

# TEXAS REGISTER

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Office of the Secretary of State

USPS Publication Number 120090

# NOTES ON THE ISSUE

To comply with federal requirements, the Texas Air Control Board has amended its rule concerning the granting of permits to construct new industrial plants in the state. The amendment incorporates provisions of the Federal Clean Air Act Amendments of 1977 concerning the granting of permits in areas considered to have an overly high pollution level. Known as the offset emissions policy, the federal law requires that before a plant can move into an area which has not attained federal air quality standards, some other plant or plants in that area must reduce emissions by an amount that more than offsets the amount of pollution from the new plant. The board's application to the Environmental Protection Agency for a waiver to these offset requirements was denied on December 10, 1977.

The Texas Health Facilities Commission regulates the construction, development, modification, or addition of health facilities and services in the state. Health care facilities in the state must apply to the commission for approval of projects to develop, construct, expand, or modify facilities and services. The regulatory process for this application is the granting or denying by the commission of a certificate of need, an order that is issued after a 90-day period during which need is assessed and determined. The commission is revising its rules which govern the certificate of need process to bring them more fully into compliance with federal regulations, as authorized under Article 4418(h), Texas Revised Civil Statutes. Existing rules are proposed for repeal, with more specific guidelines concerning the certificate of need process being proposed in a new set of rules.

*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

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Office of the  
Secretary of State

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## Executive Orders

### D.B. 35

WHEREAS, the United States Endangered Species Scientific Authority has notified the State of Texas that it will approve the international exportation of tagged bobcat pelts taken in the State of Texas with the understanding that there be a limitation on the number of exportable pelts, and

WHEREAS, the authority's approval is also with the understanding that research and management of these species will be pursued vigorously in each state and that exportation will not be approved unless the authority has information that would support a positive finding that it will not be detrimental to the survival of the species:

NOW, THEREFORE, I, Dolph Briscoe, governor of the State of Texas, by virtue of the power vested in me, do hereby designate and authorize the Texas Department of Parks and

Wildlife as the state agency responsible for developing in Texas an appropriate program to implement the federal rules and regulations respecting the exportation of bobcat pelts taken in Texas and to promulgate its applicable rules and regulations within 90 days of this date.

This Executive Order D.B. 35 is effective on this 6th day of January, 1978, and shall remain in effect until amended, modified, or repealed by me.

In official recognition whereof, I hereby affix my signature this the 6th day of January, A.D., 1978.

Issued in Austin, Texas, on January 6, 1978.

Doc. No. 780342      Dolph Briscoe  
Governor of Texas

Filed: January 13, 1978, 11:06 a.m.

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

## Opinions

### Summary of Opinion H-1108

Request from Oscar B. McInnis, Criminal District Attorney, Hidalgo County, Edinburg, regarding taxation of property purportedly leased by Hidalgo County to private manufacturing concerns.

**Summary of Opinion:** Properties purportedly leased by cities to private manufacturers were taxable to true owners of the fee interests where the cities never legally acquired ownership interests in them. Property which the tax assessor-collector lists on the tax rolls as nonexempt cannot be reclassified as property exempt from taxation by the county commissioners court sitting as a board of equalization, even though such assessments made by a tax assessor-collector can be later reviewed by the commissioners court, sitting as the court, which may order invalid assessments reassessed.

Doc. No. 780249

### Summary of Opinion H-1112

Request from Joe Resweber, Harris County Attorney, Houston, concerning employment of county traffic officers.

**Summary of Opinion:** The commissioners court may employ county traffic officers only in conjunction with the sheriff, who is then empowered to direct their duties. Such officers are to be paid from the general fund. The commissioners court does not have authority to employ county safety officers.

Doc. No. 780250

### Summary of Opinion H-1113

Request from Jim Sharon Bearden, Orange County Attorney, Orange, concerning the authority of the county commissioners court to establish a wage and job classification for employees of an elected county official, or to increase their pay, without the consent of the elected official.

**Summary of Opinion:** A county commissioners court in a county not subject to the County Civil Service Act may institute a wage and job classification system to schedule job descriptions for county employments and match them with assigned salary and wage levels. It may raise the pay of a position in an elected official's department, whether or not the official desires it, but it may not influence the selection of the person to fill the post.

Doc. No. 780341

## Open Records Decisions

### Summary of Open Records Decision 183

Request for open records decision from Clema D. Sanders, Executive Director, Texas Board of Private Investigators and Private Security Agencies, Austin, concerning whether the investigative files of Board of Private Investigators and Private Security Agencies are public under the Open Records Act.

**Summary of Decision:** Section 3(a)(3) of the Open Records Act, the litigation exception, does not except from disclosure investigative files of the Board of Private Investigators and Private Security Agencies when there is no reasonable anticipation of litigation. Records of investigations conducted by the board on behalf of other agencies are required to be released under the Texas Open Records Act.

Doc. No. 780251

### Summary of Open Records Decision 184

Request for open records decision from Jerome Chapman, Commissioner, Texas Department of Human Resources, Austin, concerning whether a transportation company's plan of operation filed with the Department of Public Welfare as an attachment to a contract with the department is public under the Open Records Act.

**Summary of Decision:** A transportation company's plan of operation filed with the Department of Public Welfare as an attachment to a contract with the department is public under the Open Records Act.

Issued in Austin, Texas, on January 10, 1978.

Doc. No. 780252

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 are 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 Secretary of State

### Elections

#### Suffrage 004.30.05

The secretary of state is enacting Emergency Rules 004.30.05.320-.325 to prescribe the procedure for providing postage-free voter registration applications in accordance with Senate Bill 850, 65th Texas Legislature. These rules are being adopted on an emergency basis so that voter registrars may make arrangements as quickly as possible with postal authorities.

These rules are enacted under the authority of Vernon's Texas Election Code, Articles 1.03 and 5.13a.

**.320. Implementation of Postage-Free Voter Registration Application System.** The secretary of state will provide postage-free voter registration applications in reasonable quantities to any individual, organization, business, or political subdivision requesting them. Individual registrars may also request a supply. The postage-free application may be printed only by the secretary of state. The secretary of state will notify each registrar of the number of applications released in the particular county and the notice will indicate the quantity and date of delivery of postage-free applications and the name and address of the organization to which the applications have been delivered in each county.

**.321. Business Reply Mail Permits.** Each voter registrar must obtain a business reply permit from the local post office at an annual cost of \$30. The secretary of state will send each registrar a state warrant payable to the local postmaster for that amount as well as an example of a U.S. Postal Service application form, "Application to Distribute Business Reply Cards, Envelopes, Cartons, and Labels." This form must be submitted to the local post office in order to receive a business reply mail permit. Immediately upon receipt from the local post office, each registrar should mail a copy of the permit authorization form to the secretary of state.

The registrar should submit the application form and the warrant for \$30 to the local post office upon receipt of the official directive from the secretary of state, but should clearly indicate to the postmaster that the application is for a business reply permit to become effective on January 1, 1978.

**.322. Business Reply Mail Accounts.** In accordance with postal regulations, permit holders will have the option of (1) keeping a business reply mail advance deposit trust account at the post office, or (2) paying postage due charges to the carrier upon delivery by utilizing a regular postage due account. A business reply mail advance deposit trust account requires an annual \$75 accounting fee. This type of account will be economical for those counties in which more than 882 applications are returned per year.

Upon receipt of a business reply permit, each registrar should open either a regular postage due account or a business reply mail advance deposit trust account with the local post office clearly indicating to the postmaster that the account is to be utilized only for business reply mail. Registrars may not use pre-existing accounts for the business reply voter registration system.

**.323. Business Reply Mail Advance Deposit Trust Accounts.** The following procedure applies to those counties designated to use a business reply mail advance deposit trust account. A state warrant for \$75 is to be used for the annual accounting fee and a second warrant is to be utilized for the initial advance deposit in the account. Each application returned to the registrar's office under this system will cost three and one-half cents plus regular nine cents postage.

**.324. "Regular" Postage Due Accounts.** Those counties which are not designated to use a "trust account" should open a regular postage due account. A state warrant is to be utilized for the initial advance deposit. This warrant will be an approximation of the amount necessary for the number of applications it is anticipated will be received. Each application returned to the registrar's office will cost 12 cents plus the regular nine cents postage.

A proposed list of designated counties will be flexible in regard to possible additions due to changes in anticipated mail-outs of applications. Requests to be included on this list may be submitted to the secretary of state.

**.325. Coordination of County and Secretary of State Records.** All voter registrars will be notified periodically by the local post office as to the status of each account. Each registrar should make arrangements with the local postmaster to have the "Notice to Replenish" sent well in advance to avoid an overdrawn account situation. Immediately upon receipt, the registrar shall send a copy of this postal notice to the secretary of state. State warrants will be issued accordingly to fill depleted accounts.

A ledger form will be utilized by each registrar for bookkeeping purposes. The secretary of state will maintain an identical ledger for each county. Identical ledgers, one in the Office of the Secretary of State and one with each registrar, are to be maintained through notifications of delivery and use of applications and the delivery and use of funds in the postage accounts. By comparing the quantity and delivery dates for applications noted on the ledgers to the balance in each account, the need for further state funds can be assessed and the risk of depletion of the account can be minimized. These

records must be kept up to date by appropriate communications between each registrar and post office. The registrar must then forward such updated information to the secretary of state. The timely issuance of state warrants to supplement individual accounts will depend upon compliance with the reporting requirements.

A form entitled "Number of BRM Applications Filed" should be mailed to the secretary of state monthly by each registrar whose county is included on the list for use of the BRM advance deposit trust account. The registrar of counties not designated to use trust accounts should mail the secretary of state a notification of the number of applications filed at least once every six months or as the need for additional state funds becomes apparent. If it appears that the amount in the business reply account is insufficient to handle the number of

applications released, the secretary of state should be notified by mailing a request for postage account funds. State warrants will be issued accordingly. When it appears to the secretary of state, from an examination of the ledger maintained in this office for the county, that the remaining funds may not be sufficient, a state warrant may be issued without the necessity for any preliminary request.

Issued in Austin, Texas, on December 28, 1977.

Doc. No. 780236

Steve Oaks  
Secretary of State

Effective Date: January 11, 1978

Expiration Date: May 11, 1978

For further information, please call (512) 475-3091.

# PROPOSED RULES

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.

## Texas Department of Agriculture

### Herbicides 176.26.00

The Texas Department of Agriculture is proposing to amend Rules 176.26.00.001 and 176.26.00.002(s). The proposal to amend Rule 176.26.00.001 should delete the counties of Tarrant and Terry from regulations of the Texas Herbicide Law as per order of the respective county commissioners courts.

The proposal to amend Rule 176.26.00.002(s) would change the boundary of that portion of Runnels County regulated by provisions of the Texas Herbicide Law as per order of the Runnels County Commissioners Court.

The Texas Department of Agriculture has determined that the proposed amendments to Rules .001 and .002(s) will cause no fiscal implications for units of local government of the state.

Public comment on the proposed amendments to Rules 176.26.00.001 and 176.26.00.002(s) is invited. Comments may be submitted by telephoning David Ivie at (512) 475-6133, or by writing to the Agricultural and Environmental Sciences Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

Amendments to Rules .001 and .002(s) are proposed under the authority of Texas Civil Statutes, Article 135b-4.

**.001. Counties Regulated.** Aransas, Austin, Bell, Bexar, Brazoria, Brazos, Burleson, Calhoun, Cochran, Collin, Collingsworth, Colorado, Cooke, Culberson, Dallas, Dawson, Delta, Denton, Dickens, Donley, El Paso, Falls, Fannin, Fort Bend, Franklin, Gaines, Galveston, Grayson, Hall, Hardin, Harris, Hidalgo, Houston, Hudspeth, Hunt, Jackson, Jefferson, Karnes, Kaufman, King, Knox, Lamar, Lamb, Liberty,

Loving, Lynn, McLehnan, Martin, Matagorda, Midland, Milam, Newton, Orange, Palo Pinto, Parmer, Rains, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, San Patricio, [Tarrant, Terry,] Titus, Travis, Tyler, Van Zandt, Waller, Ward, Washington, Wharton, Williamson, Wilson, and Wood.

#### .002. County Special Provisions.

(s) Runnels. That portion of Runnels County beginning at junction of *State Highway 384 with Oak Creek southerly along Oak Creek to its junction with the Colorado River. Down the Colorado River to its junction with F.M. 3115, thence northerly along F.M. 3115 to its junction with State Highway 158, thence easterly southeasterly to State Highway 158 to its junction with Valley Creek; thence northerly along Valley Creek some six and one-half miles to its junction with a county road; thence easterly along said county road one and three-fourths miles to its junction with F.M. 2111; thence north along F.M. 2111 three miles to intersection of a county road; thence easterly along said county road one and one-fourth miles to a 90-degree left turn; thence northerly one mile to its intersection with F.M. 384 thence easterly along F.M. 1677; thence northerly along F.M. 1677 to Pumphrey community to continue northerly along a county road two and one-fourth miles to its intersection with F.M. 2595; thence westerly and southwesterly along F.M. 2595 to its intersection with F.M. 53; thence south along F.M. 53 approximately one-half mile to intersection of a county road at north edge of Wingate; thence southwesterly along the county road three miles; thence southerly one mile; thence southwesterly one mile; thence southerly two and one-half miles; thence southwesterly one and one-half miles; thence southerly one and one-fourth miles to the intersection with F.M. 384; thence southwesterly along F.M. 384 two miles to Oak Creek the point of beginning, is regulated by the Texas Herbicide Law. Persons within the regulated area who use regulated herbicides between May 10 and September 1 must obtain a spraying permit from the Texas Department of Agriculture prior to such use [West County line and Colorado River; thence down the Colorado River to its junction with U.S. 83; thence northward on U.S. 83 to its junction with the North Runnels County line; thence west along said county line to the northwest corner of Runnels County; thence southward along the West Runnels County line to point of beginning, is regulated by provisions of the Texas Herbicide Law.*

(1) Between the dates of May 10 and October 1 each year, all use of hormone-type herbicides be prohibited in the regulated area.

(2) Between the dates of October 1 and May 10 each year, no permits or permit fee be required).

Issued in Austin, Texas, on January 9, 1978.

Doc. No. 780254      Reagan V. Brown  
Commissioner  
Texas Department of Agriculture

Proposed Date of Adoption: February 19, 1978

For further information, please call (512) 475-6133.



## Credit Union Department

### Credit Union Regulations

#### Loans .058.01.07

The Credit Union Department is proposing to amend Rule .058.01.07.003(a)(6)(B) by adding a clause which authorizes the commissioner to have the power to make exceptions to the improved nonresidential property loan restrictions.

This amendment would provide authority for reasonable exceptions to the nonresidential property loan rule, but with the review and approval by the commissioner.

This proposed amended rule has no fiscal implications for the state or for the units of local government, as determined by the department.

Public comment on the proposed amendment to Rule .058.01.07.003(a)(6)(B) is invited. Persons should submit their comments in writing to: John P. Parsons, Commissioner, Credit Union Department—State of Texas, 1106 Clayton Lane, Suite 206-E, Austin, Texas 78723.

This amendment is proposed under the authority of the Texas Credit Union Act, Article 2461, Chapters 1, *et. seq.*, Texas Civil Statutes.

*.003. Real Estate Loans.* Credit unions with assets of \$500,000 or more may make real estate loans to members secured by a mortgage, deed of trust, or other instruments creating or constituting a first and prior lien on real estate. Additional security may also be taken by the credit union in connection with any such loan if deemed necessary and proper.

(a) Requirement in regard to real estate loan transaction. No credit union shall:

(6) Maximum real estate terms. Credit union real estate loans are subject to the following additional terms and conditions:

(B) On all real estate loans secured by improved nonresidential property, the maximum loan is 80 percent of the sales price or appraised value, whichever is less, and shall be repaid, both interest and principal, within a period not exceeding 15 years from the date the loan is made *unless otherwise approved by the commissioner.*

Issued in Austin, Texas, on January 12, 1978.

