

TEXAS REGISTER

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Office of the Secretary of State

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NOTES ON THE ISSUE

The Uniform Commercial Code Division of the Office of the Secretary of State administers the Central Filing Authority under the Texas Uniform Commercial Code and the Uniform Federal Tax Lien Registration Act. The division approves and files financing statements, federal tax liens, utility security instruments, trademarks, and service marks. The division proposes additional filing services and fees for such services.

The Mentally Retarded Persons Act of 1977 grants to certain persons the right to an administrative hearing to contest the recommendations resulting from the comprehensive diagnosis and evaluation of a person believed to be mentally retarded. The act also grants the right to a hearing to contest the transfer or discharge of a resident of a residential care facility for the mentally retarded. In order to give substance to the rights granted by the act to those persons, the department adopts rules governing the practice and procedure of such hearings.

Senate Bill 39 of the 65th Texas Legislature established the Texas Adult Probation Commission to standardize the probation aspect of law enforcement. The commission was appropriated \$19 million and given authority to distribute funds to local probation departments meeting commission standards and making application. The Proposed Rules section of this issue contains the standards proposed for those departments seeking state funds.

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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Proclamations

Proclamation 41-1670

Continuation of State Speed Limit

WHEREAS, Senate Bill 1, Article 6701d, Section 169B, Vernon's Texas Civil Statutes, which was passed by the First Called Session of the 63rd Texas Legislature, and signed by me on December 21, 1973, as amended by House Bill 139, which was passed by the Regular Session of the 64th Texas Legislature on March 26, 1975, and signed into law by me on March 27, 1975, provides that the State Highway Commission may establish temporary speed limits on highways and roadways in the State of Texas under certain circumstances if specific procedures and proper notice to the public are followed in establishing such speed limits; and

WHEREAS, Senate Bill 1, Section 1(b)(4), provides that the State Highway Commission may issue an order establishing temporary speed limits if "the failure to alter State speed limits will prevent the State from receiving revenues for highway purposes from the Federal Government," and

WHEREAS, the United States Congress has enacted, and the president has signed into law, Public Law 93-643, 23 United States Code 154, which act provides that unless a state establishes a maximum speed limit of 55 miles per hour for any highway within its jurisdiction, the secretary of transportation has the authority to withhold federal highway funds from any such state so failing to comply; and

WHEREAS, the State Highway Commission of the State of Texas issued its Finding or Minute Order No. 73999 dated February 23, 1978, finding that a specified maximum speed limit of 55 miles per hour is required by federal law, and that unless the State of Texas establishes a maximum speed limit of 55 miles per hour, the State of Texas is threatened with the loss of federal highway funds and so fixed the maximum speed limit on all highways within the State of Texas at 55 miles per hour effective on March 16, 1978, at 12:01 a.m.

WHEREAS, the provisions of this finding or minute order continued the 55 miles per hour speed limit for a period of 120 days, until such time as such order was amended or repealed for reasons consistent with federal laws and directives or state law;

NOW, THEREFORE, said finding or minute order having been filed in my office, I hereby find independently that the failure to alter and continue state speed limits to a maximum speed limit of 55 miles per hour will prevent the State of Texas from receiving revenue for highway purposes from the federal government. Accordingly, I hereby proclaim that the facts necessary to support the issuance of the commission's Finding or Minute Order No. 73999 exist and the commission's finding or minute order shall take effect on March 16, 1978, at 12:01 a.m.

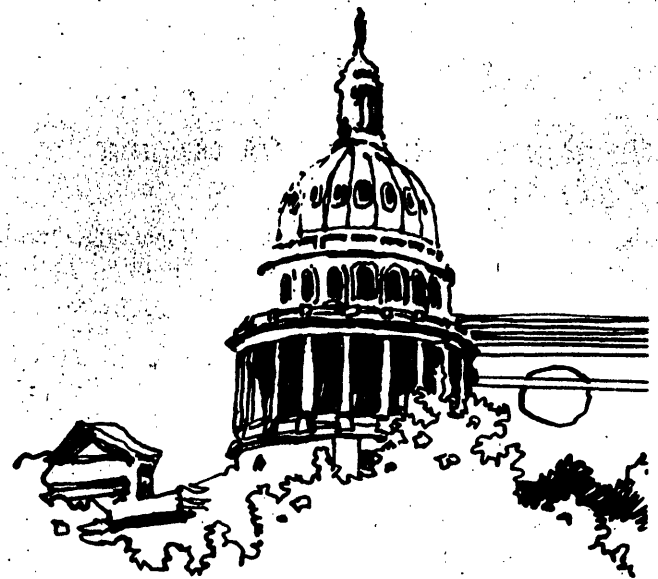
IN TESTIMONY WHEREOF, I have hereunto signed my name and caused the Seal of the State of Texas to be affixed at the City of Austin, State of Texas, on this the 9th day of March, A.D., 1978.

Issued in Austin, Texas, on March 8, 1978.

Doc. No. 781735 Dolph Briscoe
Governor of Texas

Filed: March 13, 1978, 9:31 a.m.

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



Requests for Opinions

Summary of Request for Opinion RQ-1840

Request for opinion sent to the Attorney General's Opinion Committee by Reagan V. Brown, commissioner, Texas Department of Agriculture, Austin.

Summary of Request: May the Texas Department of Agriculture issue a nursery inspection certificate based on an inspection of the premise where nursery stock has or will be offered or exposed for sale even though no stock is present at the time of inspection?

Doc. No. 781791

Summary of Request for Opinion RQ-1841

Request for opinion sent to the Attorney General's Opinion Committee by Joe S. Gonzales, chairman, State Board of Polygraph Examiners, Austin.

Summary of Request: Is a violation of the Board of Polygraph Examiners' regulation a penal offense under Section 26 of Article 4413(29cc), Vernon's Texas Civil Statutes?

Doc. No. 781790

Summary of Request for opinion RQ-1842

Request for opinion sent to the Attorney General's Opinion Committee by Joe Resweber, Harris County attorney, Houston.

Summary of Request:

(1) Is the district clerk authorized or required to tax fees for service under Rule 106(e), Texas Rules of Civil Procedure, as court costs?

(2) If he is authorized or required to tax fees for service under Rule 106(e) as court costs, what amount should the district clerk tax for service of the citation and precept?

(3) Should the district clerk file the return of such service with the papers in the suit?

Doc. No. 781789

Summary of Request for Opinion RQ-1843

Request for opinion sent to the Attorney General's Opinion Committee by Kenneth H. Ashworth, Coordinating Board, Texas College and University System, Austin.

Summary of Request: May an individual serve on a community college board of trustees if he previously served as a consultant to the agent that provided the college's insurance coverage?

Doc. No. 781788

Summary of Request for Opinion RQ-1844

Request for opinion sent to the Attorney General's Opinion Committee by Ogden Bass, district attorney, Brazoria County, Angleton.

Summary of Request: Does a magistrate in an administrative driver's license suspension hearing authorized by 6701L-5, Vernon's Texas Civil Statutes, have the power to probate the suspension of the driver's license?

Doc. No. 781805

Summary of Request for Opinion RQ-1845

Request for opinion sent to the Attorney General's Opinion Committee by David L. Martindale, Gray County attorney, Pampa.

Summary of Request: How are the counties in the 31st Judicial District to divide the salary of the court reporter?

Doc. No. 781806

Opinions

Summary of Opinion H-1132

Request from James W. Smith, Jr., county attorney for Frio County, Pearsall, concerning the appointment of a special county judge.

Summary of Opinion: A special county judge appointed pursuant to Article 30.03, Section 2, of the Code of Criminal Procedure, need not be reappointed for each case. The special county judge does not serve on or preside over the commissioners court. Article 1933a, Vernon's Texas Civil Statutes, authorizes the county judge in certain counties to appoint a special judge to handle a single pending case. The judge appointed pursuant to Article 30.03, Section 2, of the Code of Criminal Procedure, may handle probate matters. A county judge who is unwilling to act in a probate matter may appoint a special judge pursuant to Article 1933a, Vernon's Texas Civil Statutes, or transfer it to the district court pursuant to Section 5 of the Probate Code, provided the requirements of the relevant statute are satisfied. Article 1934, Vernon's Texas Civil Statutes, and Article 30.03, Section 2, of the Code of Criminal Procedure, are not in conflict. Each provides a permissible procedure for temporarily replacing an absent or disabled county judge.

Doc. No. 781725

Summary of Opinion H-1133

Request from Joe Resweber, county attorney, Harris County, Houston, concerning legal advice and representation for Harris County Juvenile Board.

Summary of Opinion: The duty of the county attorney of Harris County to represent and advise the Harris County Juvenile Board was not changed by the Family District Court Act.

Summary of Opinion: The County Courts Nos. 1 and 2 and the Probate and County Court of Galveston County have jurisdiction over matters affecting juveniles.

Issued in Austin, Texas, on March 14, 1978.

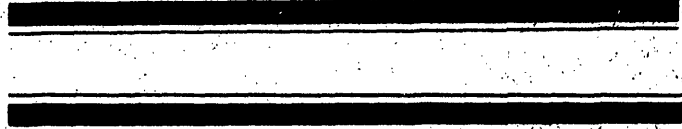
Doc. No. 781792

Doc. No. 781804 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

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

Summary of Opinion H-1134

Request from James F. Hury, Jr., criminal district attorney, Galveston County, Galveston, concerning the jurisdiction of county courts at law in Galveston County.



EMERGENCY RULES

1000

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

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

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

State Board of Insurance

General Provisions

Unfair Competition and Unfair Practices

059.21.21

The State Board of Insurance is renewing the effectiveness of the emergency amendment to Rule 059.21.21.102, *Applicability and Scope*, for a period of 60 days, effective April 18, 1978. The text of the rule was published in the December 27, 1977, issue of the *Texas Register* (2 TexReg 5054).

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

Doc. No. 781772 Pat Wagner
Chief Clerk
State Board of Insurance

Effective Date: April 18, 1978
Expiration Date: June 17, 1978

For further information, please call (512) 475-2551.

Savings and Loan Department

Reorganization, Merger, and

Consolidation 056.10.00

These rules are adopted as emergency rules effective March 13, 1978, because the Savings and Loan Section of the Finance Commission finds imminent peril to the public welfare. The reason is that certain associations may suddenly be found to be insolvent, in an unsafe or unsound condition, or in imminent danger of default, or it may be learned that there has been a substantial dissipation of assets, or that other circumstances exist such that protection of the savings and borrowing public dictates a supervisory reorganization, merger, and/or consolidation within a minimum time period and without the notice and hearing provisions applying to voluntary reorganization, merger, and/or consolidation.

These rules permit the commissioner to designate certain reorganizations, mergers, and/or consolidations as "supervisory mergers" and thereby exempt them from certain other rules when specific conditions exist. In such circumstances, the reorganization, merger, and/or consolidation is thus expedited. Expediting reorganization, merger, and/or consolidation in such cases benefits the general public, specifically the affected members of the savings and borrowing public, and at the same time benefits the industry in general.

These rules, or rules of similar import, will later be proposed for permanent adoption. Comments regarding these rules are invited; comments should be in writing and the original only submitted. Comments should be directed to the Savings and Loan Section of the Finance Commission and the savings and loan commissioner of Texas, either mailed to Post Office Box 1089, Austin, Texas 78767, or personally delivered to 1004 Lavaca, Austin, Texas. Any comments must be received by 5 p.m. on Monday, June 5, 1978.

These emergency rules are being promulgated as Rule 056.10.00.008 and Rule 056.10.00.009 pursuant to the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Annotated Civil Statutes, and under the statutory authority of Article 342-114, Vernon's Annotated Civil Statutes.

.008. Exemption for Supervisory Merger. When the commissioner designates a merger to be a "supervisory merger," the rules relating to reorganization, merger, and consolidation, Rule 10.1 (056.10.00.001) through Rule 10.7 (056.10.00.007), shall not be applicable, and the merger shall be effected pursuant to Section 10.03 of the Texas Savings and Loan Act, Article 852a, Texas Revised Civil Statutes.

.009. Designation as "Supervisory Merger." The commissioner may designate a merger to be a "supervisory merger" when:

(a) the commissioner has placed one or more of the associations involved under voluntary supervisory control pursuant to Section 8.18 of the Texas Savings and Loan Act, Article 852a, Texas Revised Civil Statutes, or

(b) the commissioner has determined that one or more of the associations involved falls within the provisions of Subsections (1), (2), (3), (4), or (5) of Section 8.16 of the Texas Savings and Loan Act, Article 852a, Texas Revised Civil Statutes; and

(c) the commissioner has certified to the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board that one (or more) of the associations involved is "in imminent danger of default."

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

Doc. No. 781760 L. Alvis Vandygriff
Commissioner
Savings and Loan Department of Texas

Effective Date: March 13, 1978
Expiration Date: July 11, 1978

For further information, please call (512) 475-7991.

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 Adult Probation Commission

Standards 608.01.00

The Texas Adult Probation Commission proposes to adopt Rules 608.01.00.010-.090 concerning standards for adult probation departments participating in state funding. The objectives of the standards are:

- (1) to make probation services available to every judicial district in Texas;
- (2) to make probation effective as an alternative to incarceration;
- (3) to assist probation departments in providing protection to the community by rehabilitation and adequate supervision of the offender;
- (4) to assist in the establishment, improvement, and expansion of community-based alternative programs;
- (5) to fully utilize available services from federal, state and local resources;
- (6) to establish uniform probation administration standards;
- (7) to increase and improve citizen involvement and pride in probation and other community corrections;
- (8) to improve the self-image of probation personnel as professionals in the judicial system;
- (9) to establish a statewide statistical information service;
- (10) to establish a service center to provide assistance to probation departments;
- (11) to encourage and assist in in-service training for probation personnel;
- (12) to establish an on-going study of probation and community-based correctional methods and systems.

The fiscal implications of these rules for the next five years are estimated to be:

1978	\$ 761,000
1979	19,000,000
1980	22,800,000
1981	27,360,000
1982	32,832,000

(Source: House Bill 510, 65th Legislature, Regular Session.)

Public comment on the proposed rules is invited. Interested persons should submit their comments in writing to Don R. Stiles, executive director, Texas Adult Probation Commission, P.O. Box 12427, Austin, Texas 78711. Interested persons are invited to attend a public hearing on the rules at 9 a.m. April 7, 1978, in the Senate Chambers, State Capitol, Austin, Texas.

These rules are proposed under the authority of Article 42.121, Section 3, Texas Code of Criminal Procedure.

.010. Administration.

(a) **Public protection.** Probation departments should recognize their responsibility to the community by rehabilitation of the offender and by removing promptly from the community those probationers who pose a threat to the peace.

(b) **Community education.** Probation departments should recognize their position as a public agency, always responsive to the needs of the community, making every reasonable effort to educate the community to the duties, responsibilities, and accomplishments of the probation system.

(c) **Professional competence.** Probation departments should be impartial, nonpolitical, professionally competent, and should devote the necessary time for full consideration of each case.

(d) **Administrative manual.** Probation departments should develop an administrative manual defining its general purpose and its functional objectives, incorporating all written policies and procedures, assuring that they are distributed to all staff members. These policies and procedures should be reviewed and revised at least annually.

(e) **Job description.** Probation departments should write job descriptions for all positions. Probation officers should be released from routine clerical and record keeping responsibilities which may be performed by clerical and paraprofessional assistants. Job descriptions should be reviewed and revised at least annually.

(f) **Entry level salary.** Probation departments should establish the entry level salary of probation officers at not less than \$13,500 annually.

(g) **Automobile allowance.** (Article 42.12, Section 10(e), (h).) Probation departments should establish an automobile allowance for the use of personal automobiles on official business by authorized department personnel to be paid from judicial district funds. Personal automobile allowance should be consistent with the state allowance per mile. Flat rate monthly payment based on approximate mileage computed at the current state rate per mile is not prohibited.

(h) **Per diem.** (Article 42.12, Section 10(h).) Probation departments should establish per-diem allowance for employee expenses consistent with the rate allowed state employees.

(i) **Records.** (Article 42.121, Section 3.02, 4.03, 4.04.) Probation departments should provide fiscal records and statistical data consistent with the statutes.

(j) Audits. (Article 42.121, Section 4.03.) Probation departments should have fiscal audits made at least annually by an auditor not employed by the district Adult Probation Department.

(k) Budget. (Article 42.121, Section 4.03, 4.04.) Probation departments should prepare and operate from an annual budget developed in a form consistent with good accounting practices and approved by the judge or judges of their judicial district. A copy of the budget should be provided to the Texas Adult Probation Commission.

(l) Annual report. (Article 42.121, Section 3.02.) Probation departments should publish an annual report to the judge or judges of the judicial district covering its operations and the condition of probation services in its judicial district during the previous year making whatever recommendations it considers necessary. A copy of this report should be provided the Texas Adult Probation Commission.

(m) Pre-sentence capability. Probation departments should have the necessary staff and resources to permit a pre-sentence investigation and written reports of its results.

(n) Equal employment opportunity. Probation departments should comply with the Equal Employment Opportunity Act in the selection of personnel.

(o) Ethics. Probation departments should provide each probation officer with a copy of the code of ethics adopted by the Texas Adult Probation Commission and a copy of the procedure developed by the department to be used in investigating and reviewing any alleged violation.

(p) Client transfer. (Article 42.12, Section 5, Section 9.) Probation departments should notify other jurisdictions when clients will be working or residing in that jurisdiction temporarily. If the client will be in another jurisdiction more than 30 days, courtesy supervision should be requested.

.020. Probation Officers.

(a) Eligibility. (Article 42.12, Section 10(c)(d).) All probation officers should meet the statutory requirements.

(b) Training. Probation officers should be provided not less than 20 hours professional training annually.

(c) Professional membership. Probation departments should encourage membership in the appropriate professional organizations and maintain a current library of professional journals and publications available to all personnel.

(d) Conferences. Probation departments should encourage continual professional development and the exchange of information and concepts. Departments should encourage as many of their personnel as practically possible to attend regional, state, and national training and professional conferences. These opportunities should be made available to all professional staff on a rotating basis.

.030. Supervision.

(a) Pre-sentence quality. A pre-sentence investigation report should be submitted to the courts, using a uniform pre-sentence format which will supply accurate, objective, and relevant information.

(b) Sentencing. Sentencing evaluations, when requested, should be based upon the circumstances of the particular offense, the needs of the community, the needs of the individual offender, and all available resources.

(c) Court attendance. A probation officer should be present in court when a defendant is placed on probation or when probation is revoked.

(d) Initial interview. An initial supervisory interview with the probationer should be conducted immediately following the court placing the defendant on probation. This interview should include a thorough discussion of the conditions of probation assuring that the probationer clearly understands his responsibilities. The probation officer should determine that the probationer has received a copy of the conditions of probation ordered by the court as provided by law.

(e) Case records. Probation departments should develop written administrative policies and procedures regarding case record management, assuring that each case record should contain a chronological recording of all significant actions, decisions, services rendered, and periodic evaluations.

(f) Confidentiality. Case records, including criminal history, should remain confidential, and departmental policy should clearly state the circumstances under which information could be released from the files.

(g) Violations. Probation departments should develop standards setting forth the conditions upon which violations may be handled administratively. Standards should clearly state the conditions under which violation reports are to be submitted to the court.

(h) Incarceration reports. (Article 42.12, Section 4.) Available pre-sentence investigation reports should be sent to the receiving institution on every offender incarcerated.

.040. Caseloads.

(a) Caseload. A case is defined as a person assigned to a probation officer for supervision. This includes both felony and misdemeanor probationers, pre-trial diversion, and all other adults who receive direct supervisions.

A caseload average within a department should be calculated by dividing the number of cases under direct supervision by the number of officers within the department devoting 80 percent or more of their time to case supervision.

The average caseload of a probation officer should not exceed:

January 1, 1979	200 cases
June 1, 1979	150 cases
January 1, 1980	100 cases

(b) Case classification. Cases should be classified as maximum, medium, minimum.

(1) Maximum cases should be seen by the probation officer not less than twice a month and more often if circumstances of the case indicate.

(2) Medium cases should be seen by the probation officer not less than once each month.

(3) Minimum cases should be seen by the probation officer or report by mail not less than once each month.

.050. Programs.

(a) Case work orientation. Emphasis should be placed on the responsibilities of a probation officer to be a case work manager, utilizing all the available resources within the community.

(b) Community resources. Probation departments should establish a close liaison with all city, county, state, and federal agencies in order to utilize all available resources in the criminal justice and social service field.

(c) Referral procedures. Referral procedures should be clearly defined and, whenever possible, contracts which specify the responsibilities of both the providing and receiving agencies should be negotiated with cooperating agencies.

(d) Client information. Probation departments should develop in written form information describing its purposes, functions, and services to be made available to each probationer and to the public.

(e) Client services. All programs should be designed for the benefit of the client and every effort should be made to make these programs available and applicable to the needs of the client. Participation by the client may be ordered as a condition of probation; however, efforts should be made to present the services at a time, place, and in a manner which assists successful adjustment.

(f) Cooperative efforts. The probation department or departments contracting together should provide programs to meet the needs of probationers not available from other sources, including but not limited to employment placement, academic and vocational education, physical and mental health treatment, and counseling.

(g) Local regional planning. Probation departments should participate in local and regional planning and cooperate in the providing of information and data to official agencies and universities doing research.

(h) Program planning. Program planning in probation departments should take into account information regarding broad cultural, social, and political change, relationships between probation departments, government and private agencies, and the community at the county, state, and federal level. Planning should carefully consider changes in cultural and socio-economic conditions.

(i) Pre-trial release. Probation departments should take the initiative in planning and developing pre-trial release programs. Existing programs should be placed under the supervision of the Adult Probation Department wherever practical.

(j) Pre-trial intervention. Probation departments should take the initiative in planning and developing pre-trial diversion programs and should provide supervision to those persons diverted from the court process.

(k) Community involvement. Probation departments should encourage community education and involvement in the correctional process. Probation departments should seek opportunities to provide speakers to professional, civic, labor, and other public groups.

(l) Volunteers. Probation departments should establish volunteer programs and provide orientation and training for citizen volunteers.

(m) Victims. Probation departments should recognize the rights of the victims of crime and make every effort to collect restitution in all cases applicable.

.060. Facilities.

(a) Minimum facilities. (Article 42.12, Section 10(f).) Each probation officer should be provided a private office, or in the alternative, a private office should be available to the probation officer for interviewing and counseling. Each office should have the necessary lighting, air conditioning, telephone, furniture, equipment, privacy, and decor to provide and promote professional conduct and the establishment of good rapport with the client.

(b) Location. (Article 42.12, Section 10(f).) Each probation office providing direct court services should be located

in the courthouse or as near the courthouse as practically possible to promote prompt and efficient services to the court.

(c) Satellite offices. (Article 42.12, Section 10(f).) Satellite probation offices should be established in the area of the judicial district to provide efficient services to the client as is practically possible.

(d) Correctional facilities. (Article 42.12, Section 10(f).) Each probation department should promote the establishment of community-based correctional facilities other than jails and prisons.

.070. Equipment.

(a) Minimum equipment. (Article 42.12, Section 10(f).) Each probation officer should be furnished adequate furniture, telephone, recording and transcribing equipment, copy making equipment, and other equipment as necessary and consistent with efficient office operation.

(b) Identification. (Article 42.12, Section 10(f).) Each probation officer should be furnished identification which clearly states his authority and is easily recognized by the public and other agencies.

.080. Fiscal.

(a) Requested information. (Article 42.121, Section 4.03.) Probation departments should present to their district judge, or judges, data determined necessary by the commission to calculate the amount of state financial aid needed for use in maintaining and improving probation services and community-based correctional programs and facilities other than jails or prisons in the district.

(b) State aid deposit. (Article 42.121, Section 4.03, 4.05(b).) State-aid received by the district should be deposited in a special fund of the county treasury, to be used solely for the provision of adult probation services and adult community-based correctional programs and facilities other than jails and prisons.

(c) Fees deposit. (Article 42.121, Section 4.03, 4.05; Article 42.12, Section 6a.) Adult probation fees collected by the court should be deposited to the same special fund of the county treasury receiving state financial aid and should be used solely for the provision of adult probation services.

(d) Fee restrictions. (Article 42.12, Section 4.03, 10(f).) No funds from state financial aid or probation fees should be used by the county to provide physical facilities, equipment, and utilities as required by the statutes.

(e) Available records. (Article 42.121, Section 3.05, 4.03.) Probation departments and/or the fiscal officer should make financial records available to representatives of the Texas Adult Probation Commission as provided in the statutes.

(f) Distribution. The judicial district having jurisdiction of the case should receive the probation supervisory fee. The judicial district providing active supervision should receive the state aid.

(g) Fees for fiscal services. (Article 42.12, Section 4.03, 10(f).) The judicial district may use up to three percent of the state funding received in the first quarter of the state fiscal year (September) to contract annually with the county or counties providing services of auditing, bookkeeping, and those services set forth in the statutes, and other services deemed necessary by the judicial district other than those services required to be provided by the county or counties in Article 42.12, Section 10(f).

.090. Waiver to Standards. Waiver: The Texas Adult Probation Commission may grant a waiver to a judicial district probation department from standard or standards upon receipt and approval by Texas Adult Probation Commission of a plan to adopt said standard or standards by a date certain, and an explanation of why said standard or standards cannot be complied with immediately. Application for waiver of standards should be received by the Texas Adult Probation Commission not less than 60 days prior to the beginning date of the quarter of the state fiscal year in which funding is requested.

Doc. No. 781807

Fund Distribution 608.02.00

The Texas Adult Probation Commission proposes to adopt Rules 608.02.00.010-.020 concerning the distribution of funds to judicial districts whose probation departments comply with the standards set forth in Rules 608.01.00.010-.090.

The objectives of state aid to judicial districts is to provide financial aid necessary for use in maintaining and improving probation services and community-based correctional programs and facilities other than jails and prisons in the district and to achieve the purposes of 42.121, Section 1.01, Texas Code of Criminal Procedure.

The Texas Adult Probation Commission intends that the following policies for the distribution of state aid for adult probation services be reasonably stable so as to assist judicial districts and adult probation departments to plan their organization and services wisely. However, the Texas Adult Probation Commission reserves the right to amend their policies as circumstance demands as provided by law.

The fiscal implications of these rules for the next five years are estimated to be:

1978	\$ 761,000
1979	19,000,000
1980	22,800,000
1981	27,360,000
1982	32,832,000

(Source: House Bill 510, 65th Legislature, Regular Session.)

Public comment on the proposed rules is invited. Interested persons should submit their comments in writing to Don R. Stiles, Executive Director, Texas Adult Probation Commission, P.O. Box 12427, Austin, Texas 78711. Interested persons are invited to attend a public hearing on the rules at 9 a.m. April 7, 1978, in the Senate Chambers, Capitol Building, Austin, Texas.

These rules are promulgated under the authority of Article 42.121, Section 4, Texas Code of Criminal Procedure.

.010. Per Capita Funding.

(a) Allocation for fiscal year 1979. The Texas Adult Probation Commission (TAPC) will make quarterly per capita payments to judicial districts in September, December, March, and June of state fiscal year 1979. These payments will total \$17 million and will be based on (1) the number of adults under supervision as stated in monthly reports supplied to the commission by departments, and (2) the number of days in the quarter in which payment is made. The TAPC

will average the caseloads on the last workday of three consecutive months to determine the number of adults under supervision with two exceptions to this practice: the start-up payments in September, 1978, and the payments in December, 1978.

(b) First quarter. The per capita payments in September, 1978, will be computed at a per capita per day rate of 50 cents, using the number of adults under supervision on June 30, 1978, rather than a three-month average. For example, if a department reported 2,100 adults under supervision on June 30, 1978, the TAPC would make a payment in September, 1978, of \$95,550 to the participating judicial district: (2,100 cases) multiplied by (50 cents) multiplied by (91 days) equals \$95,550.

