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TEXAS REGISTER

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TEXAS DOCUMENTS

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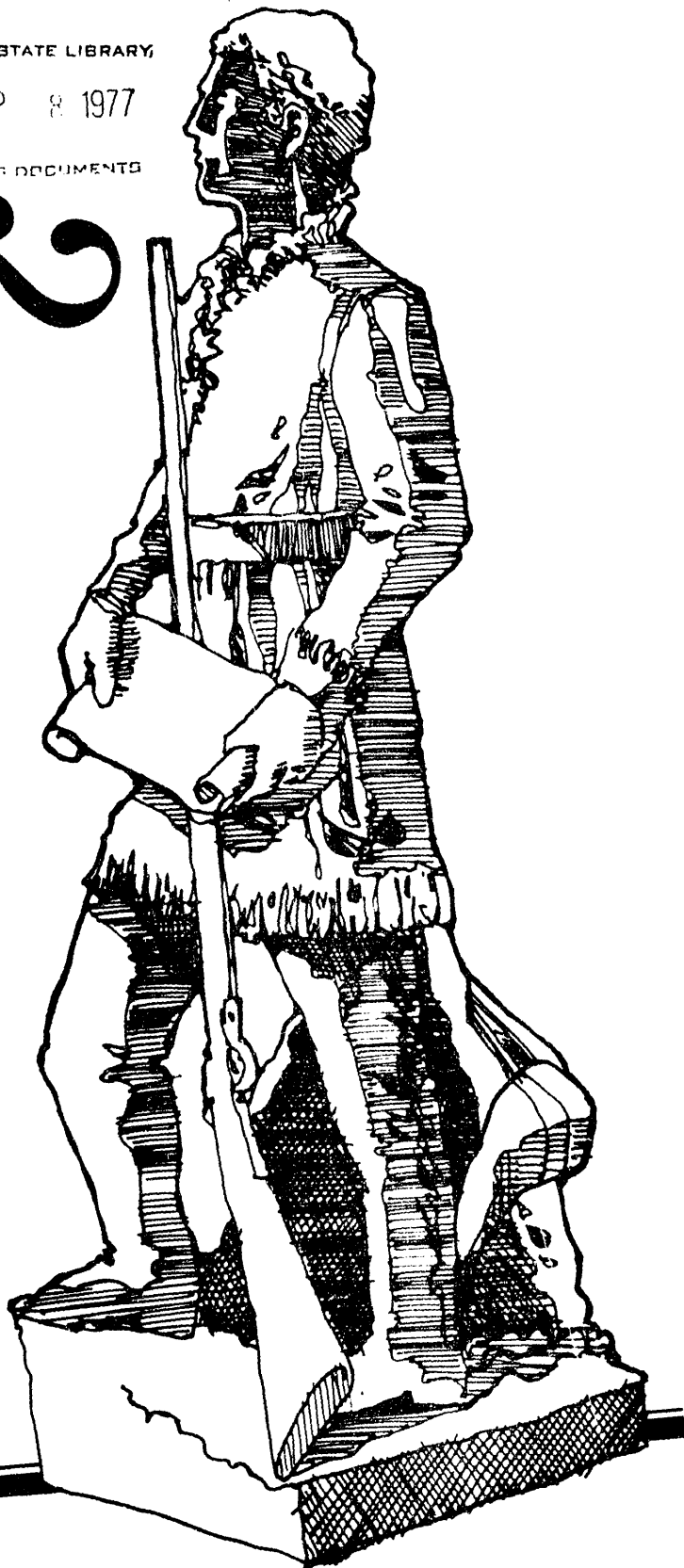
Emergency boxing rules by the
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Repeal of personnel rules pro-
posed by the Department of
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Office of the Secretary of State

USPS Publication Number 120090

NOTES ON THE ISSUE

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The Department of Labor and Standards adopts on an emergency basis rules concerning boxing. These rules affect 500 to 550 boxers, managers, timekeepers, seconds, and others involved in the non-amateur sport in Texas. These rules replace earlier ones and make a number of changes, including the licensing fees and the regulation of closed-circuit shows.

The State Securities Board amends the agency's rules to bring them into conformity with legislation of the 65th Legislature and with guidelines of the North American Securities Administrators Association.

A request for an attorney general's opinion concerns the issuance of occupancy licenses for new apartments without submeters after January 1, 1978. The Public Utility Commission of Texas proposed rules in the August 30, 1977, issue of the *Register* on the submetering of apartments.

The Texas State Board of Control adopts rules concerning the leasing of space by state agencies. The legislature amended Article 666b, governing state leasing, and the Board of Control is now permitted to negotiate with other state agencies and with federal and other political subdivisions. Ten-year leases replace the former maximum of four years for state leases, and the Board of Control is now the lessee rather than the occupying agency. These rules are in the Adopted Rules sections.

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

The *Texas Register* is published twice weekly, 100 times a year by the Texas Register Division, Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711. Telephone (512) 475-7886.

The *Register* contains executive orders of the Governor; summaries of Attorney General's opinions and summaries of requests for opinions; emergency rules; proposed rules; and adopted rules of state agencies; notices of open meetings; and miscellaneous notices of general interest to the public of Texas.

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Requests for Opinions

Summary of Request for Opinion RQ-1700

Request for opinion sent to the Attorney General Opinion's Committee by Chet Brooks, Chairman, Senate Committee on Human Resources, Austin.

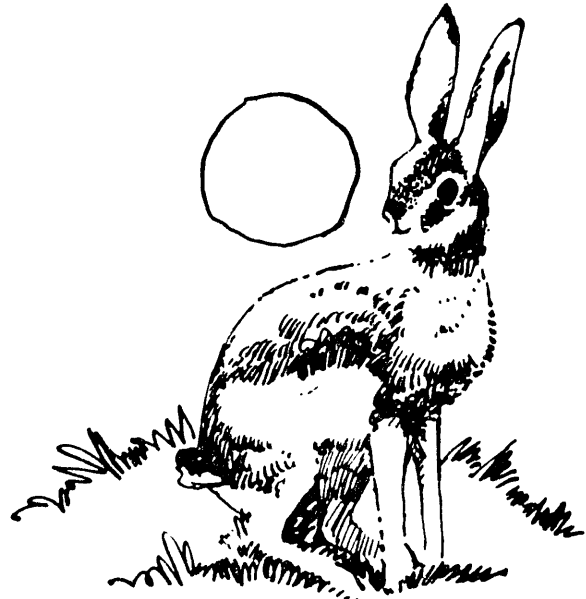
Summary of Request: In light of the constitutional provisions regarding retroactive and *ex post facto* legislation and in the light of the practical problems and legislative history of the statute, does Section 2, Article 1446d, Vernon's Texas Civil Statutes, prevent a city or town from issuing a certificate of occupancy after January 1, 1978, on an apartment house which is not individually metered or submetered for electricity for each dwelling unit, where the city has issued a building permit therefor prior to January 1, 1978?

Issued in Austin, Texas, on August 25, 1977.

Doc No 774428 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

Filed: August 26, 1977, 11 17 a m

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



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

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

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

Texas Department of Labor and Standards

Boxing and Wrestling Division

Boxing 063.11.01

The Boxing and Wrestling Division of the Texas Department of Labor and Standards is adopting Rules 063.11.01.001-.093, setting forth the methods and procedures for the administration of the boxing licensing and regulation provisions of Article 8501-1, *et seq.*, Texas Civil Statutes. These rules are immediately necessary because of the amendment made by the 65th Legislature to the Texas Boxing and Wrestling Law, which was a total new writing of the law. Without the immediate adoption of these rules the protections to the public and the participants covered by the law would be lacking and enforcement of the law impossible. These rules are to take effect immediately.

These rules are promulgated under the authority of Section 4(b), of Article 8501-1, *et seq.*, Texas Civil Statutes.

.001. License Revocation. Any license herein provided for may be revoked or suspended by the Commissioner of Labor and Standards for the reason therein stated that the licensed person has in the judgment of the Commissioner of Labor and Standards been guilty of an act in violation of a boxing rule or regulation issued by the department or a provision of the Texas Boxing and Wrestling Act.

.002. Promoter's Appearance. Any person applying for a promoter's license must appear in person in the office of the Commissioner of Labor and Standards in Austin.