Doc. No. 780360      John P. Parsons  
                                 Commissioner  
                                 Credit Union Department

Proposed Date of Adoption: February 19, 1978

For further information, please call (512) 475-2295.

## Texas Health Facilities Commission

### Notice of Proposed Repeals

(Editor's note: Because of the length of the text, the following proposed repeals will not be published. Copies of the proposed rules may be inspected in the office of the Texas

Register Division, 503-E Sam Houston Building, Austin, or may be examined in the offices of the Texas Health Facilities Commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin. Following the preamble of the proposed repeals is a listing of the rules by chapter titles, subchapter titles (if there are subchapter divisions), and rule code numbers.)

The Texas Health Facilities Commission is proposing the repeal of the following rules. The commission has found that substantial changes in its existing rules are necessary to provide a more efficient, effective, and orderly system for the regulation of development, construction, expansion, and modification of health care facilities, as well as creation or expansion of health care services in the State of Texas. Substantial changes in the existing rules are also necessary for the Texas Certificate of Need Program to meet the requirements of the federal rules and regulations promulgated under the National Health Planning and Resources Development Act of 1974 (Public Law 93-641). To achieve these ends, the commission proposes to adopt new rules to replace these rules.

The repeal of these rules will have no fiscal implications. The repeal of the existing rules will allow the adoption of new rules and will not require changes that would increase agency costs. The source of this determination is the commission staff which has analyzed the repeal of the rules.

Public comment is invited and will be accepted until February 24, 1978. Written comment should be addressed to: William D. Darling, General Counsel, Texas Health Facilities Commission, P.O. Box 15023, Austin, Texas 78761.

A public hearing is scheduled to receive oral testimony relevant and material to the repeal of this rule. The hearing will be held at 10 a.m. February 17, 1978, at the offices of the Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Jefferson Building, Austin.

The repeal of these rules is proposed under the authority of Article 4418(h), Texas Civil Statutes.

#### *Health Systems Agency Certificate of Need Review:*

*Purpose 315.08.01.001*

*Health Systems Agency Rules of Review 315.08.02.001*

*Application Review by Health Systems Agencies*

*315.08.03.001-.007*

*Criteria 315.08.04.001-.002*

*Introduction 315.09.00.001-.003*

*Rules and Regulations of the Commission 315.10.00.001-.006*

*Definitions and Explanation of the Applicability of the Act*  
*315.11.00.001-.002*

*Records 315.12.00.001-.003*

*Procedures 315.13.00.001-.015*

#### *General Rules:*

*Computing Time and Filing Extensions*

*315.14.01.001-.002*

*Applications and Fees 315.14.02.001-.003*

*Data and Criteria for Certificate of Need*

*315.14.03.001*

*Hearings 315.14.04.001-.018*

*Judicial Review 315.14.05.001-.004*

*Forfeiture or Revocations of Certificates and Rulings 315.14.06.001-.002*  
*Violations and Enforcement 315.14.07.001-.002*  
*Annual Report of Commission 315.14.08.001*  
*Interagency Contracts and Funds 315.14.09.001-.002*

Doc. Nos. 780323-780340

(Editor's note: The following rules represent the first of two parts to be published. The remainder of the rules will appear in the January 27, 1978, issue. The proposed date of adoption for all the rules is March 1, 1978.)

## Description of the Commission 315.15.00.010-.020

The Texas Health Facilities Commission proposes to adopt new rules to replace its existing rules. These new rules are designed to provide a more efficient and orderly certificate of need process for the regulation of development, expansion, or modification of health care facilities or services in the State of Texas. The proposed rules will allow the commission to comply, as mandated by Texas Civil Statutes, Article 4418(h), with new federal regulations promulgated under the National Health Planning and Resources Development Act of 1974, Public Law 93-641 (42 United States Code 300K). This subchapter describes the authority under which the commission is established.

The proposed rules are expected to have no fiscal implications on units of local government, but they may have implications for the State of Texas through revenue spent in funds appropriated for the enforcement of Texas Civil Statutes, Article 4418(h), pursuant to the provisions of Public Law 93-641.

During year one, costs to the state are estimated to increase revenue requirements by approximately \$275,000. This increase will be incurred because of an increased volume of applications and the requisite administrative and legal matters, as well as enforcement activities prescribed under the act.

During years two through five, best estimates for additional revenues required, as a result of these rules and federal regulatory requirements, are for expenditures of approximately \$50,000 additional each year.

The source of determination that the proposed rules will have fiscal implications for the State of Texas and no fiscal implications for units of local government is the staff of the commission.

Public comment is invited and will be accepted until February 24, 1978. Written comment should be addressed to William D. Darling, General Counsel, Texas Health Facilities Commission, P.O. Box 15023, Austin, Texas 78761.

A public hearing, material to the adoption of these rules, will be held on February 17, 1978, at 10 a.m. at the offices of the Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Jefferson Building, Austin, Texas 78761.

These rules are proposed under the authority of Texas Civil Statutes, Article 4418(h), Section 2.06(2).

*.010. Origin of the Commission.* The Texas Health Facilities Commission was established by the enactment of

the Texas Health Planning and Development Act, Vernon's Annotated Civil Statutes, Article 4418(h), and enacted by the 64th Legislature of the State of Texas, approved May 28, 1975.

*.020. Purpose of the Commission.* The Texas Health Planning and Development Act, effective May 28, 1975, was enacted to meet the requirements of the National Health Planning and Resources Development Act of 1974 (Public Law 93-641, 42 United States Code 300K) and to insure that health services and facilities are made available to all citizens of the State of Texas in an orderly and economical manner.

Doc. No. 780287

## 315.15.00.030-.040

This subchapter describes the structure of the commission and the authority of establishing its offices and divisions.

These rules are proposed under the authority of Texas Civil Statutes, Article 4418(h), Section 2.06(2).

*.030. Executive Officer.* The chairman is the chief executive and administrative officer of the commission. In addition to the other powers and duties prescribed by the Texas Health Planning and Development Act, the chairman as chief executive officer of the commission shall:

- (a) administer the duties and functions of the commission;
- (b) employ and remove personnel and prescribe their duties, responsibilities, and compensation; and
- (c) submit through and with the approval of the commission requests for appropriations and other funds to operate the commission.

In the absence of the chairman, for any cause, the vice chairman has the powers and duties assigned to the chairman.

*.040. Offices and Divisions.* The commission shall establish offices and divisions of the commission that it deems necessary to carry out the functions and duties of the commission. The commission may assign functions and duties to the various offices and divisions, provide for additional offices and divisions, and reorganize the commission, if necessary, to improve its efficiency or effectiveness.

Doc. No. 780288

## 315.15.00.050

This subchapter describes the general responsibilities and duties of the commission.

This rule is proposed under the authority of Texas Civil Statutes, Article 4418(h), Section 2.06(2).

*.050. General Duties of the Commission.* The general duties of the Texas Health Facilities Commission are to:

- (a) administer a state certificate of need program as prescribed by state and federal law;
- (b) promulgate and adopt such rules determined to be necessary for the administration and enforcement of the state certificate of need program;

(c) issue written orders regarding certificates of need, exemption certificates, declaratory rulings, and other matters properly before the commission;

(d) make an annual report to the governor and the legislature of the commission's operations and provide other reports that the governor or legislature may require;

(e) administer all funds entrusted to the commission; and

(f) prescribe the personnel policies for the commission and perform other duties and functions that may be prescribed by law.

Doc. No. 780289

## Rules of the Commission

### Explanation of Rules 315.16.01

This subchapter describes the province of commission rules and how one petitions the commission to adopt rules.

These rules are proposed under the authority of Texas Civil Statutes, Article 4418(h), Section 2.06(2).

**.010. Rulemaking Authority.** The Texas Health Facilities Commission is empowered by the Texas Health Planning and Development Act, Vernon's Annotated Civil Statutes, Article 4418(h), to promulgate and adopt rules and regulations to effectuate the purpose of the act and to carry out the duties of the commission.

The commission shall review applications for certificates of need, exemption certificates and declaratory rulings according to criteria for review established by the Texas Health Planning and Development Act and commission rules and, as appropriate, shall make orders pursuant thereto.

**.020. Purpose of Rules.** The rules herein promulgated pursuant to the Texas Health Planning and Development Act, Article 4418(h), Vernon's Annotated Civil Statutes, are adopted by the Texas Health Facilities Commission in order to provide an efficient and orderly system for the regulation of development, construction, modification, or expansion of certain health care facilities and services in the State of Texas.

**.030. Severability.** Where any terms or sections of these rules are found by judicial determination to be inconsistent with the Texas Health Planning and Development Act, the act shall apply and the remaining terms and sections of these rules shall continue in effect.

**.040. Use and Effect of Rules.** The rules set forth herein are prescribed for the performance of statutory and regulatory functions by the commission and are not to be construed as limitations or restrictions upon the exercise of the commission's authority.

**.050. Amendment of Rules.** These rules may be amended as considered appropriate by the commission. In proposing the adoption of additional rules or amendments to these rules, the commission shall comply with the provisions of the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Annotated Civil Statutes.

**.060. Petition for Rule Adoption.** Any person may petition the commission to adopt a rule or amend an existing rule. To

be considered by the commission, a petition must be in writing and must contain at least the following information:

(a) the identity of the person making the request;

(b) the text of the rule or rule amendment proposed for adoption;

(c) the reasons for adoption of the proposed rule or rule amendment; and

(d) the fiscal implications of the proposed rule or rule amendment on state funds or costs to units of local government.

The commission shall consider the petition for rule adoption in open meeting within 60 days after submission of the request. After consideration of the petition, the commission shall either deny the petition in writing, stating the reasons for denial, or initiate rulemaking proceedings in accordance with Section 5 of the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Annotated Civil Statutes.

**.070. Violations of Rules.** A violation of the rules, regulations, or orders of the commission shall constitute a violation of the Texas Health Planning and Development Act. Enforcement of these rules and regulations will be pursuant to Section 3.14 of the act and as prescribed in these rules.

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### Definitions 315.16.02

This subchapter sets forth definitions used in the proposed rules and the act.

These rules are proposed under the authority of Texas Civil Statutes, Article 4418(h), Sections 2.06(2) and 3.01(c).

**.010. Act.** "Act" means Vernon's Annotated Civil Statutes or Texas Civil Statutes, Article 4418(h), the Texas Health Planning and Development Act.

**.020. Administrative Order.** "Administrative order" is a written order other than a certificate of need, exemption certificate, or declaratory ruling, regarding matters properly before the commission.

**.030. Applicant.** "Applicant" means a person who makes application to the commission pursuant to the act.

**.040. Application.** "Application" means a written request for consideration by the commission pursuant to the act.

**.050. Bed Capacity.** "Bed capacity" means the number of licensed beds in an existing health care facility.

**.060. Category.** "Category" means inpatient beds in an existing health care facility within which health care services are provided to a defined and limited class of patients.

**.070. Certificate Holder.** "Certificate holder" is the person named in the certificate of need or exemption certificate and any person owning title or interest in the person named in the certificate of need or exemption certificate.

**.080. Certificate of Need.** "Certificate of need" means a written order of the commission setting forth the commission's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by the act and by rule of the commission.

**.090. Commission.** "Commission" means the Texas Health Facilities Commission.

**.100. Declaratory Ruling.** "Declaratory ruling" is a written order of the commission stating whether or not a proposed project requires either a certificate of need or an exemption certificate.

**.120. Department.** "Department" means the Texas Department of Health.

**.130. Executive Officer.** "Executive officer" means the commission's chairman who is the chief executive and administrative officer of the commission.

**.140. Exemption Certificate.** "Exemption certificate" is a written order of the commission exempting a proposed project from the certificate of need requirements.

**.150. Federal Law.** "Federal law" includes the National Health Planning and Resources Development Act of 1974, 72 United States Code 300K, and 42 United States Code 401 *et al.*, 42 United States Code 246, 42 United States Code 299 *et al.*, 42 United States Code 291 *et al.*, 42 United States Code 266 *et al.*, the federal rules and regulations promulgated under those acts, and other pertinent federal authority.

**.160. Health Care Facility.** "Health care facility," referred to as "facility," includes, regardless of ownership, but is not limited to, a public or private hospital, extended care facility, skilled nursing facility, intermediate care facility, home health agency, outpatient care facility, outpatient surgical and single procedure facility, ambulatory health care facility, health center, family planning clinic, kidney disease treatment facility, radiation therapy facility, alcoholism and drug treatment facility, health maintenance organization, institution, and other specialized facilities where inpatient or outpatient health care services for observation, diagnosis, active treatment, or overnight care for patients with obstetrical, medical, mental or psychiatric, surgical, tubercular, alcoholic, chronic, or rehabilitative conditions are provided requiring daily direct supervision by a physician or a practitioner of the healing arts, but does not include the offices of those physicians or practitioners singly or in groups in the conduct of their profession.

**.170. Health Maintenance Organization.** "Health maintenance organization," referred to as "HMO," means any person who undertakes to provide or arrange for one or more health care plans pursuant to Article 20A.01-201.34, Vernon's Annotated Civil Statutes or Texas Civil Statutes.

**.180. Health Service Area.** "Health service area" is that geographical region defined for health planning and project review activities by a health systems agency and provided for under federal and state law.

**.190. Health Systems Agency.** "Health systems agency" means a nonprofit private corporation or public regional planning body acting as an instrumentality of the federal government and designated in accordance with federal law and subject to approval of the governor and his periodic review and redesignation.

**.200. Hearing.** "Hearing" means a public proceeding for examination of an application or other matter properly before the commission where the applicant, the commission, and other parties may present evidence.

**.210. Home Health Agency.** "Home health agency" is a public agency or private organization or a subdivision of such an agency organization, which:

(a) is primarily engaged in providing skilled nursing services and other therapeutic services;

(b) has policies established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in (a) above) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(c) maintains clinical records on all patients.

**.220. Home Health Agency Branch Office.** "Home health agency branch office" is a location or site from which a home health agency provides services within a portion of a total geographic area serviced by the parent agency. A branch office is part of the home health agency and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.

**.230. Home Health Agency Subunit.** "Home health agency subunit" is a semi-autonomous organization which serves patients in a geographical area different from that of the parent agency. The subunit, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services.

**.240. Hospital.** A "hospital" is an institution primarily engaged in providing diagnostic services and therapeutic services to inpatients for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons, by or under the supervision of physicians.

**.250. Institutional Health Care Service.** "Institutional health care service," referred to as "services," means the health care services provided in health care facilities and includes, but is not limited to, inpatient or outpatient services for observation, diagnosis, treatment, or rehabilitation, and all care for patients with obstetrical, medical, surgical, tubercular, mental, alcoholic, chronic, rehabilitative, or other conditions.

**.260. Intermediate Care Facility.** An "intermediate care facility" is an institution which provides, on a regular basis, health care services to individuals who, because of their mental or physical condition, require health care services above the level of room and board, and who do not require the degree of care and treatment which a hospital or skilled nursing facility provides.

**.270. Interested Person.** "Interested person" means a person who presents evidence at a hearing on an application but who was not admitted by the commission as a party.

**.280. Medical Service Area.** "Medical service area" means the geographic territory from which patients come or from which patients are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

**.290. Meeting.** "Meeting" is an open public meeting attended by the commissioners for the purpose of rendering decisions on applications and other matters brought before the commission.

**.300. Modification.** "Modification" means the acquisition of land and the acquisition, repair, or replacement of facilities or equipment.

**.310. Parent Home Health Agency.** "Parent home health agency" is the agency that develops and maintains administrative controls of subunits and/or branch offices.

**.320. Party.** "Party" means a person who, by formal intervention or action as determined by rule of the commission, participates in the consideration of a specific application by the commission.