(c) Remaining funds. After making the per capita payments of September, 1978, the TAPC will divide the remaining per capita funds into three equal parts for distribution in the second, third, and fourth quarters, respectively, of fiscal year 1979. For example, the per capita payments in December, 1978, will be calculated by subtracting the September, 1978, payment from \$17 million and dividing the result by three: December 1978 payments equal (\$17 million) minus (September 1978 payments) divided by three.

The per capita payments in the second, third, and fourth quarter of fiscal year 1979 will not utilize a predetermined per capita per day rate (50 cents is predetermined for the first quarter payments only). The TAPC will distribute second, third, and fourth quarter funds on a proportion of the total state caseload basis, not to exceed an equivalent per capita per day rate of 60 cents.

(d) Second quarter payment. The per capita payments in December, 1978, will be distributed on the basis of a department's proportion of the total state caseload (not to exceed an equivalent per capita per day rate of 60 cents). The caseload will be determined from the monthly reports supplied to the TAPC by averaging the number of adults under supervision on the last working day of September and October, 1978. For example, if a department averaged 2,100 cases and the state averaged 90,000 cases on September 29 and October 31, and if there were \$4.25 million in the second quarter per capita fund, the TAPC would make a payment of \$99,025 to the participating judicial district: (2,100 cases) divided by (90,000 cases) equals 2.33 percent of total state cases; (2.33 percent) multiplied by (\$4.25 million) equals \$99,025.

Note that (1) a total of 90,000 cases, (2) \$4.25 million in the second quarter per capita fund, and (3) 91 days in the second quarter are equivalent to a per capita per day rate of approximately 52 cents: (\$4.25 million) divided by (90,000 cases) multiplied by (91 days) equals 51.89 cents.

(e) Third quarter. The per capita payments in March, 1979, will be allocated based on a department's proportion of the total state caseload (but not to exceed an equivalent per capita per day rate of 60 cents.) The caseload will be determined by averaging the number of adults under supervision on the last working days of November, December, and January of fiscal year 1979.

(f) Fourth quarter. The per capita payments in June, 1979, will be allocated based on a department's proportion of the total state caseload (but not to exceed an equivalent per capita per day rate of 60 cents). The caseloads will be determined by averaging the number of adults under supervision on the last working days of February, March, and April of 1979.

.020. Program Funding.

(a) Allocation for fiscal year 1979. The TAPC has allocated funds for judicial districts who have need of funds for (1) initial organization of probation departments, (2) departments who cannot meet standards due to unique problems and lack of adequate funds, and (3) for departments who demonstrate need for special programs.

(b) Priority programs. The TAPC will give priority to judicial districts requesting funds to establish new adult probation departments where none presently exist and departments who cannot meet standards due to unique problems. Special programs may include but not be limited to the development of pre-sentence investigation capability, pre-trial supervision capability, high-risk offender programs, and court residential programs. The TAPC will evaluate applications for program funding and award these funds based on merit and availability of funds.

(c) Program application design. The TAPC will make available a format for designing and requesting program funding which will include, but not be limited to, the following:

- (1) goals and measurable objectives,
- (2) organization and/or methodology,
- (3) budget and narrative explanation of budget,
- (4) evaluation.

Normally, the program should be designed in such a way as to achieve self-sufficiency.

(d) Application deadlines. Judicial districts desiring to establish new adult probation departments on September 1, 1978, should contact the office of the executive director of TAPC no later than May 15, 1978, to indicate intent and estimated cost. Judicial district adult probation departments interested in obtaining other program funds in September, 1978, should contact the office of the executive director of TAPC no later than June 1, 1978, to indicate intent, the nature of the program, and the estimated cost.

Issued in Austin, Texas, on March 15, 1978.

Doc. No. 781808 Don R. Stiles
Executive Director
Texas Adult Probation Commission

Proposed Date of Adoption: April 21, 1978

For further information, please call (512) 475-1374.

Office of the Attorney General

State Employees-Workers' Compensation Division

Definitions 003.01.01

The State Employees-Workers' Compensation Division, Attorney General's Department, is proposing to amend Rule 003.01.01.060, which will clarify the definition of "employee."

The Attorney General's Office has determined that there are no fiscal implications to this rule.

Public comment on the proposed amendment to the rule is invited and should be addressed to Vernon T. Bartley, director, State Employees-Workers' Compensation Division, Attorney General's Office, 314 Highland Mall Boulevard, Suite 350, Austin, Texas 78752.

This rule is proposed for amendment pursuant to the authority of Article 8309g, Section 1:(1), Vernon's Texas Civil Statutes, as amended by Senate Bill 508.

.060. *Employee.* "Employee" means any person whose status is as defined in Article 8309g, Section 1:(1), as amended by *Senate Bill 508*.

Doc. No. 781819

Procedures 003.01.02

The State Employees-Workers' Compensation Division, Attorney General's Department, is proposing to amend Rules 003.01.02.040, .041, .042, .044, .070, .220, and .610, which will clarify and provide continuity in administering the State Employees Workers' Compensation Act.

The Attorney General's Office has determined that there are no fiscal implications to these rules.

Public comment on the proposed amendment to these rules is invited and should be addressed to Vernon T. Bartley, director, State Employees-Workers' Compensation Division, Attorney General's Office, 314 Highland Mall Boulevard, Suite 350, Austin, Texas 78752.

These rules are proposed for amendment pursuant to the authority of Article 8309g, Sections 5 and 8, Vernon's Texas Civil Statutes.

.040. *Filing of Instruments.*

(a) The following shall be filed with the division office in Austin:

- (1) Employers First Report of Injury (E-1).
- (2) Employers Supplemental Report of Injury (E-2).
- (3) Any special reports required by director.

(b) Any other forms prescribed or required from the employer by the Industrial Accident Board will be submitted to the director who will be responsible for filing with the *Industrial Accident Board* [board].

.041. *Communicating with Industrial Accident Board.* Nothing contained in 2.040 is to be taken as precluding an injured employee from communicating directly with the *Industrial Accident Board* [board] in person or by correspondence.

.042. *Medical Reports.* Any physician, [or] chiropractor, or *podiatrist*, rendering care to an injured employee must render reports to the director in keeping with *Article 8306, Section 7, Vernon's Texas Civil Statutes, and Industrial Accident Board rules.* [board rules 1.041, 1.042, and 11.033, as shown below:

"1.041 When any physician renders medical care or a chiropractor renders chiropractic care to an injured worker, he shall submit an initial report in accordance with 11.033 of the IAB Rules. This initial report may be a narrative report or a form report. If a form report is used for the initial report, it must contain as a minimum all or substantially all of the information required in the Physician's Report IAB-152. (Article 8306, Section 7.) (1974.)

11.042 Narrative Reports or any subsequent reports reasonably necessary to relate the status of an injured worker must be submitted to the Industrial Accident Board, the insurance carrier and the injured worker. These reports shall bear, in the upper right hand corner:

- a. Full name of injured worker.
- b. Social Security Number of the injured worker.
- c. Date of injury for which care is rendered.
- d. Name of employer of the injured worker.
- e. Board Number, if any. (Article 8306, Section 7)

(1974.)

11.033 The treating physician or chiropractor shall furnish to the board, to the carrier and to the injured workman or his representative, an initial report as soon as practical, identifying the injured workman, and stating the nature and extent of injury. Thereafter, any physician rendering medical care or any chiropractor rendering chiropractic care shall make subsequent reports as are reasonably necessary to keep the status of the injured workman's condition known. Such reports are to be made to the Board, to the carrier and to the injured workman or his representative. A reasonable charge shall be allowed by the Board for such narrative reports and shall be considered a necessary expense in the reasonable care of the injured workman, to be paid by the carrier."

.044. *Requirement for Submitting Form E-1.* Reports are to be submitted to director on Form E-1 (Employer's First Report of Injury) for any injury *which necessitates the expenditure of monies for any medical treatment or service or if there is as much as one day's lost time from work* [involving an expenditure for medical treatment or drugs if there is absence from work].

.070. *Annual Report.* Upon request, agencies will prepare a report reflecting the total number of employees by county within the agency. Forms will be provided by the division at the time request is made. [Employer will prepare an annual report of total number of employees by Insurance Board classifications and submit to division. Instructions for preparation and necessary forms will be furnished by the division shortly after start of each new fiscal year.]

.220. *Agency Policies Regarding Workers' Compensation.* In formulating agency personnel policies, no agency should disseminate any guidelines or instructions which will be at variance with the *workers'* [workmen's] compensation statute or State Employees-Workers' Compensation Division rules [rule].

.610. *Reconsideration of Claim.* Where a claim has been rejected by the director and a hearing has not been held by the *Industrial Accident Board* [board], the employee may request reconsideration of claim by letter to director. A hearing by the *Industrial Accident Board* [board] may be requested by injured employee in accordance with *Industrial Accident Board* [board] rules.

Doc. No. 781820

Accrued Sick Leave 003.01.03

The State Employees-Workers' Compensation Division, Attorney General's Department, is proposing to amend Rules 003.01.03.010 and 003.01.03.020, which will clarify and pro-

vide continuity for procedures of the State Employees Workers' Compensation Act.

The Attorney General's Office has determined that there are no fiscal implications to these rules.

Public comment on the proposed amendments to these rules is invited and should be addressed to Vernon T. Bartley, director, State Employees-Workers' Compensation Division, Attorney General's Office, 314 Highland Mall Boulevard, Suite 350, Austin, Texas 78752.

These rules are proposed for amendment pursuant to the authority of Article 8309g, Section 12, Vernon's Texas Civil Statutes.

.010. *Utilization before Paying Compensation.* If an employee is entitled to the payment of *weekly* compensation *by the director*, none will be paid until [all] accrued sick leave credited to the employee at the time of injury has been utilized.

.020. *Payment of Compensation.* Once accrued sick leave has been exhausted, the employee *will be paid* [goes on] compensation *in accordance with Article 6674a, Section 7, Vernon's Texas Civil Statutes, and Article 8309g.*

Issued in Austin, Texas, on March 15, 1978.

Doc. No. 781821

Vernon T. Bartley, Director
State Employees-Workers'
Compensation Division
Office of the Attorney General

Effective Date: April 21, 1978

For further information, please call (512) 475-6040.

Coordinating Board, Texas College and University System

Program Development

Guidelines on Approval of Course Inventories for Public Senior Institutions 251.02.23.003-.006

The Coordinating Board, Texas College and University System, is proposing to adopt Rules 251.02.23.003-.006 on Guidelines on Approval of Course Inventories for Public Senior Institutions. The Coordinating Board has approved during the past few years several broad-based interdisciplinary degree programs for Texas public universities. These degrees have the advantage of requiring few, if any, new courses and typically need no additional faculty, facilities, or other support since they draw on courses available for existing degree programs in specified subject areas. At the same time they serve certain types of students more effectively than do the more structured traditional degrees. The Coordinating Board is proposing adoption of guidelines in regard to purposes and uses of such interdisciplinary studies degrees. They relate specifically to course inventory additions and the use of courses for the interdisciplinary degrees.

The staff of the Coordinating Board has determined that there are no fiscal implications for the state or any unit of local government that would result from these rules.

Public comment on the proposed adoption of Rules 251.02.23.003-.006 is invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the Coordinating Board at (512) 475-4361 or by writing to the Coordinating Board at P.O. Box 12788, Austin, Texas 78711.

The adoption of Rules 251.02.23.003-.006 is proposed under the authority of Section 61.051-052, Vernon's Texas Codes Annotated.

.003. Procedure for Obtaining Course Approval. Procedures for obtaining approval of courses for state funding shall be as prescribed by the latest edition of the Coordinating Board's *Course Inventory Update Manual*. Copies are available in the Coordinating Board offices.

.004. Course Approvals Affecting Graduate Interdisciplinary Degrees.

(a) A proposal for the interdisciplinary graduate degree should state the disciplines which are applicable to it and on which the student may draw for degree planning. Seldom will it be necessary to add any courses to the course inventory; some programs are designed to require integrative interdisciplinary core courses, which usually have to be added at the time the program is approved.

(b) Once the degree is approved, the following guidelines should be observed:

(1) Authorization for the degree is not justification for offering graduate courses in a discipline in which the university is not currently authorized to offer the graduate work. Limited numbers of graduate courses in a discipline not currently authorized at the graduate level at that institution may be requested with thoroughly documented justification.

(2) Graduate courses normally will not be added to disciplines applicable to the degree unless these courses also are applicable to an approved graduate degree in the field or to some other already approved and established graduate program.

.005. Course Approvals for Interdisciplinary Baccalaureate Degree. Offering of the interdisciplinary baccalaureate degree will neither necessitate nor justify the addition of courses in specific disciplinary areas. Addition of new undergraduate courses normally will be approved only on the basis of their direct relevance to another approved baccalaureate program, or to support an approved and active program in another field. Exceptions may be made for newly-authorized institutions which are utilizing the Bachelor of General Studies degree as the primary degree for serving the needs of students for baccalaureate studies.

.006. Uses and Course Approval for Bachelor of Applied Arts and Sciences Degree.

(a) The institution will not represent itself as offering baccalaureate degrees in specific technical or vocational fields. It offers the Bachelor of Applied Arts and Sciences degree, with emphasis in some area of professional competence such as teaching or management. The student's transcript will show the technical specialization brought to the program.

(b) Authorization for the degree is not justification for offering upper division courses in the technical fields. If this direction is intended, the institution should request approval of a degree program specifically in the technology.

(c) The degree normally should be offered without additional courses for the institution's inventory. Specifically designed courses for the degree should be thoroughly justified and will be considered in the usual manner for course additions.

Issued in Austin, Texas, on March 7, 1978.

Doc. No. 781755

Kenneth H. Ashworth
Commissioner of Higher Education

Proposed Date of Adoption: April 21, 1978

For further information, please call (512) 475-4361.

Texas Education Agency State Commissioner of Education

Adoptions by Reference: General 226.13.90

The Texas Education Agency proposes amendment to Rule 226.13.90.020, the adoption by reference of Publication Number BUX40902, *School District Data Submission to the Texas Education Agency*. The change reflects Revision 12 to the bulletin, which makes the following additions or changes:

(1) adds a letter from the commissioner of education requesting the assistance of school districts in controlling federal and state data requests;

(2) includes advance copies of forms and notice of intent for data collection by the Office of Civil Rights (fall, 1978);

(3) revises edit specifications for the superintendent's annual reports; and

(4) adds form RES-034, *Interim Changes to the District Data Base*.

The Texas Education Agency anticipates that these changes in the bulletin referenced by this rule will have no state or local fiscal implications.

Public comment on the proposed amendment to Rule 226.13.90.020 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule is proposed under the authority of Section 11.52(d), Texas Education Code.

.020. School District Data Submission to the Texas Education Agency. The rules for data submission to the Texas Education Agency are described in the official Texas Education Agency bulletin, *School District Data Submission to the Texas Education Agency*, Publication Number BUX40902, as amended **March, 1978** (September and November, 1977), which is adopted by this reference as the agency's official rule. A copy is available for examination during regular of-

office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency (headquarters) Building, 201 East 11th Street, Austin, Texas.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781795 M. L. Brockett
Commissioner of Education

Proposed Date of Adoption: April 21, 1978

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



Texas Department of Human Resources

Medicaid Eligibility

Legal Requirements for Type Program 02 326.25.41

The Department of Human Resources proposes the repeal of the following rule about requesting information from the Veterans' Administration in the Medicaid Program. This rule specifies the procedure to be followed to collect information from the Veterans' Administration for Medical Assistance Only (MAO) applicants. The policy in this rule is no longer necessary since any needed medical information on MAO applicants/recipients will be obtained from existing medical records of the applicant's/recipient's physician or a new physical examination can be authorized.

The department has determined that the proposed repeal will have no fiscal implications for the state or units of local government. The procedure was rarely used and therefore its repeal will have no fiscal impact.

Written comments are invited and may be sent to Susan Johnson, Assistant Chief, Systems and Procedures Bureau—604, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

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

.016. Medical Information from Veterans' Administration.

(a) The Veteran's Request for Information is used to request medical information for APTD recipients from the Veterans' Administration. The Veterans' facility is asked to return the completed request for information to the requesting worker for submittal to the medical review team.

(b) As a rule, the APTD recipient is not currently hospitalized or receiving out-patient care through the Veterans' Administration. Therefore, a basic medical examination is ordered for each recipient. The information from the Veterans' Administration is used to supplement the medical examination. In the rare instances when the veteran is still in the hospital or currently under care in an out-patient clinic, the basic medical is not ordered until the medical review team has evaluated the report from the Veterans' Administration. If further information is needed, the medical review team notifies the worker.

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

Doc. No. 781726 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: April 21, 1978

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

Texas Department of Mental Health and Mental Retardation

Client (Patient) Care

Departmental Procedures for Therapeutic Utilization of Electroconvulsive Therapy (ECT) 302.04.05

The Texas Department of Mental Health and Mental Retardation is proposing to amend Rule 302.04.05.005, which sets forth the major indications and contraindications for use of electroconvulsive therapy (ECT) for patients of state mental hospitals.

The proposed amendment would add language to Section (a)(4) of the rule to provide that ECT may be used in the care of an acutely ill patient who has failed to respond to various forms of chemotherapy and who is manifesting complete and typical acute symptoms of a mental disease. The effect of the proposed amendment would be to allow the use of ECT in such a situation where all of the other requirements for the use of ECT have been met.

The promulgation of the proposed amendment to Rule 302.04.05.005 will have no known fiscal implications for the state or for units of local government. (Source: Legal and Claims Division.)

Public comment on the proposed amendment is invited. Persons may submit their comments in writing to John J.

Kavanagh, M.D., acting commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, or by telephoning (512) 454-3761.

The amendment is proposed under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

.005. Indications and Contraindications for the Use of ECT.

(a) The major indications for the therapeutic use of ECT are:

(4) In carefully selected cases, electroconvulsive therapy may be used in the treatment of patients with other conditions wherein depression is an overwhelming problem, *or in which an acutely ill patient with florid symptomatology has proven refractory to neuroleptic medications*, but it is never to be used solely to control behavior.

Doc. No. 781799

Departmental Procedures for the Protection of the Rights of Humans Involved in Research 302.04.21

The Mentally Retarded Persons Act of 1977 (the "act"), Article 5547-300, Texas Civil Statutes, became effective on January 1, 1978. Section 24(c) of the act provides that "Nothing in this subchapter nor in this Act shall be construed to permit the Department to perform unusual or hazardous treatment procedures, experimental research, organ transplantations, or nontherapeutic surgery for experimental research." In order to preserve and protect the rights of its mentally retarded clients, the Texas Department of Mental Health and Mental Retardation is proposing to amend Rules 302.04.21.004 and .005, which, respectively, contain the definitions and departmental research principles for the subchapter of departmental rules governing departmental procedures for the protection of the rights of humans involved in research, 302.04.21. The substance of the proposed amendments became effective as emergency rules on January 1, 1978; however, the proposed amendments are not identical with the emergency rules inasmuch as the proposed amendments have been redrafted in an effort to be specific and clear.

The proposed amendment would add three definitions to that rule. The amendment would add a new subsection (16), defining "unusual treatment procedures" as therapeutic procedures which are not standard or conventional, which utilize elements not ordinarily used by professionals treating similar disorders, and which serve the purpose of experimentation only, and which do not include treatment designed primarily to benefit the individual. The proposed amendment would also add subsection (17), defining "hazardous treatment procedures" as therapeutic methodologies which may expose patients or residents to the possibility of injury which is so severe or which has such a high probability of occurring that no reasonable person would accept a trade-off of the potential injury for the potential benefit to be received. The proposed amendment would also add subsection (18), defining "experimental research" as inquiry-utilizing procedures which are not standard or conventional, which place the patient or resident at risk only for the benefit of the investigator in order to

confirm or disprove an hypothesis, and which either are not designed for therapeutic purposes or in which the potential benefit does not outweigh the foreseeable risk.

The proposed amendment would add Section (j), recognizing that mentally retarded persons should have an opportunity to participate in research and the potential benefits of research and which would provide that notwithstanding any rule to the contrary, the department will not perform unusual or hazardous treatment procedures, experimental research, organ transplantation, or nontherapeutic surgery for experimental research in accordance with Section 24(c) of the Mentally Retarded Persons Act of 1977, Article 5547-300, Texas Civil Statutes.

The promulgation of the proposed amendments will have no known fiscal implications for the state or for units of local government. (Source: Legal and Claims Division.)

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

These amendments are proposed under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes, and Sections 26 and 60 of Article 5547-300, Texas Civil Statutes.

.004. Definitions. In these rules,

(16) "Unusual treatment procedures" means therapeutic methodologies or procedures:

(A) which are not standard or conventional,

(B) which utilize elements or steps not ordinarily employed by qualified professionals treating similar disorders, and

(C) which are a type of therapeutic approach or procedure that serves the purpose of experimentation only and does not include treatment designed primarily to benefit the individual.

(17) "Hazardous treatment procedures" means therapeutic methodologies or procedures which place subjects at risk, in that, patients or residents may be exposed to the possibility of injury which is so severe or which has such a high probability of occurring that no reasonable person would accept a trade-off of the potential injury for the potential benefit to be received.

(18) "Experimental research" means inquiry-utilizing methodologies or procedures:

(A) which are not standard or conventional,

(B) which involve a trial or special observation which would place the individual patient or resident at risk only for the benefit of the investigator in order to confirm or disprove an hypothesis, and

(C) which are not designed for therapeutic purposes or in which the potential benefit does not outweigh the foreseeable risk.

.005. Departmental Research Principles.

(j) It is recognized that mentally retarded persons should have an opportunity to participate in research and the potential benefits of research. However, notwithstanding any rule to the contrary, and in accordance with Section 24(c) of the Mentally Retarded Persons Act of 1977, Article 5547-300, Texas Civil Statutes, the department shall not perform on mentally retarded persons

unusual or hazardous treatment procedures, experimental research, organ transplantation, or nontherapeutic surgery for experimental research.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781798 John J. Kavanagh, M.D.
Acting Commissioner
Texas Department of Mental Health and
Mental Retardation

Proposed Date of Adoption: April 21, 1978

For further information, please call (512) 454-3761.

Texas Parks and Wildlife Department

Wildlife

Statewide Hunting, Fishing, and Trapping Proclamation No. A-5, 1977-78 127.70.01

(Editor's note: The following rules are the final segment of the Statewide Hunting, Fishing, and Trapping Proclamation for 1978-79, proposed for adoption by the Texas Parks and Wildlife Commission. The first part of the proclamation, Rules 127.79.01.200-.244, were published in the March 17, 1978, edition (3 TexReg 953).)

The Texas Parks and Wildlife Commission proposes to adopt Rules 127.70.01.200-.293, which will constitute Statewide Hunting, Fishing, and Trapping Proclamation, 1978-79. The commission is responsible for establishing seasons, bag limits, means, and methods for harvesting wildlife resources in counties under the Uniform Wildlife Regulatory Act.

Rules 127.70.01.200-.293 are being proposed since changes in game population and habitat require that new regulations be enacted by the commission for the 1978-79 season. The proposed rules are subject to modification, based on public hearings to be held during the week of March 13-17, 1978, in counties under the Uniform Wildlife Regulatory Act.

The department staff has determined that the adoption of Rules 127.70.01.200-.293 will have no fiscal implications for the state or units of local government.

Comments on the proposed adoption of Rules 127.70.01.200-.293 are invited and may be submitted by contacting Phil Evans, regulatory coordinator, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4875. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

The adoption of Rules 127.70.01.200-.293 is proposed under the authority of Chapter 61, Texas Parks and Wildlife Code.

.245. Turkey.

(a) Tags.

(1) It shall be unlawful for a person to have in his possession at any time the carcass of a wild turkey that does not have attached to it a properly completed tag from the person's valid hunting license.

(2) The turkey tag shall bear the date and place of kill of the turkey to which it is attached.

(3) The tag shall remain attached to the turkey until it reaches its final destination.

(4) Final destination is the person's permanent residence.

(5) These rules shall not prohibit a person from receiving a properly tagged turkey as a gift from the person who killed the turkey; however,

(A) the tag shall remain attached to the turkey until the person receiving the turkey has reached his final destination; and

(B) final destination is the permanent residence of a person who possesses a turkey, or a commercial processing facility where the turkey is fully processed.

(6) In counties where only bearded turkey (gobblers or bearded hens) are legal, the beard shall remain attached to the turkey until it reaches its final destination.

(b) General open season. In all regulatory counties except as set out in Section (e) of this rule below, the season on turkey shall be the Saturday nearest November 15 through the first Sunday in January, unless that date falls after January 4, in which case the season will close on January 1.

(c) Additional archery season. There shall be an additional open season on turkey in all regulatory counties, except as set out in Section (e) of this rule below, beginning October 1 through October 31, during which turkey gobblers or bearded hens may be taken with longbow and arrows.

(d) Bag limit. The bag limit is two turkeys, gobblers or bearded hens, except as set out in Section (e) of this rule below.

(e) Exceptions to general open season, additional archery season, or bag limits.

(1) In Anderson, Austin, Bastrop, Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Cameron, Camp, Collin, Colorado, Cooke, Culberson, Dallas, Denton, DeWitt, Ellis, El Paso, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Gonzales, Grayson, Grimes, Guadalupe, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, Houston, Hudspeth, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Kaufman, Lamar, Lavaca, Lee, Liberty, Limestone, Madison, McLennan, Milam, Montgomery, Nacogdoches, Navarro, Newton, Orange, Palo Pinto, Panola, Parker, Polk, Presidio, Red River, Reeves, Robertson, Rockwall, Rusk, San Augustine, Starr, Tarrant, Titus, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Wise, Wood, and Zapata Counties, there is no general or additional archery season on turkey.

(2) In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, there shall be an open season on turkey beginning the Saturday before Thanksgiving for 16 consecutive days. There shall be an additional archery season beginning October 1 through October 16 during which gobblers or bearded hens may be taken with longbow and arrows. The bag limit is one turkey gobbler or bearded hen.

(3) In Andrews, Borden, Cochran, Dawson, Ector, Fisher, Gaines, Garza, Haskell, Hockley, Jones, Kent, Knox, Lubbock, Lynn, Martin, Midland, Scurry, Stonewall, Terry, Upton, Ward, Winkler, and Yoakum Counties, the general

open season on turkey as set out in Section (b) of this rule above and the additional archery season as set out in Section (c) of this rule above shall apply. The bag limit is one turkey, either sex.

(4) In Coke, Concho, Glasscock, Howard, Irion, Mitchell, Nolan, Reagan, Runnels, Sterling, Taylor, and Tom Green Counties, the general open season on turkey as set out in Section (b) of this rule above and the additional archery season as set out in Section (c) of this rule above shall apply. The bag limit is two turkeys, either sex.

(5) In Bell, Coryell, and Williamson Counties, the general open season on turkey as set out in Section (b) of this rule above and the additional archery season as set out in Section (c) of this rule above shall apply. The bag limit is one turkey, gobbler or bearded hen.

(6) In Blanco, Gillespie, Dimmit, Edwards, Hays, Kendall, and Real Counties, there is no additional archery season on turkey.

(7) In Pecos and Terrell Counties, there shall be a general open season on turkey beginning the last Saturday in November for nine consecutive days; bag limit is one gobbler or bearded hen per season. There shall be an additional archery season on turkey in Pecos and Terrell Counties beginning October 1 through October 9, during which turkey gobblers or bearded hens may be taken with longbow and arrows; bag limit is one turkey, gobbler or bearded hen.

(f) Spring turkey gobbler season.

(1) In Archer, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Brown, Burnet, Callahan, Clay, Coleman, Comal, Comanche, Concho, Coryell, Eastland, Edwards, Erath, Goliad, Hamilton, Hays, Hood, Irion, Jim Wells, Jack, Lampasas, Llano, McCulloch, Menard, Mills, Montague, Nolan, Palo Pinto, Parker, Real, Runnels, San Patricio, San Saba, Schleicher, Shackelford, Somervell, Stephens, Sutton, Taylor, Throckmorton, Tom Green, Travis, Uvalde, Val Verde, Wichita, Wilbarger, Williamson, Wise, Young, and Zavala Counties, there shall be an additional spring season on turkey gobblers beginning the third Saturday in April for nine consecutive days during which one gobbler may be taken.

