report from Bob Allen, Director Adult Education, Texas Education Agency, on adult education.

Additional information may be obtained from Valeria J. Bieck, P.O. Box 1886, Austin, Texas 78767, telephone (512) 475-2046.

Filed: January 9, 1978, 12:08 p.m.  
Doc. No. 780149

**Thursday, January 26, 1978, 10 a.m.** The Public Forum Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in Suite 2, Quality Inn South, 2200 South Interstate 35, Austin, to discuss plans for the 1978 Regional Conference to be held in Texas.

Additional information may be obtained from Valeria J. Bieck, P.O. Box 1886, Austin, Texas 78767, telephone (512) 475-2046.

Filed: January 9, 1978, 12:08 p.m.  
Doc. No. 780150

**Thursday and Friday, January 26-27, 1978, 1:30 p.m.** The Advisory Council for Technical-Vocational Education in Texas will meet at the Quality Inn-South, 2200 South

Interstate 35, Austin. The summarized agenda includes: installation of new council member; discussion of vocational education as viewed by the State Board of Education and local boards of education; and discussion of vocational education's unique role in the educational system and economy of Texas.

Additional information may be obtained from Valeria J. Bieck, P.O. Box 1886, Austin, Texas 78767, telephone (512) 475-2046.

Filed: January 9, 1978, 12:08 p.m.  
Doc. No. 780151

## Texas State Technical Institute

**Monday, January 16, 2 p.m. and Tuesday, January 17, 1978, 9 a.m.** The Board of Regents of Texas State Technical Institute will meet on the James Connally Campus, Waco, to consider the following items, as summarized: report by James Connally Campus; approval of classes with enrollment less than 10; authorizations for buildings on the Mid-Continent Campus; request for budget changes; approval of signature authorizations; authorizations to accept bids for removal of buildings on Mid-Continent Campus; approval of leases and contracts for buildings on Mid-Continent Campus; appropriations of accumulated surplus; approval of plans for modification of buildings on campuses; transfer of title of certain real property from City of Sweetwater and Rolling Plains Technical Foundation to TSTI; approval of lease of building on Rio Grande Campus from the City of Harlingen; policy on approval of requests for leaves of absence; salary adjustment for certain program chairmen; and president's recommendations and resolutions.

Additional information may be obtained from Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705, telephone (817) 799-3611, extension 385.

Filed: January 6, 1978, 10:52 a.m.  
Doc. No. 780112

## Texas Woman's University

**Thursday, January 26, 1978, 10:30 a.m.** The Board of Regents of Texas Woman's University will meet on the 13th floor, CFO Tower, Denton, to consider various items of university business, such as routine personnel, financial, and operational items.

Additional information may be obtained from Dr. Mary Evelyn B. Huey, P.O. Box 23925, TWU Station, Denton, Texas 76204, telephone (817) 382-5311.

Filed: January 9, 1978, 12:06  
Doc. No. 780155

## Texas Water Commission

**Monday, January 9, 1978, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda of a meeting held in the Stephen F. Austin Building, 1700 North Congress, Austin, relating to an application by Oxirane Chemical Company (Channelview) and the executive director for a Water Code Section 26.019, as summarized.

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

Filed: January 6, 1978, 3:13 p.m.  
Doc. No. 780137

**Monday, January 9, 1978, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda of a meeting held in the Stephen F. Austin Building, 1700 North Congress, Austin, relating to a petition by Brown County Water Improvement District No. 1 for conversion to a municipal utility district, as summarized.

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

Filed: January 6, 1978, 3:12 p.m.  
Doc. No. 780136

**Monday, January 16, 1978, 10 a.m.** The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following items, as summarized: applications for use of surplus funds; motion for rehearing on district creation and motion to reopen the evidence on creation hearing; revocation of water quality permit; consideration of order adopting Rules 156.31.12.001-.014; examiner's proposal for decision on water quality matters; voluntary suspension of water quality permit; and application for regular permit.

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

Filed: January 5, 1978, 2:38 p.m.  
Doc. No. 780100

**Tuesday, January 17, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, regarding a request from the City of Lufkin seeking an extension of Enforcement Order No. 76-63, as summarized.

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

Filed: January 5, 1978, 2:39 p.m.  
Doc. No. 780101

**Tuesday, January 24, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, concerning remand of Cause No. 254,921 from the District Court of Travis County, 53rd Judicial District, as summarized.

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

Filed: January 6, 1978, 3:13 p.m.  
Doc. No. 780138

**Wednesday, January 25, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, regarding a petition for organization of Galveston County Municipal Utility District No. 3, as summarized.