**.330. Person.** "Person" means an individual, sole proprietorship, charity, trust, estate, institution, group, association, firm, joint venture, partnership, joint stock company, cooperative, corporation, the state, or a political subdivision or instrumentality of the federal government, any receiver, trustee, assignee or other similar representative, or any other legal entity.

**.340. Project.** "Project" means services, facility, or HMO requiring a certificate of need or an exemption certificate under the act.

**.350. Skilled Nursing Facility.** "Skilled nursing facility" is an institution or a distinct part of an institution which is primarily engaged in providing skilled nursing care and related services to inpatient patients who require medical or nursing care, or rehabilitation services.

**.360. To Offer.** "To offer," when used in connection with health services, means that a health care facility or health maintenance organization holds itself out as capable of providing, and in fact has the means for the provision of, specified health services.

Doc. No. 780291

## Explanation of the Act

### Explanation of Terms and Phrases 315.17.01

This subchapter defines and explains terms and phrases used in the regulatory activities specified by the act and in these proposed rules. The terms and phrases herein will assist potential applicants in determining what section(s) of the act apply to particular types of projects.

These rules are proposed under the authority of Section 2.06(2) and 3.01(c) of Article 4418(h), Texas Civil Statutes.

**.010. Services.** The term "services" includes, but is not limited to, the following: nuclear medicine, emergency medicine, radiology (diagnosis), radiation therapy, pharmacy, surgery, psychiatry, physical medicine, outpatient services, intensive care, progressive care, coronary care, respiratory therapy, pediatrics, neonatology, gynecology, obstetrics, anesthesiology, laboratory, acute renal dialysis, chronic dialysis maintenance, general medical care, dietary services, social services, speech therapy, physical therapy, vocational or occupational therapy, pathology, custodial care, nursing care, home health aide, intermediate care facility-mentally retarded-I (ICF-MR-I) care, intermediate care

facility-mentally retarded-V (ICF-MR-V) care, alcohol rehabilitation, drug rehabilitation, neurology, orthopedics, extended care, home care, and family planning.

**.020. Special Services.** The phrase "special service," as that term is used in Section 3.10(b)(5) of the act, includes, but is not limited to, cardiac catheterization, burn care, neurosurgery, organ transplant, therapeutic radiation, organ bank, blood bank, neonatal intensive care, and hemophilia care.

**.030. Creation of a New Home Health Agency.** The phrase "provide a service not currently offered" includes the creation of a home health agency.

**.040. Addition Subunit or Branch Office.** The phrase "substantially expand a service not currently offered" includes the establishment of a subunit or branch office by an existing parent home health agency.

**.050. Addition of County to Home Health Agency Service Area.** The phrase "provide a service not currently offered" includes the offering of service by a home health agency in a county:

(a) where the home health agency was not offering service as of June 18, 1976, or was not recognized as offering health care services by the department as of June 18, 1976; or

(b) where the home health agency has never offered service;

(c) where the home health agency has not offered service for any consecutive 12-month period after June 18, 1976.

**.060. Increase in Number of Licensed Beds.** The phrase "change the bed capacity of an existing facility" includes an increase in the number of licensed beds in an existing health care facility.

**.070. Creation of the Category of Beds as a New Service.** The term "provide a service not currently offered" includes the creation of a category of beds in an existing health care facility.

**.080. Redistribution of Beds Among Categories as a Substantial Expansion of Service.** The term "substantially expand a service currently offered" includes the redistribution of more than 10 beds, or 10 percent of the total number of licensed beds in an existing health care facility, whichever is less, among various existing categories of beds in a health care facility over a two-year period.

**.090. Redistribution of Beds among Categories as an Expansion of Service.** The term "expand a service currently offered" includes the redistribution of not more than 10 beds or 10 percent of the total number of licensed beds in an existing health care facility, whichever is less, among existing categories of beds in a health care facility over a two-year period.

**.100. Services Not Offered.** The phrase "service not currently offered" means:

(a) a service which has never been offered in a health care facility; or

(b) a service that a health care facility has not offered for a period of 12 months or more.

**.110. Expendable Supplies Not a Modification.** The term "modification" does not include the acquisition of expendable supplies by a health care facility.

**.120. Routine Maintenance and Repair.** Routine maintenance and repair is an action customarily undertaken which is necessary for the preservation of the capability of the real property and facility structure for safe, effective, and efficient delivery of health services by a health care facility; which does not expand the health care facility delivery capacity or provide additional direct institutional health care services, and for which there is a noncapital expenditure under \$100,000. Routine maintenance and repair includes, but is not limited to, the painting of interior and exterior wall surfaces, replacement of floor and ceiling coverings, replacement and repair of defective or deteriorating structure to include plumbing or electrical wiring, the repair or replacement of unforeseen structurally or mechanical equipment failure. Routine maintenance and repair as defined in this rule is not included in the term "modification."

**.130. Remodeling.** "Remodeling" includes the removal or relocation of nonloadbearing wall partitions. The remodeling of an existing health care facility that will not exceed a cost of \$100,000 and that will not expand services is not included in the term "modification."

**.140. Capital Expenditure as a Modification.** The term "modification" includes any expenditure by or on behalf of a health care facility which, under generally accepted accounting principles consistently applied, is a capital expenditure. This provision does not apply to expenditures solely for the termination or reduction of beds or of a health care service.

**.150. Category.** The term "category" includes, but is not limited to, the following: surgical, medical, obstetrical, pediatric, psychiatric, intensive care, extended care, coronary care, custodial care, intermediate care facility-II (ICF-II) nursing care, intermediate care facility-III (ICF-III) nursing care, skilled nursing care, intermediate care facility-mentally retarded-I (ICF-MR-I) care, intermediate care facility-mentally retarded-V (ICF-MR-V) care, and intermediate care facility-mentally retarded-IV (ICF-MR-IV) care.

**.160. Conversion of a Structure into a Health Care Facility.** The phrase "convert a structure into a health care facility" means the creation of a new health care facility by the conversion of an existing structure into a health care facility.

**.170. Lease or Donation as a Modification.** The term "modification" includes the acquisition or replacement of facilities or equipment by lease or donation by or on behalf of a health care facility.

**.180. Cost of Leased or Donated Equipment.** The term "cost," when applied to a modification of an existing facility by the acquisition or replacement of equipment by lease or donation means the current market value of the equipment. When the current market value of the equipment is unobtainable, the term "cost" means the total lease payments and other expenditures required during the lease term.

**.190. Cost of Donated Facilities.** The term "cost," when applied to the modification of an existing facility by the acquisition or replacement of facilities by donation, means the current market value of the donated facility.

**.200. Cost of Leased Facilities.** The term "cost," when applied to the modification of an existing facility by the acquisition or replacement of facilities by lease, means the total

lease payments and other expenditures required during the lease term.

**.210. Addition of Hemodialysis Machine.** The acquisition or operation of an additional dialysis machine by an existing outpatient dialysis facility or by a health care facility providing acute or chronic dialysis service constitutes a substantial expansion of a service currently offered.

**.220. Acquisition of Land or Other Real Property.** The term "modification" includes the acquisition of land or real property by or on behalf of an existing facility, whether for immediate use or as an investment.

**.230. Acquisition, Replacement, or Repair of Related Equipment.** The acquisition, replacement, or repair of two or more items of related equipment during a one-year period at a total cost in excess of \$100,000 constitutes a modification in excess of \$100,000. The term "related equipment" includes the following:

- (a) two or more items of equipment which perform normal functions only when used simultaneously;
- (b) two or more items of equipment which when connected together constitute a single piece of equipment; or
- (c) two or more items of equipment which are similar in function and are operated in the same area of service in a health care facility.

**.240. Abandonment of a Health Care Facility.** A health care facility that does not offer health care services for a period of 12 consecutive months is abandoned as and ceases to be a health care facility for purposes of these rules and the act.

Doc. No. 780292

## Explanation of Development 315.17.02

The rules in this subchapter define those activities that constitute development of new or modified health care facilities and new or expanded health care services.

These rules are proposed under the authority of Sections 2.06(2) and 3.12, Article 4418(h), Texas Civil Statutes.

**.010. Commencement of Development.** Development of a project may commence only on the granting of a certificate of need or an exemption certificate.

**.020. Statutory Definition of Development.** "Development" means those activities, other than planning or predevelopment, which upon their completion result in the consummation of a project, or a significant financial commitment toward the consummation of a project, including the adoption of ordinances, orders, or resolutions authorizing the issuance of bonds.

**.030. Expenditure in Excess of \$100,000.** The term "development" includes, but is not limited to, expenditures in excess of \$100,000 of architectural designs or plans, working drawings and specifications, studies, surveys, attorney's fees, and consultant fees.

**.040. Execution of Contracts for or Initiation of Construction.** The term "development" includes, but is not limited to, the execution of binding contracts or contractual commitments for, or the actual initiation or commencement or construction of all or part of a facility, including but not limited to, site preparation or renovation or alternation of an existing

facility which will increase the bed capacity of a facility or expand the capability of a facility for the direct delivery of institutional health care services.

**.050. Execution of Contracts for or Acquisition of Equipment.** The term "development" includes, but is not limited to, the execution of binding contracts or contractual commitments for, or the actual initiation or commencement of acquisition by purchase, lease, or donation of substantial equipment for the direct delivery of institutional health care services.

**.060. Execution of Contracts for or Installation of Utilities.** The term "development" includes, but is not limited to, the execution of binding contracts or contractual commitments for, or the actual initiation or commencement of installation of utilities for a facility.

**.070. Solicitation and Receipt of Donated Funds.** The term "development" includes, but is not limited to, solicitation and receipt of donated funds or grant funds which are contingent upon use for a specific and finite project and which constitute a significant financial commitment toward the project.

**.080. Execution of Contracts for Financing.** The term "development" includes, but is not limited to, the execution of binding contracts for interim or permanent financing which constitutes a significant financial commitment toward a project.

**.090. Allocation of Hill-Burton Funds.** The term "development" includes, but is not limited to, the allocation of Hill-Burton construction funds by the State Board of Health or construction funds allocated under 42 United States Code 300K (Public Law 93-641).

**.100. Development of an HMO.** The term "development," when applied to a health maintenance organization (HMO), includes, but is not limited to:

(a) the activities enumerated in Rules 315.17.02.020-.090; or

(b) the acceptance of a development grant for said organization from the United States Department of Health, Education, and Welfare; or

(c) the filing of a request with the Texas Board of Insurance for a certificate of authority; or

(d) the solicitation or enrollment of clients or patients.

**.110. Development of a Home Health Agency.** The term "development," when applied to a home health agency, includes, but is not limited to:

(a) the activities enumerated in Rules 315.17.02.020-.090;

(b) the commencement of operation of a branch or subunit or the hiring of staff for that purpose;

(c) the employment of administrative staff, nursing personnel, and allied health professionals necessary for a new parent agency to offer home health services; or

(d) the provision of services in counties where the provider was not delivering home health services as of June 18, 1976. (A presumption exists that the counties being served by a home health agency are those listed in the certification files of the Texas Department of Health as of June 18, 1976.)

**.120. Contingent Contracts.** The execution of binding contracts or contractual commitments referenced in this section, including solicitation and receipt of donated funds for a

specific and finite project, which are made contingent upon obtaining a declaratory ruling, exemption certificate, or certificate of need authorizing development of said project, shall not be considered a violation of the act or development as defined herein.

Doc. No. 780293

## Services and Facilities Requiring Certificate of Need 315.17.03

The rules in this subchapter identify those services and facilities that require certificate of need.

These rules are proposed under the authority of Sections 2.06(2) and 3.01(c), Article 4418(h), Texas Civil Statutes.

**.010. New Facility.** A person must obtain a certificate of need for a project to construct a new facility.

**.020. Change in Bed Capacity of an Existing Facility.** A person must obtain a certificate of need for a project to increase the licensed bed capacity of an existing facility.

**.030. Redistribution of Beds among Categories.** A person must obtain a certificate of need for a project to redistribute more than 10 beds or more than 10 percent of the total number of licensed beds in an existing health care facility, whichever is less, among various existing categories of a health care facility over a two-year period.

**.040. Creation of a Category of Beds.** A person must obtain a certificate of need for a project to create a category of beds in an existing health care facility.

**.050. Conversion of a Structure into a Health Care Facility.** A person must obtain a certificate of need for a project to convert a structure into a health care facility.

**.060. Modification in Excess of \$100,000.** A person must obtain a certificate of need for a project to modify an existing facility at a cost in excess of \$100,000.

**.070. Provide a Service Not Currently Offered.** A person must obtain a certificate of need for a project to provide a service not currently offered by a facility.

**.080. Substantially Expand Services.** A person must obtain a certificate of need for a project to substantially expand a service currently offered by a facility.

**.090. Organize a Health Maintenance Organization (HMO).** A person must obtain a certificate of need for a project to organize an HMO which requires a new or modified facility.

**.100. Relocation of Beds.** A person must obtain a certificate of need for a project to relocate licensed beds from one facility or site to another.

Doc. No. 780294

## Exemption Certificate 315.17.04

The rules in this subchapter identify those services and facilities that are eligible for exemption certificates.

These rules are proposed under the authority of Sections 2.06(2), 3.01(c), and 3.02(c), Article 4418(h), Texas Civil Statutes.

**.010. Expansion of Service.** The commission shall issue an exemption certificate for a project to expand a service currently offered when it is determined that the proposed project will not substantially expand the service currently offered.

**.020. Redistribution of Beds among Categories.** The commission may issue an exemption certificate for a project to redistribute beds among various existing categories of a health care facility when it is determined that:

(a) the redistribution of beds involves not more than 10 beds or 10 percent of the total number of licensed beds in a health care facility, whichever is less, over a two-year period; and

(b) the redistribution of beds among various existing categories will not substantially expand services currently offered by the facility.

**.030. Modification under \$100,000.** The commission shall issue an exemption certificate for a project to modify an existing facility when it is determined that the cost of the proposed modification will not exceed \$100,000.

**.040. Modification Necessitated by Fire, Flood, or Natural Disaster.** The commission shall issue an exemption certificate under the provisions of Section 3.02(a)(1) of the act for a project to modify a facility when it is determined that:

(a) the proposed project encompasses only the repair or replacement of a facility, or equipment damaged or destroyed by fire, flood, or natural disaster;

(b) the proposed project does not include an increase of the square footage of the facility beyond that which existed prior to the fire, flood, or natural disaster;

(c) the proposed project does not include an expansion of either patient or client capacity or an increase in direct institutional health care services beyond the level which existed prior to the fire, flood, or natural disaster.

**.050. Modification to Comply with Licensing, Certification, Safety, or Health Requirements.** The commission shall issue an exemption certificate under the provisions of Section 3.02(a)(4) of the act within five years after the effective date of the act for a project to modify or replace an existing health care facility when it is determined that:

(a) the application for an exemption certificate under Section 3.02(a)(4) was submitted to the commission prior to May 28, 1980;

(b) the proposed modification or replacement was necessitated by licensing, certification, safety, or health requirements imposed under the authority of federal law, state law, or valid city ordinance, which could, if said modification or replacement were not accomplished, result in a loss of licensure or certification by a facility or subject a facility or the owner or operator of a facility to fine or criminal penalty;

(c) the proposed replacement or modification was necessary on May 28, 1975;

(d) the proposed modification or replacement does not include an increase of the square footage of the existing facility beyond that required to meet licensing, certification, safety, or health requirements imposed under the authority of federal law, state law, or valid city ordinance;

(e) the proposed modification or replacement does not include an expansion of either patient or client capacity or an increase in direct institutional health care services beyond the level existing at the facility on May 28, 1975; and

(f) the proposed modification or replacement does not include the acquisition or replacement of equipment that was

not required on May 28, 1975, to meet licensing, certification, safety, or health requirements imposed under the authority of federal law, state law, or valid city ordinance.