.003. Promoter's License-- Where Valid. A promoter's license is valid only in the incorporated limits of the city for which it is granted, but a promoter may apply for a license in each city in which he desires to operate. If the promotion should occur in a non-incorporated area, the size of the nearest incorporated city shall determine the license fee. No promoter shall hold a boxing contest in any location other than that location in his license without permission of the commissioner.

.004. License Examination. The commissioner may, at his discretion, require licensees to pass a written examination to establish their qualifications and may conduct seminars to instruct licensees on required knowledge. Before acting upon an application for a license, the Commissioner of Labor and Standards may, at his discretion, hold an administrative hearing on the license application.

.005. Promoter's Violation of Rules. Any conduct of a licensed promoter which violates the Texas Boxing and Wrestling Act or the rules and regulations issued by the department can be considered against all licenses held by the promoter.

.006. Other Licenses. Before a person may perform as a boxer, manager, referee, second, judge, timekeeper, or matchmaker he shall file with the department or its authorized representative an application on a form supplied by the department. The applicant may be issued a temporary permit which would permit him taking part in a scheduled contest pending processing of the application.

.007. Out-of-State License Required. Individuals licensed in other jurisdictions who participate in a professional boxing contest must, prior to the contest, make application for a license with the department.

.008. Age Limit. Minors over age 17 applying for a boxer's license must submit written consent from parent or guardian and demonstrate proficiency in boxing skills through previous amateur ring experience. Anyone over 35 making application for a boxer's license may be required to demonstrate mental and physical competency to perform as a boxer.

.009. Promoter's License and Fees. The first figure is the population of the city, the next the fee, and the latter the minimum bond:

10,000--	\$20--	\$300
10,001-25,000--	\$50--	\$300
25,001-100,000--	\$100--	\$500
100,001-250,000--	\$200--	\$1,000
250,000-Up--	\$300--	\$2,000

The commissioner may require a larger bond than the minimum amounts listed in Rule .009 under certain circumstances at his discretion.

.010. Other License Fees. All other license fees are as follows:

Boxers-- \$20
 Managers-- \$50
 Matchmakers--\$50
 Referees-- \$15
 Judges-- \$15
 Timekeepers-- \$5
 Seconds-- \$5

.011. Ring. The ring must not be less than 16 nor more than 24 feet square within the ropes and the ring floor must extend beyond the ropes a distance of not less than 12 inches on all sides. The ring floor shall be padded with felt matting or other soft material approved by the Commissioner of the Texas Department of Labor and Standards or his authorized representative and shall extend over the end of the ring platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps may not be used. When ring posts extend to within a foot of the ropes, the turnbuckle must be padded. The mat and covering shall be kept clean and free from disagreeable odors at all times.

.012. Height of Ring. The ring platform shall not be more than 54 inches above the floor of the building, and shall be provided with suitable steps for use by the contestants. Ring posts shall be made of some strong material, preferably metal pipe, three inches in diameter, extending from floor of the building to a height of at least 58 inches above the ring floor.

.013. Ring Ropes. Ring ropes shall be three or four in number, at least one inch in diameter, the lower rope 18 inches above the rope floor and the second rope 35 inches above the ring floor, and the third rope 52 inches above the ring floor. When four ropes are used the bottom and top ropes shall be the same as above and the other two will be evenly spaced. Ropes shall be wrapped in soft material.

.014. Gong. The gong must be at least eight inches in diameter, to be adjusted near a level with the ring platform, the timekeeper to ring indicating the beginning and end of rounds, so that the contestants and referees can hear the sound of the bell.

.015. Obstruction. The entire ring platform shall be cleared of all obstructions, including buckets, stools, etc., at the instant the gong indicates the beginning of a round; and none of these articles shall be placed on the ring floor until the gong has sounded the end of a round.

.016. Ring Equipment. Each ring shall be equipped with two funnels with a hose attached to each funnel, to be used as a receptacle by the contestants when washing out mouth. There shall be provided by the promoter a sufficient number of water buckets for the use of all contestants. Each bucket shall be sterilized before being used by the contestants. Promoters also shall provide resin, stools, and other such articles as are required for the conduct of contests.

.017. Scales. Scales shall be furnished by the promoter and tested and approved previous to each contest.

.018. Glove Weight. Boxer's weighing over the light-weight limit (135 pounds) must wear gloves weighing not less than eight ounces and not more than 10 ounces. Boxers weighing under the 135 pounds must wear gloves weighing not less than six ounces and not more than eight ounces.

.019. Gloves Approval. Gloves shall be examined by the referee and the representative of the Texas Department of Labor and Standards at the time of the weighing. If padding is found to be misplaced or lumpy, or if gloves are found to be imperfect, they shall be changed before the contest starts. No breaking or twisting of gloves shall be permitted.

.020. Gloves-- Main Event. Gloves for all main events shall be furnished by promoter, and made so as to correctly fit the hands of the contestant.

.021. Bandages. Bandages shall be of soft surgical bandage not more than two inches in width, held in place by not more than six feet of surgeon's tape for each hand. The use of six inches of adhesive tape, two inches in width, will be permitted across the back of each hand before bandaging the hands provided such tape is not put across the knuckles. These bandages shall be adjusted in the dressing room under the examination of a new representative of the Texas Department of Labor and Standards and in the presence of both contestants.

.022. Weighing Time. In all contests or exhibitions contestants shall weigh in stripped not later than two o'clock on the same day of the contest or exhibition in the presence of a representative of the Texas Department of Labor and Standards.

.023. Weight Difference. No contest shall be permitted when there is a difference in weight of more than 12 pounds when the lighter of the two contestants weighs between 160 and 175 pounds, or 10 pounds in weight when the lighter of the two weighs between 135 and 160

pounds, or eight pounds in weight when the lighter of the two weighs under 135 pounds. No exceptions shall be made to this rule except by written permission from the Commissioner of Labor and Standards.

Weights and Classes of Boxers

Flyweight	112 pounds
Bantamweight	over 112 to 118 pounds
Featherweight	over 118 to 126 pounds
Lightweight	over 126 to 135 pounds
Welterweight	over 135 to 147 pounds
Middleweight	over 147 to 160 pounds
Light-heavyweight	over 160 to 175 pounds
Heavyweight	over 175 pounds

The failure of boxers to make agreed weight may subject boxer to forfeiture of his purse.

.024. *Costume.* Boxers shall box in proper ring costume including protection cup, which shall be firmly adjusted previous to entering the ring. The felt of the trunks shall extend above the waistline. No other apparel except as above specified shall be worn by boxers entering the ring with the exception of a robe. Gloves for principal contest shall be adjusted in the ring under the supervision of the referee, the laces to be knotted on the back of the wrist. Mouthpieces shall be white or flesh colored. Shoes shall be of soft material and shall not be fitted with spikes, cleats, hard soles, or hard heels.

.025. *Guidelines for Female Contestants.*

(a) Mouthpiece must be used of same variety required of male boxers.

(b) 10 ounce gloves will be worn.

(c) Breast protection mandatory.

(d) Promoter must provide adequate separate dressing rooms.

(e) Contestants must sign agreement indicating that to the best of their knowledge they are not pregnant and that the contest will not take place during the menstrual period.

.026. *Dressing Rooms.* No one shall be allowed in the boxer's dressing room except his manager, seconds, a representative of the Texas Department of Labor and Standards, physician, and news media representatives. Promoters are directed to post a sign at the entrance of dressing rooms informing all concerned of the above requirements.

.027. *Decision.* Neither by word or act shall a contestant at the close of a bout indicate to the spectators his belief that he has won or lost. When the decision of the referee or judges has been announced both contestants and their seconds shall at once leave the ring and retire to their dressing rooms.

.028. *Ring Name.* A boxer shall fight under the same ring name which appears on his boxing license.

.029. *Announcer.*

(a) Announcers shall announce the name of contestants, their correct weights, the decisions of the referee and judges, and other matters, as approved by the representative of the Texas Department of Labor and Standards in charge. Promoters and clubs shall provide proper facilities for announcing rounds.

(b) To prevent mistakes being made in announcing decisions, the announcer must, upon receiving the score cards from the referee and judges, submit them to the representative of the Texas Department of Labor and Standards at ringside for examination before announcement of decision is made.

(c) The following procedure is to be followed: In preliminary to the semi-main event, if the decision is unanimous, the announcer announces the unanimous verdict. If the decision is not unanimous, but a majority decision, the announcer so announces it. If it is a draw, that is, each one of the officials voting differently, the announcer so announces it. In main event and championship contests, the scoring of the referee and judges will be announced by total points for each contestant.