(2) There shall be a spring season on turkey gobblers beginning the third Saturday in April for nine consecutive days during which one gobbler may be taken only in the northeastern portion of Polk County and the northwestern portion of Tyler County, such area lying between boundaries beginning at Corrigan in Polk County at the intersection of U.S. Highways 287 and 59; thence north on Highway 59 to the Neches River; thence southeast along the Neches River to U.S. Highway 69 in Tyler County; thence south along Highway 69 to its intersection with FM 256 in Colmesneil; thence southwest on FM 256 to U.S. Highway 287; thence northwest on Highway 287 to the point of beginning at the intersection with Highway 59 at Corrigan in Polk County.

(3) There shall be a spring season on turkey gobblers beginning the third Saturday in April for nine consecutive days during which one gobbler may be taken only in that portion of Newton County bounded on the north by the Sabine County line, on the east by the Sabine River, on the south by State Highway 63, on the west by the intersection of State Highway 63 and the Ash-Kinzel county road; thence northerly on the Ash-Kinzel county road to the Weeks Chapel county road; thence northerly along the Weeks Chapel county road to the Mayflower county road; thence westerly along the Mayflower county road to the North Scrappin' Valley

Road; thence north, northeasterly along the North Scrappin' Valley county road to the Sabine County line.

.246. *Chachalacas.* In Starr, Cameron, Hidalgo, and Zapata Counties, there shall be an open season for chachalacas beginning December 1 through January 16. Elsewhere, there is no open season. Bag and possession limits are five per day and 10 in possession.

.247. *Migratory Birds.* The regulations for taking migratory game birds are prescribed in the migratory game bird rules.

(Rules 127.70.01.248-.249 are reserved for expansion.)

.250. *Fur-Bearing Animals: Means and Methods.* Fur-bearing animals may be taken in any number at any time, but the pelts may not be taken for sale except during the open season as provided in Rule 127.70.01.251. Additional restrictions (see Rule .210) on means and methods of taking fur-bearing animals are:

(a) mink may not be hunted with dogs;

(b) it is unlawful to shoot at, take, or attempt to take any fur-bearing animal from a boat on public waters;

(c) in Webb County, the provisions of Section 62.005, Texas Parks and Wildlife Code, shall prevail;

(d) this rule does not regulate fox in Jasper, Newton, and Tyler Counties;

(e) in Harris, Houston, Liberty, Montgomery, Polk, Trinity, and Walker Counties, firearms may not be possessed when using artificial light in taking fur-bearers at night where deer are known to range;

(f) in all other regulatory counties, it shall be unlawful to possess or use a rifle utilizing center-fire ammunition, a magnum, or muzzleloader; a shotgun with slugs or shell shot size larger than number six; a crossbow or longbow and arrow while hunting fur-bearing animals at night when using artificial light where deer are known to range; and

(g) river otters may not be taken with firearms.

.251. *Fur-Bearing Animals: Open Seasons.*

(a) The pelts of muskrats may be taken for sale only during the period of November 15 through March 15 (Section 72.002, Texas Parks and Wildlife Code).

(b) The pelts of mink may be taken for sale only during the period of November 15 through January 15 (Section 72.002, Texas Parks and Wildlife Code). In Henderson County, the pelts of wild mink may be taken for sale only during the period of December 1 through February 1.

(c) The pelts of fur-bearing animals other than muskrat and mink may be taken for sale only during the period of December 1 through January 31 at any time (Section 72.002, Texas Parks and Wildlife Code).

(Rules 127.70.01.252-.259 are reserved for expansion.)

.260. *Freshwater Fish: General.*

(a) Fish are not regulated in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell Counties.

(b) It shall be unlawful to take, attempt to take, or possess fish in greater numbers or at any time other than as permitted under Rules 127.70.01.260-.263.

(c) There is no closed season on fishing except that there may be a closed season on state or federal wildlife sanctuaries. The season on Hagerman National Wildlife Refuge shall be closed from October 1 through March 31.

(d) Fishing in Burleson County (except in that part within the boundary of Somerville Reservoir Area) is not regulated under these rules.

(e) On Buffalo Lake National Wildlife Refuge in Randall County, the season shall be closed on all species of fish from November 1 to March 1, except that portion nearest the dam which is marked by signs and buoy lines.

.261. Freshwater Fish: Bag, Possession, and Size Limits.

(a) **Bass.**

(1) The daily bag limit on largemouth, smallmouth, and spotted black bass is 10 in the aggregate; and the possession limit is 20 in the aggregate.

(2) The possession limit shall not include fish processed and stored at the fisherman's permanent residence.

(3) It shall be unlawful to possess any largemouth, smallmouth, or spotted bass less than 10 inches in length.

(4) In the Toledo Bend Reservoir, there is a daily bag limit of 15 largemouth, smallmouth, and spotted black bass in the aggregate, and there is no possession or size limit.

(b) In all regulatory counties, no person may possess channel, blue, or flathead catfish less than nine inches in length. The daily bag limit on channel and blue catfish is 25 in the aggregate, and the possession limit is 50 in the aggregate. The daily bag limit on flathead catfish is five, and the possession limit is 10, except:

(1) in the Toledo Bend Reservoir, there are no possession limits on channel, blue, and flathead catfish, and no size limits on flathead catfish;

(2) in Lake Cypress Springs and Blundell Reservoir, the daily bag limit on blue and channel catfish is 15 in the aggregate, and the possession limit is 30 in the aggregate. The daily bag limit on flathead catfish is five, and the possession limit is 10.

(c) In Archer, Baylor, Bosque, Bowie, Brown, Callahan, Clay, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Eastland, Ellis, Erath, Fannin, Franklin, Grayson, Hamilton, Hardin, Harris, Harrison, Hill, Hood, Houston, Hunt, Jack, Jasper, Jefferson, Johnson, Lamar, Liberty, McLennan, Mills, Montague, Montgomery, Nacogdoches, Newton, Orange, Palo Pinto, Panola, Parker, Polk, Red River, Rush, San Augustine, San Jacinto, Shackelford, Somervell, Stephens, Tarrant, Throckmorton, Titus, Trinity, Tyler, Walker, Wichita, Wilbarger, Wise, Wood, Young, the waters of Lake Tawakoni in Rains and Van Zandt Counties, the waters of Lake Palestine in Anderson, Henderson, Smith, and Cherokee Counties, the waters of Lake Ray Hubbard in Collin and Rockwall Counties, the waters of Sam Rayburn Reservoir in Angelina, Sabine, and San Augustine Counties, it shall be unlawful to take from or possess on any of the public waters and lakes under regulatory authority of the department blue or channel catfish less than nine inches in length.

(d) The daily bag limit on walleye perch is five, and possession limit is 10.

(e) The daily bag limit on striped bass and their hybrids is three, and possession limit is six, except in the Toledo Bend Reservoir, where the daily bag limit is two, and the possession limit is four.

(f) The daily bag limit on rainbow trout, brown trout, kamloops trout, and coho salmon is five per day in the aggregate, and possession is 10 in the aggregate.

(g) The daily bag and possession limit on northern pike is three.

(h) It shall be unlawful for any person while actually fishing on the public waters of this state to have in his immediate possession fish in excess of the daily bag limit as established by these rules.

(i) In the main stream of the Brazos River, excluding cutoffs, oxbow lakes, and tributary streams, where it forms the common boundary between Robertson and Burleson Counties, between Brazos and Burleson Counties, between Brazos and Washington Counties, and in Yegua Creek, where it forms a common boundary between Washington and Burleson Counties, bag and possession limits are as provided by Section 66.106, Texas Parks and Wildlife Code.

(j) In Bedias Creek, which forms a common boundary between Madison and Walker Counties, seines and nets are prohibited, except minnow seines not more than 20 feet in length may be used for taking only minnows, sunfish (bream or perch), or rough fish.

(k) In Aransas, Atascosa, Bee, Bexar, Dimmit, Duval, Frio, Jim Wells, Karnes, Live Oak, Maverick, Medina, San Patricio, Uvalde, Wilson, Zapata, and Zavala Counties, the daily bag limit on minnows is 200, and there is no possession limit.

(l) There is no daily bag limit or possession limit on minnows taken from private minnow hatcheries.

(m) In the Nueces River where it forms the boundary between Nueces and San Patricio Counties, in Blanco Creek and the Sarco River where they form the boundary between Bee and Goliad Counties, and the Aransas River where it forms the boundary between Refugio and San Patricio Counties, the following bag and possession limits shall be in effect:

(1) It shall be unlawful to take more largemouth, smallmouth, or spotted black bass of any species in one day than 15, of which not more than 10 may be of greater length than 11 inches and none may be less than seven inches in length.

(2) The daily bag limit on white bass and crappie is 25 each.

(3) The daily bag limit on channel, blue, and flathead catfish is 25 in the aggregate, and the possession limit is 50 in the aggregate.

(n) There are no bag or possession limits on other species of fish.

.262. Rough Fish. The following are rough fish: carp, suckers, buffalo, gar, shad, Rio Grande perch, drum or gaspergou, bowfin or grindle, pickerel, mullet, and goldfish.

.263. Freshwater Fish: Means and Methods.

(a) It is unlawful to take or attempt to take fish by any means or methods, except as specifically allowed in this rule.

(b) Snagging or jerking fish (a method of taking fish by means of one or more hooks attached to a line and periodically jerking the line) is specifically defined as an illegal method for taking fish, artificial lures not included.

(c) It shall be unlawful to use a hand-operated device under water designed to snag fish, commonly called "noodling," poles, or gaffs other than the ones permitted under Sections 66.101, 66.102, and 66.107, Texas Parks and Wildlife Code.

(d) It shall be unlawful for a person to use more than 100 hooks, all devices; or more than two trotlines, or more than 50 hooks on each trotline.

(e) It shall be unlawful to remove game fish eggs from the public waters of this state.

(f) Any net used in the public waters by sports fishermen shall be identified by a legible tag constructed of a material as durable as the net, bearing the name and address of the fisherman and the date it was set out.

(g) In Anderson, Andrews, Archer, Bandera, Baylor, Bee, Bell, Blanco, Borden, Bosque, Brazos, Brown, Burnet, Callahan, Clay, Cochran, Coke, Coleman, Collin, Comal, Comanche, Concho, Cooke, Coryell, Crockett, Crosby, Dallas, Dawson, Denton, Eastland, Ector, Edwards, Ellis, Erath, Falls, Fisher, Freestone, Gaines, Garza, Gillespie, Glasscock, Grayson, Grimes, Hamilton, Haskell, Hays, Henderson, Hill, Hockley, Hood, Howard, Irion, Jack, Johnson, Jones, Kaufman, Kendall, Kent, Kerr, Kimble, Knox, Lampasas, Limestone, Llano, Lubbock, Lynn, Madison, Martin, Mason, McCulloch, McLennan, Menard, Midland, Milam, Mills, Mitchell, Montague, Navarro, Nolan, Palo Pinto, Parker, Reagan, Real, Roberston, Rockwall, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Travis, Upton, Val Verde, Ward, Wichita, Washington, Wilbarger, Williamson, Winkler, Wise, Yoakum, and Young Counties, and the waters of Lake Somerville in Burleson County, only the following means and methods may be used in taking fish:

(1) Devices.

(A) Not more than 100 hooks altogether which may be used in any combination of the following: pole and line, rod and reel, artificial and natural baits, jug line, throwline, and not more than two nonmetallic trotlines with not more than 50 hooks each; hooks on throwlines and trotlines must be spaced not less than three horizontal feet apart.

(B) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman and the date it was set out.

(C) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(D) Any net or trotline set in the public waters of this state in violation of these rules shall be removed from the waters thereof.

(E) No trotline may be placed or set in the vicinity of a public boat dock or public bathing pier, or public bathing beach, or any public place commonly used as a swimming or bathing area.

(F) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park or that portion of a stream bordering a state park.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream or perch), or rough fish.

(A) In the waters of the Pease River, Big Wichita River, and Brazos River and their tributaries in Archer, Baylor, Shackelford, Throckmorton, Wichita, Wilbarger, and Young Counties, minnow seines not longer than 40 feet may be used only when the owner is in constant attendance on such seines.

(B) In the waters of the Wichita and Brazos Rivers and their tributaries in Knox County, minnow seines not longer than 40 feet may be used only when the owner is in constant attendance on such seines.

(C) In Lake Buchanan, minnow seines not longer than 50 feet may be used.

(3) A common fruit jar type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets, constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released into the water from which taken.

(4) A spear gun and spear or bow and arrows for taking only rough fish, but it shall be unlawful to possess fish other than rough fish when using a spear gun and spear or bow and arrow.

(5) A wire loop or gig for taking rough fish, but when using a wire loop or gig, one may not possess crappie, bass, or catfish.

(6) In Brazos, Falls, Freestone (except Lake Fairfield), Madison, Milam, and Roberston Counties, a nonmetallic net having mesh not less than three inches square for taking only rough fish (fish not designated rough fish taken in such a net must be immediately released into the waters where taken). It shall be unlawful to have in possession or aboard a boat or in a vehicle, fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(7) In the Neches River in Anderson County, three inch mesh nets may be used to take all fish from February through May of each year.

(8) In Lake Palestine in Anderson County, nets may not be used, except as provided in Rule 127.70.01.211 above and Section (f), subsections (2) and (3) of this rule above.

(9) In Henderson County, a three inch square mesh net is permitted to take rough fish only, except that in the waters of Cedar Creek Reservoir, Flat Creek Reservoir, Flat Creek, and in Lake Palestine in Henderson County, nets may not be used except as provided in Rule 127.70.01.211 above and Section (f), subsections (2) and (3) of this rule above.

(10) In Lake Fairfield, all nets other than minnow seines are prohibited.

(11) In the main stream of the Brazos River, excluding cutoffs, oxbow lakes, and tributary streams, where it forms the common boundary between Robertson and Burleson Counties, between Brazos and Burleson Counties, between Brazos and Washington Counties, the means and methods of taking fish are as provided by Section 66.101, Texas Parks and Wildlife Code.

(12) In Gillespie County only, except during March, April, and May, a nonmetallic net having mesh not less than two inches square for taking rough fish only (fish not designated rough fish taken in such a net must be immediately released into the waters where taken). It shall be unlawful to have in possession or aboard a boat or in a vehicle, fish other than rough fish, as defined, while fishing with or possessing hoop net, trammel net, or gill net.

(h) In Aransas, Atascosa, Bastrop, Bee, Bexar, Brazoria, Caldwell, Calhoun, Cameron, Colorado, DeWitt, Dimmit, Duval, Fayette, Fort Bend, Frio, Guadalupe, Hardin, Harris, Hidalgo, Houston, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kinney, Lavaca, Lee, Liberty, Live Oak, Matagorda, Maverick, Medina, Montgomery, Nacogdoches, Newton, Orange, Polk, San Augustine, San Jacinto, San Patricio, Starr, Trinity, Tyler, Uvalde, Victoria, Walker, Webb, Wharton, Willacy, Wilson, Zapata, and Zavala Counties, only the following means and methods may be used in taking fish:

(1) Devices.

(A) Pole and line, rod and reel, artificial and natural baits, hand line, jug line, or throwline and trotline; hooks on throwlines and trotlines must be spaced no less than three horizontal feet apart.

(B) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman and the date it was set out.

(C) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(D) Any net or trotline set in the public waters of this state in violation of these rules shall be removed from the waters thereof.

(E) No trotline may be placed or set in the vicinity of a public boat dock, or public bathing pier, or public bathing beach, or any public place commonly used as a swimming or bathing area except:

(i) In Lake Medina, the following rules shall apply to trotlines and other multiple-hook devices and combinations. Hooks on trotlines and throwlines must be spaced at least three feet apart. Metallic throwlines or trotlines are unlawful. Not more than 100 hooks in the aggregate may be employed by one person at any time on all devices.

(ii) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park.

(iii) In Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, San Augustine, San Jacinto, Trinity, Tyler, and Walker Counties, and in the waters of the Sam Rayburn Reservoir in Angelina and Sabine Counties, and the waters of Toledo Bend Reservoir in Sabine and Shelby Counties, no more than 100 hooks may be used altogether, in any of the following combinations: pole and line, rod and reel, artificial and natural baits, throwline or no more than two nonmetallic trotlines with not more than 50 hooks each, except San Rayburn Reservoir in Angelina and Sabine Counties, and in the public waters of Jasper, Polk, Trinity, Tyler, Houston, Newton, Nacogdoches, and San Augustine Counties, and in the Neches River where it forms a common boundary between Hardin and Jasper Counties, no more than 100 hooks in the aggregate may be employed by a person at any time on all devices. Hooks on throwlines and trotlines must be spaced not less than three horizontal feet apart.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream or perch), or rough fish, except minnow seines not more than 30 feet in length for taking only minnows, sunfish, and rough fish may be used in Toledo Bend Reservoir.

(3) A common fruit jar type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released in the water from which taken.

(4) Except in Uvalde County, a spear gun and spear or bow and arrows for taking only rough fish, but it shall be unlawful to possess fish other than rough fish when using a spear gun and spear or bow and arrow.

(5) Except in the Nueces River for the parts of Lake Corpus Christi to which these rules apply, downstream to Nueces Bay and in Colorado County, a wire loop or gig for

taking rough fish, but when using a wire loop or gig, one may not possess crappie, bass, or catfish.

(6) In Dimmit and Zavala Counties only, a non-metallic net having mesh not less than three inches square for taking only rough fish (fish not designated rough fish taken in such net must be immediately released into the waters from which taken). It shall be unlawful to have in possession or aboard a boat or in a vehicle, fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(7) In Houston, Jefferson, Liberty, Nacogdoches, Newton, Orange, Polk, Trinity, and Tyler Counties, hoop nets, trammel nets, and gill nets of nonmetallic construction having a mesh size not less than three inches square may be used for taking only rough fish, as defined, except that it shall be unlawful to use nets for taking fish from the Neches River from the Jasper-Angelina County line to the bridge over the Neches River between Bridge City and Groves on State Highway 87, and from the waters of the Angelina River in Jasper County below the Sam Rayburn Dam, and in Sam Rayburn Reservoir, and in Sam Rayburn Reservoir below the Texas Eastern Transmission Company Pipeline, and in Lake Livingston and in Toledo Bend Reservoir below U.S. Highway 84 bridge, except as provided in Rule 127.70.01.211 above and Section (f), subsections (2) and (3) of this rule above. It shall be unlawful to have in possession or aboard a boat or in a vehicle, fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(8) Nets and seines.

(A) In Lee County, set or drag nets or seines, the meshes of which are not less than three inches square, may be used in Yegua Creek where it forms the boundary with Burleson County to take all fish and set or drag nets with three inch square mesh, except hoop nets to take rough fish in the remainder of the county.

(B) In Bastrop County, no such nets or seines may be used.

(C) In Austin, Calhoun (except in the Guadalupe River), Colorado, Fayette, Goliad, Jackson, and Victoria (except in the Guadalupe River) Counties, set or drag nets or seines, the meshes of which are not less than three inches square (other than hoop and barrel nets), may be used for taking only rough fish, and all other fish taken in such nets must be immediately released into the water from which taken.

(D) It shall be unlawful to have in possession or aboard a boat or in a vehicle fish other than rough fish, as defined, while fishing with or possessing a hoop net, trammel net, or gill net.

(E) In Colorado County, set or drag net or seines or hoop net, the meshes of which are not less than three inches square, may be used to take rough fish.

(i) In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, only the following means and methods may be used in taking fish:

(1) Trotlines.

(A) No trotline may be placed or set in the vicinity of a public boat dock, or public bathing pier, or public bathing area.

(B) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman, and the date it was set out.

(C) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(D) Any trotline set in the public waters of this state in violation of any section of these rules shall be removed from the waters thereof.

(E) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 hundred acres or less which lie totally within the boundaries of a state park or that portion of a stream bordering a state park.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream or perch), bull heads, or rough fish.

(3) A common fruit-jar-type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets, constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish must be immediately released in the water from which taken.

(4) A spear gun and spear or bow and arrows for taking only rough fish, but it shall be unlawful to possess fish other than rough fish when using a spear gun and spear or bow and arrow.

(5) A wire loop or gig for taking rough fish, but when using a wire loop or gig, one may not possess crappie, bass, or catfish.

(j) In Bowie, Camp, Fannin, Franklin, Harrison, Hunt Lamar, Panola, Red River, Rusk, Titus, and Wood Counties, and the waters of Lake Palestine in Anderson, Cherokee, Henderson, and Smith Counties, only the following means and methods may be used in taking fish:

(1) Devices.

(A) Pole and line, artificial lures or natural baits, rod and reel, jug line, throwline, and trotline. Hooks on throwlines or trotlines must be spaced not less than three horizontal feet apart.

(B) No trotlines may be placed or set in the vicinity of a public boat dock, or public bathing pier, or public bathing beach, or a public place commonly used as a swimming or bathing area.

(C) All freshwater trotlines must be identified by a legible tag, constructed of a material as durable as the trotline, bearing the name and address of the fisherman, and the date it was set out.

(D) All trotlines that remain in public waters shall be redated at the expiration of each 90-day period.

(E) Any net or trotline set in the public waters of this state in violation of any section of these rules shall be removed from the waters thereof.

(F) The use of trotlines, throwlines, and jug lines is prohibited in bodies of water 500 acres or less which lie totally within the boundaries of a state park or that portion of a stream bordering a state park.

(2) Minnow seines not more than 20 feet in length for taking only minnows, sunfish (bream and perch), or rough fish.

(3) A common fruit jar type trap or its metallic counterpart not longer than 24 inches with throat no larger than one inch in diameter, dip nets, cast nets, or umbrella nets, constructed of nonmetallic materials for taking only minnows, sunfish (bream or perch), and rough fish. All other fish

must be immediately released into the water from which taken.

(4) A spear gun and spear or bow and arrows for taking only rough fish, but it shall be unlawful to possess fish other than rough fish, when using a spear gun and spear or bow and arrow.

(5) A wire loop or gig for taking rough fish, but when using a wire loop or gig, one may not possess crappie, bass, or catfish.

(6) Nets.

(A) Hoop nets, trammel nets, and gill nets of non-metallic construction with meshes not less than three inches square may be used for taking only rough fish, as defined, and catfish, except in Fannin, Franklin, Hunt, Lamar, Panola, Red River, Rusk, Titus, and Wood Counties; in Lake Tawakoni in Rains and Wood Counties; Lake Palestine; and the Sabine River in Harrison County, they are unlawful.

(B) It shall be unlawful to have in possession or aboard a boat or in a vehicle, fish other than rough fish and catfish while fishing with or possessing a hoop net, trammel net, or gill net.

(C) In Camp County, rough fish may be taken with hoop nets, trammel nets, and gill nets of nonmetallic construction with meshes not less than three inches square.

.264. *Other Freshwater Aquatic Animal Life.*

(a) There is no closed season or bag limit on other freshwater aquatic animal life.

(b) Means and methods are not restricted, except as limited by statute.

(Rules 127.70.01.265-.269 are reserved for expansion.)

.270. *Saltwater Fish: General.* The taking or attempting to take or possession of saltwater fish species in greater number, by other means, or at times other than as permitted under Rules 127.70.01.270-.273 shall be unlawful.

.271. *Saltwater Fish: Open Seasons, Bag, Possession, and Size Limits.* There shall be no closed season, bag, or possession limits on saltwater fish, except it shall be unlawful:

(a) for the holder of a sport fishing license to catch and retain more than 10 red drum (redfish) in one day or to possess more than 20 red drum;

(b) to take red drum less than 14 inches in length;

(c) for the holder of a Commercial Red Drum License to possess any red drum over 35 inches in length, and the holder of a Sport Fishing License may possess no more than two red drum over 35 inches in length; and

(d) to possess spotted seatrout or flounder less than 12 inches in length in Cameron, Kenedy, and Willacy Counties.

.272. *Saltwater Fish: Means and Methods.*

(a) It shall be unlawful to take or attempt to take fish by any means and methods other than specifically allowed in this rule.

(b) Only the following means and methods may be used for taking fish:

(1) Devices.

(A) Pole and line, rod and reel, artificial and natural baits, throwline, and trotline (including rubber band lines and sail lines), cast net and dip nets, 20-foot minnow seines for taking bait, perch trap not exceeding 18 cubic feet for taking bait, spear gun and spear, bow and arrow, and gig, or purse nets for menhaden as provided in Rule

127.70.01.273. fish trawls with a webbing size of not less than four inches stretched mesh are permitted only in gulf waters of Aransas, Brazoria, Jefferson, Matagorda, and Willacy Counties.

(B) Hooks on throwlines and trotlines must be spaced not less than three horizontal feet apart, except in Baffin Bay, Alazan Bay, and their tributaries, unbaited hooks on trotlines set in waters not more than two feet in depth at mean low tide must be spaced not less than six inches apart.

(C) Fish taken incidental to legal shrimping operations may be retained. Trammel nets, gill nets, and drag seines may be used in or on the coastal waters where presently legal, except between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week.

(D) Trammel nets, gill nets, and drag seines only may be used to take fish as provided herein; however, the use of trammel nets, gill nets, and drag seines are prohibited in the waters of Port Bay, St. Charles Bay, and those portions of Copano Bay and Redfish Bay in Aransas County; the waters of Sabine Pass leading from Sabine Lake to the Gulf of Mexico, or in the waters within one mile of Sabine Pass, or in or on any of the waters of any of the lakes, bays, streams, bayous, or canals of Jefferson and Orange Counties; and in the waters of Carancahua Bay; and Swan Lake in Jackson County, and in the inside saltwater lakes, bays, streams, bayous, or canals of Brazoria County, it shall be unlawful to use or possess any net, except a shrimp trawl, cast net, or 20-foot minnow seine for taking bait; except that seines not more than 20 feet in length may be used for taking bait in these waters.

(E) The use of trawls is prohibited in all the inside waters of Jefferson County south of the Gulf Intracoastal Waterway and west of the Port Arthur Canal, except that cast nets and 20-foot minnow seines may be used for catching bait, in quantities not to exceed two quarts per person or four quarts per boat.

(2) Nets and seines.

(A) Drag seines and trammel nets shall not exceed 1,800 feet in length in any one operation and may not measure less than one and one-half inch square mesh, and the battle-wing and pocket shall measure not less than one inch square mesh.

(B) A trammel net is defined as a net consisting of three walls of webbing with a maximum mesh size of eight inch square mesh for the two outer walls, and a minimum mesh size of one and one-half inch square mesh for the center wall.

(3) Trotlines.

(A) Trotline (except rubber band lines and sail lines) end stakes shall be marked with burlap or flagging.

(B) Metallic stakes are prohibited.

(C) Panels of top water trotlines shall be marked by having attached to the line midway between all stakes, plastic or cloth measuring not less than one inch wide with a streamer not less than six inches long clearly visible and above the water.

(D) No trotline (except sail lines) shall exceed 600 feet in length.

(E) No trotline (including rubber band lines and sail lines) or portions thereof shall be placed closer than 50 feet from any other trotline, or set within 200 feet of the edge of the Gulf Intracoastal Waterway or its tributary channels.

(F) No trotline or trotline components, including lines and hooks, but excluding poles, may be left in or on coastal waters between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week, except that attended sail lines are excluded, and in Baffin Bay, Alazan Bay, and their tributaries, unbaited hooks on trotlines, set in waters not more than two feet in depth at mean low tide, and with hooks spaced not more than six inches apart, may be used each day of the week from November 1 through March 31.

(4) In the waters of the Laguna Madre in Cameron County, and the inside waters of Willacy County (as defined in Chapter 77, Texas Parks and Wildlife Code), it is unlawful to use a net or seine, except a dip net, cast net, minnow seine less than 20 feet in length for catching bait, or shrimp net or trawl as provided by Chapter 77, Texas Parks and Wildlife Code. Drumfish may be taken between November 1 and March 31 with nets, but only when under contract with the department, as set forth in contract regulations provided by law.