**.060. Projects Not Eligible for Exemption Certificate.** When a project does not meet the exemption certificate eligibility requirements of the act and the rules in this subchapter, the commission shall not issue an exemption certificate and the project may be reviewed in a certificate of need application.

**.070. The Characterization of Project.** The commission shall not be bound by the applicant's characterization of a project as an expansion of services currently offered or modification of an existing facility. The commission shall make an independent determination as to whether a proposed project involves an expansion of services currently offered or the modification of an existing facility.

Doc. No. 780295

## Exemption Certificates for Pending Projects 315.17.05

The rules in this subchapter identify those pending projects that are eligible for exemption certificates under Section 6.02, Article 4418(h), Texas Civil Statutes.

These rules are proposed under the authority of Section 6.02(c), Article 4418(h), Texas Civil Statutes.

**.010. Exemption Certificate for a Pending Project.** A person is eligible for an exemption certificate under Section 6.02 of the act for a pending project if:

(a) within 365 days immediately preceding the effective date of the act, the person initiated or continued the health care facility licensing application process by submitting preliminary or final plans for a project to the proper state licensing agency;

(b) within 365 days immediately preceding the effective date of the act, such agency took action tantamount to approval of said preliminary or final plans; and

(c) the person applied for an exemption certificate by midnight September 25, 1975.

**.020. Time Limit for Exemption Certificate.** An exemption certificate issued under Section 6.02 of the act for a pending project is void:

(a) if before February 1, 1976, the certificate holder has not begun development on the project; and

(b) if before August 1, 1977, at 5 p.m., the certificate holder has not placed on file with the commission an affidavit from the building department having jurisdiction indicating that "substantial progress" has been made toward completion of the project prior to January 15, 1977; or

(c) if before January 15, 1977, at 5 p.m., for structures of more than three stories, the certificate holder has not placed on file with the commission a contractor's schedule of work, and if the certificate holder has not submitted every three months thereafter, until completion, evidence indicating that the construction is progressing on schedule; and

(d) if before March 1, 1978, the certificate holder has not placed on file with the commission a valid notice of construction completion indicating a completion date of not later



than January 15, 1978, and certifying that the completed project is within the scope of the previously submitted and approved preliminary plans.

**.030. Applicability of Exemption Certificate.** An exemption certificate issued under Section 6.02 of the act shall be applicable only to that portion of the project actually completed within the time limits prescribed in this subchapter.

**.040. Substantial Progress.** For purposes of this subchapter, "substantial progress" means completion of the foundations and footings; structural frame; the mechanical, electrical, and plumbing rough-in; rough flooring; the exterior walls and windows; and the finished roof.

**.050. Jurisdictions without a Building Department.** In jurisdictions not having a building department, the certificate holder shall before August 1, 1977, file evidence, in affidavit form, demonstrating that "substantial progress" has been made.

**.060. Notice of Construction Completion as Substantial Progress Affidavit.** A valid notice of construction completion submitted to the commission prior to January 15, 1977, or the licensure by the appropriate state licensing agency of the health care facility or specific portion of the facility authorized by the exemption certificate shall fulfill the requirement of filing a "substantial progress" affidavit.

Doc. No. 780296

## Application for Declaratory Ruling 315.17.06

These rules are proposed under the authority of Sections 2.06(2), 3.03, and 3.05 of Article 4418(h), Texas Civil Statutes.

**.010. Requirement for Certificate of Need or Exemption Certificate.** The commission may, on the application of a person sufficiently describing a proposed project, issue a declaratory ruling stating whether the act requires a person to obtain a certificate of need or an exemption certificate to develop the project described.

**.020. Development Prior to May 28, 1975.** The commission may issue a declaratory ruling that a proposed project does not require a certificate of need or an exemption certificate when it is determined that development had commenced on the project prior to May 28, 1975, the effective date of the act. A declaratory ruling that the proposed project does not require a certificate of need or an exemption certificate due to pre-act development is subject to completion time requirements established by the commission in the declaratory ruling. The commission may find that the project has been abandoned on the failure of the holders of the declaratory ruling to comply with the completion time requirements set in the declaratory ruling or on the failure of the holder to complete the project by May 28, 1979. The commission may extend time requirements established in a declaratory ruling or this rule when good cause is shown why such an extension should be granted.

**.030. Scope of a Declaratory Ruling Finding Pre-Act Development.** A declaratory ruling issued under the provisions of this subchapter finding that a proposed project does not require a certificate of need or exemption certificate because development of the proposed project occurred prior

to May 28, 1975, is limited in scope and purpose to the persons and project described in the declaratory ruling.

Issued in Austin, Texas, on January 12, 1978.

Doc. No. 780297

Melvin Rowland  
Chairman

Texas Health Facilities Commission

Proposed Date of Adoption: March 1, 1978

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



## Texas Department of Human Resources

### Medicaid Eligibility

#### Resources for Individuals Related to the SSI Program 326.25.33

The Department of Human Resources proposes the following rule about resources in the Medicaid Program. Among the eligibility criteria for Title XIX Medical Assistance are resource and income limits. Resources are defined as cash or other liquid assets, or any real or personal property which is owned and could be converted to cash for use as support and maintenance. The following rule specifies that earned income tax credits are excluded in determining the resources and income of an individual. This results from a recent clarification of the intent of the federal regulations.

The department has determined that the proposed rule will have no fiscal implications for the state or units of local government. The department estimates that only a few participants in the Medicaid program will receive earned income tax credits.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau—624, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this Register.

This rule is proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

**.022. Earned Income Tax Credit.** A refund identified as an earned income tax credit is disregarded in determining the resources and income of an individual.

Issued in Austin, Texas, on January 12, 1978.

Doc. No. 780256 Jerome Chapman  
Commissioner  
Texas Department of Human  
Resources

Proposed Date of Adoption: February 19, 1978

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

## Railroad Commission of Texas Surface Mining and Reclamation Division

### Substantive Rules 051.07.03

The Railroad Commission of Texas proposes to adopt Rule 051.07.03.251 (dd), which will require that the initial performance standards for surface mining, promulgated by the U.S. Department of the Interior, be complied with by all Railroad Commission surface mining permittees. This is an addition to Rule 051.07.03.251, which sets out the performance standards for the operators of coal and uranium surface mining operations.

This rule will have no significant fiscal implications for the state or for units of local government of the state, according to agency personnel.

Public comment on the proposed adoption of Rule 051.07.03.251 (dd) is invited. Comments may be submitted by telephoning the office of Roy D. Payne, Director, Surface Mining and Reclamation Division, at (512) 475-5789, or by writing to Mr. Payne at P.O. Drawer 12967, Austin, Texas 78711.

Rule 051.07.03.251(dd), as proposed under the authority of Title IV, Chapter 131, of the Natural Resources Code, reads as follows:

#### *.251. Standards.*

*(dd) comply in all respects with the initial performance standards enumerated by the Secretary of the Department of the Interior under the authority of Section 501 of the federal Surface Mining Control and Reclamation Act of 1977 and published as Sections 710 and 715-717 in the Federal Register (42 Fed.Reg. 62639) on December 13, 1977.*

Issued in Austin, Texas, on January 13, 1978.

Doc. No. 780350 Roy D. Payne, Director  
Surface Mining and Reclamation  
Division  
Railroad Commission of Texas

Proposed Date of Adoption: February 19, 1978

For further information, please call (512) 475-6520.

## Office of the Secretary of State

### Elections

#### Suffrage 004.30.05.320-.325

The Secretary of State is proposing for permanent adoption the emergency rules, Rules 004.30.05.320-325, it adopts in this issue, to prescribe the procedures for providing postage-free voter registration applications in accordance with Senate Bill 850, 65th Texas Legislature.

The Elections Division of the Secretary of State's Office estimates that the cost for implementing these rules will be approximately \$292,000 in 1978; \$152,000 in 1979; \$292,000 in 1980; \$152,000 in 1981; and \$292,000 in 1982. Funding for these rules was appropriated with the passage of Senate Bill 850 by the 65th Texas Legislature. The proposed rules have no fiscal implications for units of local government according to the Elections Division.

Public comment on the proposed rules is invited and may be submitted by calling the secretary of state at (512) 475-3091 or (800) 252-9602, or by writing the Elections Division at P.O. Box 12887, Austin, Texas 78711.

These rules are proposed under the authority of Vernon's Texas Election Code, Articles 1.03 and 5.13a. The proposed date of adoption is February 19, 1978.

Doc. No. 780237

#### 004.30.05.326-.334

The secretary of state is proposing Rules 004.30.05.326-.334 in order to prescribe the method for adopting the new voter registration and qualification procedures required by Senate Bill 850, House Bill 1788, and House Bill 1125, 65th Texas Legislature. The secretary of state is proposing these rules to provide for a uniform implementation of the new voter registration system by all voter registrars and election officials in the state.

These proposed rules have no fiscal implications for the state or for units of local government as determined by the Elections Division of the Secretary of State's Office.

Public comment on the proposed rules is invited and may be submitted by calling the secretary of state at (512) 475-3091 or (800) 252-9602, or by writing the Elections Division at P.O. Box 12887, Austin, Texas 78711.

These rules are proposed under the authority of Vernon's Texas Election Code, Articles 1.03, 3.02, and 5.13a.

*.326. Repeal of Notification Procedures.* All previous requirements concerning voter registration address correction service, follow-up notices, and notices of cancellation required under Vernon's Texas Election Code, Article 5.14a, subdivision 2, have been repealed. However, if a registration is cancelled for any reason other than the return of the new yellow certificate as nondeliverable after the November mailing, the cancellation notices required under Vernon's Texas Election Code, Articles 5.18a and 5.18c, are necessary.

**.327. March 1 Cancellation Date.** All voter registration certificates returned as nondeliverable to the registrar's office shall be cancelled on March 1, 1978, unless the particular voter can show grounds for noncancellation prior to March 1. Examples are as follows:

(a) If the registrar is notified that the voter did not change the residence address to which the new certificate was mailed, and that the return of the certificate as nondeliverable was due to postal service error, the registrar should retrieve the yellow certificate and issue it to the voter.

(b) If the registrar is notified that the voter did not change his actual residence but that the voter's mailing address was changed (*e.g.*, street address to P.O. Box, Route 1 to Route 2, etc.) resulting in the return of the certificate as nondeliverable, the registrar should issue a corrected blue certificate as well as a corrected yellow certificate to the voter and should correct the information on the registration records on file in the registrar's office.

(c) If the voter's certificate was returned as nondeliverable due to a change of residence within an election precinct, and the registrar receives written notice of the change prior to March 1, the registrar should issue a corrected blue certificate as well as a corrected yellow certificate to the voter and should correct the information on the registration records on file in the registrar's office.

(d) If the voter's certificate was returned as nondeliverable due to a change of residence to another election precinct within the county, and the registrar receives a written, signed transfer request prior to March 1, the registrar should issue a corrected blue certificate as well as a corrected yellow certificate to the voter and should make the necessary changes on the registration records in the registrar's office. This voter may not vote in the precinct of new residence until the 30th day following the date the transfer request is received by the registrar.

The registrar should remove the name of any voter coming within the four categories above from the list of voters whose new yellow certificates were returned as nondeliverable, thereby precluding cancellation of the voter's registration on March 1. The voter's registration should simply be updated with the appropriate information with the voter's current certificate number retained on the yellow certificate.

Any person whose registration is cancelled on March 1 due to the return of the new certificate as nondeliverable shall be required to re-register in the same manner as an initial registrant. As is the case with all new registrants, a new voter registration certificate number should be issued.

**.328. Filing Procedures in Registrar's Office.** On March 1 in 1978 as well as in succeeding even-numbered years, the original registration application of each person whose registration is cancelled due to the return of the new certificate as nondeliverable should be transferred to the separate inactive application file for cancelled registrations. The registrar should enter upon the application form the date on which the registration was cancelled (March 1, 1978) before filing the application in the separate inactive file.

When a registration is cancelled, the registrar must enter the date and the reason for cancellation upon the person's duplicate registration certificate and transfer the duplicate to the inactive file arranged numerically for the voting year.

An adequate notation of the reason for cancellation is "Cert. Ret'd." The new yellow voter registration certificates which are returned to the registrar as nondeliverable resulting in the cancellation of the voter's registration should be attached to the person's original registration application in the separate inactive application file. The retention of the yellow certificate in the inactive file will serve as further record of the fact that the certificate was returned to the registrar as nondeliverable, and that the cancellation of the voter's registration was executed according to law.

**.329. Lists of Cancelled Registration Certificates.** The registrar shall maintain a county-wide alphabetical list of voter registration certificates returned as nondeliverable after the November mailing showing the name, address, birthdate, and registration certificate number of the person to whom the certificate was issued. This list shall be open to public inspection in the registrar's office at all times during regular office hours of the registrar, subject to reasonable regulations and to proper safeguards against mutilation or removal. The registrar shall furnish a copy of such list to any person requesting it and shall be permitted to charge one dollar for each 10,000 names contained on such list, to be paid by the person so ordering the list. Any funds collected in this manner shall be accounted for as official fees of office.

Prior to January 15, 1978, the registrar must send a copy of the county-wide list of cancelled voter registration certificates to the secretary of state in computer-readable form.

As a practical matter, the county-wide list of cancelled registration certificates should also state the election precinct number for each cancelled certificate so that it can be used in absentee voting.

The computer readable county-wide list of cancelled registration certificates should be communicated to each county's data processing unit or company in the format of a purge transaction. These transactions should be on a separate tape or a separate set of punch cards in order to isolate Senate Bill 850 purges from other transactions. A batch control form for these transactions should be prepared indicating "S.B. 850 PURGES" at the top of the form with the total number of Senate Bill 850 cancellations being submitted. No other transactions should be included with the batch.

After each registrar has submitted the list of returned certificates to the secretary of state, but prior to March 1, 1978, the reinstatement of any voter whose name appeared on the list of returned certificates should be submitted to the secretary of state as an "ADD" transaction. After March 1, any voter who registers under the provisions of Article 5.16a, subdivision 3a, and Article 8.08, subdivision 1, Vernon's Texas Election Code, should be treated as a "NEW" registrant and should be given a new certificate number.

If Texas Department of Corrections is used for the data entry, the Senate Bill 850 cancellations should be listed on the Purge/Delete forms separately from other types of purges or deletes and should be sent to Texas Department of Corrections with a transmittal form marked "S.B. 850 PURGES."

Vernon's Texas Election Code, Article 5.19b, subdivision 3, now requires the secretary of state to determine whether the registrar has complied with the provisions of Article 5.14a of the Election Code and to notify the comptroller. The comp-

troller shall not issue the warrant until notified by the secretary of state that the registrar is in compliance.

Any questions regarding the computer readable format for the list of cancelled registration certificates should be communicated to the Computer Services Division of the Office of the Secretary of State. (Telephone (512) 475-7881.)

.330. *Furnishing and Updating of Lists of Registered Voters for Use on Election Day.* Instead of preparing the required supplemental precinct lists of registered voters, the registrar may now prepare revised original lists, consolidating into them the names of the voters who would have been included on the supplemental lists. The registrar is not required to maintain one set of original lists and one set of the supplemental lists (or the revised original lists) prepared for each county-wide election for a period of three years. These lists shall be public records available for public inspection.

Prior to the first election in 1978, and other even-numbered years, the registrar must attach to each county election precinct list of registered voters supplied to the appropriate authority conducting elections in the county during March, April, May, or June, a corresponding alphabetical list of cancelled voter registration certificates, which must be attached to the appropriate county election precinct list for use at any election held from March 1, 1978, through June 30, 1978.

The precinct lists of cancelled voter registration certificates must be provided free of charge with the precinct lists of registered voters to the authority conducting an election prior to the beginning date for absentee voting.