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

Filed: January 5, 1978, 2:39 p.m.  
Doc. No. 780102

**Wednesday, February 1, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, regarding petitions for organization of Fort Bend County Municipal Utility District No. 24 and Fort Bend County Municipal Utility District No. 23, as summarized.

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

Filed: January 5, 1978, 2:39 p.m.  
Doc. No. 780103

**Monday, February 13, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding cancellation of Permit No. 2697, as amended, of T. A. Wright, doing business as Dark Canyon Ranch, as summarized.

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

Filed: January 5, 1978, 2:40 p.m.  
Doc. No. 780104

## Regional Agencies

### Meetings Filed January 6, 1978

**The Colorado River Municipal Water District**, Board of Directors, met at 400 East 24th Street, Big Spring, on January 12, 1978, at 10 a.m. Further information may be obtained from O. H. Ivie, Box 869, Big Spring, Texas 79720, telephone (915) 267-6341.



**The Panhandle Regional Planning Commission**, Panhandle Area Agency on Aging Advisory Council, met at the Amarillo Senior Citizens Association, 1311 South Tyler, Amarillo, on January 11, 1978, at 2 p.m. Further information may be obtained from M. K. McQueen, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

Doc. No. 780144

## Meetings Filed January 9, 1978

**The Austin-Travis County MHMR**, Budget/Finance Committee, met at 1430 Collier, Austin, on January 12, 1978, at noon. Further information may be obtained from Dr. Larry Miller, 1430 Collier, Austin, Texas 78704, telephone (715) 755-1771.

**The Brazos River Authority**, Oil and Gas Leasing Committee of the Board of Directors, will meet at 4400 Cobbs Drive, Waco, on January 16, 1978, at 8:30 p.m. The Board of Directors will meet at 9 a.m. at the same location. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

**The Capital Area Planning Council**, Executive Committee, will meet in the CAPCO Conference Room, Suite 400, 611 South Congress, Austin, on January 17, 1978, at 2 p.m. Further information may be obtained from Richard G. Bean, 611 South Congress, Austin, Texas 78704, telephone (512) 443-7653.

**The Education Service Center Region VII**, Board of Directors, will meet at 818 East Main, Kilgore, on January 19, 1978, at noon. Further information may be obtained from Von Rhea Beane, P.O. Box 1622, Kilgore, Texas 75662, telephone (214) 984-3071.

**The Lower Neches Valley Authority**, Board of Directors, will meet in the conference room, LNVA Office Building, 7850 Eastex Freeway, Beaumont, on January 17, 1978, at 10:30 a.m. Further information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704.

**The Nortex Regional Planning Commission**, Executive Committee, will meet at McBride's Land and Cattle Company, 501 Scott, Wichita Falls, on January 19, 1978, at noon. Further information may be obtained from Edwin B. Daniel, 2101 Kemp, Wichita Falls, Texas 76309, telephone (817) 322-5281.

**The Panhandle Regional Planning Commission**, Alcohol/Drug Abuse Services Coordinating Board, will meet in the Continental Room, First National Bank, 7th and Taylor Streets, Amarillo, on January 18, 1978, at 3:30 p.m. Further information may be obtained from Claudia Stuart, 730 Amarillo Building, Amarillo, Texas 79101, telephone (806) 372-3381.

**The South Texas Development Council**, Area Agency on Aging, will meet in District Courtroom, Zapata County, Zapata, on January 18, 1978, at 2 p.m. Further information may be obtained from Lupita Rubio, P.O. Box 1287, Laredo, Texas 78041, telephone (512) 722-3995.

**The Tri-Region Health Systems Agency**, West Central Subarea Plan Development Committee, will meet in Room 210, Moody Center, Hardin-Simmons University, Abilene, on January 17, 1978, at 7 p.m. The Nortex Subarea Plan Development Committee will meet at the Medicenter Psychiatric Hospital, Wichita Falls, on January 18 at 6 p.m. The Concho Valley Subarea Plan Development Committee will meet at San Angelo National Bank, San Angelo, on January 19 at 6 p.m. Further information may be obtained from Michal Hubbard, 2642 Post Oak Road, Suite B, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 780156

## Texas Education Agency State Board of Education Standing Committees

### Schedule of Committee Meetings

Friday, January 13, 1978

8:30 a.m. - noon

Committee for Programs and Personnel Development—  
Board Room, Riverside Square North, 150 East Riverside  
Drive, Austin

Committee for Policy, Budget, and Finance—Second Floor  
Conference Room, Riverside Square South, 158 East River-  
side Drive, Austin

2 - 5 p.m.