(5) The waters of Aransas Bay described herein, closed to netting by law on the first day of June, 1963, as well as the waters within one mile of any inlet or pass, shall remain closed. In all waters of Aransas Bay in Aransas County lying south of a line running from a stake or marker located on the shore of St. Joseph Island one mile north of the bayside entrance to the Pass, commonly known as North Pass, to the southern end of Mud Island, thence to the north side of the entrance to Corpus Christi Bayou; all waters of Aransas County lying between Harbor Island and St. Joseph Island; in all waters of Aransas County lying between Harbor Island and Mustang Island; and in connecting inlets and bayous, lying south and southwest of a line starting at the juncture of the railroad dumps on the mainland, running east along the center of said dumps to its eastern extremity, thence northeast to the north side of the eastern entrance to Corpus Christi Bayou, thence southeast to the northern extremity of Harbor Island to a stake or marker, and north and northeast of a line running directly east and west from the mainland to Harbor Island across the southern extremity of Ranson Point, it shall be unlawful to use a net or seine more than 20 feet in length in such waters.

(6) As provided and directed in Section 104.012, Texas Parks and Wildlife Code, it is unlawful to use a crab trap or trotline or net or seine, except a minnow seine not exceeding 20 feet in length for taking bait in the net-free zone, consisting of all of Little Bay and the water area of Aransas Bay, within one-half mile of the line from Hail Point on the Lamar Peninsula, direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the causeway between Lamar Peninsula and Live Oak Peninsula, then along the eastern shoreline of Live Oak Peninsula past the town of Fulton, past Nine-Mile Point, past the town of Rockport to the eastern end of Talley Island; and including also the portion of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula.

(7) It shall be unlawful to use a net or seine, except minnow seines not more than 20 feet in length, and cast nets in the waters of Pass Caballo (Cavallo), defined in Rule 127.70.01.280, or within one mile of any pass connecting the bays or tidal waters to the Gulf of Mexico.

(8) Net tags.

(A) Any net used in the public saltwaters by sport fishermen shall be identified by a legible tag constructed of a

material as durable as the net, bearing the name and address of the fisherman and the date it was set out.

(B) Any net set in the public waters without being properly identified shall be an illegal net and shall be removed from the waters by officials of the department and destroyed.

(9) Baits.

(A) It shall be unlawful to use any other than natural baits on trotlines, except that artificial baits may be used on sail lines, a sail line being defined as a type of trotline fixed on one end on shore, pier, or jetty, and with the other end attached to a wind-powered device or sail, and attended by the owner or operator at all times the line is fishing.

(B) Only one sail line may be used per fisherman, and fish so taken may not be sold.

(C) No sail line may contain more than 30 hooks, and no hook may be placed more than 200 feet from the sail.

(D) Natural bait as used on trotlines (except sail lines) in saltwater is defined as a whole or cut up portion of a fish, shrimp, or crab, or a whole or cut up portion of plant material in its natural state, provided that none of the above may be altered beyond cutting into portions.

(E) Other substances may be used as bait upon approval by the executive director.

(10) It shall be unlawful for any person operating a drag seine in Gulf waters to fail to return all aquatic life not utilized to the waters from which taken.

(11) Nets and seines.

(A) It shall be unlawful to use a seine or net, except 20-foot minnow seine, dip net, or cast net in the inland saltwaters of Nueces County, except that in that portion of Nueces Bay more than one-half mile from the causeway on State Highway 181 and more than one-half mile bayward of the shoreline extending south and west along Nueces Bay to the mouth of the Nueces River, gill nets with no less than three inch square mesh may be used.

(B) In that portion of Corpus Christi Bay more than one-half mile from the main shoreline beginning at Dimmit Island and proceeding along the mainland shoreline past the City of Corpus Christi, including the causeway on State Highway 181, and extending eastward past the City of Portland to Ingleside Point, trammel nets, drag seines, and gill nets with not less than one and one-half inch square mesh may be used, except gill nets may not be used during the months of May, June, July, and August.

(C) No nets may be set in a navigation channel in the saltwaters of Nueces County.

(D) For the purpose of these rules, the boundary between Corpus Christi Bay and Redfish Bay shall be a line extending along the side of Dagger Island and Ransom Island.

(E) Drag seines, trammel nets, and gill nets shall not exceed 1,800 feet in length in any one operation.

(F) In San Antonio Bay, north of the intercoastal waterway, three-inch stretched mesh drag seines, trammel nets, and gill nets may be used to take fish.

273. Saltwater Fish: Menhaden—Gulf of Mexico. Menhaden fish may be taken from the waters of the Gulf of Mexico within the gulfward boundary lines of Aransas, Brazoria, Calhoun, Cameron, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, and Willacy Counties from the coastline of the Gulf to the continental shelf compiled, platted, fixed, and located by the commissioners of the General Land Office

pursuant to Chapter 287, Acts, 50th Legislature, 1947, and filed and recorded in the office of the county clerk of said county, between the third Monday in April through the Friday following the second Tuesday in October of each year, through the use of nets and purse seines which, not including the bag, shall not be less than one and one-half inch stretched mesh; however, no such nets and purse seines may be used in any bay, river, pass, or tributary thereto, nor within one mile of any jetty or pass, nor within one-half mile offshore in the Gulf of Mexico.

274. Saltwater Fish: Commercial Harvest Reporting Requirements.

(a) Each individual sales transaction of all saltwater fishes must be recorded in triplicate at the time of the initial purchase only on a form prescribed and distributed by the department. The original copy of all Individual Sales Transaction forms from the previous month must be retained at the place of business until filed with the department no later than the 10th day of the following month, or surrendered on request to the authorized department personnel prior to that date. A separate copy of each completed form must be retained by both the buyer and the seller for a period of 72 hours after the initial sale.

(b) The Individual Sales Transaction form shall include:

- (1) the date of the sale;
- (2) the dealer's code number or name of purchaser;
- (3) the fisherman's name;
- (4) the Red Drum License number of the fisherman

(if red drum are sold):

- (5) the commercial license number of the fisherman;
- (6) the equipment used;
- (7) the pounds of each species of fishes sold;
- (8) the price per pound of each species of fishes sold;

and

(9) the bay system or area of the Gulf of Mexico where captured.

(c) The responsibility for obtaining and completing the Individual Sales Transaction form shall be on the holders of Wholesale or Retail Truck and Fish Dealer's Licenses who initially purchase the fishes from a commercial fisherman, unless the fishes are sold by a commercial fisherman directly to a final consumer, in which case the form shall be obtained and completed by the commercial fisherman.

(d) Completion of the Individual Sales Transaction form is in addition to other reporting requirements for fishes, oysters, crabs, or shrimp as prescribed by law.

(e) Penalties for conviction of violating this rule are provided in Section 61.902, Texas Parks and Wildlife Code.

275. Shellfish (Crabs, Oysters, and Shrimp). It shall be unlawful to take or possess shellfish in greater numbers or at any other time than as permitted by Rules 127.70.01.275-.278.

276. Shrimp. The licensing provisions, the taking, possession, handling, loading, unloading, buying, selling, and processing of shrimp shall be governed by and subject to the penalties prescribed in Chapter 77, Texas Parks and Wildlife Code, except:

(a) In the coastal or other waters of Jackson County, it shall be unlawful for a person taking, or catching, or attempting to catch shrimp, to have in his possession or on board a boat or vessel more than two quarts of shrimp per person, or

more than four quarts per boat to be used for bait purposes only; provided, however, a person may take or catch shrimp for his own personal use in an amount not to exceed 100 pounds of shrimp in their natural state with heads attached per day, but only during the open season of the inside waters of the county from August 15 to December 15. It shall be unlawful for a person to buy, sell, offer for sale, or handle in any way for profit shrimp so acquired. The restrictions of this section shall not apply to persons or boats in the Jackson County waters of Carancahua Bay southeast of State Highway 35 as it crosses Carancahua Bay (from Chapter 508, Acts, 59th Legislature, Regular Session, 1965, Section 15A).

(b) In Brazoria County, bait shrimp only may be taken from the waters of that portion of Chocolate Bay and West Galveston Bay lying north of the Gulf Intracoastal Waterway.

.277. Crabs.

(a) Crabs may be taken in any numbers at any time by dip net, set line, hand line, gig, trotline, and crab traps.

(b) Crab trawls with a webbing size of not less than five inches stretched mesh are permitted in coastal waters as defined in Section 77.001, Texas Parks and Wildlife Code.

(c) Crabs taken incidental to legal shrimping or fishing operations may be retained.

(d) All crab traps shall be marked with a floating visible buoy not less than 10 inches above the water and 10 inches in width, or with plastic bottles of not less than one gallon size.

(e) It shall be unlawful to retain sponge crabs.

.278. *Oysters.* Oysters shall be taken, possessed, and handled in accordance with the sanitation and harvest provisions of Chapter 76, Texas Parks and Wildlife Code.

.279. Other Saltwater Life and Marine Animals.

(a) It is unlawful for a person to knowingly take, kill, or disturb any sea turtle or any sea turtle eggs in or from the waters of the State of Texas.

(b) There is no open season on porpoises, dolphins (mammals), and whales.

(c) There are no restrictions on other saltwater life and marine animals of all kinds.

.280. Netting Laws.

(a) Net defined. When net is mentioned in this rule, such as a trammel, strike, gill, hoop, pound, purse, or other kind of net, the standard net of such variety or kind or the usual or ordinary kind of such net as manufactured and sold as in or to the trade is meant.

(b) Pass Caballo (Cavallo) waters defined. Pass Caballo (Cavallo) waters are defined as follows: Beginning at a point on the southeast bank of the mouth of Saluria Bayou; thence in a northeasterly direction to a point on the Matagorda Bay shore of Matagorda Peninsula, 4,000 yards southwest from a point on said shore which marks the boundary line between the Elijah Decrow survey and the John Allen survey on said peninsula; thence across the Peninsula to a point on the Gulf of Mexico shore thereof, 3,000 yards southwest from a point on the Gulf of Mexico shore which marks the boundary line between the Elijah Decrow survey and the John Allen survey; thence to a point in the Gulf of Mexico, 300 yards directly offshore; thence to a point in the Gulf of Mexico, 300 yards directly offshore from a point on Matagorda Island shore which is 300 yards southwest along the shore from the "Point of Rocks"; the line connecting these latter two points

offshore in the Gulf of Mexico from Matagorda Peninsula to Matagorda Island curving so that it shall never be closer to Matagorda Peninsula and Matagorda Island than 300 yards; thence to the point on Matagorda Island shore which is 300 yards southwest from "Point of Rocks"; thence up the shoreline of Matagorda Island to the point of beginning.

(c) Calhoun County: fishing gear. In Calhoun County, it is illegal to use a seine or net, except cast net, dip net, or 20-foot minnow seine for taking bait in the following waters: The waters of Karankawa (Caranchua) Creek, Karankawa (Caranchua) Bay and the lakes and coves opening thereonto, Karankawa (Caranchua) Pass or within a radius of 1,000 yards from the mouth of said pass in the waters of Matagorda Bay; Kellers Creek and that part of Kellers Bay within a radius of 1,000 yards from the southwest corner of the Olivia State Highway Roadside Park; all of Coloma Creek and Powder Horn Lake, Powder Horn Bayou—the same being the pass between Powder Horn Lake and Matagorda Bay or within a radius of 1,000 yards from the mouth of said pass in the waters of Matagorda Bay; Chocolate Creek leading into Chocolate Bay or within a radius of 100 yards from the mouth of Chocolate Creek in the waters of Chocolate Bay; and all that part of Lavaca Bay within the distance of 1,000 yards on each side of the Lavaca Bay Causeway.

(d) Calhoun County: fishing.

(1) It is unlawful for a person to take or catch fish from the waters of Espiritu Santo Bay, or in those portions of San Antonio Bay south or southeast of the Intracoastal Waterway, including all bays, bayous, lagoons, lakes, and inlets located between the Intracoastal Waterway and the gulfward shoreline of Matagorda Island, or within one mile of Pass Caballo (Cavallo) as defined in Section (b) of this rule above, or within one mile of any other pass leading from the above described waters to any other bay or into the Gulf, located in Calhoun County, by other means than pole and line, rod and reel, artificial and natural baits, throwline and trotline (including rubber band and sail lines), cast nets and dip nets, 20-foot minnow seine for taking bait, perch trap not exceeding 18 cubic feet for taking bait, spear gun and spear, bow and arrow and gig.

(2) Any person drawing a seine or setting a net for the purpose of taking fish in the waters of Espiritu Santo Bay, or in those portions of San Antonio Bay south or southwest of the Intracoastal Waterway, or any of the waters between the Intracoastal Waterway and the gulfward shoreline of Matagorda Island, or within one mile of any pass located in Calhoun County, or any person catching or taking fish in such waters by any other means than by hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of cast net or minnow seine not exceeding 20 feet in length shall be deemed guilty of a misdemeanor. However, in the waters of Hynes Bay in Calhoun County lying north and west of a line connecting McDowell Point and Grassy Point, gill nets, trammel nets, and drag seines of not less than three inch bar mesh may be used except between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week.

(3) It is unlawful for a person to take or catch fish from the waters of Lavaca Bay, Keller Bay, Cox Bay, Banal Lake, Mesquite Creek, Placedo Creek, Garcitas Creek, Red Fish Lakes, and Oyster Bayou in Calhoun County, by any other means than hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of cast net or minnow seine not exceeding 20 feet in length, used in catching bait.

(4) Any person drawing a seine or setting a net in the waters of Lavaca Bay, Keller Bay, Cox Bay, Banal Lake, Mesquite Creek, Placedo Creek, Garcitas Creek, Red Fish Lakes, and Oyster Bayou in Calhoun County, or a person catching or taking fish by any other means than hook and line, rod and reel, or trotline, or flounder gig and light, or cast net and minnow seine not exceeding 20 feet in length, shall be deemed guilty of a misdemeanor.

(e) Cameron County: fishing. It shall be unlawful for a person to have in his possession in, or on the waters, islands, spoil areas, or mud flats of the Laguna Madre lying within Cameron County, a seine, net, trap, or other device, for the purpose of catching fish, other than the ordinary pole and line, rod and reel, artificial and natural baits, throwline and trotline (including rubber band and sail lines), cast nets and dip nets, 20-foot minnow seine for taking bait, perch trap not exceeding 18 cubic feet for taking bait, spear gun and spear, bow and arrow and gig.

(f) Aransas and Nueces Counties: seines. It shall be unlawful for a person to place, set, use, or have in possession, or to have on board a boat, or in a vehicle, a seine, net, or trawl, in the waters of Corpus Christi Bay, and Laguna Madre, and connecting inlets or bayous, lying between a line on the north running east from a stake or marker on the shore on the northeasterly point of Flour Bluff to a stake or marker on Mustang Island, one mile north of Corpus Christi Pass, and the Nueces-Kleberg County line on the south; or Callo Del Oso and connecting inlets and bayous; or Oso Creek; or Corpus Christi Pass; or Aransas Pass; or within one mile of the passes mentioned herein; all waters of Aransas Bay lying south of a line running from a stake or a marker located on the shore of St. Joseph Island one mile north of the bayside entrance to the pass, commonly known as North Pass, to the southern end of Mud Island, thence to the north side of the entrance to Corpus Christi Bayou; all waters lying between Harbor Island and St. Joseph Island; all waters lying between Harbor Island and Mustang Island; connecting inlets and bayous, lying south and southwest of a line starting at the juncture of the railroad dumps on the mainland, running east along the center of said dumps to its eastern extremity; thence northeast to the north side of the eastern entrance to Corpus Christi; thence southeast to the northern extremity of Harbor Island to a stake or marker, and north and northeast of a line running directly east and west from the mainland to Harbor Island across the southern extremity of Ranson Point; or in a pass or channel leading from one body of water to another in the salt waters of Nueces County.

(g) Nueces County: Gulf—nets and seines. It shall be unlawful for a person to place, set, use, or drag a net or seine, other than a cast net or minnow seine of not more than 20 feet in length for catching bait, in or on the waters of the Gulf of Mexico within one mile of the Horace Caldwell pier located on Mustang Island, and the Bob Hall pier located on Padre Island, both in Nueces County, and within 1,000 feet of the shoreline of Padre Island in Nueces County.

(h) Copano and Mission Bays: seines. It shall be unlawful for a person, firm, or corporation, or their agent or agents, to use a seine, strike net, gill net, or trammel net in the waters of Copano Bay, Mission Bay, and connecting waters west of State Highway 35 in Aransas, Refugio, and San Patricio Counties. It shall be lawful to fish with a pole and line, rod and reel, trotline, or to seine for bait with a minnow seine not over 20 feet long.

(i) Corpus Christi Bay and Redfish Bay: seines.

(1) For the purposes of this section, the shoreline shall be the water's edge at mean tide.

(2) It shall be unlawful for a person to place, set, use, drag, or have in possession a seine, net, or other device for catching fish, or shrimp, other than the ordinary pole and line, casting rod and reel, artificial bait, trotline, set line, gig, cast net, or minnow seine of not more than 20 feet in length, or trawl not over 10 feet in width at the mouth, for catching bait, in or on the waters of Corpus Christi Bay within one-half mile of the mainland shoreline between Flour Bluff Point and the city limits of Corpus Christi, or in or on the waters of Corpus Christi Bay within one mile of Dimmit Island in Nueces County, or in or upon the waters of Corpus Christi Bay within one-half mile of the mainland shore between a point one-half mile east of Ingleside Docks and the north end of the Nueces Bay causeway, or in or upon the waters on the east side of and within one-half mile of Nueces Bay causeway, or in or upon the waters of Redfish Bay in Nueces County.

(j) Kleberg and Kenedy Counties: seines and nets. It shall be unlawful for a person to place, set, use, drag, or have in his possession a seine, net, or other device for catching fish and shrimp other than the ordinary pole and line, casting rod and reel, artificial bait, trotline, set line or cast net, or minnow seine of not more than 20 feet in length, for catching fish in or on the waters lying between Padre Island and the mainland in Kleberg and Kenedy Counties, including all back bays and inlets and that back of the Laguna Madre lying in Kleberg and Kenedy Counties.

(k) Willacy County: seines and nets.

(1) It shall be unlawful for a person to have in his possession in or within one-half mile of any of the tidal waters of Willacy County west of Padre Island a seine, net, trawl, trap, or other device, for the purpose of catching fish or shrimp, other than the ordinary pole and line, casting rod and reel, artificial bait, trotline, set line or gig and light for taking flounders.

(2) The department may issue permits under rules and regulations promulgated by the department for the taking of sheepshead and black drum fish during the months of December, January, February, and March in that portion of the Laguna Madre lying in Willacy County.

(Rules 127.70.01.281-.289 are reserved for expansion.)

.290. *Penalty for Violation.* The penalty provided by law for violation of these rules is a fine of not less than \$25 nor more than \$200 (Section 61.901, Texas Parks and Wildlife Code).

.291. *Special Penalty for Hardin, Jasper, Newton, Orange, and Tyler Counties.* The penalty in Hardin, Jasper, Newton, Orange, and Tyler Counties for violation of any regulation concerning hunting with artificial lights is a fine of not less than \$50 nor more than \$200, or imprisonment in the county jail for not less than three days nor more than 90 days, or by both fine and imprisonment.

.292. *Special Shrimping Penalties.*

(a) A person who violates a regulation of the commission adopted under Sections 223.012 and 281.022, Texas Parks and Wildlife Code, shall be punished as provided in Section 77.020, Texas Parks and Wildlife Code.

(b) The penalty under Section 77.020, Texas Parks and Wildlife Code, is a fine of not less than \$50 nor more than

\$200 for the first offense. No forfeiture of license is provided on conviction for a first offense.

(c) Additional penalty information is set out in Sections 77.020 through 77.025, Texas Parks and Wildlife Code.

.293. Special Red Drum Penalties.

(a) The Red Drum Conservation Act provides that a person who violates a proclamation regarding commercial fishing regulations (Chapter 61, subchapter C-1, Texas Parks and Wildlife Code) shall, on a first offense, be punished by a fine of not less than \$25 nor more than \$200 and each fish constitutes a separate offense;

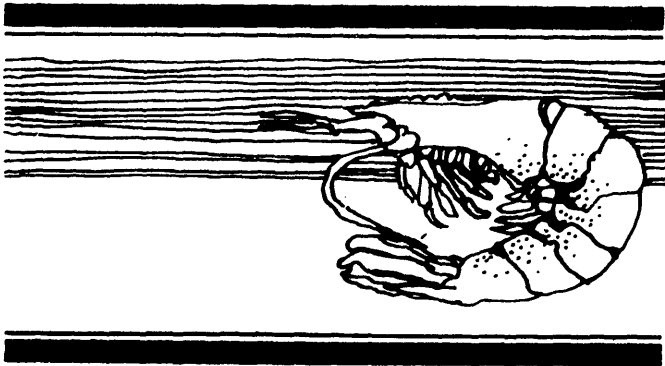
(b) A second offense or subsequent offense is punishable by a fine of not less than \$200 and not more than \$500 and forfeiture of all commercial fishing or dealer licenses.

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

Doc. No. 781696 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife Department

Proposed Date of Adoption: April 17, 1978

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



Railroad Commission of Texas

Oil and Gas Division

Gas Well Gas Shall Be Utilized for Legal Purposes 051.02.02

The Railroad Commission of Texas is proposing the amendment of Rule 051.02.02.032, which requires gas well gas to be utilized for legal purposes.

The 65th Legislature in the 1977 Regular Session amended Article 6008, Section 7, Revised Civil Statutes, now known as Section 86.185, Natural Resources Code, to provide needed flexibility in gas operations. Commission Statewide Rule .032 was derived from that statute, so is now in need of the same modification.

The proposed amendment is a complete substitution for the current rule because of the restatement of the old statute in modern language when it was drafted into the Natural Resources Code.

The division staff has determined that the amendments have no fiscal implications.

Public comment on the proposed amendment to Rule 051.02.02.032 is invited. Comments may be submitted in writing to Bob R. Harris, Chief Engineer, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78767. Comments will be accepted until 30 days after publication in the *Texas Register*.

This amendment to Rule 051.02.02.032 is proposed under the authority of Title 3, Oil and Gas, Natural Resources Code.

.032. Gas From Gas Wells Shall Be Utilized For Legal Purposes.

(a) No gas from a gas well may be permitted to escape into the air after the expiration of 10 days from the time the gas is encountered in the gas well, or from the time of perforating the casing opposite a gas-bearing zone if casing is set through the zone, whichever is later, but the commission may permit the escape of gas into the air for an additional time if the operator of a well or other facility presents information to show the necessity for the escape: provided that the amount of gas which is flared under that authority is charged to the operator's allowable production. A necessity includes but is not limited to the following situations:

(1) cleaning a well of sand or acid or both following stimulation treatment of a well; and

(2) repairing or modifying a gas-gathering system.

(b) Any gas which is permitted to escape into the air shall be burned in a flare.

(c) Gas produced from gas wells shall be utilized for the purposes and uses set out in Section 86.012, Natural Resources Code.

[After the expiration of 10 days from the time of encountering gas in a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized for the purposes and uses set out in Article 6008, Revised Civil Statutes of Texas.]

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

Doc. No. 781774 Mack Wallace
 Chairman
 Railroad Commission of Texas

Proposed Date of Adoption: April 21, 1978

For further information, please call (512) 475-6155.

Office of the Secretary of State

Office of the Secretary

General Rules of Practice and Procedure 004.01.01

The secretary of state is proposing to amend Rule 004.01.01.009, which establishes the special services available from the Office of the Secretary of State and sets the fees for those services. The amendment would add Section (g) to the rule. Section (g) provides that the secretary of state will process, on the day of receipt, a request for a certificate listing filings made in the Uniform Commercial Code (U.C.C.) Division or a request for copies of the listed filings which is

carried by hand to the office or received by telephone. The fee for each service has been set at five dollars. The fee has been established after giving due consideration to the expenses involved in providing the service and every effort has been made to match the charges with the actual cost of providing the service.

The staff of the U.C.C. Division of the Office of the Secretary of State estimates that this amendment will result in an income of \$11,000 per year for the next five years, which will cover expenses incurred. This estimate has been reached by applying the five dollar fee to the estimated number of requests for the services established by the amendment over the next five years. There will be no cost or income to units of local government as a result of this amendment.

Public comment on the proposed amendment to Rule 004.01.01.009 is invited. Comments may be submitted by telephone or in writing to Bill Zimmerman, Director, U.C.C. Division, Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711, telephone (512) 475-2575.

This amendment is proposed under the authority of Article 4331, Texas Civil Statutes.

.009. Special Services.

(g) Upon the request of any person, the secretary of state will process, on the day of receipt, any request for a certificate listing filings made in the U.C.C. Division, or any request for copies of the listed filings which are carried by hand to the office or received by telephone. The secretary of state may collect a fee of five dollars for this service.

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

Doc. No. 781756 John F. Pettit
 Assistant Secretary of State

Proposed Date of Adoption: April 21, 1978
 For further information, please call (512) 475-2575.

Elections Division
Campaign Reporting and Disclosure
004.30.14

The secretary of state is proposing Rule 004.30.14.600, which adopts by reference the new Campaign Reporting and Dis-

closure forms prescribed by the Office of the Secretary of State. The forms may be utilized by candidates for public office, public officeholders, campaign treasurers, and political action committees to submit reports on campaign financial activity and other documents required by Chapter 14 of the Texas Election Code. The forms include sworn statements of contributions and expenditures for candidates, officeholders, and political action committees; designations of campaign treasurer for potential candidates and political action committees; and the general purpose political committee's intent to file monthly and statement of dissolution.

The Elections Division of the Office of the Secretary of State has determined that there are not fiscal implications for the state or any unit of local government that would result from this rule.

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

This rule is proposed under the authority of Articles 1.03 and 14.13, Vernon's Texas Election Code.

.600. Campaign Reporting and Disclosure Forms. The secretary of state adopts by reference the new Campaign Reporting and Disclosure forms prescribed by the Office of the Secretary of State in 1977. These forms are published by and are available from the Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781773 Steven C. Oaks
 Secretary of State

Proposed Date of Adoption: April 21, 1978
 For further information, please call (512) 475-3091.

ADOPTED RULES

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.

Coordinating Board, Texas College and University System

Program Development

Operational Provisions for Texas Public Junior Colleges 251.02.17

The Coordinating Board, Texas College and University System, adopts amendments to Rule 251.02.17.013 under the authority of Section 61.062, Vernon's Texas Codes Annotated.

.013. *Reporting for State Reimbursement Purposes.*

- (a) Attendance records will be maintained by the community college on all students in all classes through two full weeks following the dates for reporting official enrollments.
- (b) Contact hours credit will be given for all students attendance on the official reporting date provided that all other legal requirements are met.
- (c) The state auditor will examine attendance records for the two weeks following the official reporting date for any student not present on the official reporting day.
- (d) The contact hours associated with any student who attends at least one day during that two-week period will be eligible for inclusion if that student has attended at least one time prior to the official reporting day, provided the class has met by the official reporting day and provided that all other legal requirements are met. Any student who is not in attendance on the official reporting day and does not attend at least one class session during the subsequent two weeks will be disallowed, unless the institution can provide specific evidence that the student was in fact in regular attendance for the remainder of the semester and had met all other legal requirements.
- (e) For purposes of definition, the official reporting day also means the last previous meeting of a class not scheduled to meet on the official reporting day. The official reporting

dates are those dates specified in the Educational Data Reporting System for Public Community Colleges.

Doc. No. 781825

Financial Planning

Procedures and Criteria for Funding of Family Practice Residency Programs 251.03.05

The Coordinating Board, Texas College and University System, adopts Rules 251.03.05.001-.009 under the authority of Section 61.501-504, Texas Education Code.

.001. *Types of Grants.* Medical schools, licensed hospitals, or nonprofit corporations may apply for a Phase I Planning Grant, a Phase II Planning Grant, a Phase I Operational Grant, or a Phase II Operational Grant.