Whenever the lists of registered voters are required to be furnished for use in elections held at the expense of the county or any city or other political subdivision or for use in a party primary election, no charge in addition to any charge authorized for the list of registered voters may be made. However, whenever the registrar furnishes a list of cancelled voter registration certificates in conjunction with a list of registered voters to any other person, he or she may charge no more than one dollar per 10,000 names on the list of cancelled certificates.

For all elections occurring after the first election in 1978, or another even-numbered year, each precinct list of cancelled voter registration certificates should be updated by deletion of the names of those voters who have registered over 29 days before the particular election date. The registrar shall furnish each election precinct either a list of deletions from the precinct list of cancelled registration certificates or, as an alternative, the registrar may furnish an updated consolidated list of cancelled registration certificates. The list will, however, unlike the supplemental list of registered voters, never contain names of additional voters to those listed on the original list of cancelled registration certificates. It will contain only the names of those voters who have re-registered prior to the 29th day before the particular election and are, therefore, to be removed from the list of cancellations as a result of now appearing on some current precinct list of registered voters. In some cases, the modification of the cancelled list will include the names of those persons who registered at the polling place for a previous election in March, April, May, or June of the even-numbered year. In 1978, since the second (run-off) primary occurs within 29 days of the first primary, the list of cancelled registration cer-

tificates used in the run-off will still include the names of those persons who registered by voting in the first primary, unless they registered by ordinary means over 29 days before the run-off.

For those counties in which the first election held after March 1 in 1978 will be the party primary elections held on May 6, the precinct lists should be prepared for the first time in 1978 voting listing those voters registered as of April 6, 1978. Other counties will have school district, municipal, or other elections on April 1, 1978. Additional elections such as local option and bond elections may be held after March 1 on a date other than the uniform dates prescribed by Vernon's Texas Election Code, Article 201b, and precinct lists for those elections must be prepared listing voters who are registered as of the 30th day prior to such election.

The precinct lists of registered voters as well as the corresponding lists of cancelled registration certificates discussed above must be provided to the absentee voting clerk for use in the conduct of absentee voting in any election.

.331. *Use of Combined Forms.* House Bill 1788, 65th Legislature, 1977, also affects the list of registered voters by authorizing the registrar to produce the list of registered voters in a new format which combines each precinct list with other documents, such as the poll list and signature rosters to be used at the polling place.

The lists of cancelled registration certificates may also be merged with the lists of registered voters; and the affidavit of residency required at the polling place may be merged into any combination form in use or with the signature roster, in any format approved by the secretary of state.

.332. *Voting by Persons on the List of Cancelled Registration Certificates.* Under new law, a person whose name does not appear on the precinct list of registered voters, but whose name does appear on the precinct list of cancelled registration certificates, is authorized to vote at the precinct of former residence only in any election held on or after March 1 through June 30, in even-numbered years, if each voter: (1) executes an affidavit stating that he or she still resides within the county for county-administered and primary elections or within the appropriate political subdivision for other elections; and (2) submits a completed voter registration application at the polling place.

Persons voting under these procedures must also sign the signature roster and follow the usual polling place procedures.

The election officer should place a notation on the list of cancelled registration certificates that the person has voted, enter thereon the date of the election, and should enter the voter's name on the poll list. The words "Struck List," or some similar notation, should be written on the poll list beside the voter's name in order to further designate the special method by which the person voted.

The presiding judge should not deliver a certificate of having voted in a primary to any voter who is permitted to vote by reason of appearing on the list of cancelled voter registration certificates for the reason that Vernon's Texas Election Code, Article 13.34, requires the name of one attending a precinct convention to appear on the regular list of registered voters.

The affidavits of residency, the precinct lists of cancelled voter registration certificates, and all voter registration applica-

tions submitted by persons whose names appear on the lists of cancelled registration certificates should be delivered along with the other usual election forms and supplies by the presiding judge to the officer who receives the election records which are open to public inspection at the time of the delivery of such records. This officer is the county clerk in elections held by the county and in county party primary elections. Within five days after the election, the officer who receives the applications submitted at the polling place shall deliver the applications to the registrar who shall process the applications and issue registration certificates in the same manner as other applications.

*.333. Absentee Voting for Elections Held On or After March 1 Through June 30 by Voters Whose Names Are on List of Cancelled Registration Certificates.* The registrar of voters will provide free of charge to the clerk conducting absentee voting for an election held on or after March 1 and no later than June 30 of even-numbered years, a county-wide alphabetical list of those voters whose registration certificates were returned after the November mailing which is to be used during absentee voting.

The absentee voting procedures in Vernon's Texas Election Code, Article 5.05, subdivisions 4 and 6, regarding absentee voting apply generally, but because of the provisions of 5.16a, if a voter whose name appears on the list of cancelled registration certificates applies for an absentee ballot by mail, the clerk must include with the ballot an "Application for Voter Registration/Change Form" as well as the "Affidavit of Residency" and special instructions to an applicant whose name appears on the list of cancelled registration certificates. The special instructions should require the voter to complete the application for voter registration and execute and notarize the "Affidavit of Residency" and to return them in the carrier envelope with the voted ballot.

The voter should be given the ballot that pertains to his or her precinct, as it is listed on the list of cancelled registration certificates.

The clerk should add the voter's name to the list of voters voting absentee by mail or by personal appearance and the notation "Struck List" should be made on the carrier envelope. The application and the unopened carrier envelope should be placed in the jacket envelope and stored in a safe place.

If a special canvassing board has been appointed to count the absentee ballots, or if absentee ballots are to be counted at the polling place, the judge should be instructed as stated in Vernon's Texas Election Code, Article 5.05, subdivisions 6 or 7, whichever is applicable. When the notation "Struck List" and the date of the election are noted on the carrier envelope, the election officials should, in addition to the usual procedures, confirm that a completed "Voter Registration Application/Change Form" and an executed affidavit of residency are contained in the carrier envelope with the ballot envelope. In the event either is not enclosed, the ballot envelope should not be opened and the accompanying papers should be treated as appropriate for any other ballot which will not be counted.

*.334. New Registration Procedures.* For all registration applications received for the 29th day prior to March 1 through the 29th day prior to June 30 (in 1978, those dates are January 31 and June 1, respectively), it will be necessary for the registrar to determine if the registrant is on a precinct

list of cancelled voter registration certificates in either that county or in another Texas county.

The new application form prescribed by this office requests the voter to state whether he or she was previously registered to vote and failed to receive a new registration certificate.

The voter should note the former residence address and county in which the certificate was issued. After checking this statement, and after making an independent search of the registrant's records, the registrar should remove the name of each new registrant from the appropriate precinct list of cancelled registration certificates if listed thereon on the 30th day after the application was filed.

If the lists of cancelled registration certificates cannot be updated in this manner, the registrar should furnish to the presiding judge of each precinct in a subsequent March, April, May, or June election a list of those persons whose names should be stricken from the list of cancelled registration certificates due to having registered to vote before the 29th day preceding the election in question. This list should also reflect the new election precinct number for each name appearing thereon in order to enable each presiding judge to direct a voter attempting to vote in the precinct of former residence to the proper election precinct.

The registrar should notify also the registrar of the county of former residence that the person has registered in a new county, informing that registrar of (1) the voter's name, (2) the former residence address, (3) birthdate, (4) social security number, if available, (5) the date on which the voter's new certificate becomes effective, and (6) a copy of the voter's name from the appropriate precinct list of cancelled registration certificates until the 30th day after the date on which the application was filed.

The law requires the voter to submit a registration application each time he votes while his name still appears on the precinct list of cancelled registration certificates. In the event that another election occurs within 29 days after the date of an election in which a person has voted under the provisions of Vernon's Texas Election Code, Article 5.16a, subdivision 3a, the voter shall be allowed to vote in such election by complying once again with this provision; but the voter shall inform the presiding judge of the previous act of voting, and the presiding judge shall note that fact on the voter registration application submitted. The registrar shall attach such an application to the application previously received from that particular voter.

Issued in Austin, Texas, on January 10, 1978.

Doc. No. 780238

Steve Oaks  
Secretary of State

Proposed Date of Adoption: February 19, 1978

For further information, please call (512) 475-3091.

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 Air Control Board Regulation VI—Control of Air Pollution by Permits for New Construction or Modification 131.08.00

The Texas Air Control Board has amended Rule 131.08.00.003 to incorporate the requirements of the Federal Clean Air Act of 1977 concerning the granting of permits in areas in which the National Ambient Air Quality Standards have been exceeded. Section 129(a)(1) of the Clean Air Act requires that before July 1, 1979, the interpretative ruling of the administrator of the Environmental Protection Agency (EPA) published in 41 *Federal Register* 55524-30, December 21, 1976, as amended, shall apply unless the administrator determines that a state has met certain requirements, in which case a waiver to the requirement shall be granted. The ruling provides that permits for new major sources in nonattainment areas may be issued only if certain conditions are met, including the reduction of existing emissions in the area in an amount greater than will result from the new facility. A waiver from these requirements was not granted to the State of Texas by the administrator.

Pursuant to the authority of Section 3.09 of Article 4477-5, Texas Civil Statutes, the Texas Air Control Board has amended Rule 131.08.00.003 to read as follows:

*.003. Consideration for Granting a Permit to Construct and Operate.*

(a) In order to be granted a permit to construct, the owner or operator of the proposed facility shall submit information to the Texas Air Control Board which will demonstrate that all of the following are met:

(10) all requirements of Section 129(a)(1) of the Clean Air Act Amendments of 1977 (Public Law 95-95).

(b) In order to be granted a permit to operate, the owner of the facility shall demonstrate that:

(5) all requirements of Section 129(a)(1) of the Clean Air Act Amendments of 1977 (Public Law 95-95) have been met.

Issued in Austin, Texas, on January 9, 1978.

Doc. No. 780359      John L. Blair  
Chairman  
Texas Air Control Board

Effective Date: February 12, 1978

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

## Texas Department of Human Resources

### Nursing Facility Administration

#### Support Documents 326.33.99

The Texas Department of Human Resources has withdrawn from consideration the proposed amendment to Rule 326.33.99.200, Rates for Nursing Facilities, as published in the December 2, 1977, issue of the *Texas Register* (2 TexReg 4618).

Doc. No. 780257

### Intermediate Care Facility for Mentally Retarded

#### Support Documents 326.35.99

The Texas Department of Human Resources has withdrawn from consideration the proposed amendment to Rule 326.35.99.200, Vendor Rates, as published in the December 2, 1977, issue of the *Texas Register* (2 TexReg 4619).

Doc. No. 780258

## Railroad Commission of Texas Gas Utilities Division

### Substantive Rules 051.04.03.026

The Gas Utilities Division of the Railroad Commission of Texas has adopted Rule 051.04.03.026, providing a procedure for the consideration of construction work in progress and an allowance for funds used during construction. The proposed rule was published in the *Texas Register* on July 26, 1977 (2 TexReg 2834), and comments were received for 30 days thereafter. Pursuant to notice issued September 15, 1977, and published in the *Register* on September 30, 1977 (2 TexReg 3758), a public hearing was held to receive further comment and evidence pertaining to this rule.

Although two comments received urged against the adoption of a rule related to construction work in progress (CWIP) by the commission, the majority of comments were addressed to suggested modifications of the proposed rule. Pursuant to

analysis of comments received, the rule, as adopted, differs from the proposed rule in the following significant respects:

(1) The rule now includes a definition for "allowance for funds used during construction" and "AFC" and provides a procedure for the inclusion of such an amount in the rate base of a utility.

(2) The rule now clarifies the limitations imposed on the inclusion of CWIP in the rate base of a utility and the requirements imposed on a utility to support such inclusion.

(3) The amount to be included as CWIP now reflects the expenditures as reflected on the books of the utility for the test year.

This rule is adopted under the authority of Texas Revised Civil Statutes Annotated, Articles 1446c (Supplement 1976-1977) and 6252-13a, Section 4(a)(1) (Supplement 1975), and is to be effective 20 days after filing with the Texas Register Division.

*.026. Construction Work in Progress and Allowance for Funds Used during Construction.*

(a) In this rule:

(1) "construction work in progress" or "CWIP" means funds expended by a gas utility which are irrevocably committed to construction projects not yet completed or placed into service;

(2) "allowance for funds used during construction" or "AFC" means the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used until included in the rate base.

(b) A utility may be permitted, subject to any revenue adjustment required, to include AFC related to a project in its rate base in a rate proceeding after completion of the project. If, pursuant to this rule, a utility is permitted to include CWIP related to a project in its rate base, only that AFC accruing prior to such inclusion shall be permitted.

(c) A utility may be permitted to include CWIP in its rate base only where necessary to the financial integrity of the utility. CWIP shall be deemed necessary to the financial integrity of a utility only where shown by clear and convincing evidence that its inclusion is necessary in order to maintain a sufficient financial liquidity so as to meet all capital obligations and to allow the utility to raise needed capital or is necessary to prevent the impairment of a utility's service. A mere averment or demonstration that exclusion of CWIP would result in an increase in the cost of funds to the utility or general assertions that the financial integrity of the utility would be impaired shall not be deemed sufficient to permit such inclusion.

(d) A utility permitted to include CWIP pursuant to this rule shall utilize as a rate base amount the expenditures for such projects as are reflected on its books as of the test year. The amount shall be determined in a manner consistent with the calculation of other rate base information to reflect a uniform treatment of the test year items.

Doc. No. 780347

**051.04.03.027**

The Gas Utilities Division of the Railroad Commission of Texas adopts Rule 051.04.03.027, which allows an order in a rate proceeding to be effective from some date after commis-

sion jurisdiction has attached and adjusts utility revenues collected after the effective date to reflect the rates approved in the order. Interest on the adjusted revenue so collected or refunded is allowed at the rate of seven percent per annum. Any additional funds to be collected by the utility would be recovered by way of a surcharge to the normal customer bill.

Notice of the proposed rule was published in the *Texas Register* on July 26, 1977 (2 TexReg 2834), and comments were accepted for 30 days after that date. This rule will become effective 20 days after filing in the Office of the Secretary of State.

This rule is adopted under the authority of Texas Revised Civil Statutes Annotated, Article 1446c, Section 37 (Supplement 1976), and Article 6252-13a, Section 4 (Supplement 1975).

*.027. Effective Date of Orders, Interest on Deferred Funds.* The commission may provide that an order in a rate proceeding be effective from some date after commission jurisdiction has attached. When the effective date of an order is prior to the date of issuance, the commission may permit a utility to recover or require a utility to refund an amount equal to any revenue granted in the order that differs from that actually collected for the period from the effective date of the order to the date of issuance. Interest on the revenue so collected or refunded shall be allowed at a rate seven percent per annum. All amounts recovered by the utility under this rule shall be collected by way of a surcharge to the normal customer bill.

Issued in Austin, Texas, on January 9, 1978.

Doc. No. 780348      Mack Wallace  
Chairman  
Railroad Commission of Texas

Effective Date: February 2, 1978

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

**051.04.03.029**

The Railroad Commission of Texas has withdrawn from consideration Proposed Rule 051.04.03.029, Adjustment of Revenues, which appeared in the August 9, 1977, issue of the *Texas Register* (2 TexReg 3013).

Doc. No. 780349



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

## State Banking Board

**Tuesday, January 24, 1978, 2 p.m.** The State Banking Board will meet at 2601 North Lamar, Austin, to vote on proposed charter applications and motions for rehearing, as summarized.

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

Filed: January 13, 1978, 3:23 p.m.  
Doc. No. 780363

## State Commission for the Blind

**Friday, January 27, 1978, 10 a.m.** The Board of Directors of the State Commission for the Blind will meet at the Criss Cole Rehabilitation Center, 4800 North Lamar, Austin, to hear reports concerning personnel data and the Criss Cole Rehabilitation Center and reports from committees and the executive director.

Additional information may be obtained from Lois Teinert, P.O. Box 12866, Austin, Texas 78711, telephone (512) 475-1204.