Committee for Investment of Permanent School Fund—Sec-  
ond Floor Conference Room, Riverside Square North, 150  
East Riverside Drive, Austin

Committee For Priority, Accountability, and Accreditation—  
Board Room, Riverside Square North, 150 East Riverside  
Drive, Austin

Committee for Special Schools—Campus of the School for the  
Blind, 1100 West 45th Street, Austin

Issued in Austin, Texas, on January 5, 1978.

Doc. No. 780080      J. B. Morgan  
Associate Commissioner for  
Policies and Services  
Texas Education Agency

Filed: January 5, 1978, 10:49 a.m.

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

## Texas Health Facilities Commission

### Notice of Applications

Notice is given by the Texas Health Facilities Commission of  
applications (including a general project description) for  
declaratory rulings or exemption certificates accepted  
December 27, 1977, through January 2, 1978.

Should any person wish to contest the application for a  
declaratory ruling or an exemption certificate, that person  
must file a notice of intent to contest the application with the  
chairman of the commission within 12 days after the  
enclosed listing is published. The first day for calculating  
this 12-day period is the first calendar day following the dat-  
ing of the publishing. The 12th day will expire at 5 p.m. on  
the 12th consecutive day after said publishing if the 12th day  
is a working day. If the 12th day is a Saturday, Sunday, or  
state holiday, the last day shall be extended to 5 p.m. of the  
next day that is not a Saturday, Sunday, or state holiday.  
When notice of intent to contest is mailed to the chairman of  
the commission, P.O. Box 15023, Austin, Texas 78761, it  
must be postmarked no later than the day prior to the last  
day allowed for filing notice of intent to contest.

The contents and form of a notice of intent to become a party  
to an application for a declaratory ruling or exemption cer-  
tificate must meet the minimum criteria set out in Rule 506.  
Failure of a party to supply the minimum necessary informa-  
tion in the correct form by the 12th day will result in a defec-  
tive notice of intent to become a party and such application  
will be considered uncontested.

The fact that an application is uncontested will not mean  
that it will be approved. The application will be approved  
only if the commission determines that it qualifies under the  
criteria of Sections 3.02, 3.03, or 6.02 of Article 4418(h), Ver-  
non's Annotated Texas Statutes, and Rules 302, 502, and 515.

In the following notice, the applicant is listed first, the file  
number second, and the relief sought and project description  
third. EC indicates exemption certificate and DR indicates  
declaratory ruling.

Lubbock Medical Center Hospital, Lubbock  
AH77-1227-001

DR—That neither an EC nor CN is required to reopen exist-  
ing hospital currently licensed for 200 hospital beds.

Davis Granberry Memorial Hospital Association, Inc., Naples  
AH75-0702-005E (122777)

EC—Request 18-month extension of completion deadline in  
EC AN75-0702-005 to build an addition containing 28 beds to  
replace 1948 wing in existing hospital to correct 1967 Life  
Safety Code deficiencies existing on the date of the act.

Memorial Hospital of Garland, Garland  
AH77-1228-001

EC—Acquire integrated mobile radiographic-fluoroscopic x-  
ray system for surgical procedures.

Southwest Texas Methodist Hospital, San Antonio  
AH77-1229-004

EC—Acquire ultra-sound equipment.

Rollins-Brook Hospital, Inc., Lampasas  
AH77-1215-008

EC—Establish a cardiac stress testing laboratory.

Issued in Austin, Texas, on January 5, 1978.

Doc. No. 780109      William D. Darling  
General Counsel  
Texas Health Facilities Commission

Filed: January 5, 1978

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

## North Central Texas Council of Governments

### Award of Contract for Services

#### Description of Work:

The consultant will provide services relative to the Microfilm  
and Management Information Systems Expansion Project  
which will include, but not necessarily be limited to, the in-  
stallation of computer programs, the conduct of operator  
training, and the provision of program maintenance for the  
mutual benefit of seven local law enforcement agencies in  
North Central Texas. The consultant is under contract to the

North Central Texas Council of Governments, which is the coordinating agency for the project.

**Consulting Firm's Name:**  
Rawlins Associates, Inc.

**Contract Amount:**  
\$32,250

**Due Dates for Receipt of Reports:**  
Reports to the North Central Texas Council of Governments will be due from the contractor on the following dates:

January, 1978

March, 1978

May, 1978

July, 1978 (Final Report)

Issued in Arlington, Texas, on January 3, 1978.

Doc. No. 780078      William J. Pitstick  
Executive Director  
North Central Texas Council of  
Governments

Filed: January 5, 1978, 10:22 a.m.

For further information, please call: (817) 640-3300.



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