.030. *System of Scoring.* In scoring a contest the elements of offense, defense, clean hitting, ring generalship, and sportsmanship will be carefully considered. Scoring shall be by the 10-point system. The winner of any round is marked 10. The loser of any round is marked one to nine. When the round is even, each contestant is scored 10. A clean knockdown should be heavily scored. A knockdown is rated as such as soon as it occurs. The contestant who takes advantage of the nine-count shall be credited with ring generalship (that would not be credited him if he arose immediately, and possibly in a groggy condition, tried to continue.) The use of foul blows and other tactics shall result in a penalty of two points for each foul committed. The referee shall advise the judges of the number of points to be deducted immediately upon termination of the round to which such deductions apply. Referees and judges shall clearly write their decisions and sign them individually.

.031. *Knock Down Rule.* When a boxer is knocked down three times in any one round, the contest will be automatically terminated. The boxer scoring the knock-down shall be the winner by technical knockout. The referee shall stop a contest after one knock-down, if, in his opinion, the boxer is unable to defend himself.

.032. *Purse Forfeiture.* Purse forfeitures or fines for violations of any rules or regulations may be assessed by the authorized representative of the department. The disbursement of such fines or purse forfeitures shall be decided at a hearing by the commissioner.

.033. Change of Decision. A decision rendered at the termination of any boxing contest shall not be changed unless the commissioner at any time following the rendition of a decision should it be determined that there was collusion or fraud affecting the result of any contest, or if the compilation of the score cards of the referee and judges show a clerical or mathematical error, which would mean that the decision was given to the wrong boxer, then such decision may be changed by the commissioner after a hearing has been held.

.034. Amateur Contests. Any club seeking exempt status under this act shall furnish on form provided by the department information concerning ownership, affiliation, and such information as shall be included on form. Failure to submit this information may prevent recognition of the exempt status of clubs. Non-exempt amateur clubs promoting contests where an admission fee is charged shall promote under the following conditions:

(a) The commissioner must approve the contest, match, or exhibition at least seven days in advance of the event.

(b) All entries shall be filed with the amateur organization at least three days in advance of the event.

(c) The amateur organization shall determine the amateur standing of all contestants.

(d) The amateur contests, match, or exhibition shall be subject to the supervision of the commissioner and all profits derived from such contests shall be used in the development of amateur athletics.

(e) Only referees and judges licensed by the commissioner may participate in amateur contests, matches, or exhibitions.

(f) All contestants shall be examined by a licensed physician within a reasonable time prior to the event, and a licensed physician shall be in attendance at the ringside during the entire event.

.035. Referee and Judges. A referee and two judges, or three judges, subject to approval of the department, shall be chosen to officiate at boxing bouts, with majority vote of these individuals prevailing to determine the outcome of the contest. Referees and judges may be required to take a written exam at the time of application or at any time a reasonable doubt as to the competency of said license may be raised.

.036. Provisions for Referees

(a) General

(1) The chief official of the contest shall be the referee, who shall have general supervision over the bout and take his place in the ring.

(2) The referee shall notify the Commissioner of Labor and Standards before 2 p.m. on the day of the

contest, in the event that he is unable to officiate at the contest.

(3) The referee shall, before starting a contest, ascertain from each contestant the name of his chief second, and shall hold that chief second responsible for the conduct of his assistant during the progress of the contest.

(4) The referee shall, before each bout, call the contestants together for final instructions, at which time the contestants shall be accompanied by their chief seconds only. The contestants, after receiving final instructions, shall shake hands and retire to their corners. They shall not again shake hands until the beginning of the last round.

(5) All referees must be attired in a clean uniform to be approved by the department.

(b) Referees' power.

(1) to stop a bout and make a decision if he considers it too one-sided;

(2) stop a bout and make a decision if he considers that the contestants are not boxing in earnest, at which time he may disqualify both contestants;

(3) when a contestant is incapacitated by an unfair blow or act, he shall be given sufficient time to recuperate; the referee may consult with the official doctor or other medical aid; and has sole power in this regard. If the referee decides that even after a rest the injured boxer is unable to continue, he shall disqualify the guilty contestant.

(c) Referees duties.

(1) The referee shall not touch the contesting boxers except when one or both contestants fail to obey the break command.

(2) When a contestant is down the referee shall at once commence counting off the count in seconds and indicating the count with a motion of the arm. If the contestant fails to rise before the count of 10, the referee shall declare him the loser.

(3) Should a contestant who is down rise before the count of 10 is reached, and again go down intentionally without being struck, the referee shall resume the count where he left off.

(4) When a round in any boxing contest shall terminate before a contestant who has been knocked down shall have risen from the floor of the ring, the count shall be continued. If the fallen contestant shall fail to rise before the count of 10, he shall be considered to have lost the bout by a knockout in the round lately concluded.

(5) Should a contestant leave the ring during the one minute period between rounds and fail to be in the ring to resume boxing when the gong rings, the referee shall count that contestant out the same as if he were down.

(6) If a contestant who has been knocked or has fallen out of the ring during the contest fails to return immediately, the referee may count him out as if he were down, and the seconds shall not be allowed to assist contestants back in the ring.

(7) When a contestant is down, his opponent shall retire to the farthest corner of the ring and remain there until the count is complete; if he shall fail to do so the referee may cease counting until such opponent has so retired.

(8) Referees shall see that their count is as near 10 seconds as possible; and that the count is loud and clear so that it can be heard at a reasonable distance from the ring.

(9) Referees must instruct boxing contestants that wrestling and rough tactics will not be tolerated.

(10) In case of serious injury to a contestant, an immediate investigation will be conducted by the Commissioner of the Texas Department of Labor and Standards to determine whether injury was the result of negligence or incompetence on the part of the referee or whether the injury was due to circumstances not reasonably within his control. A hearing may be held by the Commissioner of Labor and Standards on the suspension or revocation of the referee's license.

(11) The referee shall decide all questions arising during contests which are not specifically covered by these rules.

.037. Down Definition A contestant shall be deemed down when:

(a) any part of his body other than his feet is on the ring floor.

(b) he is hanging over the ropes in a defenseless manner. A referee can count the boxer out either on the ropes or on the floor;

(c) he is rising from a down position.

.038. Foul Definition Fouls are defined as follows:

(a) hitting below the belt;

(b) holding an opponent with one hand and hitting him with the other.

(c) hitting an opponent who is "down" or who is getting up after being "down."

(d) holding an opponent or deliberately maintaining a clinch.

(e) butting with the head or shoulder or using the knee;

(f) hitting with the inside or butt of the hands, the wrist, or the elbows;

(g) hitting or "flicking" with open gloves;

(h) wrestling or roughing at the ropes;

(i) striking deliberately at that part of the body surrounding the kidneys;

(k) the use of abusive or profane language;

(l) jabbing opponent's eyes with the thumb of glove;

(m) rabbit punches (hitting at back of the head or neck);

(n) failure to obey the referee;

(o) any physical actions which may injure a contestant other than sportsmanlike boxing.

.039. Seconds, Timekeepers, Matchmakers.

(a) Seconds must not be more than three or less than two in number except by permission of the Commissioner of Labor and Standards. There shall be two chief seconds-- one for each contestant. Each chief second must have a complete first aid kit.

(b) Seconds shall not coach the principal during the progress of the rounds and shall remain silent during the rounds and shall not throw water on the contestant or in any way assist. Fans may be used between rounds but the swinging of towels is prohibited.

(c) A licensed manager may act as a second without the necessity of a second's license.

(d) Seconds shall leave the ring enclosure at the sound of the timekeeper's whistle, which must be 10 seconds before the beginning of each round. They shall leave the ring platform and remove all obstructions, including stools, buckets, and equipment promptly when the gong sounds for the beginning of each round.

(e) The seconds must be neatly attired.

(f) Violations of the above provisions may be followed by ejection of the offender from the ring corner, and may result in the disqualification of their contestant by the referee.

.040. Timekeeper

(a) Timekeepers shall blow their whistle 10 seconds prior to each contest and 10 seconds prior to the beginning of each round. Timekeepers shall not strike their gong during the process of the round. The gong shall be sounded at the beginning and at the end of each round.

(b) When a boxer is down and the referee starts his count, the timekeeper shall rise and start his count in unison with the referee, counting one for each second until 10 is counted.

(c) Failure to keep accurate time in starting and stopping rounds will subject the timekeeper to the penalty of having his license suspended or revoked.