(a) A Phase I Planning Grant is defined as a one-time only grant, for no more than six months after the funds are awarded to support planning costs, limited to initial efforts to begin the accreditation process, prior to the hiring of a program director.

(b) A Phase II Planning Grant is defined as a grant to support planning costs after a program director has been employed. Such costs may include salaries for a director and a secretary, accreditation costs, travel, administrative office space, recruitment of faculty and residents, and consultation fees.

(c) A Phase I Operational Grant is defined as a grant to support development of a program after accreditation has been received through the first year of actual resident training in the program.

(d) A Phase II Operational Grant is defined as a grant to support an ongoing program after its first year of operation, including the support of expansion of resident positions.

.002. *Procedures for Requesting Phase I Planning Grant.* A medical school, licensed hospital, or nonprofit corporation requesting a Phase I Planning Grant must:

- (1) have submitted a letter of intent for the development of a family practice residency program to the Liaison Committee on Graduate Medical Education (LCGME) or to the American Osteopathic Association (AOA);
- (2) show evidence of local community support;
- (3) show evidence of support from the appropriate hospital boards, administrators, staff, local physicians, and medical societies;
- (4) submit a statement outlining and supporting the need for planning funds;
- (5) submit a statement showing evidence of the ability of the applicant to conform to the criteria for a family practice residency program as established by the Coordinating Board.

.003. *Procedures for Requesting Phase II Planning Grant.* A medical school, licensed hospital, or nonprofit corporation requesting a Phase II Planning Grant must:

- (1) show evidence that Phase I Planning as defined above has been completed;
- (2) show evidence that a program director, full-time or part-time, has been identified to prepare the application for accreditation to the LCGME or to the AOA;
- (3) submit a statement outlining and supporting the need for planning funds;

(4) affirm that the accreditation application will be completed within no more than a six-month period;

(5) agree to submit progress reports on the preparation of the application as required by the Coordinating Board.

.004. Procedures for Requesting Phase I Operational Grant. A medical school, licensed hospital, or nonprofit corporation requesting a Phase I Operational Grant must:

- (1) be accredited by the LCGME or the AOA;
- (2) meet the Coordinating Board criteria for Phases I and II Planning Grants;
- (3) document expenditures and revenue to substantiate funding needs;
- (4) have scheduled the first enrollment of residents;
- (5) submit progress reports on the training program to the Coordinating Board every six months.

.005. Procedures for Requesting Phase II Operational Grant. A medical school, licensed hospital, or nonprofit corporation requesting a Phase II Operational Grant must:

- (1) be accredited by the LCGME or the AOA;
- (2) meet the Coordinating Board criteria for planning grants;
- (3) give evidence that the program has been operational for one or more academic years;
- (4) give evidence of continuing local support;
- (5) document expenditures and revenue to substantiate funding needs;
- (6) submit progress reports on the training program to the Coordinating Board on an annual basis.

.006. Plans Required to Accompany All Grant Requests. Requests for Phase I and II Planning Grants and Phase I and II Operational Grants must be accompanied by:

- (1) a well-developed plan to encourage residents to enter practice in underserved areas of the State of Texas;
- (2) a plan to recruit residents in such a way that they are likely to choose a practice site in underserved areas.

.007. Review of Applications. Applications for all planning or operational grants shall be reviewed by the Family Practice Residency Advisory Committee to determine the feasibility and viability of the family practice residency program. Proposed programs must be determined to serve the needs of the State of Texas in improving the distribution of health care delivery in the state.

.008. Amount of Grant. The amount of funds to be allocated for any planning or operational grant shall be determined by the Coordinating Board, after receiving the recommendation of the Family Practice Residency Advisory Committee. Grants shall be used for operating expenditures as defined by generally acceptable accounting procedures, excluding capital expenditures.

.009. Criteria to Qualify for Grants. Criteria which must be met in order for a family practice residency program to qualify for a grant shall be the criteria required for accreditation by the Liaison Committee on Graduate Medical Education or the American Osteopathic Association.

Doc. No. 781827

Student Services

Determining Residency Status 251.05.03

The Coordinating Board, Texas College and University System, has adopted Rule 251.05.03.013 under the authority of Section 54.053, Vernon's Texas Codes Annotated. One sentence has been added to the proposed text. If a sworn affidavit is accepted at the time of registration, verification of the student as an ad valorem taxpayer must be provided by the end of the semester of enrollment.

.013. Waiver of Nonresident Tuition by Junior Colleges. The governing board of a public junior college district may waive the difference in the rate of tuition for nonresident and resident students for a person, or his or her dependents, who owns property which is subject to ad valorem taxation by the junior college district. The person, or his or her dependents, applying for such waiver shall verify property ownership by presentation of an ad valorem tax statement or receipt issued by the tax office of the junior college district; or by presentation of a deed, property closing statement, or other appropriate evidence of ownership of property which is subject to ad valorem taxation by the junior college district. If a sworn affidavit is accepted at the time of registration, verification of the student as an ad valorem taxpayer must be provided by the end of the semester of enrollment.

Doc. No. 781823

Tuition Equalization Grants Program Eligible Students 251.05.05

Under the authority of Section 61.221-29, Vernon's Texas Codes Annotated, the Coordinating Board, Texas College and University System, has amended Rule 251.05.05.005 to read as follows:

.005. Eligible Students.

(a) To be eligible for a tuition equalization grant, a person must:

- (1) be a Texas resident as defined by the board; provided, however, the person must meet at a minimum the resident requirements as defined by law for Texas resident tuition in fully state-supported institutions of higher education;
- (2) be enrolled as a full-time student in a program other than a theological or religion degree program in an approved college or university;
- (3) be required to pay more tuition than is required at a public college or university;
- (4) establish financial need in accordance with the following procedures:

(A) Financial resources available to the applicant. Financial resources available to the applicant shall be determined by an analysis prepared by the College Scholarship Service or the American College Testing Program which the applicant submits, or by another similar method as described on the application.

(B) Reasonable expenses for a student. Reasonable expenses for a student at an approved institution shall be determined by the commissioner after consultation with representatives of the approved institution. Lists of reasonable expenses for typical students shall be submitted to the commissioner by the approved institution prior to April 1 of

each year for use in the following summer session and in the following academic year. The lists shall follow the formats outlined in Rules .010 and .011 of these rules. Each approved institution may submit as many lists of reasonable expenses as is required to properly reflect the different typical expense categories of students attending the approved institution. When more than one list is submitted, each list should be labeled so as to identify the category of students to be served by that list. In completing individual applications, the amount of "reasonable expenses" must be adjusted downward from those listed for a typical student when necessary to reflect the circumstances of the applicant. If the amount listed for a typical student must be increased to properly reflect the reasonable expenses of an individual applicant, then justification for the increased amount must accompany the individual application with such increased amount subject to approval or disapproval by the commissioner.

(C) Determination of financial need. Financial need can be determined to exist only when the amount of reasonable expenses of a student is more than the amount of financial resources available to the applicant;

- (5) not be a recipient of any form of athletic scholarship;
- (6) have completed a student application for a grant on a form prescribed by the board;
- (7) have complied with other requirements adopted by the board under the act;
- (8) affirm eligibility for the grant at the time of disbursement by signing the Student Affirmation form;
- (9) be maintaining satisfactory progress in his or her course of study;
- (10) not owe a refund on a grant received under the Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, or State Student Incentive Grant Programs; and
- (11) not be in default on a loan made, insured, or guaranteed under the National Direct Student Loan, Hinson-Hazlewood College Student Loan, or Guaranteed Student Loan Program.

(b) Limitations of eligible students. The act applies to freshmen (first year) students beginning in the fall semester of 1971; to freshmen and sophomores in 1972; to freshmen, sophomores, and juniors in 1973; and to all students attending approved institutions in 1974 and thereafter. A student enrolled in a theological or religion degree program shall not be eligible for a grant.

Doc. No. 781824

Texas Public Education Grants Program Eligible Students 251.05.07

Under the authority of Section 56.031-38, Vernon's Texas Codes Annotated, the Coordinating Board, Texas College and University System has amended Rule 251.05.07.007 to read as follows:

.007. Eligible Students. To be eligible for a Texas Public Educational-State Student Incentive Grant, a person must:

- (1) be a citizen, a national or a permanent resident of the United States and otherwise eligible to pay Texas resident tuition in a fully state-supported institution of higher education, except that awards may be made to nonresident students in an amount not to exceed 10 percent of the total

awards made to students at an institution from funds set aside for use as Texas Public Educational Grants;

- (2) be enrolled as a full-time, pre-baccalaureate student in an approved institution;
- (3) have substantial financial need of not less than \$90 for the academic year;
- (4) establish financial need in accordance with the following procedures:

(A) Financial resources available to the applicant. Financial resources available to the applicant shall be determined by an analysis prepared by the College Scholarship Service or the American College Testing Program which the applicant submits, or by another similar method as described on the application.

(B) Reasonable expenses for a student. Reasonable expenses for a student at an approved institution shall be determined by the commissioner after consultation with the representatives of the approved institution. Lists of reasonable expenses for typical students shall be submitted to the commissioner by the approved institution prior to April 1 of each year for use in the following academic year. The lists shall follow the format outlined in Rule .011 of these rules. Each approved institution may submit as many lists of reasonable expenses as is required to properly reflect the different typical expense categories of students attending the approved institution. When more than one list is submitted, each list must be labeled so as to identify the category of students to be served by that list. In completing individual applications, the amount of "reasonable expenses" must be adjusted downward from those listed for a typical student when necessary to reflect the circumstances of the applicant. If the amount listed for a typical student must be increased to properly reflect the reasonable expenses of an individual applicant, then justification for the increased amount must accompany the individual application, with such increased amount subject to approval or disapproval by the commissioner.

(C) Determination of financial need. Financial need can be determined to exist only when the amount of reasonable expenses of a student is more than the amount of financial resources available to the applicant.

- (5) have completed a student application for a grant on a form prescribed by the board;
- (6) have complied with other requirements adopted by the board under the act;
- (7) affirm eligibility for the grant at the time of disbursement by signing the Student Affirmation form;
- (8) be maintaining satisfactory progress in his or her course of study;
- (9) not owe a refund on a grant received under the Basic Educational Opportunity Grant or State Student Incentive Grant Programs; and
- (10) not be in default on a loan made, insured, or guaranteed under the National Direct Student Loan, Hinson-Hazlewood College Student Loan, or Guaranteed Student Loan Program.

Issued in Austin, Texas on March 10, 1978.

Doc. No. 781826

Kenneth H. Ashworth
Commissioner of Higher Education

Effective Date: April 5, 1978

For further information, please call (512) 475-2033.

Texas Education Agency

Instructional Resources

State Textbook Program in General

226.33.31

The Texas Education Agency has amended Rule 226.33.31.090 concerning the state textbook program.

Senate Bill 1, 65th Legislature, Special Session, amended Sections 12.14 and 12.15, Texas Education Code, to include provision for the adoption by the State Board of Education of "learning systems" as well as certain supplementary materials to be used in conjunction with specific adopted textbooks. The amendment to Rule .090 adds an administrative procedure section to the rule. The procedure states that these sorts of materials may be considered by the State Board of Education only in those subject areas recommended by the commissioner of education and sets out steps the commissioner may take in developing his recommendations.

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

This rule is promulgated under the authority of Sections 11.02, 12.01, 12.12, and 12.13, Texas Education Code.

.090. Consumable Textbooks, Learning Systems, and Supplementary Instructional Materials.

(a) Policy. Consumable textbooks, learning systems, and supplementary instructional materials may be considered for adoption by the State Board of Education only in those subjects recommended by the commissioner of education.

(b) Administrative procedure. Consumable textbooks, learning systems, and supplementary instructional materials may be considered only in those subject areas recommended by the commissioner of education.

(1) The commissioner shall consult with the appropriate staff to determine availability of materials and cost estimates.

(2) The commissioner may consult with publishers concerning availability of materials, cost estimates, and expected length of use.

Doc. No. 781796

Subjects in Which Textbooks are Adopted and Provided 226.33.33

The Texas Education Agency has amended Rule 226.33.33.010, which concerns the lists of subjects in which textbooks may be adopted by the State Board of Education. Senate Bill 1, 65th Legislature, Special Session, amended Sections 12.14 and 12.15 of the Texas Education Code to include provision for the adoption by the State Board of Education of "learning systems" as well as certain supplementary materials to be used in conjunction with specific adopted textbooks.

The amendment to Rule 226.33.33.010 adds definitions of "learning systems" and "supplementary materials" to the administrative procedure section of the rule. A limitation

will be placed on the price of kindergarten systems similar to that limit required by law for systems in use at other grade levels. Only the administrative procedure section of the rule is changed. The rest of the rule remains unchanged.

Public review and discussion of the proposed change were held. There are two changes. When the proposed rule was printed in the *Texas Register*, the last word of Section (b)(4) was omitted. It should end "... namely, an adopted textbook." In the last sentence of (b)(6), the word "should" has been changed to "shall."

This rule is promulgated under the authority of Sections 12.01, 12.14, and 12.15, Texas Education Code.

.010. Lists of Subjects.

(b) Administrative procedure.

(1) Elementary grades (1-8). The commissioner of education annually recommends any additional approved subjects for which evidence of need is shown or anticipated and appropriate materials are available.

(2) High school. The commissioner of education annually recommends any new courses recommended by the State Commission on School Accreditation for which evidence of need is shown or anticipated and appropriate materials are available.

(3) To be eligible for state adoption, a system shall encompass the following definition: a system is a package of instructional/learning materials with accompanying media designed to enable students to achieve desired outcomes for a specific content area or course of study. Items included must be related by design and must be integral and essential parts of the system.

(4) To be eligible for state adoption, supplemental materials shall encompass the following definition: those instructional media deemed adjunctive but not essential to supplying information and experience stimuli to allow learner achievement of stated objectives or goals contained in the essential set of information, namely, an adopted textbook.

(5) Criteria to determine areas where systems and supplemental materials are to be adopted shall be developed each year as planning takes place to call an adoption.

(6) Modular textbooks, when called, shall be developed toward individualized instruction. Pricing should be comparable to a regular textbook. If modular textbooks are higher in cost, distribution shall be made to provide a comparable cost per pupil to other books on the list.

(7) A limitation on the price and percent of consumables shall be placed on kindergarten systems. Since there are no textbooks adopted (as per definition prior to kindergarten adoption) in this category, the formula for cost per pupil would not apply as a price limitation.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781797

M. L. Brockett
Commissioner of Education

Effective Date: April 4, 1978

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

Texas Department of Human Resources

Food Stamps

The Department of Human Resources adopts the following amendments and additions to its rules about the application procedures for continued certification of benefits in the Food Stamp Program. The United States Department of Agriculture (USDA) is requiring the department to provide uninterrupted benefits to eligible households who reapply in a timely manner. The following rules are being adopted as a result of these changes in federal regulations and have a federally mandated effective date of March 23, 1978. USDA changes in the application procedures require that the department provide the household a notice of expiring certification within the last 15 days of the next-to-last month of the expiring certification period.

The department must also ensure that an eligible household has an opportunity to purchase its allotment without delay if the application was timely. A timely application is defined as one which is filed by the 15th of the last month of certification. The department must provide households certified for one month or less with their notices at the time of certification. In addition, any households failing, with good cause, to submit timely applications must receive expedited benefits and restoration of any lost benefits.

Responsibilities 326.15.12

These amendments and additions to the rules are adopted under the authority of Article 695c, Texas Revised Civil Statutes, effective March 23, 1978, pursuant to federal requirements.

.003. Prompt Action.

(a) The department must provide an application for assistance form to any person upon request and must accept an identifiable application when submitted. An identifiable application is an application form which has been signed and contains a legible name and address. The department must comply with applicable time limits for accepting and processing initial or subsequent applications, providing required notices, and providing eligible households an opportunity to purchase their coupon allotments. Applicant households which fail to provide necessary information must not be denied until 30 days after receipt of their identifiable applications.

(b) Applications by households in need of immediate emergency food assistance should be processed without delay. The person making application is responsible for cooperating with the department in providing the information necessary to determine eligibility.

(c) Applicant households documenting an increase of more than \$25 in current utility costs over those of the previous month are given priority in the processing of their applications, as described in Rule 326.15.27.008.

Doc. No. 781828

Introduction to Application Process 326.15.21

These amendments and additions to the rules are adopted under the authority of Article 695c, Texas Revised Civil Statutes, effective March 23, 1978, pursuant to federal requirements.

.001. Application Process.

(d) Application forms are given in the local office or mailed upon request to the head of the household or household representative. The application may be returned by the household at any time, including the same day it was requested. The application process begins the date an identifiable application form is received in the certification office; it includes determination of eligibility or ineligibility. Eligibility determination includes an interview, required verifications, and documentations.

(e) For the purpose of determining eligibility, households are classified as public assistance (PA) or nonpublic assistance (Non-PA). PA food stamp applications are processed on the basis of information contained in the financial services record and application form. Non-PA applications are processed on the basis of information contained in the application form supported by investigative interviewing and required verifications.

.002. *When Time Limits Are Not Met.* Eligible households not provided with an opportunity to purchase their full allotments within the month after the application was submitted because of DHR error are entitled to retroactive benefits. An opportunity to purchase means not only that the household has received an ATP, but also that an issuance is open and reasonably available for the household to actually purchase its allotment. Use of a manual ATP is authorized if a machine-issued ATP will not meet the applicable time limit.

.003. *Time Limits.* The time limits allowed for processing PA or Non-PA applications are as follows:

(a) Initial applications or applications from households not currently certified. The eligibility determination must be made within 30 days of the date an identifiable application is received by the department. Eligible households must be provided an opportunity to purchase their full coupon allotments before the last day of the month following the month in which the application was received.

(b) Subsequent applications. Eligible households submitting timely application for continued certification must have an opportunity to purchase in the first issuance cycle of the first month after the expiring certification period.

Doc. No. 781829

Notice 326.15.27.001, .005, .009-.014

These amendments and additions to the rules are adopted under the authority of Article 695c, Texas Revised Civil Statutes, effective March 23, 1978, pursuant to federal requirements.

.001. Notice of Eligibility.

(a) The department is required to determine eligibility or ineligibility of applications within 30 days of receipt of a

signed application form. Decisions on subsequent applications for recertification, and on any application in which the household has failed to provide necessary information, must be made by the department in accordance with (b) below and Rule 326.15.27.005. The applicant must be notified in writing of the eligibility or ineligibility decision.

(b) When an application is pended for additional information, the household is allowed 30 days from receipt of the identifiable application in the food stamp office to supply the information. If the household does not supply the information, its application is denied effective on the 30th day. Denials for missed appointments are handled in the same manner. This policy applies to both initial and subsequent applications.

The worker may establish reasonable suspense dates within the 30-day period for the household to provide the requested information or for another appointment. If the suspense date is not met or the appointment is not kept, a denied application letter should be sent to the household immediately. The effective date of denial, the 30th day from receipt of the application, is entered on the letter. The computer form will not be processed until the allowed 30-day period has expired. No further action is needed unless the household makes contact with the department prior to the end of the 30-day period.

.005. Applications for Continued Certification.

(a) The policies in this rule apply equally to PA and Non-PA households. Upon expiration of the certification period, household eligibility for food stamp benefits terminates. Continued participation can be granted only through submittal of an application for assistance form and a redetermination of eligibility or as required by fair hearing procedures.

(b) The department must notify the household within specified limits that its certification period is expiring. Households submitting timely applications for continued certification must be approved or denied prior to the end of the expiring certification and, if eligible, must receive an opportunity to purchase a full allotment within the first issuance cycle of the following month. Certification periods cannot be extended for this purpose unless eligibility has been redetermined as described above.

.009. Notice of Expiration.

(a) An application/expiration notice is used to notify the household that its current certification is expiring. Households certified for one month or less must receive their notice of expiration at the time of certification.

(b) All households certified for more than one month must receive this notice in hand within the last 15 days of the next-to-last month of the expiring certification period. Households certified for two months will be given their notice of expiration at the time of certification, provided the eligibility decision is made during the period allowed for notification. If the eligibility decision is made prior to this period, the household's notice of expiration cannot be sent until the prescribed notification period.

(c) The household is not required to submit its application or appear for its interview prior to the last month of the current certification period. An expiration reminder form is sent to households certified two months or longer. It is mailed with the last ATP of the expiring certification period.

.010. Application Package/Notice.

(a) An application package may be given to the household at the office or mailed. If mailed, the package must be postmarked no earlier than two days before the beginning, and no later than two days before the end of the period during which the household is to receive its notice of expiration. The application package must contain one copy of the application/expiration notice and the application for assistance form, if appropriate. Other information such as the Food Stamp application information form may be mailed with the application. A postage-paid self-addressed envelope is furnished the household for return of the application. A copy of the application/expiration notice must be retained in the casefolder as a record that the required notice has been given to the household.

(b) Certification offices must ensure that households certified for two months receive their notice of expiration at the proper time. This is particularly important for such households which are certified prior to the notice period. The application/expiration notice allows the certification office to assign the household an appointment for interview when the application package is sent or to schedule the appointment after the application form is returned by the household. The household is considered to have complied with its notice of expiration if it submits a timely application, regardless of whether it has been interviewed before the timely date.

.011. Timely Applications.

(a) Participating households are responsible for making timely application for continued participation in the Food Stamp Program to avoid an interruption of benefits. All households must be allowed at least 15 calendar days from receipt of their expiration notices to submit a timely application. Two calendar days from the postmark date are allowed for mailing time for receipt of notice of expiration and/or submittal of an identifiable application.

(b) A household certified for one month or less has made timely application for continued certification if an identifiable application is submitted or postmarked by the 15th day after receipt of its notice of expiration. A household certified for more than one month has made timely application for continued certification if an identifiable application is submitted or postmarked no later than the 15th day of the last month of the expiring certification. The "timely" date must be entered on the application letter.

(c) Reasonable assistance must be given to applicants having difficulty in complying with their notices of expiration. For example, applications may be submitted or appointments may be made by mail. Appointments may be rescheduled if necessary and/or home visits may be scheduled. In exceptional cases, telephone interviews may be conducted.

.012. Opportunity to Purchase. An eligible household which submitted a timely application for continued certification must have an opportunity to purchase its allotment in the first issuance cycle of the following month. If the eligibility decision is delayed through DHR error so this time is not met, a manual ATP must be issued in order to provide the household an immediate opportunity to purchase its allotment. A household certified for one month or less which made timely application for continued certification shall, if eligible, be provided an opportunity to purchase not later than:

- (1) 30 days after the date of the last eligibility decision, and
- (2) the last day of the next month after the expiring certification.

.013. Recipient Failure to Submit Timely Application.

(a) Recipients who, without good cause, fail to submit their applications for continued certification in a timely manner shall have their applications processed within the time limits applying to initial applications. Applications received by the department not more than 30 days after the end of the expiring certification period are subject to the same verification requirements as subsequent certifications. Applications received more than 30 days after the end of the expiring certification are subject to the same verification requirements as initial certifications.

(b) Households may demonstrate that failure to submit a timely application or to furnish needed information was with good cause. In case of dispute, the household may discuss the decision with the supervisor or may appeal in accordance with Rules 326.15.71.001-.005. If good cause exists, the department must exert reasonable efforts to provide an opportunity to purchase in accordance with the time standards noted above.

(c) Households submitting timely applications which fail to provide necessary information shall be allowed a full 30 days to do so prior to denial of the application.

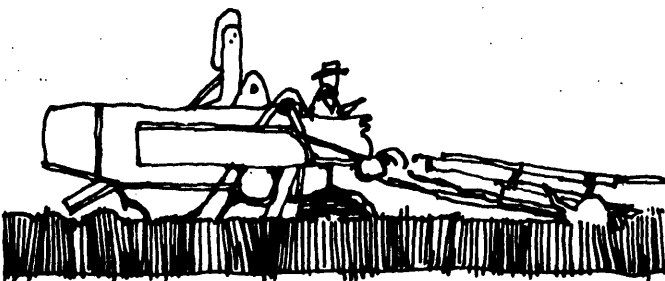
.014. Retroactive Benefits.

(a) An eligible household which submitted a timely application for continued participation is entitled to retroactive benefits if it is unable to purchase its full allotment in the following month because of department error or delay.

(b) This policy includes instances when the household has an opportunity to purchase, but is unable to purchase, its full allotment because the month to purchase all coupons is no longer available. Such households have been effectively denied benefits to which they are entitled.

(c) A household's failure to submit the application or to otherwise complete the application process in a timely manner may have been for good cause. Such households are entitled to retroactive benefits if they are unable to purchase their full allotments in the month following expiration of the current certification period, provided the household would have been otherwise eligible. A determination of good cause should be made on a case-by-case basis and must be thoroughly documented in the case record.

Doc. No. 781830



326.15.27.006

The Department of Human Resources adopts the repeal of its rule regarding household's responsibilities to reapply for participation in the Food Stamp Program. The following rule is repealed because the policies and procedures are more adequately covered in new rules being added to this category as a result of changes in federal regulations. The United States Department of Agriculture (USDA) is requiring the department to provide uninterrupted benefits to eligible households who reapply in a timely manner. These changes in federal regulations have a federally mandated effective date of March 23, 1978.

The repeal of Rule 326.15.27.006, Recipient Responsibility to Reapply, is adopted under the authority of Article 695c, Texas Revised Civil Statutes, effective March 23, 1978, pursuant to federal requirements.

Doc. No. 781831

Certification Periods 326.15.63

These amendments and additions to the rule are adopted under the authority of Article 695c, Texas Revised Civil Statutes, effective March 23, 1978, pursuant to federal requirements.

.001. Certification Periods.

(a) The length of a certification period for both PA and Non-PA cases is based on the workers' assessment of the probability of changes in the household's circumstances.

(b) The periods described below are only maximum periods, and the worker must use discretion in certifying the household for the most appropriate time period. A household need not be certified for the same length of time for each certification, but the worker should reassess the household's circumstances and needs each time.

(c) Eligibility for program benefits for all households (PA and Non-PA) ceases at the end of each assigned certification period. The worker must notify the household of the expiration date of each certification period so the household may make timely application for a new certification to avoid an interruption of benefits.

.002. Establishing the First Month of Issuance.

(a) Normally, households initially applying for food stamps, including households applying after an interruption of benefits, will be issued their first ATP for the month in which they apply. The ATP will be processed by a supplemental machine issuance. Applicants unable to receive a supplemental machine issuance because of the computer cut-off period will be authorized their first ATP for the following month unless the household is in an emergency situation as defined in Rule 326.15.92.005 or if issuance of a manual ATP is required under Rule 326.15.21.003 to provide benefits in a timely manner.

(b) These procedures do not apply to households presenting a valid Certification of Household Transfer form.

Doc. No. 781832

ATP System 326.15.92

These amendments and additions to the rules are adopted under the authority of Article 695c, Texas Revised Civil

Statutes, effective March 23, 1978, pursuant to federal requirements.

.009. Nonemergencies.

(a) Manual ATP's are issued to eligible households in the following nonemergency situations:

- (1) to provide households with retroactive benefits;
- (2) to authorize an issuance of less than the full monthly allotment for the replacement of food coupons or to complete the full month's allotment for households moving into the state having received a partial monthly allotment in another state;
- (3) to replace an ATP that was reported lost, stolen, or mutilated after cut-off date;
- (4) to provide households with an ATP in accordance with the procedures under the rules concerning 60-day continuation of certification;
- (5) to replace one half of a semimonthly issuance (Purchase Plan 2) that was lost, stolen, mutilated, or that is being reissued at an adjusted rate because of changes in the household's circumstances;
- (6) to correct an error in a previously issued ATP during the current month if a manual ATP would prevent an overissuance or replacement of lost benefits;
- (7) to provide a manual ATP(s) to destitute seasonal migrant farm work households;
- (8) to provide an eligible household an opportunity to purchase its allotment in compliance with mandated time limits;
- (9) to provide households having fluctuating utilities costs with an ATP when a machine-issued ATP will exceed time limits.