Filed: January 16, 1978, 11:08 a.m.  
Doc. No. 780383

## Coordinating Board, Texas College and University System

**Thursday, February 2, 1978, 10 a.m.** The Administrative Council of the Coordinating Board, Texas College and University System, will meet in Room 2-108, Joe C. Thompson Con-

ference Center, 26th and Red River Streets, Austin. The council will prepare questions to go to the attorney general's office for official opinions regarding Senate Bill 95; adopt bills for the administration of Senate Bill 95; review the insurance coverage provided in private industry; review the insurance coverage offered through the Texas Association of School Boards; review the action of the Steering Committee of the Advisory Committee at their initial meeting; and review the update of the current insurance coverage provided by the public institutions of higher education.

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

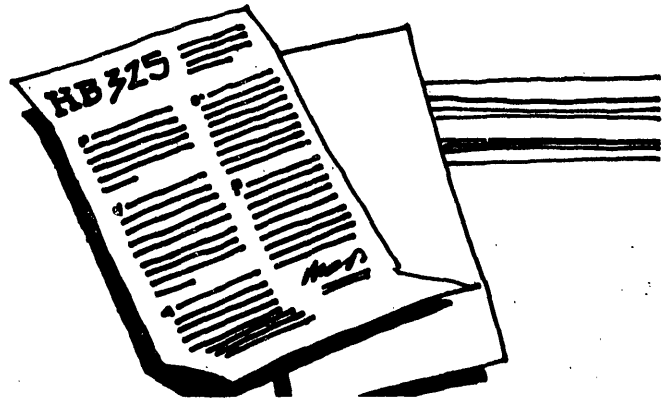
Filed: January 16, 1978, 11:12 a.m.  
Doc. No. 780385

## Texas Election Code Revision Commission

**Friday, January 20, 10 a.m. and Saturday, January 21, 1978, 8:30 a.m.** The Texas Election Code Revision Commission will meet in Room 301, Senate Finance Committee Room, State Capitol Building, Austin, to consider the following items, as summarized: adoption of work schedule and dates for future meetings; action on proposed outline for the revised code; review, for form, preliminary draft of three chapters of new Title 7 concerning absentee voting; action on suggested changes to be made in existing code provisions for inclusion in revised code with emphasis on absentee voting; and formation of committees for special studies.

Additional information may be obtained from Robert L. Lemens, Office of the Secretary of State, Elections Division, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3091 or 1-800-252-9602.

Filed: January 12, 1978, 3:48 p.m.  
Doc. No. 780262



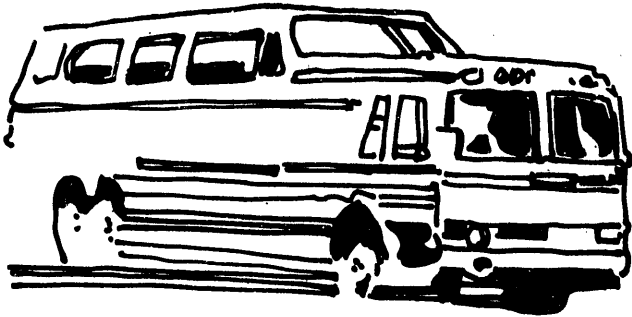


## Good Neighbor Commission

**Friday, January 27, 1978, 9:30 a.m.** The Good Neighbor Commission will meet at the Holiday Inn, Del Rio, to conduct the first quarterly meeting. As summarized, the commission will select new commission officers; receive an update on the agency's budgetary matters; hear progress reports on commission projects; consider developments affecting commission functions; and other business.

Additional information may be obtained from Eddie Aurispa, P.O. Box 12007, Austin, Texas 78711, telephone (512) 475-3581.

Filed: January 13, 1978, 10:29 a.m.  
Doc. No. 780343



## State Department of Highways and Public Transportation

**Tuesday, January 24, 1978, 9 a.m.** The State Highway and Public Transportation Commission will conduct public hearings in the large hearing room, first floor, State Highway Building, 11th and Brazos Streets, Austin, regarding various highway, bridge, and farm-to-market road requests in Dallas County, as summarized.

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

Filed: January 16, 1978, 10:53 a.m.  
Doc. No. 780375

**Tuesday and Wednesday, January 24 and 25, 1978.** The State Highway and Public Transportation Commission will meet in Room 207, State Highway Building, 11th and Brazos Streets, Austin. After the public hearings are completed, the commission will execute awards and routine minute orders; consider decisions on presentations from public hearing dockets; and review staff reports relative to planning and construction programs and projects, as summarized. Con-

sideration of remaining items will take place on January 25 at 9 a.m. at the same location.

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

Filed: January 16, 1978, 10:52 a.m.  
Doc. No. 780376

## Texas Industrial Commission

**Friday, January 27, 1978, 9 a.m.—noon.** The Texas Industrial Commission will meet at the Hilton Inn, Austin, to conduct a regular quarterly meeting of the commission. As summarized, the agenda will include the following: report on metric conversion meeting; energy conservation program; status of job fairs; proposed meeting concerning clean air act amendments; Dallas Inter-City Industrial Development Program; entrepreneurship awareness concept for Dallas; consular briefing; reverse investment trip to Germany; Industrial Revenue Bond meeting; tentative request for feasibility study on Brownsville Energy Center; and mini-mall concept for small Texas towns.

Additional information may be obtained from Edwin Latta, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-5551.

Filed: January 12, 1978, 1:17 p.m.  
Doc. No. 780259

## State Board of Insurance

**Monday, January 23, 1978, 9:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider original incorporation of Industry Specialty Insurance Company, Austin.

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

Filed: January 16, 1978, 10:42 a.m.  
Doc. No. 780377

**Tuesday, January 24, 1978, 10 a.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to make a decision on burglary credit on homeowners insurance.

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

Filed: January 16, 1978, 10:43 a.m.  
Doc. No. 780378

**Tuesday, January 24, 1978, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider original incorporation of United Savings Life Insurance Company, Fort Worth, pursuant to Article 22.03 of the Texas Insurance Code.

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

Filed: January 16, 1978, 10:43 a.m.  
Doc. No. 780379

**Wednesday, January 25, 1978, 10 a.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider agents' commission on business written through the Texas Catastrophe Property Insurance Association.

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

Filed: January 16, 1978, 11:12 a.m.  
Doc. No. 780384

## Texas Commission on Jail Standards

**Saturday, January 28, 1978, 9:30 a.m.** The Texas Commission on Jail Standards will meet in Suite 500, Texas Law Center, 1414 Colorado, Austin, to review current Life Safety Rules for possible amendments and new construction and existing facilities rules.

Additional information may be obtained from Guy Van Cleave, Suite 500, 1414 Colorado, Austin, Texas 78701, telephone (512) 475-2716.

Filed: January 13, 1978, 9:54 a.m.  
Doc. No. 780344

## Texas Department of Mental Health and Mental Retardation

**Saturday, January 21, 1978, 8:30 a.m.** The Business Committee of the Texas Board of Mental Health and Mental Retardation will meet at 909 West 45th Street, to consider the following items, as summarized: construction unexpended balances allocation—Richmond State School; architect/engineer selection—Big Spring, Kerrville, Rusk, Terrell, and Wichita Falls State Hospitals for renovation projects; engineering consultant selection for Brenham State School; and budget guidelines for fiscal year 1980-81 review.

Additional information may be obtained from Kenneth D. Gaver, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: January 12, 1978, 4:37 p.m.  
Doc. No. 780283

**Saturday, January 21, 1978, 9:30 a.m.** The Program Committee of the Texas Board of Mental Health and Mental Retardation will meet at 909 West 45th Street, to consider the following summarized agenda: planning contract between TDMH/MR and Collin, Denton, and Hunt Counties; supplemental grants-in-aid to Community Mental Health and Mental Retardation Centers; and proposed Commissioner's Rules 302.03.18, 302.03.20, 302.04.34, and 302.04.35.

Additional information may be obtained from Kenneth D. Gaver, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: January 12, 1978, 4:37 p.m.  
Doc. No. 780284

**Saturday, January 21, 1978, 10:30 a.m.** The Texas Board of Mental Health and Mental Retardation will meet at 909 West 45th Street, to consider the following summarized agenda: construction unexpended balances allocation for Richmond State School; architect/engineer selection for Big Spring, Kerrville, Rusk, Terrell, and Wichita Falls State Hospitals for renovation projects; engineering consultant selection for Brenham State School; budget guidelines for fiscal year 1980-81 review; planning contract between TDMH/MR and Collin, Denton, and Hunt Counties; supplemental grants-in-aid to Community Mental Health and Mental Retardation Centers; proposed Commissioner's Rules 302.03.18, 302.03.20, 302.04.34, and 302.04.35; and status of litigation.

Additional information may be obtained from Kenneth D. Gaver, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: January 12, 1978, 4:37 p.m.  
Doc. No. 780285

**Saturday, January 21, 1978, 1:30 p.m.** The Committee to Examine Appointees Requiring Board Approval of the Texas Board of Mental Health and Mental Retardation will meet at 909 West 45th Street, to review procedures for evaluation and selection of employees requiring board approval and to review credentials of applicants for the position of commissioner.

Additional information may be obtained from Kenneth D. Gaver, M.D., P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761.

Filed: January 12, 1978, 4:37 p.m.  
Doc. No. 780286

## Texas Parks and Wildlife Department

**Monday, January 23, 1978, 10 a.m.** The Parks and Wildlife Commission will meet in Building B, 4200 Smith School Road, Austin, to consider the following summarized agenda: Park-Generated Revenue Special Study; Texas State Railroad State Historical Park fee increase and 1978 schedule; Texas State Railroad State Historical Park poten-

tial operational change leading to the acquisition of addition passenger rolling stock; proposed park radio system expansion; proposed boat ramp new construction program interim funding priority; proposed boat ramp construction program gift acceptance; fiscal year 1978 Park Major Repair Program; Engeling Wildlife Management Area feral hog control; and rules correction.

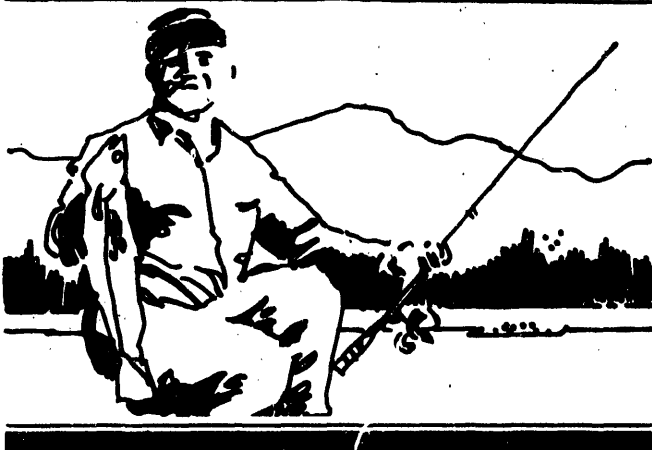
Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: January 12, 1978, 1:24 p.m.  
Doc. No. 780260

**Tuesday, January 24, 1978, 9 a.m.** The Parks and Wildlife Commission will meet in Building B, 4200 Smith School Road, Austin, to consider the following items: Seminole Canyon State Historical Park initial staffing budget; Port Lavaca Causeway State Fishing Pier concession contract renewal; Lake Corpus Christi State Recreation Area concession contract award; new state parks equipment budget; Galveston Island State Park actors' dormitory; Texas State Railroad State Historical Park potential operational change leading to the acquisition of additional passenger rolling stock; Fulton Mansion State Historic Structure Acquisition Project; Goliad State Historical Park Mission Interpretive Complex Security System; fiscal year 1978 park major repairs; local B.O.R. Project amendment; Goose Island State Recreation Area Phase II Development Survey and testing fees funding; fiscal year 1978 Boat Ramp Rehabilitation Construction Program; Boat Ramp Construction Program gift acceptance; proposed Spring Turkey Season proclamation change for Newton County; Marine Fisheries Enhancement Program Operating Plan and Budget at Research Station; Texas Hatcheries staffing problems and effects on Dundee Fish Hatchery expansion; Dundee Fish Hatchery highway right-of-way jurisdiction transfer; and General Land Office interagency contract.

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

Filed: January 12, 1978, 1:35 p.m.  
Doc. No. 780261



## Texas State Board of Public Accountancy

**Thursday and Friday, January 26-27, 1978, 9 a.m.** The Texas State Board of Public Accountancy will meet in Room 940, American Bank Tower, 211 West 6th Street, Austin.

The CPA members of the board will meet on January 26 and consider all matters relating to the issuance of the CPA certificate and the CPA examination. All other pending matters will be considered by the full board when it meets on January 27. The summarized agenda of the meeting on January 26 includes: approval or ratification of applications for the CPA certificate by the board; review of the November, 1977, examination papers and results; and review of examination sites in Texas. The summarized agenda of the January 27 meeting includes: approval of applications by ratification; hearings; review of financial reports and 1978 budget; and setting of fee for November, 1978, CPA exam.

Additional information may be obtained from Pauline Thomas, 940 American Bank Tower, 221 West 6th Street, Austin, Texas 78701, telephone (512) 476-6971.

Filed: January 16, 1978, 9:13 a.m.  
Doc. No. 780374

## Public Utility Commission of Texas

**Tuesday, January 17, 1978, 9 a.m.** The Public Utility Commission of Texas will conduct an emergency hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to hear oral argument, rule on motions for rehearing, and sign final order in several dockets, as summarized. This emergency hearing is being held because statutory time limits for acting on several of the final orders will expire within a few days of January 17.

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

Filed: January 13, 1978, 9:55 a.m.  
Doc. No. 780346

**Wednesday, February 1, 1978, 10 a.m.** The Public Utility Commission of Texas will conduct a pre-hearing conference in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an inquiry by the commission into the quality of service and propriety of certain rates charged by Frio Canyon Telephone, Company, Inc., and formal complaint against Frio Canyon Telephone Company, Inc., by the City of Leakey (Docket No. 735), 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 13, 1978, 3:59 p.m.  
Doc. No. 780364

**Friday, February 24, 1978, 9 a.m.** The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to consider an application of Lower Colorado River Authority for a rate increase. The commission will convene the hearing at the above date and time, and immediately recess until 9 a.m. March 13 at the same location.

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

Filed: January 13, 1978, 3:58 p.m.  
Doc. No. 780365

**Monday, January 16, 1978, 9 a.m.** The Transportation 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, to include consideration of the urgent need to continue the rail planning process with the Federal Railroad Administration for the administration of a grant made to Texas pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as summarized.

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

Filed: January 13, 1978, 11:24 a.m.  
Doc. No. 780354

## Railroad Commission of Texas

**Friday, January 13, 1978, 4:30 p.m.** The Gas Utilities Division of the Railroad Commission of Texas met in emergency session in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to consider Docket No. 1177, Examiner Austin Bray, regarding Champlin Petroleum Company abandonment order compelling Champlin to cease gas supply on its line running from its Conroe processing plant through the unincorporated towns of Grangerville and Wigginsville.

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

Filed: January 13, 1978, 2:19 p.m.  
Doc. No. 780362

**Monday, January 23, 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, to consider the following items, as summarized: consideration of final order on an appeal of Lone Star Gas Company from action of the City of Bells, Examiner Phyllis Schunck (Docket 759); consideration of final order on application of Breckenridge Gasoline Company, Examiner Thomas H. Hill (Docket 816); and consideration of motion for rehearing on statement of intent filed by Gas Utilities, Inc., to increase gas rates in the unincorporated areas of Pettus, Tuleta, and Tulsita, Examiner Jeffry Hill (Docket 1104).

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

Filed: January 13, 1978, 11:24 a.m.  
Doc. No. 780357

**Monday, January 16, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to include consideration of plugging a leaking well with state funds, as summarized.