(d) If the referee is absent from the ring or temporarily incapacitated, the timekeeper shall immediately sound the gong for temporary discontinuance of the contest.

.041. Matchmaker If a matchmaker is employed by a licensed promoter, he shall immediately make application to the Texas Department of Labor and Standards for a matchmaker's license. In such cases, the

matchmaker and the promoter shall be jointly responsible to the commissioner for matches made and for the mailing in of contracts, applications, license fees, and taxes to the commissioner's office. Matches shall be made only by a licensed promoter or licensed matchmaker. Any person acting in the capacity of arranging matches for a show for compensation shall be acting in the capacity of "matchmaker" and shall be required to obtain a license.

.042 Physician.

(a) At the time of the official weigh-in, all contestants must be given a thorough medical examination which may include a blood test and urine test for drugs, by a duly licensed and practicing physician whose name shall be filed with the commissioner by the promoter along with the medical report.

(b) A duly licensed and practicing physician, prepared to deal with emergencies that may arise, shall be in attendance at ringside during the contest. It shall be the responsibility of the promoter to secure the attendance of a doctor at the contest.

(c) The examining physician shall deliver reports of examinations to the promoter before the contest begins.

(d) Should a contestant examined prove unfit for competition through physical injury, high blood pressure, faulty heart action, presence of any infectious or contagious disease, defective vision, or any weakness or disability discovered by the physician, the contestant must be rejected and an immediate report of the facts must be made to the promoter and the Commissioner of Labor and Standards.

(e) A contestant rejected by the physician for disability will be placed on a medical suspension list until it is shown that the disability no longer exists. A contestant may request a hearing before the Commissioner of Labor and Standards if he disagrees with the medical suspension.

.043 Failure to Condition. Any contestant, who by failing to properly condition himself, or through any fault of his own may be the cause of any bout or exhibition being called off or postponed, may be suspended after investigation and a hearing conducted by the Commissioner of Labor and Standards.

.044 Failure to Compete. Whenever a boxer, because of injuries or illness, is unable to take part in a contest for which he is under contract, he or his manager must immediately report the fact to the promoter and the Commissioner of Labor and Standards.

.045 Eye Examination. Boxers must be examined by a duly licensed ophthalmologist at least once a year and they must furnish the commissioner, along with their application for a license, a report from such specialist showing that the boxer has had an eye examination, and the result of that examination.

.046 Head Injury. If a boxer suffers a concussion or other serious head injuries, he cannot box for six months after which time an examination must be made by three reputable physicians, all of whom must concur in approving the boxer for further combat. If the contestant disagrees with the six months' medical suspension, he may request a hearing before the Commissioner of Labor and Standards.

.047 Tanker. Any boxer who sustains a succession of four knockouts shall be subject to inquiry and a hearing to determine if the boxer is:

- (a) competent;
- (b) physically unfit;
- (c) suffering from incompetent or unscrupulous management.

Anyone who sustains a succession of six defeats shall be subject to inquiry by the Commissioner of Labor and Standards.

.048 Eight Count. A contestant, when knocked down, shall be required to take a count of "eight," whether or not he has regained his feet before the count of "eight" is reached.

.049 Accidental Butt. If a boxer is accidentally butted in a bout so that he cannot continue, the referee shall:

- (a) call the bout a technical draw if the injured boxer is behind on points; or
- (b) declare the injured boxer the winner on a technical decision if he has a lead in points. If judges are used, then a majority vote is disclosed by the score cards and shall prevail in determining the decision as specified in Sections (1) and (2) thereof. If all score cards differ, the contract shall be declared a technical draw.

(c) call the bout a draw if an accidental butt occurs during the first round of any contest.

This rule applies only to accidental butting. Intentional butting is a foul and shall be penalized as such.

.050 Boxer's Knockout (Suspension). When a boxer is knocked out, he should be examined immediately by a physician. The physician shall report to the commissioner on the severity of the injury. The boxer shall be automatically suspended for 30 days on a KO, unless on a later examination by two physicians the boxer is allowed to enter the ring.

.051 Monsel's Solution. The use during a boxing match of Monsel's solution, or any similar iron-based drug or compound for the stoppage of hemorrhage in the ring is prohibited. Only such preparations as are approved by the Commissioner of Labor and Standards may be used to stop hemorrhage in the ring.

.052. Drugs Prohibited. The administration or use of any drugs, alcohol, or stimulants or injections in any part of the contestant's body either prior to or during a match, to or by any boxer is prohibited unless administered by a physician with the approval of the commissioner.

.053. Management of Contestants Except for a contestant's personal manager, no employee of the Texas Department of Labor and Standards, individual promoter, matchmaker, or stockholder in or employee of a corporation or association or club engaged in the promotion of contests, shall be, directly or indirectly, manager or part-manager of a contestant, nor shall any such person be financially interested in a contestant.

.054. Filing Contracts A copy of all contracts entered into between managers and boxers must be placed on file with the department for approval. After the deduction of training and transportation expenses actually incurred by the boxer in the performance of his duties, no manager or group of managers shall be allowed to participate, directly or indirectly, in more than 33 1/3 percent of the gross earnings of the boxer. No assignment of any part or parts of the boxer's or manager's interest in a contract, filed and approved by the commissioner, will be permitted without the written approval and consent of the commissioner. After the effective date of this rule, no contract shall be approved between a boxer and a manager for a period exceeding five years.

.055. Validity. A contract is not valid between a boxer and manager unless both parties appear at the same time before the Commissioner of Labor and Standards or his authorized representative and receive approval, unless otherwise directed by the commissioner:

(a) In addition to these regulations, a contract to be valid must be otherwise legally valid.

(b) When a manager is not present at the contest where his boxer is performing, before said boxer may lawfully contract for his own services, it shall be necessary that the boxer:

(1) present written authority from his manager to sign the contract for the fight;

(2) present written authority from his manager to receive the purse.

(c) In case managerial authority is temporarily transferred to another person acting as manager, the acting manager shall:

(1) hold a valid manager's license;

(2) present written agreement, signed by both boxer and manager;

(3) file a copy of such written agreement of transfer of authority with the department for approval.

.056. Manager's Duties. Managers are prohibited from signing a fight contract for the appearance of any boxer when the manager does not have a written contract on file with the Department of Labor and Standards for said boxer.

(a) A manager must have an approved boxer-manager contract on file with the department on each boxer the manager is handling. Managers shall be allowed to have any number of boxers engaged on the card of any show in the State of Texas.

(b) No two boxers under the same management may be matched against each other.

(c) Managers and seconds are forbidden to toss a towel into the ring in token defeat of their boxer.

(d) No boxer, manager, second, or ring tender shall enter a ring with a sweater, jersey, robe, or other garment carrying any advertisement other than the name of the boxer.

(e) Manager shall send written notification to the Department of Labor and Standards immediately upon the termination of a contract with a boxer.

(f) Any boxer who signs a contract with a manager while under contract with another manager may be suspended pending a hearing by the Commissioner of the Texas Department of Labor and Standards.

(g) When a manager obtains a promoter's license, his manager's license will be automatically cancelled and all contracts that he has with boxers will be cancelled and cannot be transferred or assigned to another manager.

.057. Form of Contract. Contracts between boxers and managers and managers and licensed clubs shall be executed and notarized on standard printed forms furnished by the Commissioner of Labor and Standards.

.058. Contract Expiration. No manager shall be allowed to contract for the services of a boxer under his management for a match to take place on a date after the expiration of the contract between the boxer and manager.

.059. Arbitration If the validity of a contract, or the terms of a contract are at issue, both parties may agree to binding arbitration by the Director of the Boxing and Wrestling Division of the Texas Department of Labor and Standards.

.060. Out-of-State Contracts. The Commissioner of Labor and Standards may honor contracts on file in other jurisdictions at his discretion.

.061. Championship Matches Only champions designated by the Commissioner of the Texas Department of Labor and Standards shall be recognized and

.061. Championship Matches. Only champions designated by the Commissioner of the Texas Department of Labor and Standards shall be recognized and advertised as such. Before championship matches can be advertised the contracts of the contestants must be on file with and approved by, the commissioner. Champions shall be required to defend their titles at least once every 90 days and failure to do so may result in forfeiture of all claims to championship.

.062. Advertising Unrecognized. The advertising of unrecognized champions by a promoter in championship matches is prohibited.