(b) Under the above conditions, an emergency situation need not exist. The home visit stipulated in Rule 326.15.92.008 is not required unless the household's actual residence is questionable or unless the facts presented by the household are inconsistent with information in the case record or obtained in the interview.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781833 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: March 23, 1978

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

Community Services

**Volunteer Services 326.57.91.001-.003,
.009-.010, .012, .014, .016, .025, .029,
.031-.032, and .034**

The Department of Human Resources has adopted the following amendments to its rules regarding volunteer services as published in the December 2, 1977, issue of the *Texas Register*. The purpose of these amendments is to outline the basis and policy for the volunteer program. In addition, the relationships of volunteers with the department at both the regional and state level are defined and policy regarding training, the availability of materials, and the reimbursement of volunteers for various expenses is established. No responses were received during the comment period and the amendments are adopted with no changes in the text.

These rule amendments are adopted under the authority of Article 695c, Texas Revised Civil Statutes, and with the approval of the Texas Board of Human Resources.

.001. Volunteer Reimbursement.

(a) If funds are available, volunteers may be reimbursed for certain transportation costs incurred when transporting clients. Such service extends and enhances services to Title IV-B, Title XIX, and Title XX clients. Regional volunteer consultants and medical transportation officers will coordinate activities to meet the needs of Title XIX clients as they relate to volunteer activity.

(b) Reimbursement is offered for transportation costs to volunteers who may suffer from their generosity or who are unable to volunteer without such reimbursement.

(c) Reimbursable items:

- (1) Transporting clients to and from department services.
- (2) Transporting clients to and from services referred by the department.
- (3) Use of the automobile for services to clients.
- (4) Incidental expenses related to the transportation needs of the client as described above.

(d) Limitations:

- (1) Volunteer transportation to and from volunteer station or project is not reimbursable.
- (2) Parts replacement and/or mechanical repairs of volunteer's vehicles are not reimbursable.
- (3) There is a ceiling of \$10 per month for gasoline and \$10 per month for incidental expenses related to transporting a client for each volunteer. This limit may be waived by a volunteer consultant with supervisory approval when needed services indicate the waiver is necessary.
- (4) All arrangements for the reimbursement of volunteers providing transportation under the Title XIX Medical Transportation Program must be made in advance with the regional transportation officer.

(e) A purchase voucher is used to reimburse volunteers for allowable transportation costs. The staff person who supervises the volunteer activity is responsible for approving the purchase voucher.

.002. Definition.

(a) Volunteers are individuals who give their time, skills, or contributions for the benefit of clients, directly or indirectly. They do so as individuals or as groups without expectation of reimbursement for services they render, though in some situations the laws permit reimbursement for actual costs of service delivery.

(b) Volunteers recruited, trained, and assigned for a specific task are considered volunteer staff to the department. As such, they shall have access to the materials and information needed to perform the assigned task. All volunteers will abide by the same regulations as department employees.

.003. Categories of Services.

(a) Some volunteer services provide direct help to the client. Such services are components of the staff plan for management of the case involved. When giving direct service, volunteers are supervised by the paid staff member or members responsible for the case.

(b) Indirect volunteer services are supportive services provided by volunteers who become interested in department services and programs or in the problems of clients, but do

not feel that they can give the time or have the particular skills to aid clients directly.

(c) Except in the case of a staff illness, the volunteer does not replace staff, but supplements the work of staff in positions which have not been adequately funded, or where emergency work load is encountered.

.009. Social Services Advisory Committee. The department's financial and Social Services Advisory Committee advises the department on issues, programs, and citizen needs. Advisory committee members are volunteers appointed by the commissioner and are representative of the population of the State of Texas.

.010. Recruiting. Volunteers should be recruited for specific tasks with a known time commitment.

.012. Training for volunteers.

(a) All volunteers must receive orientation and training prior to service. The extent of this training will vary depending upon the task to be done. If it is to be a short term job, informal training may be given by the volunteer consultant.

(b) Volunteers may, by prior arrangement with the continuing education staff, participate in relevant parts of new employee training sessions which might not be covered by the above listed training.

(c) Specific task training of volunteers is the responsibility of the staff who will supervise the volunteer. This will include training for the tasks as well as an understanding of office procedures and expectations of the volunteer staff.

(d) Volunteers may receive on the job training as arranged by their supervisor or regional volunteer consultant. Should the volunteer task assignment change, appropriate training will be given before the task has begun.

.014. Supervision.

(a) Department staff who work with volunteers should accept responsibility for that supervision.

(b) Volunteers are expected to abide by the same rules regarding the confidentiality of case records and client information as regular employees.

(c) Volunteers assigned to units are supervised as team members of that unit through the regular unit supervisor. The worker retains responsibility for all case-service actions, some of which may be accomplished by the volunteer.

.016. Identification Card.

(a) Each volunteer should have a volunteer identification card for the protection of the volunteer and the department. This card, identifying the volunteer by name and signed by the coordinator of volunteer services, is proof that the bearer is a registered department volunteer performing services in the name of the department. These cards are obtained through regional volunteer coordinators and should be furnished each volunteer when the volunteer is assigned his first volunteer tasks for the department. The volunteer should be required to return the card to the coordinator when he decides not to participate further in the volunteer services program of the department. This card is to be used for identification purposes only.

.025. Volunteer Support.

(a) Volunteers may use department office space, office equipment, and consumable supplies so long as the department maintains control over the space, equipment, and supplies.

(b) Volunteers may not use department vehicles.

(c) The department does not have authority to fund banquets or meals honoring volunteer groups.

.029. Membership of the Financial and Social Services Advisory Committee.

(a) The committee works as a committee of the whole and in subcommittees. A day care subcommittee is mandated. Other subcommittees will be appointed by the chairman as they are needed. Each subcommittee has representatives from the three categories of membership.

(b) The membership of the 21-person committee is appointed by the commissioner of Human Resources to serve three-year rotating terms. The membership will include equal numbers from recipient groups, representatives of agencies and associations concerned with welfare clients, and interested citizens.

(c) The committee normally meets quarterly, with meeting dates set for at least two future meetings at each scheduled meeting. The chairman, with appropriate approval, may call special meetings of the committee.

(d) Members accepting appointment are expected to attend all meetings, except in the case of emergency. Substitutions for absent members are not permitted. If a member misses two consecutive meetings, that member is contacted concerning continued membership. If a member misses three consecutive meetings, that member is notified and replaced by a new appointment.

.031. Expenses and Travel for the Financial and Social Services Advisory Committee.

(a) All members' travel and per diem shall be paid on the same basis as state employees.

(b) Travel expenses for recipient members shall be advanced on an estimated cost basis. The director of Volunteer Services will make hotel arrangements for all members for each meeting.

(c) Wage compensation and child care expenses will be arranged for recipient members on an individual basis. Compensation will be on the basis of actual expense.

(d) Reimbursement of expenses of committee members is financed through the State of Texas purchase voucher. Suggested wording for the form reads: Services rendered to the Department of Human Resources in serving on the Financial and Social Services Advisory Committee, pursuant to the requirements of 45 Code of Federal Regulations, Sections 220.4(a) and 222.2(a) and Texas Revised Civil Statutes Annotated, Article 695c, Section 4(12). These purchase vouchers should be directed to Social Services Branch for review and certification.

.032. Department Support of the Financial and Social Services Advisory Committee.

(a) Staff assistance in duplicating and distributing minutes, making meeting arrangements, arranging for travel and hospitality, information distribution, agenda assistance, and any office services to the committee will be the responsibility of the director of Volunteer Services.

(b) The minutes of all meetings will be distributed to the membership, to staff, executive staff, regional administrators, the commissioner of Human Resources, and the Texas Board of Human Resources.

(c) A department staff person in each region will be designated as liaison for each committee member. Both the member and the staff person will be aware of this and the

members will rely on that staff person for information and assistance at any time. If that person is not available, the state director of Volunteer Services may be contacted for assistance.

.034. Criteria for Use of Volunteers by Contracting Agencies.

(a) When the contract proposals include the use of volunteers in any stage of the delivery of services to department clients, staff who review the proposal will see that the contract proposal includes the following points:

- (1) the number of volunteers to be used;
- (2) task description for those volunteers;
- (3) source of volunteers and recruitment;
- (4) orientation and training volunteers receive;
- (5) coordination of the work of volunteers;
- (6) methods for reporting volunteer services and hours to department clients through regional coordinator;
- (7) provision for insurance coverage in the event that volunteers are used to provide transportation services.

Doc. No. 781780

326.57.91.004-.008, .026-.028

The Department of Human Resources has adopted the repeal of its Rules 326.57.91.004-.008, .026-.028 regarding volunteer services in various aspects of the department's programs. The rules affected are either covered elsewhere in department rules or are no longer applicable. Also, much of the deleted material constituted internal policy or nonsubstantive rules. No comments were received during the comment period which followed the publishing of the proposed repeals in the December 2, 1977, issue of the *Texas Register*.

The repeal of Rules 326.57.91.004-.008, .026-.028 is being adopted under the authority of Article 695c, Texas Revised Civil Statutes, and with the approval of the Texas Board of Human Resources.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781779 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: April 4, 1978

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

Texas Department of Mental Health and Mental Retardation

Other Agencies and the Public Practice and Procedure with Respect to Administrative Hearings of the Department in Contested Cases 302.03.19

Under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes, and Sections 26 and 60 of Article

5547-300, Texas Civil Statutes, the Texas Department of Mental Health and Mental Retardation has adopted Rules 302.03.19.001-.036 to read as follows:

.001. Purpose. The purpose of the rules governing practice and procedure with respect to all departmental administrative hearings involving contested cases is to provide:

(1) a simple, efficient, and uniform set of procedures for all departmental administrative hearings involving contested cases, as that term is hereinafter defined, which will adequately protect the rights of all parties involved and will be consistent with due process requirements of the Texas and federal constitutions;

(2) and insure uniform standards, practices, and procedures with respect to hearings held in connection with such administrative procedures;

(3) a procedure which will effect fair and expeditious determination of causes governed by such rules and adequately protect the procedural rights of all parties.

.002. Definitions. In these rules:

(a) "Department" means the Texas Department of Mental Health and Mental Retardation. When the context of a rule requires or permits action by the department, such action means action taken by the commissioner or his duly authorized agent or representative.

(b) "Commissioner" means the commissioner of Mental Health and Mental Retardation.

(c) "Examiner" means any person designated or appointed by the commissioner as his duly authorized agent or representative to conduct hearings provided for by rules of the department.

(d) "Party" means each person or agency named or admitted as a party, pursuant to the rules of the commissioner of MH/MR and statutes under which such hearings are requested or held.

(e) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the department.

(f) "Pleadings" means written statements filed by parties concerning their respective positions, claims, and rights in administrative hearings.

(g) "Contested case" means a proceeding in which the legal rights, duties, or privileges of a party are to be determined by the department after an opportunity for adjudicated hearing except in departmental personnel matters.

.003. Applicability and Scope of Rules.

(a) These rules shall apply in all contested cases.

(b) These rules shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the department or the substantive rights of any person.

(c) These rules shall be given a liberal construction in order that a just, fair, equitable, and impartial adjudication of the rights of the parties under the established principles of substantive law, as determined by appropriate statutes or rules of this department, may be attained with expedition and dispatch at the least expense to the department and all parties.

.004. Filing of Documents. All petitions, complaints, motions, protests, replies, answers, notices, and other pleadings relating to any proceeding governed by these rules which is

pending or to be instituted with the department shall be filed with the commissioner through the designated hearings office. They shall be deemed filed only when actually received by such office accompanied by the filing fee, if any, required by statute or rules of the department.

.005. Computation of Time; Extension.

(a) In computing any period of time prescribed or allowed by these rules, by the order of the commissioner, or by any applicable statute or substantive rule, the period shall begin on the day after the act, event, default, or controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor legal holiday.

(b) Unless otherwise provided by statute, by these rules, or the substantive rules of the commissioner, the time for the doing of any act under these rules may be extended by order of the commissioner, upon written motion duly filed with him through his hearings office prior to the expiration of the applicable period of time for the doing of same, showing that there is good cause for such extension of time and that the need therefor is not caused by neglect, indifference, or lack of diligence of movant. A copy of such motion shall be served upon all other parties to the proceeding contemporaneously with the filing thereof.

.006. Agreements and Stipulations to be in Writing. No stipulation or agreement between the parties, their attorneys or representatives, with regard to any matter involved in any proceeding before the department shall be in force unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of a hearing or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate any right or privilege afforded by these rules, unless precluded by law.

.007. Notice and Service in Proceedings.

(a) In a contested case all parties must be afforded an opportunity for hearing after reasonable notice of not less than 10 days.

(b) Notice shall include:

- (1) a statement of time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) reference to the particular sections of these statutes and rules involved; and
- (4) a short and plain statement of the matters asserted.

(c) If any party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter on request by a party by written application, a more detailed and definite statement must be furnished within three days prior to the date set for hearing.

(d) In any case where personal service of the notice by department is required, the department shall mail same by certified or registered mail to the last known place of address of the person entitled to receive such notice.

(e) A copy of any protest, reply, answer, motion, or other pleadings filed by any party in any proceedings subsequent to the institution thereof shall be mailed or otherwise

delivered by the party filing the same to every other party of record. If any party has appeared in the proceeding by attorney or other representative authorized under these rules to make appearances, service shall be made upon such attorney or other representative. The willful failure of any party to make such service shall be sufficient grounds for an entry of an order by the presiding examiner, striking a protest or reply, answer, motion, or other pleadings for the record.

(f) A certificate by the party, attorney, or representative who files the pleadings stating that it has been served on the other parties shall be *prima facie* evidence of such service. The following form of certificate will be sufficient in this connection:

I hereby certify that I have this _____ day of _____, 19____ served copies of the foregoing upon all other parties to this proceeding by (here state the service).

(signature)

.008. Appearances Personally or by Representative. Any party may appear and be represented by an attorney at law authorized to practice law before the highest court of this state or by a lay representative of his choosing. Any person may appear on his own behalf. Such lay representative shall not be an employee who has provided direct service to a client or patient who is a party in the contested case. A sole proprietor, corporation, partnership, or association may appear and be represented by any *bona fide* officer, employee, or partner of such person or entity.

.009. Classification of Pleadings and Contents of Record.

(a) Pleadings filed with the hearings office shall be applications, protests, petitions, complaints, answers, replies, motions for rehearing, and other motions and grievances. Regardless of any error in the designation of a pleading, it shall be accorded its true status in the proceeding in which it is filed.

(b) The record under these rules includes:

- (1) all pleadings, motions, and intermediate rulings;
- (2) evidence received or considered;
- (3) a statement of matters officially noticed;
- (4) questions and offers of proof, objections, and rulings on them;
- (5) proposed findings and exceptions;
- (6) any decision, opinion, or report by the officer presiding at the hearing;
- (7) all staff memoranda or data submitted to or considered by the hearing officer or the person involved in making the decision.

.010. Transcription of Proceedings Required Under Certain Circumstances. Unless precluded by law, the parties to a contested case may agree upon a statement of facts, agree to use taped transcriptions as a statement of facts, or agree to the summarization of testimony before the hearing officer. Provided, however, that proceedings or any part of them must be transcribed on written request of any party. The department may pay the cost of the transcript or assess the cost to one or more parties. Nothing provided for in this rule limits the department to a stenographic record of the proceedings.

.011. Form and Content of Pleadings.

(a) Pleadings shall be typewritten or printed upon paper eight and one-half inches wide and 11 inches long with an inside margin of at least one inch wide and exhibits next

thereto shall be folded to the same size. Reproductions are acceptable, provided all copies are clear and permanently legible.

(b) Pleadings shall state their object and contain a concise statement of facts in support of same and shall be signed by the applicant or his authorized representative.

(c) The original of every pleading shall be signed in ink for the party filing the paper or by his authorized representative. Pleadings shall contain the address of the party filing the document and the name, telephone number, and business address of the representative of such party, if any.

(d) Pleadings for which no official form is prescribed shall state the following:

- (1) the name of the party bringing the hearing;
- (2) the names of any other known parties interest;
- (3) a short, plain, and concise statement of the facts relied upon by the pleader;
- (4) the relief, action, or order sought by the pleader;
- (5) any matter required by the rules of this department or statute with respect to the subject matter before the hearing officer; and
- (6) the certificate of service prescribed in Section (f) of Rule .007 of these rules.

.012. *Deficient Pleadings.* Upon the filing of any pleading with the hearings office, it shall be examined to determine its sufficiency under these rules. While a liberal construction is to be given to all pleadings and technical forms are not to be required, if the pleading does not comply with these rules, it shall be returned to the person filing same along with the statement of the hearing officer of the reason for rejecting same. A corrected pleading may then be filed if such correction will not unduly delay the hearing.

.013. *Motions.* Any motion relating to a pending proceeding governed by these rules shall, unless made during a hearing and dictated into the record, be written and shall set forth the relief sought, the specific reasons and grounds therefor, and shall be supported by affidavit if based upon matters which do not appear of record. Motions not made during a hearing shall be filed with the hearings office, who shall act upon it at the earliest practicable time.

.014. *Amendments.* Any pleading may be amended at any time upon motion, provided that a pleading upon which notice has been issued shall not be amended so as to broaden the scope thereof.

.015. *Incorporation by Reference of Department Records.* Any pleading may adopt and incorporate by specific reference thereto any part of any document or entry in the official files and records of the department. This rule shall not relieve any party of the necessity of alleging in detail, if required, facts necessary to sustain his burden of proof imposed by law.

.016. *Docketing and Numbering of Causes; Hearing Date.*

(a) Upon receipt of the document intended to institute a proceeding before the department under the applicable rules of the department and the statutes of the State of Texas or the United States, which complies with these rules as to form and content, the hearings office shall docket the same as a pending proceeding and serve notice thereon as required by these rules.

(b) The hearing office shall set a date on which the hearing on the proceedings will be held and shall assign a

presiding examiner to preside over such hearing. Said date will be no sooner than 15 days nor later than 45 days after the initiating document is received by the hearings office, unless otherwise provided in the rules of the commissioner or statutes of the state. The presiding examiner may subsequently postpone or continue the hearing date until a later date if, in his sound judgment and discretion, good cause requires a later date. Good cause includes but is not limited to the consideration that a later date will result in a fairer and more just determination of the issues and that the welfare of any client or resident of this department or institutions licensed or regulated by the department will not be substantially endangered by reason of the postponement. The presiding examiner is not precluded by this rule or any other rule from ordering a postponement or continuance of the hearing upon the showing of good cause.

.017. *Prehearing Conference.*

(a) In any proceeding governed by these rules, the presiding examiner to whom the proceeding has been assigned, on his own motion or on the motion of any party, may direct the parties, their attorneys, or representatives to appear before the examiner at a specified time and place for a conference prior to hearing for the purpose of formulating issues and considering:

- (1) simplification of issues;
 - (2) possibility of admissions of certain averments of fact or stipulations concerning the use by any party of matters of public record;
 - (3) procedures to be used in the hearing;
 - (4) limitation, where possible, of the number of witnesses;
 - (5) such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy, including settlement of such issues as are in dispute;
 - (6) the taking of depositions in accordance with the provisions of Article 6252-13a, Vernon's Annotated Texas Statutes, Administrative Procedure and Texas Register Act.
- (b) Actions taken at the conference shall be recorded in an order by the examiner unless the parties enter into a written agreement.

.018. *Motions for Postponement, Continuance, Withdrawal or Dismissal of Protest, or Other Matters before the Department.* Motions for postponement, continuance, withdrawal or dismissal of protest, or other matters which have been duly set for hearing shall be

- (1) in writing,
- (2) filed with the commissioner, and
- (3) distributed to all interested parties under a certificate of service not less than five days prior to the designated date the matter is to be heard.

Such motions shall set forth under oath the specific grounds upon which the moving parties seek such action and shall make reference to all prior motions of the same nature filed on the same proceeding. Failure to comply with the above, except for good cause shown, may be construed as lack of diligence on the part of the moving party, and, at the discretion of the examiner, may result in the dismissal of the protest or other matter in issue with prejudice to refile. Once a proceeding has actually gone to a hearing pursuant to the notice issued thereon, no postponement or continuance shall

be granted by the examiner without the consent of all parties involved.

.019. Joint Hearings. A motion for the consolidation of two or more protests or other proceedings shall be in writing, signed by the movant, his attorney or representative, and filed with the examiner prior to the date set for hearing. No two or more protests or other proceedings shall be consolidated or heard jointly without the affirmative consent of all parties to such proceedings, unless the department shall find that the two or more proceedings involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expense, delay, or substantial injustice.

.020. Place and Nature of Hearings.

(a) All hearings conducted in any proceedings shall be opened to the public, but may be ordered to be closed upon a finding of the presiding examiner of possible breach of the privacy of clients, employees, or their records. All hearings shall be held in Austin, Texas, in the case of proceedings arising out of actions, events, or omissions alleged to have occurred in the Central Office of the Texas Department of Mental Health and Mental Retardation and at the location of each facility of the department in the case of all other hearings at which the action, event, or omission complained of occurred, unless for good and sufficient cause, in which event the commissioner, in his sound judgment and discretion, shall designate another place of hearing in the interest of the public.

(b) Every party, witness, attorney, or other representative shall comport himself in all proceedings governed by these rules with proper dignity, courtesy, and respect for the department, the commissioner, the examiner, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the State Bar of Texas.

.021. Presiding Examiner.

(a) Hearings will be conducted by an examiner as defined in subsection (3) of Rule .002 of these rules unless a different fact finder is required by statute or other rules of the commissioner. The examiner and/or such fact finder is at all times referred to in these rules as the examiner or the presiding examiner. The presiding examiner shall have authority to administer oaths, to examine witnesses, and to rule upon the admissibility of evidence and amendments to pleadings. He shall have the authority to recess any hearing from day to day.

(b) If the presiding examiner dies, becomes disabled, or withdraws or is removed from employment or the case at any time before the final decision thereof, the department may appoint another presiding examiner who may perform any function remaining to be performed without the necessity of repeating the previous proceedings in the case.

(c) The commissioner may designate one or more employees of the department with particular expertise and experience who are knowledgeable in the subject matter of the hearing in question to assist the presiding examiner in the evaluation of evidence presented at the hearing.

.022. Rules of Evidence; Official Notice.

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded in all proceedings under these rules.

The rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The rules of privilege recognized by the laws of the State of Texas shall be given effect. Objections to evidentiary offers shall be made and noted in the record. Subject to these requirements, if a hearing will be expedited and the interest of the parties will not be substantially prejudiced, any part of the evidence may be received in written form.

(b) All testimony in a hearing by witnesses shall be taken under oath as prescribed in these rules.

(c) The department shall have the powers of subpoena granted under Article 6252-13a, Vernon's Texas Civil Statutes, as well as the powers in such article for the issuance of commissions to take depositions. The department will, on its own motion or on the written request of any party to a contested case pending before it on a showing of good cause and on deposit of sums which will reasonably insure payment in the amounts estimated to accrue, issue a subpoena in accordance with such statute to require the attendance of witnesses and production of documents as may be necessary and proper for the purposes of the proceedings before it.

(d) Discovery.

(1) Upon motion of any party showing good cause therefor and upon notice to all other parties, the examiner may order any party to comply with the following requirements; provided, however, that the examiner shall limit such orders as justice may require to protect any party or witness from undue annoyance, embarrassment, oppression, or expense. Subject to such limitation, any party may be required:

(A) to produce and permit the inspection and copying or photographing by or on behalf of the moving party any of the following which are in his possession, custody, or control: any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain, or are reasonably calculated to lead to the discovery of, evidence material to any matter involved in the action; and

(B) to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon which may be material to any matter involved in the action.

(2) The order shall specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and photographs and may prescribe such terms and conditions as are just.

(3) The identity and location of any potential party or witness may be obtained from any communication or other paper in the possession, custody, or control of a party, and any party may be required to produce and permit the inspection and copying of the reports, including factual observations and opinions of an expert who will be called as a witness, provided that the rights herein granted shall not extend to other written statements of witnesses or other written communications passing between agents or representatives or the employees of any party to the hearing or to other communications between any party and its agents, representatives, or other employees, where made subsequent to the oc-

currence or transaction upon which the proceeding is based, and made in connection with the prosecution, investigation, or defense of such claim or the circumstances out of which same has arisen.

(4) Any person, whether or not a party, shall be entitled to obtain, upon request, a copy of any statement he has previously made concerning the action or its subject matter and which is in the possession, custody, or control of any party. If the request is refused, the person may move for a departmental order under this section. For purposes of this section, a statement previously made is

(A) a written statement signed or otherwise adopted or approved by the person making it, or

(B) a stenographic, mechanical, electrical, or other recording or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(e) The taking of depositions shall be in accordance with the provisions of Section 14 of Article 6252-13a, Vernon's Texas Civil Statutes.

(f) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. On request, parties will be given an opportunity to compare the copy with the original.

(g) A party may conduct cross-examination required for a full and true disclosure of the facts.

(h) In connection with any hearing held in the provisions of this rule, official notice may be taken of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data, and they must be afforded an opportunity to contest the material so noticed. The special skills or knowledge of the department and its staff may be utilized in evaluating the evidence.

(i) The right to assistance or counsel granted under these rules may be expressly waived by the parties.

.023. Formal Exceptions. Formal exceptions to rulings of the examiner during the hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the examiner the action which he desires.

.024. Decisions and Orders.

(a) A final decision or order must be in writing or stated in the record. It must include the findings of fact and conclusions involved, separately stated. Findings of fact, as set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting such findings.

(b) Parties may submit proposed findings of fact, unless precluded by other rules or statute from so doing, and a decision shall include a ruling on each proposed finding.

(c) Parties shall be notified either personally or by mail of any decision or order. On written request, a copy of this decision or order shall be delivered or mailed to any party and to his attorney of record.

(d) A decision is final, in the absence of a timely motion for rehearing, on the expiration of the period for filing a motion for rehearing and is final and appealable on the date of rendition of the order overruling the motion for rehearing, or on the date the motion is overruled by operation of law. If the

examiner finds that an eminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order in a contested case, the finding in a decision or order shall be recited as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered and no motion for rehearing is required as prerequisite for appeal. In cases involving the formality of decisions and actions to be taken pursuant thereto, governed by the provisions of the Mentally Retarded Persons Act of 1977, the statutory provisions shall govern notwithstanding this rule.

(e) Unless otherwise specifically stated by statute, the final decision or order must be rendered within 60 days after the date the hearing is finally closed. The department may prescribe a longer period of time within which the final order or decision of the examiner shall be issued, but such extension, if so prescribed, shall be announced at the completion of the hearing.

(f) The final decision or order shall be rendered by the presiding examiner unless otherwise provided in these rules. If other rules provide for the decision to be made by someone other than the presiding examiner, such decision maker shall either hear the case or read the record.

(g) Except as otherwise provided in Section (d) of this rule, a motion for rehearing is a prerequisite to an appeal. A motion for rehearing must be filed within 15 days after the date of rendition of a final decision or order. Replies to a motion for rehearing must be filed with the hearing office within 25 days after the rendition of the final decision or order and action on the motion must be taken within 45 days after the rendition of the final decision or order. If action is not taken within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the final decision or order. The period of time for filing of motions and replies taking action may be extended by written order but such extension may not extend the period for action beyond 90 days after the date of rendition of the final decision or order. In the event of extension, the motion for rehearing is overruled by operation of law on the date affixed on the order, or in the absence of affixed date, 90 days after the date of the final decision or order.

(h) The parties may, by agreement with the approval of the examiner, provide for modification of the times provided in this section.

.025. Dismissal Without Hearing. The examiner may entertain motions for dismissal without a hearing for the following reasons:

- (1) failure to prosecute and go forward with the proceeding within a reasonable period of time,
- (2) unnecessary duplication of proceedings,
- (3) withdrawal,
- (4) moot questions or stale protest, or
- (5) lack of jurisdiction.