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

Filed: January 13, 1978, 11:22 a.m.  
Doc. No. 780352

**Monday, January 23, 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 the following items, as summarized: various special allowables; exceptions to SWR 38; Rule 37 cases; proper pluggings; net gas-oil ratios; temporary field rules; review of the MER for the Seminole (San Andres) Field; various administrative new oil and gas field discoveries; special allowable; delay of filing electric log; and exceptions to SWR 14(B)(2), SWR 11, and SWR 8(C).

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

Filed: January 13, 1978, 11:24 a.m.  
Doc. No. 780355

**Monday, January 16, 1978, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to include consideration of various applications for gas field rules, as summarized.

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

Filed: January 13, 1978, 11:22 a.m.  
Doc. No. 780353

**Monday, January 23, 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 Ernest O. Thompson Building, 10th and Colorado Streets, Austin, to include consideration of an exception to Statewide Rule 37, as summarized.

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

Filed: January 13, 1978, 11:22 a.m.  
Doc. No. 780356

**Monday, January 23, 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 for new authority. In addition, uncontested applications will be considered to amend authority, for bus rate, for motor brokers license, to consolidate authority, to divide authority, to amend ICC authority, for ICC authority registration, for lease cancellation, for interstate exempt authority, for rail rate, for reinstatement, to renew motor brokers license, to sell authority, for bus schedule change, for truck rate, and for voluntary suspension.

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

Filed: January 13, 1978, 11:23 a.m.  
Doc. No. 780358

## Texas Eastern University

**Wednesday, January 18, 1978, 2 p.m.** The Board of Regents of Texas Eastern University rescheduled an emergency meeting held at 3900 University Boulevard, Tyler, due to inclement weather and the lack of a quorum. The summarized agenda included: consideration of personnel; construction progress report; contract change; architectural statements; Phase II Campus Plan; Presidential Inauguration Fund Balance; architectural contract for Library Building (Part A); president's report and recommendations to include social security coverage for university employees; fall semester 1977 enrollment report; Vaughn Foundation Gift; faculty research projects; and Texas Higher Education Governing Board Conference.

Additional information may be obtained from Dr. James H. Stewart, Jr., 3900 University Boulevard, Tyler, Texas 75701, telephone (214) 566-1471.

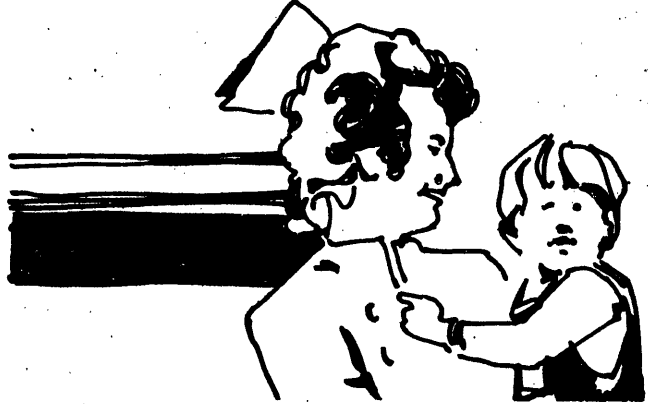
Filed: January 16, 1978, 12:05 p.m.  
Doc. No. 780390

## Veterans Affairs Commission

**Saturday, February 11, 1978, 1:30 p.m.** The Veterans Affairs Commission has rescheduled a meeting to be held in Chairman John McKelvey's Suite, Sheraton-Fort Worth Hotel, 815 Main, Fort Worth, concerning reports on activities of the commission and matters relative to general administrative matters pertaining to Texas' veterans counseling and assistance program. This meeting was previously scheduled for Saturday, January 21, 1978, 9:30 a.m., Room 321, Sam Houston Building, Austin.

Additional information may be obtained from Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, telephone (512) 475-4185.

Filed: January 13, 1978, 9:55 a.m.  
Doc. No. 780345



## Board of Vocational Nurse Examiners

**Monday through Wednesday, February 6-8, 1978, 9 a.m.** The Board of Vocational Nurse Examiners will meet in the Sheraton-Crest Inn, 111 East First Street, Austin. As summarized, the board will conduct regular business; hear reports from the executive secretary and the director of education; consider licensure problems; and hold hearings.

Additional information may be obtained from Waldeen D. Wilson, R.N., Suite 131, Building H, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-1203.

Filed: January 16, 1978, 12:05 p.m.  
Doc. No. 780391

## Texas Water Commission

**Monday, January 23, 1978, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following summarized agenda: applications for bond issue; application for escrow release; application for use of surplus funds; petition for creation; application for extension of time; applications for contractual permit; applications for filing and setting of hearing date; and applications for Water Code Section 18.051 License.

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

Filed: January 13, 1978, 4:56 p.m.  
Doc. No. 780368

**Wednesday, January 25, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, on a resolution by Brown County Water Improvement District No. 1. As summarized, the resolution requests a hearing on conversion of the district to a municipal utility district, operating under Chapter 54 of the Texas Water Code, and Article XVI, Section 59, of the Constitution.

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

Filed: January 13, 1978, 4:58 p.m.  
Doc. No. 780369

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from F. R. Lewis Construction Company, Inc. (TA-3015). As summarized, the application seeks a permit to divert and use 5 acre-feet of water for two years from Sandy Creek, Sabine River, Sabine River Basin, for industrial purposes in Sabine County.

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

Filed: January 12, 1978, 3:56 p.m.  
Doc. No. 780263

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from L-W-B Construction Company, Inc. (TA-3017). As summarized, the application seeks a permit to divert and use 12 acre-feet for three years from Flatrock Creek and Double Horn Creek and Little Cypress Creek, Colorado River, Colorado River Basin, for industrial (highway construction) purposes in Burnet County.

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

Filed: January 12, 1978, 3:55 p.m.  
Doc. No. 780264

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from L-W-B Construction Company, Inc. (TA-3018). As summarized, the application seeks a permit to divert and use 1 acre-foot for three years from Colorado River, Colorado River Basin, for industrial purposes in Colorado County.

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

Filed: January 12, 1978, 3:55 p.m.  
Doc. No. 780265

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from Southwestern Contracting Company (TA-3024). As summarized, the application seeks a permit to divert and use 25 acre-feet for one year from unnamed creek, tributary East Fork Trinity River, tributary Trinity River, Trinity River Basin for industrial purposes in Collin County.

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

Filed: January 12, 1978, 3:55 p.m.  
Doc. No. 780266

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from Adams Brothers, Inc. (TA-3029). As summarized, the application seeks a permit to divert and use 10 acre-feet for a two-year period from Running Creek, Coffee Creek, Caney Creek, and Lake Fork Creek, Sabine River, Sabine River Basin for industrial purposes in Wood County.

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

Filed: January 12, 1978, 3:54 p.m.  
Doc. No. 780267

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from McMillin Construction, Inc. (TA-3031). As summarized, the application seeks a permit to divert and use 5 acre-feet for 18 months from reservoir on unnamed tributary of Gray's Creek, Little Cypress Bayou, Cypress Bayou, Cypress Basin, for industrial purposes in Harrison County.

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

Filed: January 12, 1978, 3:54 p.m.  
Doc. No. 780268

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from Delaney Drilling Company, Inc. (TA-3032). As summarized, the application seeks a permit to divert and use 3 acre-feet for two years from unnamed tributary of Sugar Creek, Little Cypress Creek, Big Cypress Bayou, Cypress Basin, for mining purposes in Upshur County.

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

Filed: January 12, 1978, 3:53 p.m.  
Doc. No. 780269

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from C. B. Porter Company (TA-3034). As summarized, the application seeks a permit to divert and use 3 acre-feet of water for three years from Little Mustang Creek, Lake Fork Creek, Sabine River, Sabine River Basin, for industrial (highway construction) purposes in Wood County.

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

Filed: January 12, 1978, 3:53 p.m.  
Doc. No. 780270

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from Ivan Dement, Inc. (TA-3039). As summarized, the application seeks a permit to divert and use 6 acre-feet for two years from Clear Fork of Brazos River, Brazos River, Brazos River Basin, for industrial purposes (highway construction) in Jones County.

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

Filed: January 12, 1978, 3:53 p.m.  
Doc. No. 780271

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from Dahlstrom Corporation (TA-3040). As summarized, the application seeks a permit to divert and use 10 acre-feet for three years from reservoirs on unnamed tributaries of Hackberry Creek, Aquilla Creek, Brazos River, Brazos River Basin, for industrial (highway construction) in Hill County.

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

Filed: January 12, 1978, 3:53 p.m.  
Doc. No. 780272

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from E. W. Hable & Sons, Inc. (TA-3041). As summarized, the application seeks a permit to divert and use 3 acre-feet of water a three-year period from unnamed creek, Chambers Creek, and Richland Creek, Trinity River, Trinity River Basin, for industrial (highway construction) purposes in Ellis County.

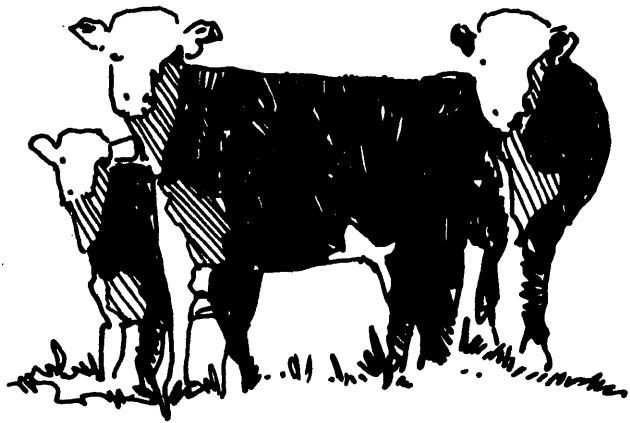
Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: January 12, 1978, 3:53 p.m.  
Doc. No. 780273

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from South Texas Bulldozer Service (TA-3046). As summarized, the application seeks a permit to divert and use 49 acre-feet of water for a three-year period from Arroyo Burro, Rio Grande, Rio Grande Basin, for mining purposes in Zapata County.

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

Filed: January 12, 1978, 3:52 p.m.  
Doc. No. 780274



**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from South Texas Construction Company (TA-3047). As summarized, the application seeks a permit to divert and use 10 acre-feet of water for a 14-month period from Palo Blanco Creek, Nueces-Rio Grande Coastal Basin, for industrial (highway construction) purposes in Brooks County.

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

Filed: January 12, 1978, 3:52 p.m.  
Doc. No. 780275

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from Orval Hall Excavating Company, Inc. (TA-3050). As summarized, the application seeks a permit to divert and use 5 acre-feet of water for two years from stream crossing of FM 2580, 12-1/2 miles south of Weatherford, Brazos River, Brazos River Basin, for industrial (highway construction) purposes in Parker County.

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

Filed: January 12, 1978, 3:52 p.m.  
Doc. No. 780276

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from B & E Construction Company (TA-3051). As summarized, the application seeks a permit to divert and use 30 acre-feet of water for a three-year period from unnamed creeks and Chiltipin Creek, Aransas River, San Antonio-Nueces Coastal Basin, for industrial (highway construction) purposes in San Patricio County.

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

Filed: January 12, 1978, 3:51 p.m.  
Doc. No. 780277

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from B & E Construction Company (TA-3052). As summarized, the application seeks a permit to divert and use 15 acre-feet of water for a three-year period from unnamed creek and Papalote Creek, Aransas River, San Antonio-Nueces Coastal Basin, for industrial (highway construction) purposes in Bee County.

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

Filed: January 12, 1978, 3:51 p.m.  
Doc. No. 780278

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from A. M. Vogel, Inc. (TA-3053). As summarized, the application seeks a permit to divert and use 2 acre-feet of water for a three-year period from drainage channel, Highland Bayou, San Jacinto-Brazos Coastal Basin, for industrial (highway construction) purposes in Galveston County.

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

Filed: January 12, 1978, 3:52 p.m.  
Doc. No. 780279

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an applica-

tion from H. B. Zachry Construction Company (TA-3054). As summarized, the application seeks a permit to divert and use 8 acre-feet of water for a three-year period from Tenmile Creek, Trinity River, Trinity River Basin, for industrial (highway construction) purposes in Dallas County.

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

Filed: January 12, 1978, 3:51 p.m.  
Doc. No. 780280

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from Heldenfels Brothers (TA-3057). As summarized, the application seeks a permit to divert and use 12 acre-feet of water for three years from Petronila Creek, Nueces-Rio Grande Coastal Basin, for industrial (highway construction) purposes in Nueces County.

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

Filed: January 12, 1978, 3:51 p.m.  
Doc. No. 780281

**Tuesday, January 31, 1978, 9:30 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application from East Texas Equipment, Inc. (TA-3059). As summarized, the application seeks a permit to divert and use 10 acre-feet of water for two years from Stills Creek, Neches River, Neches River Basin, for industrial (highway construction) purposes in Brooks County.

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

Filed: January 12, 1978, 3:56 p.m.  
Doc. No. 780282

**Wednesday, February 1, 1978, 9 a.m.** The Texas Water Commission will conduct a hearing in the City of Houston Health Department Auditorium, 1115 North MacGregor, Houston, regarding an application of Wilson & Stewart, Interstate Highway 45 and West Road, Houston. As summarized, the application seeks a permit to discharge domestic sewage effluent from a sewage treatment plant to serve a McDonald's Restaurant.

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: January 13, 1978, 4:57 p.m.  
Doc. No. 780370



**Thursday, February 9, 1978, 10 a.m.** The Texas Water Commission will conduct a public hearing in Room 3, Laredo Civic Center, 2401 San Bernardo, Laredo, to explore the status of the City of Laredo's compliance with the terms and conditions of Permit No. 10681-02, as summarized.

Additional information may be obtained from Larry R. Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: January 13, 1978, 4:57 p.m.  
Doc. No. 780371

**Thursday, February 9, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in council chambers, City Hall, 319 East Main Street, Richardson, regarding an application of Sulphur Bluff Realty N.V. As summarized, the application requests approval of preliminary plans for modifying the old Sulphur River channel, a tributary of Sulphur River, in Delta, Hopkins, Franklin, Lamar, and Red River Counties, for the purpose of providing better drainage for approximately 17,000 acres of land.

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

Filed: January 13, 1978, 4:57 p.m.  
Doc. No. 780372

**Thursday, February 16, 1978, 10 a.m.** The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application by J. Bruce Hancock, *et al.*, to amend Permit 1609, pursuant to Rule 156.04.10.00, *et seq.* As summarized, the applicants seek to reduce the 600 cfs minimum streamflow restriction contained in their direct diversion permit which authorizes them to directly divert and use not to exceed 800 acre-feet of water per annum from the Guadalupe River to irrigate 400 acres of land in Victoria County.

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

Filed: January 13, 1978, 4:56 p.m.  
Doc. No. 780373

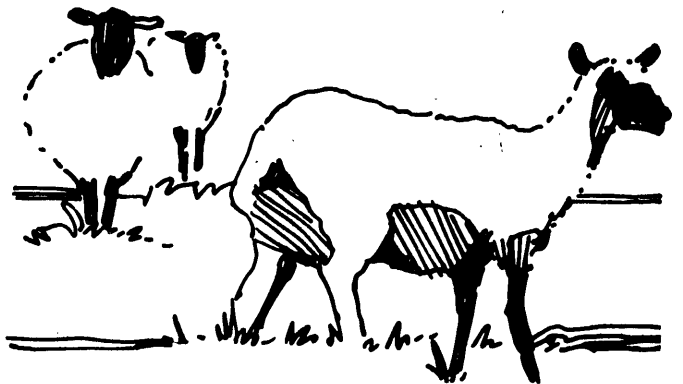
## Texas Water Development Board

**Monday, January 23, 1978, 9 a.m.** The Texas Water Development Board will meet in Conference Room 100-B, John H. Reagan Building, 15th and Congress, Austin. The summarized agenda includes consideration of the following: Development Fund loans to the City of Abernathy; Del Mar Conservation District; City of Broaddus; sale of state interest in Titus County Fresh Water Supply District No. 1 Dam and Reservoir Project; approval of 208 reports for Killeen-Temple and Corpus Christi 208 designated areas; approval of San An-

tonio Basin Water Quality Management Plan Report; approval of \$252,000 HIPLEX consultant contract; approval of Step 3 construction grant increase to City of Bertram; approval of contract with Attorney James W. Wilson regarding Attorney General v. Texas Department of Water Resources; approval of private sewage facility rules regarding Sam Rayburn and Mackenzie Reservoirs; and a complete set of permanent rules of the board.