.063. International Rules. In a championship match to be held in Texas, the commissioner may approve the suspension of or any changes in the rules governing conduct of contests to conform to international rules.

.064. Conduct of Promotion. Boxing shows may be held Sunday after 12:01 p.m.

.065. Gambling Prohibited. No individual, firm, club, co-partnership, association, company, or corporation shall:

(a) permit any gambling or betting or wagering of any character on the result of or any contingency in connection with the fistic combat match, boxing, or sparring contest or exhibition, either before or during any such contests.

(b) No promoter shall be allowed to contract for the services of a boxer, referee, timekeeper, manager, matchmaker, or second unless the promoter is licensed by the Texas Department of Labor and Standards, nor enter into a contract for the services of or negotiate with any boxer, referee, timekeeper, manager, matchmaker, or second whose license has been suspended or revoked by the department.

.066. Change of Program. Notice of any change in announced or advertised programs for any contest must be promptly filed with the department at least 24 hours previous to the scheduled contest. Notices announcing such a change or substitution must also be conspicuously posted at the box office and also announced from the ring before the opening bout.

.067. Payment of Purse. All payments of purse shall be made in cash immediately after the contest and not before the contest. In the case of a percentage contract payment shall be made as soon as the percentage can be determined. If a boxer has a manager, separate payments will be made to the boxer and manager and the receipt signed and delivered to the department. If the boxer has no manager legally entitled to represent him, the purse shall be paid in full to the contestant.

.068. Purse Forfeitures or Fines. Purse forfeitures or fines shall be withheld from the purse and delivered to

the department by the promoter. The commissioner will determine the disbursement of such fines or forfeitures at a hearing.

.069. Club Contracts.

(a) Promoters shall be required to have written agreements of contract executed in triplicate with the boxers showing amount of guarantee or percentage promised, the number and time limit of rounds, when and where they are scheduled to appear and all other details governing contracts and agreements. Standard forms will be furnished by the Texas Department of Labor and Standards.

(b) The promoter shall furnish one copy of contract to the boxer or his manager, shall retain one copy, and forward one copy to the Commissioner of Labor and Standards with tax reports on the contests held.

(c) It is specifically provided, however, that no contestant in the main, semi-final events, or special added attraction shall be advertised as such by any promoter before said promoter has in his possession a duly signed or valid contract for each such contestant or performer.

(d) Contracts must be available for examination by the inspectors of the Texas Department of Labor and Standards prior to contests.

(e) Boxers must live up to terms of their contracts. Whenever a contestant fails to appear in accordance with his contract, said contestant must be prepared to satisfactorily prove that he was sick, had a valid reason for not appearing, or was otherwise prevented from carrying out the agreement. A doctor's certificate shall be required in case of illness and affidavits are required to bear out other assertions.

(f) The failure of a promoter to perform according to the terms of the contract to produce contestants or special added attractions as advertised; to pay the contestants their contractual guarantee, or percentage; or the failure of a promoter to live up to his agreement with his contestants or performers who did perform as scheduled shall subject said promoter to a hearing before the Commissioner of Labor and Standards regarding possible suspension or revocation of his license.

(g) The term "special added attraction" as used herein shall mean the appearance of any person or persons to act in any capacity at any boxing match, other than licensed contestants, who by reason of their reputation, ability, or otherwise is calculated for and has a tendency to increase the attendance at such boxing match.

.070. Appearance Forfeiture. Promoters may require boxers to post appearance forfeitures.

.071. Payment of Bills. Licensees must pay all legitimate bills contracted in connection with training and

gymnasium expenses or other expenses incurred directly related to a contest. Failure to pay such bills may result in suspension of such licensee.

.072. *License In Possession* All licensees, except promoters, shall keep their licenses in their possession and shall present said license upon request to promoters and representatives of the Texas Department of Labor and Standards as evidence of eligibility to act or perform in their respective capacities in connection with boxing contests or exhibitions.

.073. *Rounds Scheduled* Licensed promoters shall not schedule less than 25 rounds nor more than 40 rounds of boxing on any one program. An emergency bout must be provided in case any of the scheduled bouts are not provided.

.074. *Promoter Acting as Judge* No person who has a financial interest in/or is officially connected with any promotion shall be permitted to perform or act in said arena as referee or judge.

.075. *Manager Acting as Referee* No manager shall be allowed to referee. No promoter shall be allowed to referee in his own ring. No promoter or matchmaker shall hold a manager's license or manage any boxer, either directly or indirectly.

.076. *Duties of Promoter* Each promoter shall:

(a) file with the Commissioner of Labor and Standards the name and address of duly licensed and practicing physician or physicians used by him for examination of contestants, and notify the Commissioner of Labor and Standards of any changes made in the party chosen to so act.

(b) file with the Commissioner of Labor and Standards the names, titles and addresses of all officials of the promoting organization, whether it be a co-partnership, firm, club, association, company, or corporation, and notify the Commissioner of Labor and Standards of all changes of officials;

(c) file with the Commissioner of Labor and Standards the following information relating to any individuals serving him or his organization in the capacity of matchmaker

(1) name of matchmaker,

(2) whether or not he is an employee,

(3) whether or not he is a *bona fide* partner, member, or shareholder of the organization,

(4) whether he serves for salary on a monthly or percentage basis or without remuneration; and notify the commissioner of changes made in matchmakers.

.077. *Profanity* Use of profanity by a boxer, his manager, or second shall be prohibited and if indulged in after a warning by the referee, the offender may be disqualified and the match given to his opponent.

.078. *Contests Between Sexes* No promoter, matchmaker, or any other person shall arrange, match, or advertise any boxing contest between persons of opposite sex. Exhibitions are permitted between women when matched against women, but no male person will be permitted to engage in a boxing contest with a female person. No exception shall be made to this rule without the written permission of the Commissioner of the Texas Department of Labor and Standards.

.079. *Drinks* All drinks shall be dispensed only in paper or plastic cups, and it shall be the promoter's responsibility to enforce this rule.

.080. *Return of Forms* A promoter must submit the tax report, doctor's reports, and contracts within 72 hours after the show is held.

.081. *Minimum Payment* Promoters shall be required to pay a boxer a minimum of 25 dollars for his and/or her performance as a boxer. Any promoter violating this rule may be suspended, after a hearing, for a period of 30 days for the first offense, 60 days for the second offense and on third offense his and/or her promoter's license shall be cancelled.

.082. *Disciplinary Action by Other States* Disciplinary action on licenses issued by other states may be recognized and honored by the Commissioner of Labor and Standards after a hearing.

.083. *Time Between Bouts* Main-event boxers shall not be permitted to engage in more than one contest or exhibition every seven days. Preliminary boxers may fight every third day if they are in good physical condition, but they must have doctor's approval.

(a) Boxers billed to appear in a main-event may be required to report to the promoter in the city in which they are to appear, not later than two days (48 hours) prior to the date of the contest.

(b) Substitutions will not be permitted in a main event contest unless the substitute has been approved by the commissioner at his discretion.

(c) All contestants must be ready to enter the ring immediately upon the finish of the preceding bout.

(d) All contestants must be in the arena where they are to perform not later than 45 minutes before the show is scheduled to begin.

.084. *Three Minute Rounds* All contests or exhibitions in professional boxing will be required to have three-minute rounds with one-minute rest periods between rounds. No exceptions will be made to this rule without the written permission of the Commissioner of the Texas Department of Labor and Standards.

.085. *Advance Notice of Bouts* Promoters shall furnish the department the names of all contestants and the date of the boxing shows at least five days before the match is to be held.

.086. *Number of Rounds.* No boxing or sparring contest or exhibition shall be permitted for more than 10 rounds duration, except in a championship match, which shall not exceed 15 rounds.

.087. *Ticket Inventory.* The promoter shall mail to the Texas Department of Labor and Standards a sworn inventory of all tickets delivered to any club. This inventory shall account for any known overprints, changes, complimentary tickets, or extras. Said form will be provided by the Texas Department of Labor and Standards.

.088. *Complimentary Tickets.*

(a) Any promoter or employee thereof selling complimentary tickets may have his promoter's license revoked or suspended after a hearing and at the discretion of the Commissioner of Labor and Standards. Complimentary tickets shall be over stamped with the wording "complimentary" on the printed face of the ticket. The promoter must retain a clipped end or perforated portion of each complimentary ticket.