.026. Prepared Testimony. In all contested cases and after service of copies upon all parties of record at such time as may be designated by the examiner, the prepared testimony of a witness upon direct examination, either in narrative or in question and answer form, may be incorporated in the record as if read or received as an exhibit, upon the witnesses being sworn and identifying same. Such witness shall be subject to cross-examination, and the prepared testimony shall be excepted from motion to strike in whole or in part.

.027. Limitations on Number of Witnesses. The examiner shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

.028. Exhibits.

(a) The original of each exhibit offered shall be tendered for identification; one copy shall be furnished to the presiding examiner and one copy to each party of record or his attorney or representative.

(b) In the event an exhibit has been identified, objected to, and excluded, the examiner shall determine whether the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification, endorsed by the examiner with his ruling, and included in the record for the purpose of preserving any exception.

(c) Unless specifically directed by the presiding examiner, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing. In the event the examiner allows the exhibit to be filed after the completion of the hearing, copies of the late-filed exhibit shall be served on all parties of record.

.029. Offer of Proof. When testimony is excluded by ruling of the examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting it in writing the substance of the proposed testimony prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review by the department. The examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

.030. Oral Argument. A party or his representative is entitled to present oral argument if he has requested the opportunity to do so. A request for oral argument may be incorporated in exceptions, briefs or replies to exceptions, motions for rehearing, or separate pleadings. A request for opportunity to present oral argument must be made prior to the final determination of any proceeding. The examiner has the authority to limit the time and scope of any oral argument in the proceeding he is conducting.

.031. Ex Parte Consultations. Unless required for the disposition of *ex parte* matters authorized by law, the examiner and/or other persons assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate directly or indirectly in connection with any issue of fact or law with any party or his representative, except on notice and opportunity for all parties to participate. Any department decision maker may communicate *ex parte* with other members of the department who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the department's staff in evaluating the evidence in accordance with Section 14(g) of Article 6252-13a, Vernon's Annotated Civil Statutes, and Section (h) of Rule .022 of these rules.

.032. Participation by Legal Staff. The legal staff of the department may participate in hearings governed by these rules.

.033. Confidentiality.

(a) In any hearing or other proceedings conducted by the department, the identity of a mental health or mental retardation patient shall not be revealed or made a matter of public record in any way unless the party or person desiring or attempting to reveal the identity of such patient:

(1) has secured from the mental health or mental retardation patient or the person legally authorized to give consent for such patient written consent to reveal for the purposes of the hearing the identity of such patient, and the specific information to be revealed is set forth in such written consent, and such written consent has been filed with the commissioner, and

(2) has established to the satisfaction of the hearing examiner that the identity of the mental health or mental retardation patient is relevant and material to an issue in the hearing.

(b) Any attempt by a party to circumvent the requirements to Section (a) of this rule will be sufficient grounds for the hearing examiner to strike the party and any protest or pleading of the party from the hearing or to dismiss the hearing with prejudice.

.034. Judicial Review.

(a) Unless otherwise specifically provided by statute, a party who has exhausted all administrative remedies available within the rules of the commissioner within this department and who is aggrieved by a final decision in a contested case is entitled to a judicial review. This section is cumulative of any other means of redress provided by statute and any statutory provision for specific judicial review shall govern notwithstanding this rule.

(b) Proceedings for review are instituted by filing a petition within 30 days after the decision complained of is final and appealable. Unless otherwise provided by statute:

(1) the petition is filed in a district court of Travis County, Texas;

(2) a copy of the petition must be served on the department and all parties of record in the proceedings before the department; and

(3) the filing of the petition vacates a decision for which trial *de novo* is the manner of review authorized by law but does not affect the enforcement of a decision for which another manner of review is authorized. If the manner of the review authorized by law for the decision complained of is by trial *de novo*, the reviewing court shall try all issues of fact and law in a manner applicable to other civil suits in the state and in accordance with Article 6252-13a, Vernon's Annotated Civil Statutes.

(c) If the manner of review authorized by law for the decision complained of is other than by trial *de novo*, in the absence of other specific statutory provisions, the provisions of Article 6252-13a, Section 19(d)(1) through (6) shall be applicable.

.035. Distribution. These rules governing practice and procedure with respect to administrative hearings of the department in contested cases shall be distributed to:

(1) members of the Texas Board of Mental Health and Mental Retardation;

(2) deputy commissioners;

(3) assistant commissioners;

(4) section and division chiefs of the Central Office;

(5) superintendents and directors of all department facilities;

- (6) persons designated as hearing examiners; and
- (7) upon request, any party to an administrative hearing conducted under these rules.

.036. Effective Date.

(a) These rules become effective upon the expiration of 20 days from the day on which they are filed as adopted rules with the Texas Register Division of the Office of the Secretary of State.

(b) On the effective date of these rules, all other instructions, written or verbal, on this subject are rescinded.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781800 John J. Kavanagh, M.D.
Acting Commissioner
Texas Department of Mental Health
and Mental Retardation

Effective Date: April 4, 1978

For further information, please call (512) 454-3761.

Railroad Commission of Texas

Liquefied Petroleum Gas Division

Liquefied Petroleum Safety Rules

051.05.03.023

The Railroad Commission of Texas has this day adopted Rule 051.05.03.023 (Safety Rules reference: Section B.3) with minor changes in text. As adopted, Section (b)(3)(B) differs from the text of the proposed rule in three respects. First, approved container testing has been limited to testing laboratories. Application of emergency Rule 051.05.03.023 revealed that the designation of testing facilities as "inspection agencies" does not accurately portray existing facilities. Consequently, the alternative inspection agency provision has been deleted. Additionally, the adopted rule requires that testing laboratories register with the commission in order that the commission may ascertain the qualifications and assessability of testing laboratories engaging in Rule 051.05.03.023(b)(3)(B) activities. Furthermore, the concluding phrase of Section (b)(3)(B) (ii) has been omitted. It is anticipated that this omission will better accommodate technological advancements adopted by the American Society of Mechanical Engineers which may operate to exclude the testing methods enumerated in the proposed rule.

The substance of comments received has been incorporated into the text of the adopted rule.

Pursuant to the authority of Chapter 113 of the Texas Natural Resources Code, the Railroad Commission of Texas has this day adopted Rule 051.05.03.023, which reads as follows:

.023. Authorized Containers.

(a) A.S.M.E. containers. Any A.S.M.E. container identified as such by manufacturer's nameplate is authorized for use in accordance with applicable rules of the Liquefied Petroleum Gas Division upon submission of filings required by Section (b) herein.

(b) Manufacturer's data report plans and specifications.

(1) Submission and content. Manufacturers of liquefied petroleum gas containers or unfired pressure vessels

shall submit to the Railroad Commission a manufacturer's data report and plans and specifications for the fabrication, assembly, and installation (where applicable) of each such container or vessel. The manufacturer's data report and the plans and specifications shall be complete in all detail necessary to fully describe and illustrate, respectively, the fabrication, assembly, and (if applicable) the installation thereof.

(2) Certification by manufacturer. The manufacturer of a liquefied petroleum gas container or unfired pressure vessel used to transport, store, or dispense liquefied petroleum gas shall certify on the plans and specifications thereof that, at the time of manufacture, the plans and specifications met or exceeded the requirements of the current edition of the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Division I, Section VIII, and the rules of the commission pertaining thereto.

(3) Exceptions.

(A) Manufacturer's data report available. Where plans and specifications for a container presently in existence are unavailable or do not meet the requirements of Section (b)(1) or (b)(2) herein, that container is authorized for use in accordance with applicable rules upon submission of a manufacturer's data report which meets the requirements of Section (b)(1).

(B) Certification by testing laboratory.

(i) Manufacturer's data report unavailable. Where the manufacturer's data report is unavailable or does not meet the requirements of Section (b)(1) herein, a recognized testing laboratory registered with the Railroad Commission of Texas shall test the affected container or vessel and, prior to its use in the transport or storage of LP-gas in the State of Texas (other than that which may be incidental to such testing), the laboratory shall submit its certification to the Railroad Commission that the container or vessel is safe for LP-gas service.

(ii) Manner of testing. As necessary, in order to determine the safety of the container or vessel for LP-gas service, testing shall be by one or more A.S.M.E. recognized testing methods.

Doc. No. 781775

051.05.03.029

Pursuant to the authority of Chapter 113 of the Texas Natural Resources Code, the Railroad Commission of Texas has this day amended Rule 051.05.03.029 (Safety Rules: Section B.9). The text of the adopted rule amendment does not differ from the text of the proposed amendment. The division received no comments pertaining to the proposed amendment. As amended, Rule 051.05.03.029 reads as follows:

.029. Qualification of Inspectors. All persons inspecting liquefied petroleum gas vessels during the process of fabrication shall be qualified in accordance with the provisions set forth in Division I, Section VIII, of the A.S.M.E. Boiler and Pressure Vessel Code in effect at the time of inspection. Such qualified inspectors shall have been approved by the Railroad Commission of Texas.

Doc. No. 781776

051.05.03.305

Pursuant to the authority of Chapter 113 of the Texas Natural Resources Code, the Railroad Commission of Texas has this day adopted Rule 051.05.03.305 (Safety Rules: Section A.12). The text of the adopted rule differs from the proposed in one respect: the effective date of the rule has been amended to September 1, 1979, in lieu of 1978, the date proposed. This change has been implemented in order to allow adequate time for the dissemination of Rule 051.05.03.305's re-testing requirement throughout the LP-gas industry.

The substance of comments received has been incorporated into the text of the adopted rule.

Pursuant to the authority of Chapter 113 of the Texas Natural Resources Code, the Railroad Commission of Texas has this day adopted Rule 051.05.03.305, which reads as follows:

.305. Re-Examination of Operations Supervisors.

(a) Re-examination of the person responsible for and actively supervising operations at any dealership outlet or location shall be required five years from the date of original testing and prior to or on that date every five years thereafter and shall be a condition precedent to continued dealership operations.

(b) The substance of those tests administered pursuant to Section (a) herein shall include any or all areas of knowledge evaluated on original testing and/or those changes in relevant laws and rules effected since supervisory qualification has last been determined by the commission.

(c) This rule shall become effective September 1, 1979.

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

Doc. No. 781777 Mack Wallace
 Chairman
 Railroad Commission of Texas

Effective Date: April 4, 1978

For further information, please call (512) 475-4352.



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

Texas Adult Probation Commission

Friday, April 7, 1978, 9 a.m. The Texas Adult Probation Commission will meet in the Senate Chambers, State Capitol, Austin, to hear public testimony on proposed standards and funding.

Additional information may be obtained from Sharon Schunn, P.O. Box 12427, Austin, Texas 78711, telephone (512) 475-1374.

Filed: March 16, 1978, 10:39 a.m.
Doc. No. 781843

Texas Alcoholic Beverage Commission

Monday, March 27, 1978, 10 a.m. The Texas Alcoholic Beverage Commission will meet in Room 210, Jefferson Building, 1600 West 38th Street, Austin, to hear the administrator's report of each division and to approve affidavit of destruction of tested alcoholic beverages, as summarized in the agenda.

Additional information may be obtained from W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, telephone (512) 475-3611.

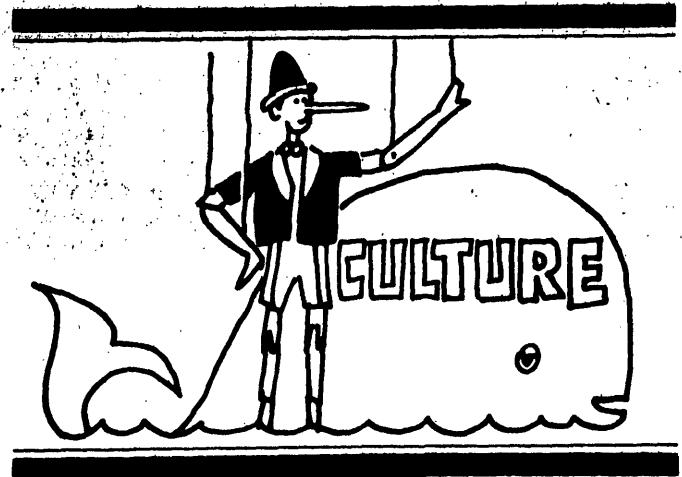
Filed: March 14, 1978, 11:06 a.m.
Doc. No. 781771

Texas Commission on the Arts and Humanities

Friday, March 17, 1978, 8:15 a.m. The Executive Committee of the Texas Commission on the Arts and Humanities met in emergency session in the Driskill Hotel, 117 East 7th Street, Austin, to discuss the selection procedures for the new executive director, as summarized in the agenda.

Additional information may be obtained from Bob E. Bradley, P.O. Box 13406, Austin, Texas 78711, telephone (512) 475-6593.

Filed: March 14, 1978, 3:59 p.m.
Doc. No. 781784



Coordinating Board, Texas College and University System

Thursday, March 23, 1978, 10 a.m. The Reporting Officials of Senior Colleges of the Coordinating Board, Texas College and University System, will meet in Room 1-122, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the officials will meet to discuss uniform reporting system for faculty workloads and small classes.

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

Filed: March 15, 1978, 11:37 a.m.
Doc. No. 781813

Tuesday, March 28, 1978, 10 a.m. The Administrative Council of the Coordinating Board, Texas College and University System, will meet in Suite 202, Park Lane East Office Building, 55 North Interstate Highway 35, Austin. As summarized, the agenda will include the following: council's position with respect to future legislative action regarding Senate Bill 95; subcommittee report on defining "retiree"; determination of project deadlines and timetables; update of analysis on current institutional coverage; report on group insurance plans for employees of higher education in other states; executive secretaries' report; and scheduling of next meeting.

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

Filed: March 15, 1978, 11:37 a.m.
Doc. No. 781810

Thursday, March 30, 1978, 9 a.m. The Steering Committee of the Advisory Committee of the Coordinating Board, Texas College and University System, will meet in Room 2-108, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. The agenda will include the following: discussion of the Open Meetings Law; discussion and determination of a timetable for the completion of Research Group and Advisory Committee recommendation; and discussion of the procedural rules to be followed in the submission of Research Group reports.

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

Filed: March 15, 1978, 11:37 a.m.
Doc. No. 781812

Thursday, March 30, 1978, 10 a.m. The Advisory Committee of the Administrative Council of the Coordinating Board, Texas College and University System, will meet in Room 2-102, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. The agenda will include: discussion of the Open Meetings Law as it pertains to the Research Groups and Advisory Committee; discussion of the operating procedures the subcommittee should follow; discussion of the timetable for the subcommittee action, Steering Committee, Advisory Committee action; discussion of procedures for submitting reports to Administrative Council; subcommittee chairman's report on subcommittee actions; and setting of date for next meeting of the Advisory Committee.

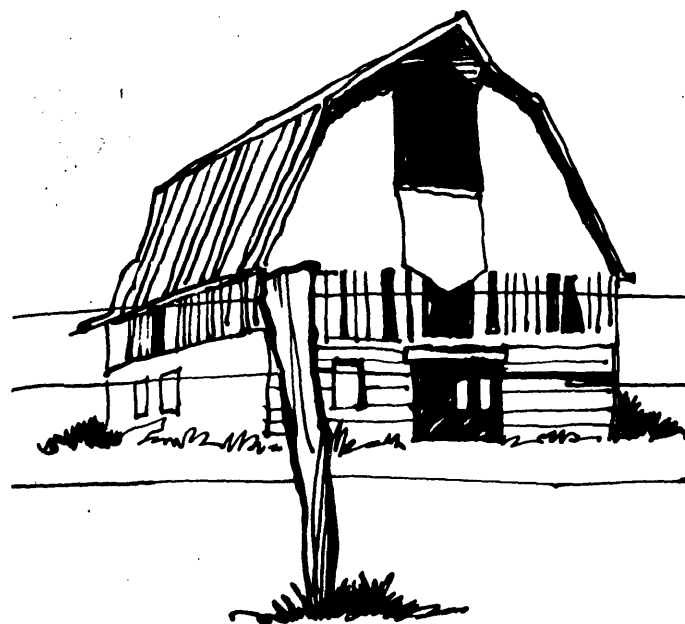
Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: March 15, 1978, 11:37 a.m.
Doc. No. 781811

Wednesday, April 3, 1978, 10 a.m. The Ad Hoc Advisory Committee on Out-of-State and Foreign Instruction of the Coordinating Board, Texas College and University System, will meet in Suite 202, Park Lane East Office Building, 55 North Interstate Highway 35, Austin. As summarized, the committee will meet to develop guidelines for the formation of policies on out-of-state and foreign instruction to be submitted to the board.

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

Filed: March 16, 1978, 10:11 a.m.
Doc. No. 781839



Texas State Board of Dental Examiners

Friday and Saturday, March 17-18, 1978, 9 a.m. The Texas State Board of Dental Examiners has cancelled a meeting scheduled to be held in the board hearing room, Oak Hills Motor Inn, San Antonio.

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

Filed: March 13, 1978, 3:17 p.m.
Doc. No. 781752

General Land Office

Tuesday, March 28, 1978, 1 p.m. The Approval Board of the Texas Department of Corrections will meet in Room 831, 1700 North Congress, Austin, to consider approval of acquisition of land by the Department of Corrections, as summarized in the agenda.

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

Filed: March 14, 1978, 9:45 a.m.
Doc. No. 781768

Thursday, March 30, 1978, 1:30 p.m. The Board for Lease of Pan American University Lands of the General Land Office has rescheduled a meeting to be held in Room 831, 1700 North Congress, Austin. As summarized, the board will consider and approve nominations, terms, conditions, and procedures for the June 6, 1978, oil and gas lease sale.

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

Filed: March 14, 1978, 4:24 p.m.
Doc. No. 781794

Office of the Governor

Friday, March 17, 1978, 10 a.m. The Deepwater Port Authority of the Governor's Office met in emergency session in the 25th floor conference room, Houston Chamber of Commerce, 1100 Milam, Houston, to conduct an organizational meeting.

Additional information may be obtained from Howard N. Richards, Room 103, State Capitol, Austin, Texas 78701, telephone (512) 475-4571.

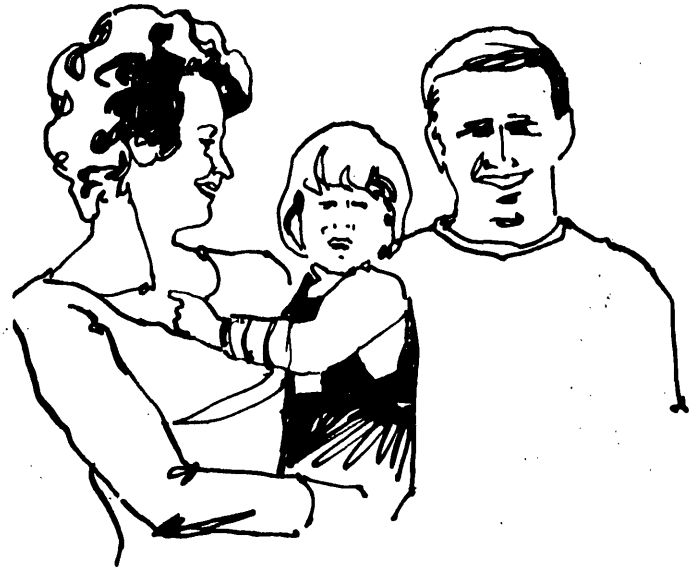
Filed: March 14, 1978, 11:06 a.m.
Doc. No. 781770

Texas Department of Health

Monday, April 3, 1978, 9:30 a.m. until noon. The Communicable Disease Division of the Texas Department of Health will meet in the first floor auditorium, 1100 West 49th Street, Austin, to conduct a public hearing on proposed new rules covering immunization requirements in elementary or secondary schools and institutions of higher education.

Additional information may be obtained from Charles Webb, M.D., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7207.

Filed: March 14, 1978, 3:59 p.m.
Doc. No. 781786



Texas Health Facilities Commission

Thursday, March 16, 1978, 10 a.m. The Texas Health Facilities Commission made an emergency addition to the agenda of a meeting to be held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. An urgent public necessity and emergency necessitates the consideration of the application for declaratory ruling from Memorial Hospital System of Houston (AH76-0903-015), for the conversion of approximately 90 existing, acute short-term care beds in existing "old" Southwest Unit to long-term care beds at the next regularly scheduled meeting of the commission.

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: March 15, 1978, 11:50 a.m.
Doc. No. 781816

Thursday, March 23, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The commission will consider the following applications:

University of Texas Medical Branch, Galveston—
certificate of need

Permian Basin Rehabilitation Center, Odessa—certificate
of need

Alief General Hospital, Houston—certificate of need

Harris Hospital, Fort Worth—certificate of need

Texas Department of Human Resources, Austin—
declaratory ruling

St. Anthony's Hospital, Amarillo—exemption certificate

David Granberry Memorial Hospital, Naples—
exemption certificate

Aransas County Medical Services, Inc., Rockport—
declaratory ruling

Brownsville Medical Center, Brownsville—exemption
certificate

Additional information may be obtained from William D.
Darling, P.O. Box 15023, Austin, Texas 78761, telephone
(512) 475-6940.

Filed: March 15, 1978, 11:50 a.m.
Doc. No. 781817

Thursday, March 30, 1978, 10 a.m. The Texas Health
Facilities Commission will meet in Suite 305, Jefferson Build-
ing, 1600 West 38th Street, Austin. The commission will con-
sider the following applications, as summarized:

Lutheran General Hospital, San Antonio—certificate of need
Hill Haven Nursing Home, Hillsboro—certificate of need
Southwest Ambulatory Surgical Center, Inc., San Antonio—
certificate of need

Children's Medical Center of Dallas, Dallas—certificate
of need

Providence Hospital, Waco—certificate of need

Texoma Medical Center, Denison—
certificate of need

Texoma Regional MH/MR Center, Denison—certificate
of need

Home Help Care, Inc., Lubbock—certificate of need

Santa Rosa Medical Center, San Antonio—certificate of need

Texarkana Memorial Hospital, Inc., doing business as
Wadley Hospital, Texarkana—exemption certificate

St. Jude Hospital, Brenham—exemption certificate

Leisure Lodges, Kaufman—exemption certificate

Additional information may be obtained from William D.
Darling, P.O. Box 15023, Austin, Texas 78761, telephone
(512) 475-6940.

Filed: March 15, 1978, 11:50 a.m.
Doc. No. 781818

State Board of Insurance

Thursday, March 16, 1978, 2 p.m. The State Board of In-
surance will meet in Room 408, 1110 San Jacinto, Austin, to
make a decision on the appeal of Joiner Enterprises, Inc.

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

Filed: March 13, 1978, 1:53 p.m.
Doc. No. 781742

Friday, March 24, 1978, 9 a.m. The Commissioner's Hear-
ing Section of the State Board of Insurance will conduct a
hearing in Room 343, 1110 San Jacinto, Austin, to consider
whether the application of Mary L. Sahm, San Antonio, for a
Group I Insurance Agent's License should be approved.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781743

Friday, March 24, 1978, 2 p.m. The Commissioner's Hear-
ing Section of the State Board of Insurance has rescheduled a
hearing to be held in Room 343, 1110 San Jacinto, Austin, to
amend the certificate of authority for Commonwealth Lloyd's
Insurance Company, Dallas. This hearing was rescheduled
from March 15, 1978.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781744

Monday, March 27, 1978, 2 p.m. The Commissioner's
Hearing Section of the State Board of Insurance will conduct
a hearing in Room 343, 1110 San Jacinto, Austin, to amend
the certificate of authority and articles of agreement for
American Lloyd's Insurance Company, Lancaster.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781745



Tuesday, March 28, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider the application for admission to Texas of Prairie States Life Insurance Company, Rapid City, South Dakota.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781746

Wednesday, March 29, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider the application for admission to Texas of Motorists Beneficial Insurance Company, Chicago, Illinois.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781747

Thursday, March 30, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider the name protest regarding Security Standard Life Insurance Company, Inc., Phoenix, Arizona.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781748

Thursday, March 30, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider charter amendment for World Service Life Insurance Company, Fort Worth.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781749

Friday, March 31, 1978, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, regarding the failure of Combined Insurance Company of America, St. Paul, Minnesota, to timely file 1976 annual statement.

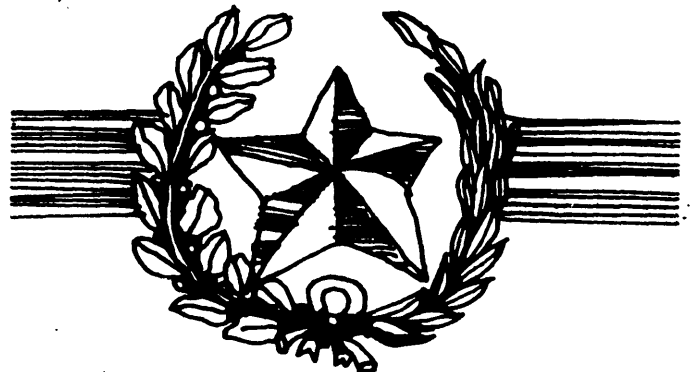
Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781750

Friday, March 31, 1978, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, to consider Commissioner's Order No. 58851, concerning Southwestern Life Insurance Company, Dallas.

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

Filed: March 13, 1978, 3:10 p.m.
Doc. No. 781751



Board of Pardons and Paroles

Monday through Friday, March 27-31, 1978, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. As summarized, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole and procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by the agency; and take action upon gubernatorial directives.

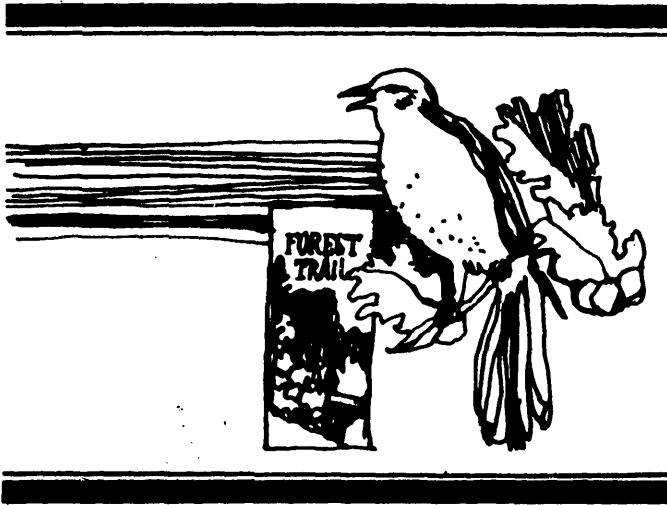
Additional information may be obtained from Ken Casner, Room 711, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: March 15, 1978, 11:37 a.m.
Doc. No. 781815

Wednesday, March 29, 1978, 9 a.m. The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. A parole panel, consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission, will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, Room 711, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: March 15, 1978, 11:37 a.m.
Doc. No. 781814



Texas Parks and Wildlife Department

Monday, March 27, 1978, 10 a.m. The Parks and Wildlife Commission will meet in Building B, 4200 Smith School Road, Austin, to consider the following items, as summarized in the agenda: department administration of current Lake Wallisville Project Public Lands under Project Plan 2 or 2a for fish and wildlife management purposes; Sabine Pass Terminal easement request, Sea Rim State Park; feasibility of turnstiles on saltwater fishing piers; Washington-on-the-Brazos State Historical Park, potential donation; Fort Richardson State Historical Park additional funding; fiscal year 1978 Beach Cleaning Program amendment; proposed Austin Headquarters Complex Trail/Picnic Area; Gene Howe Wildlife Management Area Uncut Hay Crop Sale; proposed Webb County Buck Permit Issuance Rate; proposed white-winged dove sanctuary; blue crab fishery status; Law Enforcement Division gift acceptance; and rules correction.