Additional information may be obtained from Harvey Davis, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-3187.

Filed: January 13, 1978, 4:52 p.m.  
Doc. No. 780367



## Regional Agencies

### Meetings Filed January 13, 1978

**The Amarillo MH/MR Regional Center**, Board of Trustees, met in the Psychiatric Pavilion, 7201 Evans Street, Amarillo, on January 17, 1978, at 12:30 p.m. Further information may be obtained from Clark E. Wooldridge, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

**The Austin-Travis County MH/MR Center**, Operations Committee of the Board of Trustees, met at 1430 Collier Street, Austin, on January 16, 1978, at 7 p.m. Further information may be obtained from Dr. Larry J. Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

**The Brazos River Authority**, Lake Management Committee, Board of Directors, will meet in the Lake Supervisor's Office, Possum Kingdom, on January 20, 1978, at 11 a.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

**The Central Counties Center for MH/MR Services**, Board of Trustees, met at the Captain's Table, Lake Belton, on January 19, 1978, at 7 p.m. Further information may be obtained from Dr. Steven B. Schnee, P.O. Box 1025, Temple, Texas 76501, telephone (817) 778-4841.

**The Guadalupe-Blanco River Authority**, Board of Directors, met at 933 East Court Street, Seguin, on January 19, 1978, at 10 a.m. Further information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, telephone (512) 379-5822.

**The Gulf Bend MH/MR Center**, Board of Trustees, met at 2105 Port Lavaca Drive, Victoria, on January 19, 1978, at noon. Further information may be obtained from T. G. Kelliher, Jr., 2105 Port Lavaca Drive, Victoria, Texas 77901, telephone (512) 578-5262.

**The Houston-Galveston Area Council**, Executive Committee, met at 3701 West Alabama, Houston, on January 17, 1978, at 9:30 a.m. Further information may be obtained from Ms. Stevie Walters, P.O. Box 22777, Houston, Texas 77027, telephone (713) 627-3200.

**The Houston Metropolitan Transit Authority**, Board of Directors, met in the Mayor's Conference Room, basement level, City Hall, 900 Brazos, Houston, on January 19, 1978, at 4 p.m. Further information may be obtained from Marilee M. Wood, P.O. Box 1562, Houston, Texas 77001, telephone (713) 225-1151.

**The Panhandle Regional Planning Commission**, Panhandle Employment and Training Alliance, met in the Centennial Room, First National Bank, 8th and Taylor Streets, Amarillo, on January 18, 1978, at 1:30 p.m. Further information may be obtained from Jim Wood, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

**The Panhandle Regional Planning Council**, Panhandle Employment and Training Planning Council, met in the Centennial Room, First National Bank, 8th and Taylor Streets, Amarillo, on January 17, 1978, at 10 a.m. Further information may be obtained from Vicki Jacobs, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

**The Red River Authority of Texas**, Board of Directors, met in the Bounty Room, Tradewinds Motor Hotel, 1212 Broad Street, Wichita Falls, on January 19, 1978, at 9:30 a.m. Further information may be obtained from Fred Parkey, 302 Hamilton Building, Wichita Falls, Texas, telephone (817) 723-8697.

**The South Texas Health Systems Agency**, Board of Directors, will meet at the Shell Fish Inn Restaurant, Highway 35 North, Port Lavaca, on January 21, 1978, at noon. Further information may be obtained from Richard Kull, P.O. Box 2378, Station 1, Kingsville, Texas 78363, telephone (512) 595-5545.

Doc. No. 780366

## Meetings Filed January 16, 1978

**The Alamo Area Council of Governments**, Executive Committee, will meet at 532 Three Americas Building, San Antonio, on January 25, 1978, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

**The East Texas MH/MR Regional Center**, Board of Trustees, met in the Bryant Petroleum Building, 305 South Broadway, Tyler, on January 19, 1978, at 4 p.m. Further information may be obtained from Ray Thomson, 305 South Broadway, Tyler, Texas 75702.

**The Greater East Texas Health Systems Agency, Inc.**, Governing Body, will meet at 201 North Magnolia, Woodville, on January 26, 1978, at 7:30 p.m. Further information may be obtained from Rudy Moreau, 2900 North, Suite 303, Beaumont, Texas 77702, telephone (713) 892-6962.

**The Heart of Texas Region MH/MR Center**, Board of Trustees, will meet at 312 South 4th Street, Waco, on January 26, 1978, at 4 p.m. Further information may be obtained from Dean Maberry, 1401 North 18th Street, Waco, Texas 76703, telephone (817) 752-3451.

**The Lower Rio Grande Valley Development Council**, Board of Directors and Membership, will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on January 25, 1978, at 2 p.m. Further information may be obtained from Robert A. Chandler, First National Bank Building, Suite 207, McAllen, Texas 78501.

**The Lower Rio Grande Valley Subarea Advisory Council**, Short Term Hospital Plan Development Committee, will meet at Harlingen City Hall, 118 East Tyler, Harlingen, on January 25, 1978, at 7:30 p.m. Further information may be obtained from E. M. Maese, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

**The Northeast Texas Municipal Water District**, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on January 23, 1978, at 8 p.m. Further information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas, telephone (214) 645-2241.

**The Pecan Valley MH/MR Region**, Board of Trustees, met at 906 Lingleville Highway, Stephenville, on January 19, 1978, at 7:30 p.m. Further information may be obtained from Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401.

**The Permian Basin Regional Planning Commission**, Board of Directors and General Membership, will meet at the Dora Roberts Community Center, Big Spring, on January 25, 1978, at noon. Further information may be obtained from Pam Hammit, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

**The Sabine Valley Regional MH/MR Center**, Board of Trustees, met at 1602 West Grand Avenue, Marshall, on January 19, 1978, at 7:30 p.m. Further information may be obtained from Frances H. Willis, P.O. Box 1128, Longview, Texas 75601.

**The Tri-Region Health Systems Agency**, Plan Development Committee, will meet in the conference room, Public Health Region IV, Abilene, on January 24, 1978, at 8:30 a.m. Further information may be obtained from Michal Hubbard, 2642 Post Oak Road, Suite B, Abilene, Texas 79605, telephone (915) 698-9481.

**The Upper Leon River Municipal Water District**, Board of Directors, will meet at the general office of the Filger Plant, Proctor Lake, Comanche, on January 26, 1978, at 7 p.m.

Further information may be obtained from Lowell G. Pittman, Box 67, Comanche, Texas, telephone (817) 879-2258.

*The West Texas Council of Governments*, Board of Directors, will meet at the Mills Building, Suite 700, 303 North Oregon, El Paso, on January 20, 1978, at 9 a.m. Further information may be obtained from Eleanor Bode, Mills Building, Suite 700, 303 North Oregon, El Paso, Texas 79901, telephone (915) 532-2910.

Doc. No. 780392



## Texas Commission on Alcoholism

### Executive Director Resigns

Clinton Kersey, executive director of the Texas Commission on Alcoholism, resigned Tuesday, January 10, ending a long career in state government. He served as a member of the Texas House of Representatives from Wise County during the 46th and 47th sessions, January 10, 1939, to January 1, 1943. When he was elected, he was the youngest member in the house. He was chair of the Penitentiary Committee during the 47th session. He served as chaplain for 12 years.

He has been a railroader, a minister, an assistant probation officer in Travis County, and a service agent for the Interstate Commerce Commission. Kersey served as the first director of parole for the Texas Youth Council before becoming deputy executive director of that agency. He also served TYC as supervising chaplain. As a juvenile rehabilitation consultant to the Texas Commission on Alcoholism from 1959 to 1960, Kersey conducted some of the first seminars sponsored by the commission.

He is succeeded at the Commission on Alcoholism by Abe M. Mays, Jr., Georgetown.

Issued in Austin, Texas, on January 11, 1978.

Doc. No. 780240      Abe M. Mays, Jr.  
Executive Director  
Texas Commission on Alcoholism

Filed: January 11, 1978, 3:10 p.m.

For further information, please call (512) 475-2577.

## State Bar of Texas

### Advanced Civil Trial Course

The State Bar of Texas is sponsoring three six-day courses on advanced civil trial, including personal injury litigation, in Houston (South Texas College of Law), February 13-18, 1978; Dallas (Royal Coach Inn), February 20-25, 1978; and San Antonio (El Tropicano Hotel), February 27-March 4, 1978. The courses will be an analysis of all major areas of Texas and federal substantive and procedural law in the general trial area. It is designed for advanced civil trial practitioners, whether taking specialty exams or not.

Judge Phil Peden, Houston, is the course director, and speakers include Texas judges, professors, and practicing plaintiff and defense lawyers.

Topic headings and subheadings for the six-day course will include:

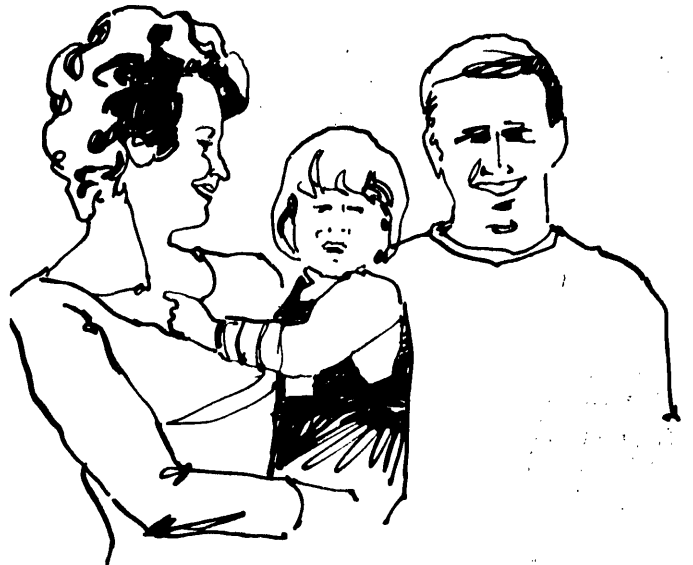
- (1) Personal Injury Litigation: Procedure and evidence; substantive topics—current status.
- (2) Combined: General Civil Trial and Personal Injury Litigation: Preparation, trial, and appeal.
- (3) Extra Civil Trial Day: Procedure; substantive topics—current status (business).

Credit for attendance will be given toward the continuing legal education requirements for certification and recertification of certified specialists in family law, personal injury litigation, and civil trial law.

Registration fee is \$250 for the six-day course and two-volume book. Registration must be accompanied by at least a \$50 deposit made payable to the State Bar of Texas, along with a letter stating name, address, telephone number, and city in which you plan to attend, sent to the State Bar of Texas, Advanced Civil Trial, P.O. Box 12487, Austin, Texas 78711.

For more information and a brochure on the course, contact the State Bar of Texas at the address above.

Doc. No. 780361



## 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 January 3-9, 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 certificate must meet the minimum criteria set out in Rule 506. Failure of a party to supply the minimum necessary information in the correct form by the 12th day will result in a defective 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), Vernon'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.

Harris Hospital, Fort Worth  
AH77-1221-008

DR—That neither an EC nor CN is required to purchase partial or total interest in Fifth Avenue Clinic which consists of office space for five physicians and ancillary support services of Harris Hospital.

Hugh Roy and Lillie Cullen Residence Hall, Houston  
AO77-1227-027

DR—That neither an EC nor CN is required to develop a community residential treatment facility for 86 severely to mildly mentally retarded adults.

Brazos Artificial Kidney Center, Waco  
AS78-0103-015

EC—Acquire two dialysis machines for back-up equipment for existing eight-station hemodialysis facility.

Malone-Hogan Hospital, Inc., Big Spring  
AH78-0103-019

EC—Acquire chemistry analyzer with attendant equipment.

South Limestone Hospital District, Groesbeck  
AH78-0103-021

EC—Relocate janitor's closet and enlarge dining facility.

Callahan General Hospital, Baird  
AH78-0103-025

EC—Relocate laboratory to existing mobile home behind hospital and convert existing laboratory into a nurses' lounge.

Brookhaven Medical Center, Farmers Branch  
AH78-0103-027

EC—Install automatic fire sprinkler system and modify fire detection system.

R. E. Thomason General Hospital, El Paso  
AH78-0103-029

DR—That neither an EC nor CN is required to consolidate

Psychosomatic Services of Psychiatry and Family Practice to one clinic function in Family Practice building.

Pecan Valley Mental Health Mental Retardation Region, Stephenville  
AA78-0103-031

EC—Establish program for screening, referral, and outpatient care for persons needing mental health or mental retardation services.

Deep East Texas Regional MH/MR Services, Lufkin  
AA78-0103-033

DR—That neither an EC nor CN is required to establish a halfway house for eight retarded female adults in Nacogdoches.

Apple Tree Inn, Richardson  
AN75-0728-024T (010378)

DR—Request authorization for change of contractor and owner identification.

Brownsville Medical Center, Brownsville  
AH78-0104-004

EC—Remodel to create six-bed intermediate cardiac care ward and acquire additional monitoring equipment.

St. Luke's Episcopal Hospital, Houston  
AH78-0105-001

EC—Convert 180 square feet of existing mechanical room space to two call rooms for doctors on call duty.

Brackenridge Hospital, Austin  
AH75-0815-009E (010678)

EC—Request extension of completion deadline to June 15, 1978, in 6.02 EC to construct an addition to house ancillary facilities.

Island Dialysis Center, Galveston  
AS78-0106-015

EC—Acquire three dialysis machines for back-up in facility currently approved for 15 dialysis machines.

Galveston County Memorial Hospital, Texas City  
AH77-1219-019

EC—Replace cardiac monitoring system in intensive care unit.

Panhandle Alcoholic Recovery Center Women's Unit, Amarillo  
AO78-0109-017

EC—Construct and operate 12-residential bed facility for alcoholic women.

Issued in Austin, Texas, on January 13, 1978.

Doc. No. 780351

William D. Darling  
General Counsel  
Texas Health Facilities  
Commission

Filed: January 13, 1978, 11:43 a.m.

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

## Texas Register Correction of Error

A meeting notice for the *Commission on Fire Protection Personnel Standards and Education* was published with

an incorrect meeting date in the January 13 issue of the *Texas Register* (3 TexReg 173). The National Fire Academy Planning and Assistance Program Grant Division will meet on January 24, 1978, 10 a.m., in the Hilton Inn, McAllen, rather than on January 14, as published.

### Correction of Error

The preamble to *Railroad Commission of Texas* Adopted Rule 051.04.03.017, published in the January 13, 1978, issue of the *Texas Register* (3 TexReg 169), contained a typographical error. The number of the subchapter to which the rule belongs is 051.04.03, and not 051.04.02, as was printed in the preamble.

### Publication of Index; Notice of Schedule Variation

The January 24, 1978, issue of the *Texas Register* will be a cumulative index for 1977. No other documents will be included in this issue. Publication of regular issues of rules and meeting notices will resume with the January 27, 1978, edition of the *Register*.

The deadlines for submission of documents for the January 27, 1978, issue (Volume 3, Number 7) will be Friday, January 20, 1978, for rules and miscellaneous documents and Monday, January 23, 1978, for open meeting notices.

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