(b) *Bona fide* employees of the management of the club, municipal or county officers on official business, employees of the news media assigned to work by their recognized employers or superiors, policemen and firemen in uniform and on duty, and persons of similar vocation who are admitted free to any club for the performance of special duties in connection with the event and whose special duties are the sole reason for their presence are entitled to complimentary tickets.

(c) Complimentary tickets shall be provided by the club for representatives of the Texas Department of Labor and Standards and for contestants and seconds, who are engaged in the contest, and for those officials provided for under the law and rules. Any club admitting a person without a ticket, is liable to suspension or revocation of its promoter's license pursuant to a hearing held by the Commissioner of Labor and Standards.

(d) Tickets of every description used for any boxing match or exhibition must be held by promoters for a period not to exceed 30 days. Such tickets may be destroyed after 30 days or delivered to the Texas Department of Labor and Standards, if requested. Such tickets must be kept in separate packages for each show in order that a recheck or recount can be made by the Texas Department of Labor and Standards.

.089. *Exchanges.* No exchanges of tickets shall be made except at the box office, and no tickets shall be redeemed after the show has taken place. Tickets in the hands of agencies must be returned to the office not later than one hour after the show has started.

.090. *Printing.* All tickets shall have the price and the name of the promoter and date of show printed plainly thereon. Requests for changes in ticket prices or dates of shows must be referred in writing to the Texas Department of Labor and Standards for ap-

proval. Working press seats as follows: Three rows for outdoor shows and two rows for indoor shows unless specific permission is obtained from the commissioner to increase these numbers. There must be an aisle space at the end of the working press section after which the ringside section begins.

.091. *Refunds.* The price paid for the tickets shall be printed on the ticket and the stub and detached and returned to the ticket holder at the entrance gate. This stub shall also show the name of the club and date of the contest or exhibitions, and may be redeemed at its face value by the club upon presentation by the purchaser if the advertised main event is postponed or does not take place as advertised.

.092. *Color of Tickets.* Tickets of different prices must be printed on cardboard of different colors.

.093. *Counting Tickets.* Representatives of the Texas Department of Labor and Standards will check numbers and places of ticket cans at gates and cause them to be sealed and padlocked, and after the show, have them opened and tickets counted under their supervision. Licensed clubs are prohibited from selling tickets for any price other than the price printed thereon unless appropriately stamped and from changing the price of tickets at any time after tickets for the exhibition have been placed on sale, or from selling any ticket at any time during the exhibition at a lesser price than tickets for the same seats were sold or offered before exhibition.

.094. *Ticket Stubs.* Under no circumstance shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub.

.095. *Seating Capacity.* No tickets shall be sold for more than the actual capacity of the place where the contest is being held.

Issued in Austin, Texas, on August 17, 1977.

Doc No 774338 Jackie W. St. Clair
Commissioner
Texas Department of Labor
and Standards

Effective Date August 23 1977

Expiration Date December 19 1977

For further information please call (512) 475-5691

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 category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. 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 Department of Human Resources

Personnel Administration

Employee Complaints and Grievance

Procedures 326.73.02

The Department of Public Welfare proposes to repeal all of its rules which are related solely to internal personnel policies and practices. This is in compliance with the revision to the Administrative Procedure and Texas Register Act, signed by the governor as Senate Bill Number 912, effective August 29. The following rules are a part of those to be repealed.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau, 465, Department of Public Welfare, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication of this *Register*.

Because of the length of this rule, the first part was published in Volume 2, No. 67.

These repeals are proposed under the authority of Article 695c, Texas Civil Statutes.

.011. The following written information must be made available to committee members and other parties no later than three days prior to the hearing date:

(a) a copy of the employee's written request for a hearing;

(b) a copy of any department documents recommending an adverse personnel action which precipitated the grievance;

(c) a summary prepared by the appropriate supervisor of the information upon which the adverse personnel action was based;

(d) any documents or written statements which the employee provides and requests to be made available to the committee.

.012. *Hearings.*

(a) Grievance hearings are not open to the public. However, by consent of both parties, persons other than those listed in (A)(2) below, may be permitted to attend hearings.

(b) Those persons present at the hearing include:

(1) the committee members;

(2) parties to the hearing including:

(A) the aggrieved employee(s) and legal counsel or employee representative(s) if such has (have) been designated;

(B) one or more department representatives, including the employee's supervisor or the person in the administrative structure who made the decision which gave rise to the grievance. The department representa-

tive(s) presents information on behalf of the department to the committee in cases involving recommended adverse personnel action;

(3) witnesses. The department pays the salary and necessary travel expenses at the current mileage reimbursement rate of employees participating in the hearing subject to the following limitations:

(A) the employee or employees submitting the grievance,

(B) one employee designated to represent the employee(s) who filed the grievance,

(C) a maximum of two employees who are to appear as witnesses at the hearing. However, when it is necessary to ensure that the employee has equal opportunity to present facts relating to the grievance, the regional administrator or deputy commissioner may authorize expenses for additional employee witnesses;

(4) other employees who wish to attend the hearing may do so provided that:

(A) their supervisor has determined that currency of work performance is such that they can be spared from duty,

(B) their time is charged against annual leave, compensatory overtime, or leave without pay;

(C) their expenses for travel, if any, are not charged to the department;

(5) an employee may wish to represent another department employee in the presentation of a grievance before a grievance committee. When so designated, the representative will:

(A) be free from restraint, interference, coercion, discrimination, or reprisal;

(B) be given a reasonable amount of time to prepare the presentation;

(C) be allowed time to present the employee's case.

(c) The order of the hearing normally will follow the schedule as outlined below:

(1) the chairperson calls the meeting to order; states the purpose of the meeting; and identifies the committee members, the employee filing the grievance, and the department representative;

(2) presentation by the employee and/or his legal counsel or employee representative and witnesses;

(3) presentation by the representatives of the department;

(4) rebuttal;

(5) questioning by the committee members, as deemed appropriate. In appeal hearings in which the employee is appealing from an adverse personnel action, items 2 and 3 above may be reversed by a ruling from the chair

(d) The chairperson of the committee has the authority:

(1) to exclude irrelevant, immaterial, or unduly repetitious evidence. He or she applies the rules of evidence applied in non-jury civil cases in the district courts of this state. When necessary to ascertain facts not reasonable susceptible of proof under those rules, evidence not admissible thereunder may be admitted by the chairperson, except where precluded by statute, if it is of a type commonly relied upon by reasonable prudent men in the conduct of their affairs.

(2) to rule on the admissibility of evidence and note any objections to evidentiary offers in the record;

(3) to give effect to the rules of privilege recognized by law;

(4) to specify and enforce maximum time limitations on all phases of the hearing. The entire hearing will be limited to six hours, except in unusual circumstances. Neither the employee nor the representative for the department will exceed a three hour limitation in completing the presentation;

(5) to invoke "the Rule" when determined appropriate, that is excusing all witnesses from the hearing except when called to give testimony and cautioning them not to confer with one another concerning their testimony;

(6) to approve requests for witnesses to be sworn;

(7) to administer the oath, when appropriate: "Do you swear or affirm that the testimony you give in

the course of this proceeding will be the truth, the whole truth, and nothing but the truth?"

(8) to receive documentary evidence in the form of copies or excerpts if the original is not readily available. To give parties an opportunity to compare the copy with the original;

(9) to take official notice of all facts judicially cognizable on behalf of the committee. In addition, notice may be taken of generally recognized facts within the area of the committee's specialized knowledge. Parties are notified during the hearing of the material officially noticed, including any staff memoranda or data. The parties will be afforded an opportunity to contest the material so noticed. The special skills or knowledge of the department may be utilized in evaluating the evidence;

(10) to take any other action indicated to maintain decorum and to assure a fair hearing;

(11) to close the hearing after all evidence is heard for deliberation, findings, and recommendations. All persons are excused from this aspect of the hearing except the committee members;

(12) to reopen the hearing, when appropriate after deliberation. To announce the action of the committee;

(13) to prepare a recommended decision. This includes a statement of the reasons for the committee's recommended decision and of each finding of fact and conclusion of law necessary to the recommended decision. Recommended findings of fact are based exclusively on the evidence and on matters officially noticed. The recommended decision is forwarded to the regional administrator or deputy commissioner with copies to all parties and members of the committee.