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

Filed: March 16, 1978, 8:54 a.m.
Doc. No. 781837

Tuesday, March 28, 1978, 9 a.m. The Parks and Wildlife Commission will meet in Building B, 4200 Smith School Road, Austin, to consider the following items, as summarized in the agenda: Sabine Pass Terminal easement request, Sea Rim State Park; Galveston Island State Park Seismograph easement request; Palo Duro Canyon State Park concession contract renewal; Jose Antonio Navarro State Historic Site bid review/final funding; Sam Bell Maxey House State Historic Structure bid review/final funding adjustment; Fort Richardson State Historical Park additional funding; Hill Country State Natural Area additional donation; fiscal year 1978 Beach Cleaning Program amendment; operating plan/budget for Marine Fisheries Enhancement Program at Port Aransas Marine Laboratory and Palacios Marine Fisheries Research Station; fund request appropriated by 65th Legislature; department administration of current Lake Wallisville Project Public Lands under Project Plan 2 or 2a for fish and wildlife management purposes; final regulation for transporting, shipping, or exporting bobcat pelts; and Law Enforcement Division gift acceptance.

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

Filed: March 16, 1978, 8:53 a.m.
Doc. No. 781838

Tuesday, April 4, 1978, 2 p.m. The Fisheries Division/Resource Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin. The division will consider an application by Chambco, Inc., for an amendment to Permit No. 76-076 to authorize removal of 75,000 cubic yards of sand and gravel per month from the Brazos River at each of the following three locations: at river mile 136 and mile 139 in Fort Bend County and at river mile 140.5 in Waller County, approximately four miles northwest of Simonton; and to delete the ninth provision of the permit which reads "ninth". Removal of sand and gravel from Site 3 at river mile 136 will be restricted to that material in the bar above the average low water elevation.

Additional information may be obtained from Chester D. Harris, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4831.

Filed: March 16, 1978, 10:39 a.m.
Doc. No. 781841

Texas Peanut Producers Board

Thursday, March 23, 1978, 1:30 p.m. The Texas Peanut Producers Board will meet in the Cedar Room, Quality Inn Motel, Interstate Highway 35, Austin, to adopt the budget for the coming year and place priority on research projects.

Additional information may be obtained from Wayne Eaves, P.O. Box 398, Gorman, Texas 76454, telephone (817) 734-5853.

Filed: March 14, 1978, 1:21 p.m.
Doc. No. 781778

Texas Private Employment Agency Regulatory Board

Tuesday, March 28, 1978, 9:30 a.m. The Texas Private Employment Agency Regulatory Board will meet in the Mayor's Conference Room, 900 Bagby, Houston. The board will determine whether the licenses of the following should be revoked or subject to other sanctions by the board: private employment agency license of Newman-Johnson Employment Service, Inc., Pasadena; and the operator's licenses of Jessie Belle Newman of Pasadena/La Porte, Margaret B. Johnson of Pasadena, and John Adam Case King III of Pasadena/Seabrook.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: March 14, 1978, 9:17 a.m.
Doc. No. 781766

Tuesday, March 28, 1978, 1 p.m. The Texas Private Employment Agency Regulatory Board will meet in the Mayor's Conference Room, 900 Bagby, Houston. The board will determine whether the licenses of the following should be revoked or subject to other sanctions by the board: private employment agency license of Datamation Placement Personnel Consultants of Houston; and the operator's license of Bruce B. Piggott of Houston/Conroe.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: March 14, 1978, 9:17 a.m.
Doc. No. 781765

Tuesday, March 28, 1978, 3 p.m. The Texas Private Employment Agency Regulatory Board will meet in the Mayor's Conference Room, 900 Bagby, Houston. The board will determine whether the licenses of the following should be revoked or subject to other sanctions by the board: private employment agency license of V.I.P. Agency of Houston Personnel Consultants; and the operator's license of Joe W. Pitts, Jr., of Houston.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: March 14, 1978, 9:17 a.m.
Doc. No. 781764

Wednesday, March 29, 1978, 9 a.m. The Texas Private Employment Agency Regulatory Board will meet in the Mayor's Conference Room, 900 Bagby, Houston. The board will determine whether the licenses of the following should be revoked or subject to other sanctions by the board: private employment agency license of M.S.K. International Corporation Personnel Consultants of Houston; and the operator's license of Louis Terry Kirk of Houston.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: March 14, 1978, 9:17 a.m.
Doc. No. 781763

Wednesday, March 29, 1978, 1 p.m. The Texas Private Employment Agency Regulatory Board will meet in the Mayor's Conference Room, 900 Bagby, Houston. The board will determine whether the licenses of the following should be revoked or subject to other sanctions by the board: private employment agency license of Greene and Dalton Personnel Consultants of Houston; and the operator's license of Patrick R. Greene of Houston.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: March 14, 1978, 9:17 a.m.
Doc. No. 781762



Public Utility Commission of Texas

Tuesday, March 28, 1978, 9:30 a.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct an application of Southwestern Bell Telephone Company to amend its certificate of convenience and necessity in Ellis County (Docket No. 967), 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: March 14, 1978, 3:59 p.m.
Doc. No. 781787

Wednesday, March 29, 1978, 10 a.m. The Public Utility Commission of Texas has rescheduled a meeting to be held in Suite 400N, 7800 Shoal Creek Boulevard, Austin. The commission will conduct a hearing on the application of C & C Water Works, Inc., for a rate increase in Marion County (Docket No. 1210), as summarized in the agenda.

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

Filed: March 16, 1978, 10:39 a.m.
Doc. No. 781842

Monday, April 17, 1978, 10 a.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct an application to reassign or transfer boundary exchange life in River Oaks Subdivision, Comal County, Southwestern Bell Telephone Company and Guadalupe Valley Telephone Cooperative, Inc. (Docket No. 1568).

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

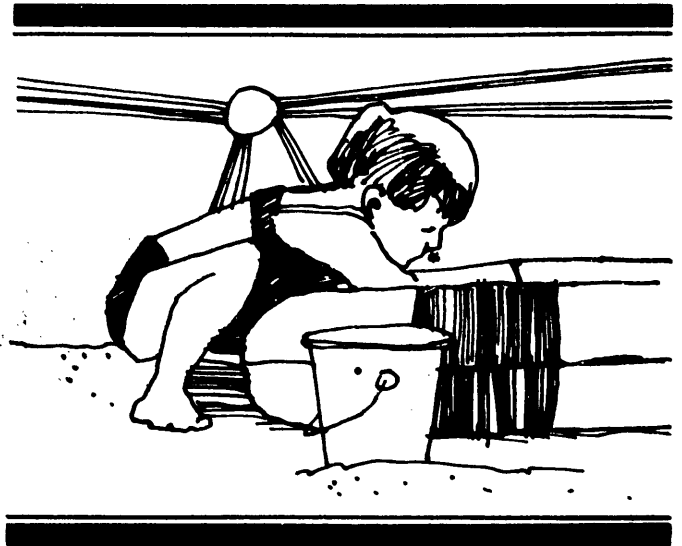
Filed: March 13, 1978, 3:32 p.m.
Doc. No. 781753

Texas Rehabilitation Commission

Thursday, March 30, 1978, 10 a.m. The Board of the Texas Rehabilitation Commission will meet at 118 East Riverside Drive, Austin. The agenda includes: communications; approval of minutes of January 27 and March 3, 1978 meetings; old business; authorization of certain employees of the commission to sign vouchers and other fiscal documents; amendment of the operating budget for fiscal year 1978; Vaughn House, Inc., grant amendment; consideration of appointment of a commissioner to succeed Commissioner Jess M. Irwin, Jr., who is retiring on March 31, 1978 (the subject will be discussion in executive session under the authority of Section 2(g), Vernon's Annotated Civil Statutes).

Additional information may be obtained from Herbert A. Underwood, 118 East Riverside Drive, Austin, Texas 78704, telephone (512) 447-0236.

Filed: March 14, 1978, 3:59 p.m.
Doc. No. 781785



School Tax Assessment Practices Board

Wednesday, March 22, 1978, 10 a.m. The School Tax Assessment Practices Board will meet in Suite 400, 3301 Northland Drive, Austin. The agenda will include: introductions; announcements; approval of minutes; discussion; approval of policies and procedures by the board; status report regarding valuation and certification programs; official adoption of guidelines and rules as set out by the agency; report in reference to Board of Tax Assessor Examiners; discussion of proposed budget; discussion of some personnel matters in open meeting; and discussion of further personnel matters in closed session.

Additional information may be obtained from Linda Schotz, 3301 Northland Drive, Austin, Texas 78731, telephone (512) 454-5781.

Filed: March 14, 1978, 3:46 p.m.
Doc. No. 781783

Sunset Advisory Commission

Thursday and Friday, March 23-24, 1978, 9 a.m. The Sunset Advisory Commission will meet in the Senate Chamber, State Capitol, Austin, to receive public testimony on reports presented at the February 20th meeting of the commission, as summarized in the agenda.

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

Filed: March 14, 1978, 9:04 a.m.
Doc. No. 781761

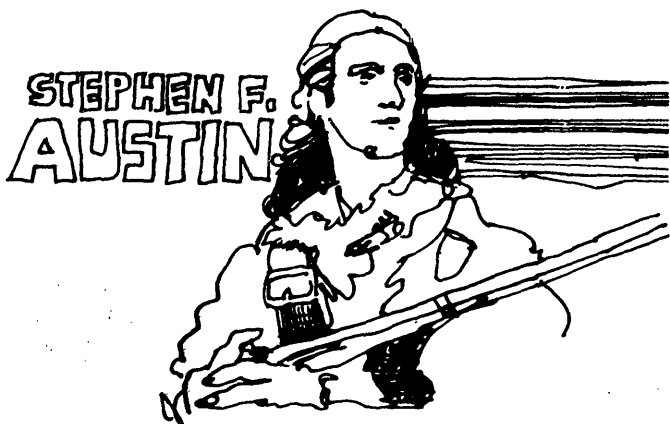
Tax Assessor Examiners Board

Wednesday, April 5, 1978, 10 a.m. The Tax Assessor Examiners Board will meet in the School Tax Assessment Practices Board Office, Suite 500, 3301 Northland Drive, Austin, to consider the following items: expense reports; rules; applications; and employment (executive session).

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

Filed: March 14, 1978, 9:54 a.m.

Doc. No. 781767



Thursday, April 6, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider, as summarized, Application No. 2065B of Northeast Texas Municipal Water District for an amendment to Permit No. 1897, as amended, to authorize the diversion and use of not to exceed 1930 acre/feet for municipal purposes from Lake Bob Sandlin, diversion and use of not to exceed 10,000 acre/feet for industrial purposes from Lake Bob Sandlin and reduction of the authorized diversion from Lake O' the Pines by 12,600 acre/feet per annum, reducing municipal diversions by 1930 acre/feet per annum and industrial diversions by 10,670 acre/feet per annum.

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

Filed: March 14, 1978, 3:18 p.m.

Doc. No. 781782

Thursday, April 6, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider, as summarized, Application No. 2966A of Titus County Fresh Water Supply District No. 1, seeking amendment to Permit No. 2794 to authorize a decrease in the appropriation of water for municipal and domestic purposes, increase in the appropriation of water for industrial purposes, deletion of 100 acre-feet irrigation use for the permit, an increase in the maximum diversion rate from 89 cfs to 371.4 cfs and the appropriation of the proportion of the reserve yield, 59 percent.

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

Filed: March 14, 1978, 3:19 p.m.

Doc. No. 781781

Texas Water Commission

Monday, March 20, 1978, 10 a.m. The Texas Water Commission made an emergency addition to the agenda of a meeting to be held in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission heard an examiner's proposal for decision on an application by Gulf Coast Waste Disposal Authority for an amendment to Permit No. 11560 to accommodate the construction of additions to increase the plant treatment capacity and to allow for a discharge of domestic sewage effluent, as summarized in the agenda.

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

Filed: March 14, 1978, 4:02 p.m.

Doc. No. 781793

Friday, April 28, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider, as summarized, Application No. 3872 of C. M. Gay, seeking a permit to directly divert and use not to exceed 2556 acre/feet annually from Red River, Red River Basin, for irrigation purposes in Bowie County.

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

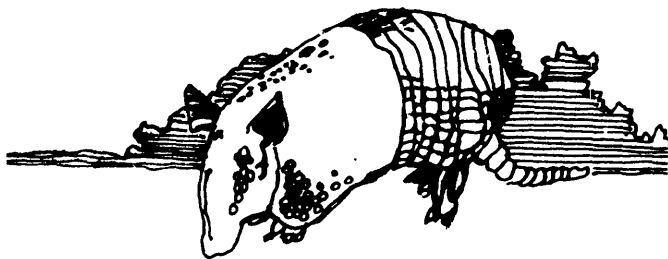
Filed: March 15, 1978, 2:45 p.m.

Doc. No. 781836

Friday, May 5, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider, as summarized, Application No. ACF-373A of James G. Graham, *et al.*, for an amendment to Certified Filings 148 and 373 to authorize the consolidation of the two certified filings using the later priority date and filing number of CF No. 373, June 23, 1914; change the place of use for irrigation purposes on the Colorado River Basin; diversion of the combined maximum diversion rate of 4.12 cfs; and addition to a diversion point for each tract.

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

Filed: March 15, 1978, 2:45 p.m.
Doc. No. 781835



Texas Water Development Board

Tuesday, March 21, 1978, 9 a.m. The Texas Water Development Board will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. The agenda will include, as summarized: approval of the previous minutes; election of a vice chairman; consideration of financial assistance to the City of Campbell and Liberty-Danville Fresh Water Supply District No. 2; authorization of members Roney and Potts together with the ED or DFM to sell securities; consideration of a financial advisory contract with First National Bank in Dallas; open bids for sale of \$25,000,000 TWD bonds; Volume I Basic Data Report regarding six basins; approval of certification of "Report III - Service Area Delineation" for Corpus Christi; recommendation regarding certification of 1977 Annual Water Quality Management Plan; amended Plan of Reclamation and Plan of Reclamation for Fort Bend County L.I.D. No. 2 and No. 4, respectively; authorization of the executive director to negotiate receivable contracts with the U. S. Geological Survey regarding Ogallala studies and the Corps of Engineers regarding dam inspecting; executive session for personnel matters.

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

Filed: March 13, 1978, 4:16 p.m.
Doc. No. 781757

Regional Agencies

Meetings Filed March 13, 1978

The Austin-Travis County MHMR Center, Personnel Committee, met at 1430 Collier, Austin, on March 16, 1978, at 6:30 p.m. The Board of Trustees met in the board room at 7 p.m. Further information may be obtained from Dr. Larry J. Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The Education Service Center, Region IV, Board of Directors, met in the Heritage Room, Houston Club, 811 Rusk, Houston, on March 20, 1978, at 6 p.m. Further information may be obtained from Dr. Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, telephone (713) 868-1051.

Doc. No. 781754

Meetings Filed March 14, 1978

The Brazos Valley MHMR Center, Executive Committee, Board of Trustees, met in the board room, second floor, 202 East 27th Street, Bryan, on March 16, 1978, at 2:30 p.m. Further information may be obtained from Dr. Linda S. Davis, 202 East 27th Street, Bryan, Texas 77801, telephone (713) 779-2000.

The Colorado River Municipal Water District, Board of Directors, will meet at 400 East 24th Street, Big Spring, on March 21, 1978, at 10 a.m. Further information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, telephone (915) 267-6341.

The Deep East Texas Regional MHMR Services, Board of Trustees, will meet in the conference room, Day Treatment/Administration Facility, 4101 South Medford, Lufkin, on March 28, 1978, at 5 p.m. Further information may be obtained from Wayne Lawrence, 4101 South Medford, Lufkin, Texas 75901, telephone (713) 639-1141.

The Lower Neches Valley Authority, Board of Directors, will meet in the conference room, 7850 Eastex Freeway, Beaumont, on March 21, 1978, at 10:30 a.m. Further information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704.

The Middle Rio Grande Development Council, Regional Advisory Committee on Aging, will meet in the Reading Room, Uvalde Civic Center, East Main Street, Uvalde, on March 21, 1978, at 2 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

The Red River Authority of Texas, Board of Directors, met in the Bounty Room, Tradeswinds Motor Hotel, 1212 Board Street, Wichita Falls, on March 16, 1978, at 10 a.m. Further information may be obtained from Fred Parkey, 302 Hamilton Building, Wichita Falls, Texas, telephone (817) 723-8697.

The Upper Leon River Municipal Water District, Board of Directors, will meet in the General Office, Filter Plant, Proctor Lake, Comanche, on March 23, 1978, at 7 p.m. Further information may be obtained from Lowell G. Pittman, P.O. Box 67, Comanche, Texas 76442, telephone (817) 879-2258.

Doc. No. 781769

Meetings Filed March 15, 1978

The CETA Consortium, Region XI, Non-Urban Planning Council and Executive Committee, will meet at McLennan County Courthouse, Washington Avenue, Waco, on March 23, 1978, at 3 p.m. Further information may be obtained from Nancy Miller, 130 North 6th Street, Waco, Texas 76701.

The Deep East Texas Council of Governments, Board of Directors, will meet at Coldspring Community Center, Coldspring, on March 23, 1978, at 2:30 p.m. Further information may be obtained from Billy D. Langford, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

The Education Service Center, Board of Directors will meet at the Black Angus Ranch Restaurant, 302 West 1, Mount Pleasant, on March 28, 1978, at 3 p.m. Further information may be obtained from Thomas Carney, 100 North Riddle, Mount Pleasant, Texas 75455, telephone (214) 572-6676.

The Heart of Texas Council of Governments, Executive Committee, will meet at 110 South 12th Street, Waco, on March 23, 1978, at 4:30 p.m. Further information may be obtained from Marcia Ross, 110 South 12th Street, Waco, Texas 76701, telephone (817) 756-6631.

The North Texas Municipal Water District, Board of Directors, will meet in the administrative offices, Central Plant, Highway 78 East, Wylie, on March 23, 1978, at 4 p.m. Further information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, telephone (214) 442-2217, extension 26.

Doc. No. 781801

Meetings Filed March 16, 1978

The Austin-Travis County MH/MR Center, Personnel Committee, met at 1430 Collier, Austin, on March 17, 1978, at noon. Further information may be obtained from Dr. Larry Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The Education Service Center, Region VII, Board of Directors, will meet at Kilgore Community Inn, Highway 259, Kilgore, on March 27, 1978, at 7 p.m. Further information may be obtained from Von Rhea Beane, 818 East Main, Kilgore, Texas 75662, telephone (214) 984-3071.

The Middle Rio Grande Development Council, Board of Directors, will meet in the main auditorium, Uvalde Civic Center, Uvalde, on March 30, 1978, at 4:30 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

The South Texas Development Council, Government Application Review Committee, will meet in the conference room, Building S-1, 600 South Sandman, Laredo, on March 22, 1978, at 10 a.m. Further information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78041, telephone (512) 722-3995.

The West Central Texas Council of Governments, Executive Committee, will meet at the Jamaica Inn, 3161 South 23rd Street, Abilene, on March 22, 1978, at noon. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 781844

Coastal Bend Council of Governments Identification of Local Needs and Priorities

Public Hearing

A hearing is being conducted by the Human Resources Development Council of the Coastal Bend Council of Governments, on behalf of local governments in Live Oak and McMullen Counties, for the people of Three Rivers, George West, Tilden, and vicinity, concerning the needs, problems, and services of medical necessity, health, employment, transportation, social services, public assistance, children and youth, elderly, education, including adult, job training, housing, etc. Information gathered will be used to supplement a development plan for the region.

The hearing will be held at 7:30 p.m. Tuesday, March 21, 1978, in City Hall, Three Rivers. Everyone in Three Rivers, George West, Tilden, and vicinity is invited to attend and participate.

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

Doc. No. 781803 Fred Stansell
Coastal Bend Council of Governments

Filed: March 15, 1978, 10:19 a.m.

For further information, please call (512) 854-3081.



Comptroller of Public Accounts

Administrative Decisions

Summary of Administrative Decision 9121

Summary of Decision:

(1) The sale of 82 percent of a corporation's assets to another corporation is a transfer of "substantially all the property held or used" by the selling corporation within the

meaning of the occasional sale definition provided in Texas Taxation—General Annotated, Article 20.01(F)(2).

(2) If a selling corporation and a buying corporation are wholly owned by a grandparent corporation, the "real or ultimate ownership" of property sold between the two corporations is "substantially similar" both before and after the sale for purposes of the occasional sale exemption provided in Texas Taxation—General Annotated, Article 20.01(F)(2).

For copies of recent opinions selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Issued in Austin, Texas, on March 15, 1978.

Doc. No. 781809 Harriet D. Burke
Hearings Section
Comptroller of Public Accounts

Filed: March 15, 1978, 11:24 a.m.

For further information, please call (512) 475-2148.

Texas Education Agency Consultant Proposal Request

Description: The Texas Education Agency is requesting proposals for a study of the operations of the State Permanent School Fund and of the Texas Education Agency's Investment Office, which administers fund operations under the direction of the Investment Committee of the State Board Education. A respondents' conference at which interested persons and firms will have the only opportunity to obtain information from the Texas Education Agency in addition to that contained in the Request for Proposals will be held on April 7, 1978. The contract for this study will be awarded on June 10, 1978.

Procedure for Selecting Consultants: The method of selection of the contractor will be a ranking of proposals according to the knowledge, experience, and education in the various specialities needed in the study of the persons committed by respondents to accomplish the study; the capacity of the respondents to accomplish the study in a professional and timely manner; and the reputation of respondents for excellence of performance in similar studies. Cost will then be negotiated.

Contact: Copies of the Request for Proposals may be obtained by writing or calling Melvin Olle, Associate Commissioner for Investments, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-4791.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781802 J. B. Morgan
Associate Commissioner for
Policies and Services
Texas Education Agency

Filed: March 15, 1978, 10:19 a.m.

For further information, please call (512) 475-3511.

Texas Department of Water Resources

Water Quality Management Plan for the Canadian Basin

Public Hearing

A hearing commission of the Texas Department of Water Resources will conduct a public hearing beginning at:

1 p.m. March 30, 1978
Room 216
Amarillo Building
301 South Polk
Amarillo, Texas

in order to receive testimony concerning Volume I, *Basic Data Report*, of the Water Quality Management Plan for the Canadian Basin. This document is the first of two volumes which, upon completion of Volume II, will form the Water Quality Management Plan for the Canadian Basin. Volume I, *Basic Data Report*, includes information on existing wastewater treatment facilities; existing water quality; existing land use patterns; existing population; and projections of economic growth, population, and probable land use patterns. Volume II, *Plan Summary Report*, will present the recommended plans for water quality management and the legal, financial, and institutional requirements of each plan. Also included in Volume II will be descriptions of feasible alternatives, an environmental assessment, and a summary of the public participation activities conducted during the development of the plan. The Water Quality Management Plan for the Canadian Basin is being developed to satisfy the requirements of Section 208 of the Federal Water Pollution Control Act Amendments of 1972, and pursuant to Title 40 Code of Federal Regulations, Parts 130 and 131, and the State of Texas Continuing Planning Process. The public hearing shall be conducted in compliance with Section 26.037 (formerly Section 21.089), Texas Water Code. The study area for this plan includes all of the Canadian River Basin.

Copies of the *Basic Data Report* will be made available for public inspection at the following locations: Texas Department of Water Resources Offices, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas; Texas Department of Water Resources District 1 Office, 301 South Polk, Room 306, Amarillo, Texas 79106; and Panhandle Regional Planning Commission, P.O. Box 9257, Amarillo, Texas 79105. Copies of Volume II, *Plan Summary Report*, will be made available at these same locations when completed in June, 1978. However, the hearing cited in this notice will consider only Volume I, *Basic Data Report*, of Water Quality Management Plan for the Canadian Basin.

Requests for copies of the *Basic Data Report* and questions about it should be addressed to Tommy Slaughter, Texas Department of Water Resources, P.O. Box 13087, Capitol Station, Austin, Texas 78711, or call (512) 475-3454. When requesting a copy or sending a query by mail, please include your complete return address and telephone number.

The public is encouraged to attend the hearing and to present evidence or opinions as to the accuracy of the existing and projected data compiled in the *Basic Data Report*. Written

testimony which is submitted prior to or during the public hearing will be included in the record. The hearing commission would appreciate receiving a copy of all testimony at least five days before the hearing. The testimony and questions concerning the public hearing should be addressed to Gordon W. Houser, Texas Department of Water Resources, P.O. Box 13087, Capitol Station, Austin, Texas 78711, or call (512) 475-5516.

The date selected for this hearing is intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 30 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date selected.

This public hearing may be continued in order to fully develop the evidence.

Doc. No. 781759

Water Quality Management Plan for the Red Basin

Public Hearing

A hearing commission of the Texas Department of Water Resources will conduct a public hearing beginning at:

1 p.m. March 30, 1978
Room 216
Amarillo Building
301 South Polk
Amarillo, Texas

in order to receive testimony concerning Volume I, *Basic Data Report*, of the Water Quality Management Plan for the Red Basin. This hearing was previously scheduled for March 1, 1978. This document is the first of two volumes which, upon completion of Volume II, will form the Water Quality Management Plan for the Red Basin. Volume I, *Basic Data Report*, includes information on existing wastewater treatment facilities; existing water quality; existing land use patterns; existing population; and projections of economic growth, population, and probable land use patterns. Volume II, *Plan Summary Report*, will present the recommended plans for water quality management and the legal, financial, and institutional requirements of each plan. Also included in Volume II will be descriptions of feasible alternatives, an environmental assessment, and a summary of the public participation activities conducted during the development of the plan. The Water Quality Management Plan for the Red Basin is being developed to satisfy the requirements of Section 208 of the Federal Water Pollution Control Act Amendments of 1972, and pursuant to Title 40 Code of Federal Regulations, Parts 130 and 131, and the State of Texas Continuing Planning Process. The public hearing shall be conducted in compliance with Section 26.037 (formerly Section 21.089), Texas Water Code. The study area for this plan includes most of the Red River Basin. This plan will not address the planning required in the Texarkana Designated Areawide Planning Area; detailed planning within that area

will be provided through the development of the Texarkana Areawide Waste Treatment Management Plan and will not be considered at this hearing.

Copies of the *Basic Data Report* will be made available for public inspection at the following locations: Texas Department of Water Resources Offices, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas; Texas Department of Water Resources District 1 Office, 301 South Polk, Room 306, Amarillo, Texas 79106; Texas Department of Water Resources District 2 Office, 4819 Avenue Q, Lubbock, Texas 79412; Texas Department of Water Resources 4 Office, 203 James Collins Boulevard, Duncanville, Texas 75116; Texas Department of Water Resources District 5 Office, 3801 Highway 42 North, Kilgore, Texas 75662; and the Red River Authority of Texas, 302 Hamilton Building, Wichita Falls, Texas 76301. Copies of Volume II, *Plan Summary Report*, will be made available at these same locations when completed in June, 1978. However, the hearing cited in this notice will consider only Volume I, *Basic Data Report*, of the Water Quality Management Plan for the Red Basin.

Requests for copies of the *Basic Data Report* and questions about it should be addressed to Tommy Slaughter, Texas Department of Water Resources, P.O. Box 13087, Capitol Station, Austin, Texas 78711, or call (512) 475-3454. When requesting a copy or sending a query by mail, please include your complete return address and telephone number.

The public is encouraged to attend the hearing and to present evidence or opinions as to the accuracy of the existing and projected data compiled in the *Basic Data Report*. Written testimony which is submitted prior to or during the public hearing will be included in the record. The hearing commission would appreciate receiving a copy of all testimony at least five days before the hearing. The testimony and questions concerning the public hearing should be addressed to Gordon W. Houser, Texas Department of Water Resources, P.O. Box 13087, Capitol Station, Austin, Texas 78711, or call (512) 475-5516.

The date selected for this hearing is intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 30 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date selected.

This public hearing may be continued in order to fully develop the evidence.

Issued in Austin, Texas, on March 8, 1978.

Doc. No. 781758 Gordon W. Houser
General Counsel's Office
Texas Department of Water
Resources

Filed: March 13, 1978, 4:16 p.m.

For further information, please call (512) 475-3454.

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