(e) A taped recording of the hearing is to be made. The tape recording or any part thereof is transcribed on the written request of any party. The recording is also available upon advance receipt of a payment at rates established by the State Board of Control for duplication of public records. The recorder collects and forwards the money to the Assistant Commissioner for Coordination. The employee may make a recording of the hearing at private expense

(f) Any extraordinary expenses on the part of the department are borne by the program area responsible for the action which resulted in the initiation of the grievance.

(g) The hearing record. The record in a grievance hearing 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 of fact or conclusions of law;

(6) any recommended decision, opinion, or report made by the committee;

(7) all staff memoranda or data submitted to or considered by the committee

(h) Recommended decision. The chairperson of the committee is responsible for the preparation of a statement, in writing. The statement must contain the committee's recommended findings of fact, conclusions of law, recommended decision, and the basis therefor. After committee approval, indicated by signatures of the committee members, this is forwarded along with the remainder of the hearing record to the appropriate deputy commissioner or regional administrator. This must be done within five days. Copies of the recommended decision, findings of fact, and conclusions of law are provided to the parties and the members of the committee within five working days of the completion of the hearing.

.013. Unless required for the disposition of *ex parte* matters authorized by law, members of the grievance committee, the regional administrator, deputy commissioner, or their designees who have been assigned to render a recommended decision or a final decision or make recommended or final findings of fact and conclusions of law may not communicate directly or indirectly, in connection with any issue of fact or law with any party or his or her representative except on notice and opportunity for all parties to participate.

.014. The written decision of the deputy commissioner, regional administrator, or their designee is made within 30 days after the committee's recommendation has been received. The person making the final decision reads the hearing record. The decision of the regional administrator, deputy commissioner, or their designee includes findings of fact and conclusions of law separately stated. Findings of fact are based exclusively on the hearing record. If set forth in statutory language, findings of fact are accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties are notified by registered or certified mail of the decision within 30 days after the committee's recommended decision has been received. On written request, a copy of the final decision is delivered or mailed to any party or his or her attorney of record.

.015. Within 15 days after the date of rendition of a final decision, a motion for rehearing may be filed with the deputy commissioner, regional administrator, or their designee, who made the final decision. Department action must be taken on the motion within 45 days after the date of rendition of the final decision. If a motion for rehearing is filed, the person who made the final decision may

(1) grant the motion and refer the grievance back to the original grievance committee for rehearing,

(2) grant the motion and refer the grievance to a newly appointed grievance committee for rehearing;

(3) overrule the motion

(b) In the absence of a motion for rehearing, a decision by the regional administrator, deputy commissioner, or their designee is final at the expiration of the period for filing a motion for rehearing. If a motion for rehearing is filed, the decision is final on the date of rendition of an order overruling the motion for rehearing. If the deputy commissioner, regional administrator, or their designee finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision, they will recite the finding in the decision, the fact that the decision is final, and the fact that it is effective on the date rendered.

.016.

(a) None of these procedures preclude an employee with permanent merit status from appealing to the commissioner or the Merit System Council any decision involving dismissal, suspension, or demotion. Any employee, regardless of status, may appeal alleged discrimination to either the Merit System Council or the commissioner. Employees address appeals to the personnel director in memorandum form within 10 days after receipt of the decision of the regional administrator, deputy commissioner, or their designee.

(b) Appeals received by the personnel director from employees who have exhausted their administrative remedy through the grievance procedure will be referred to the commissioner or his designee.

Doc No 774345

Continuing Education

Policy and Procedures 326.77.01

The Department of Human Resources proposes to repeal all of its rules which are related solely to internal personnel policies and practices. This is in compliance with the revision to the Administrative Procedure and Texas Register Act signed by the governor as Senate Bill 912, effective August 29, 1977. The following rules are a part of those to be repealed.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau, 465, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication of this Register.

These repeals are proposed under the authority of Article 695c, Texas Civil Statutes.

.006. *Guidelines for Undergraduate Field Placements*

(a) When there is no designated supervisor of undergraduate students in the region, no more than two

students will be assigned to an agency staff member for supervision and no region should be overloaded with placements.

(b) The students will usually be assigned to a supervisor for supervision. However, a student may be assigned to a worker who is knowledgeable about the agency's policies and procedures, social work values, procedures, and ethics.

(c) The regional administrator has overall responsibility for student placement in the region and is the final authority as to where the student will be placed and by whom he will be supervised. The regional administrator may delegate part or all of this function if he so desires.

(d) As a general rule, undergraduate students in field placement are supervised either singly or in pairs and not as a unit except where there is a designated supervisor for undergraduate students.

(e) The amount of time the student spends in placement is determined by preplacement planning between the school and the agency and relates to the educational objective set for the student, learning experiences planned to achieve the educational objective, and the agency's normal work schedule.

(f) Learning experiences planned for the student must be related to the educational objective established for the student by the school. He is not expected to perform as a skilled worker. Rather, the field experience allows him to implement theoretical concepts learned in the classroom.

007 Procedures for Regional Administration of Undergraduate Field Placements

(a) Preplacement and on-going conferences between the school and the agency are necessary to assure that the placement will achieve the educational objective described for the student.

(b) The agency expects the student to:

(1) Observe office hours as described in the plan made by the school and the agency

(2) Conform with regulations and procedures observed by this agency.

(3) Be prompt in executing tasks assigned to him.

(4) Adhere to the personnel policies of the agency

(5) Conduct himself according to the values and ethics of the social work profession, such as respecting the privacy of the individual and accepting responsibility for his own behavior

(c) The student may expect the agency to:

(1) provide a learning experience for him which will contribute to his educational development;

(2) make his field experience meaningful to him;

(3) regard him as a new learner rather than an employee;

(4) assign as his supervisor a knowledgeable, warm, accepting, interested staff member;

(5) make available space, equipment, supplies, and clerical support necessary for him to learn;

(6) provide a wide range of experiences and opportunities to learn about social welfare services;

(7) expect the agency to consult with the school about his progress in field placement.

(d) The school retains the responsibility for issuing a letter grade for field placement but may ask for a written evaluation of the student's performance from the agency staff person supervising the student

(e) Evaluation of a student's field experience will be made by the agency person supervising him. The evaluation will be shared with the student and signed by him

(f) Copies of the evaluation of students in placement are to be retained by the department.

(g) The agency reserves the right to request the school to remove a student who is unsuitable for the placement. It is hoped that such a request would rarely have to be made since preplacement and on-going conferences between the agency and the school should take care of problem situations as they arise

(h) The agency cannot pay travel expenses incurred by the student. Whether the school will be able to pay travel expenses for the student should be cleared in preplacement conference

008. *Use of Funds* Post secondary schools or providers may continue to use funds generated by a legally binding contract with the State Department of Public Welfare for grants, stipends, or loans to individuals preparing for employment until June 30, 1976. After that date no funds received from or through the department may be used for such grants, stipends, or loans without the specific approval of the department

012 *Continuing Education within the Department* All continuing education within the department falls into two categories

(a) Orientation periods of educational opportunities for employees new to specific jobs

(b) Advancement education

(1) State office mandated educational programs resulting from changes in policies and procedures or from the emergence of new programs within one of the department's service or support areas.

(2) Education designed to improve employees' skills in the performance of their respective jobs and to prepare them for advancement to higher positions within the department. Advancement education of this kind may originate within the state office or in a region

013. *Cooperative Advancement Education*

(a) Definition Cooperative advancement education is education or training authorized by the department. Such education may consist of workshops, in-

stitutes, educational sessions, short term college or technical school courses with or without academic credit, and other special programs or activities. The education or training must be in concentrated courses of study designed to improve the individual's professional or technical knowledge and enhance the performance of his or her present or prospective duties. Work agreements signed prior to August 1, 1976, must be paid off according to the terms of the agreement.

(b) Objectives. Cooperative advancement education is designed to improve the department's efficiency and economy by helping all employees achieve their highest potential. Requests for cooperative advancement education are submitted to the Continuing Education Bureau on the Request for Participation in Cooperative Advancement Education. All requests for cooperative advancement education will be coordinated through the Continuing Education Bureau. Attendance for regional staff will be authorized by the regional administrator or a designated regional director and coordinated by the chief of the Continuing Education Bureau. Attendance for state office staff will be authorized by the division administrator and coordinated by the chief of the Continuing Education Bureau.

(c) Types of cooperative advancement education. Cooperative advancement education may be achieved through the following areas:

(1) Formula grant workshops or seminars. These are provided by the graduate schools of social work in Texas and by other contracting colleges and universities through their formula grant contracts with the department. Information concerning attendance at these workshops may be obtained by contacting the coordinator of university programs and contracts in the Continuing Education Bureau. Registration to the workshop must be made by that office. A limited number of tuition free spaces are made available to department employees. After these are filled, attendees will be required to pay normal tuition for attendance. Tuition, travel, and per diem will be paid from administrative funds of the division or region to which the employee is assigned and will be costed out on the continuing education formula.

(2) Events jointly planned with and sponsored by other agencies. Other agencies or events involved could be the Work Incentive Program (WIN), Vocational Rehabilitation (VR), and the Governor's Office. For these events, tuition, travel, and per diem will be paid from administrative funds of the region or division to which the employee is assigned, will be costed out on the favorable continuing education formula of 75 percent federal and 25 percent state, and will be excluded from the social services ceiling.

(3) Short term seminars and workshops sponsored by outside professional, governmental, or educational agencies. For these, tuition, fees, travel, and per

diem will be paid from administrative funds of the division or region to which the employee is assigned and will be costed out on the continuing education formula.

(4) Extended educational sessions. Included in this category are full-time or part-time non-college educational sessions which require more than five working days, for example, a two-week Civil Service course.

If the education leave is requested by the department for a specific assignment, the department may pay the cost of tuition, books, and other expenses. Otherwise, expenses will be borne by the employee. If the department pays for tuition, books, and other expenses, funds will come from the administrative funds of the region or division to which the employee is assigned and will be costed out on the continuing education formula.

(5) Job-related college courses. An employee may be allowed to attend, during normal working hours, a class or classes offered by a college or university. No more than six semester hours per long term session nor more than three semester hours per summer session may be taken by the employee during normal working hours. An employee may attend such classes during work hours if the immediate superior determines that:

(A) the employee's job assignment is current;

(B) the employee can keep his or her job assignment current or can arrange for job coverage;

(C) classes are directly related to the current career field or career progression within that field. The superior must approve attendance.

(6) An employee who is granted time to attend college courses will remain on full salary. The department may pay tuition, books, and other expenses if the training is requested by the department to meet a specific need. If so, the expense must be borne from the funds available to the region or division to which the employee is assigned. Otherwise, the employee bears the expenses.

All individuals participating in job related college courses must complete the Request to Participate in Cooperative Advancement Education. The form must be approved by the regional administrator or division administrator. Prior to attendance at school, the form will be coordinated through the Continuing Education Bureau.

(7) Non-job related college courses. If a college course is not directly job related, an employee may use accrued annual leave to attend classes. An employee does not have to sign a Request to Participate in Cooperative Advancement Education in this instance.

(8) Non-agency staff development.

(A) Professional. Department employees may be permitted to attend selected workshops, semi-

nars, institutes, and training sessions whenever these are directly related to the performance of specific duties.

When the training is requested by the department, tuition, travel and per diem may be paid from funds available to the region or division authorizing the participation.

The Request to Participate in Cooperative Advancement Education, signed by the regional administrator or division administrator, will be coordinated through the Continuing Education Bureau prior to attendance.

(B) Technical. Technical training may be provided certain staff, such as data processing, whenever it is required to develop skills or improve operations. If such training is requested by the department, tuition and per diem may be paid from funds available to the region or division authorizing participation. The request form, approved by the regional administrator or division administrator, will be coordinated through the Continuing Education Bureau prior to attendance.

014 Internship

(a) Definition. An internship is a formalized department and school approved learning experience which can best be obtained through actual work experiences over an academically acceptable period of time. All internships must be coordinated with the Continuing Education Bureau.

(b) Objectives. Internship programs will:

- (1) Provide an opportunity for the department to recruit potential employees
- (2) Allow the department to obtain information and enhance or develop capabilities through contact with other agencies

(c) Types of internships. Internship programs may be of three types.

(1) Field practice for graduate students. The department will provide an agency setting for graduate non department employee students. This arrangement permits students to work in the department under the supervision of the school and/or the department for the number of hours required to fulfill the requirements of the graduate degree program.

(2) Field practice for undergraduate students. Certain colleges and universities in the state have an accredited undergraduate sequence or are working toward approval in disciplines needed by the department. Through cooperative agreements with these schools, the department will provide field experience and practice as part of the college or university requirement. Provided funds are available, the student will receive supervisory guidance while working the required number of hours in a department office.

(3) Internship with other agencies. The department may arrange an internship with another

agency so the employee can increase his or her knowledge in specific areas, if such an arrangement will be of advantage to the department. Examples: Department of Health, Education, and Welfare and the Governor's Office.

(d) General information.

(1) To obtain an internship for a department employee to another agency, the division administrator or regional administrator must coordinate the request through the Continuing Education Bureau. Each request must have approval from the deputy commissioner.

An employee on an internship from the department to another agency will receive full salary from his or her division's or region's budget. The employee will therefore accrue annual leave, sick leave, and other benefits as if he or she were physically present on a department job. The employee is required to sign an agreement to return to work for the department at the completion of the internship (normally two months for each month of the intern program) or to repay in full the salary received while on the internship.

(2) If such an arrangement will be of benefit not only to the student, but to the department, an internship with the department may be a paid internship. Classification of the job will be determined by the division in which the internship is made available. Payment for such a job will be from that division's or region's budget and costed out on the continuing education formula.

(3) All internships, regardless of where assigned, are to be planned with and coordinated by the Continuing Education Bureau and are to have executive approval.

(4) When an internship (paid or unpaid) is provided by the department, the school making the placement is to provide the department with a statement of educational goals for the individual student, a description of the school's expectation regarding performance, and an outline of the school's plan for working with the department. These statements will include a list of the school's expectations of the supervisor.

015 Basic Concepts of the Graduate Education Program

(a) Purpose. The graduate education program is designed to provide the department with employees qualified to fill positions in program delivery or support services disciplines below the doctoral level. The greatest need is for master's degrees in social work, but educational leave may be approved for other disciplines such as hospital administration, child development, or geriatric studies.

(b) Eligibility. An employee is eligible for the graduate education program if:

- (1) Education requested is in a discipline

needed by the department and not readily available through the labor market.

(2) Minimum requirements for admission to a graduate school in the continental United States are met.

(3) Job performance is standard or above.

(4) The employee has permanent merit status.

(5) Employment by the department covers a period two years prior to January 1 of the year the employee plans to attend school.

(6) The application is approved by the individual's immediate supervisor and the regional administrator or division administrator. The individual also must be selected by the appropriate regional or state office educational leave selection committee.

(c) Commitment. If approved for graduate education, the employee:

(1) Receives \$600 per month, retains all fringe benefits, and earns leave and other rights and responsibilities consistent with the department's personnel practices.

(2) Agrees to assignment relocation after graduation based on the manpower needs of the department.

(3) Signs a Graduate Education Agreement. A separate agreement for both the first and second year are signed.

(4) Signs a Graduate Education Program Note for First Year or a Graduate Education Program Note for Second Year.

(5) Is committed to repay the total cost of educational leave through full-time employment by working two months for each full month or a *pro rata* thereof while on educational leave.

(6) Is required to do special projects or work assignments for the department during any continuous break of 30 days between school terms. Employees receive credit on their notes commensurate with the time worked.

.016. Application and Selection.

(a) Applicants should discuss their desire for educational leave with their immediate supervisor and then request application forms from the stipend manager. Address all requests to Stipend Manager, Continuing Education Bureau, Room 310-D, Reagan Building, State Office 280-0.

(b) Forms completion and review.

(1) The Application for Graduate Education Program is completed by the applicant in triplicate and forwarded to the stipend manager no later than February 14 of the year the employee is requesting educational assistance.

(2) The Report of Immediate Supervisor and Report of Regional Administrator or Division Head is prepared in duplicate and discussed with the applicant.

The comments provided should be a candid, factual assessment of the individual's potential, both for advanced education and for continued growth within DPW. The completed forms are returned to the stipend manager.

(3) A completed medical report must be submitted to the stipend manager. A copy of the medical evaluation required by the school will satisfy this requirement.

(c) After review by the stipend manager, the application and report are forwarded as appropriate to the regional administrator or chief of the Continuing Education Bureau for referral to a regional or State Office committee established to select the best qualified applicant for graduate training.

(d) Selection committees:

(1) Each regional administrator establishes an educational leave selection committee of five members. The regional director of educational services serves as a non-voting recorder for this committee. The assistant regional administrator serves as chairperson. Other members are chosen from program and support areas represented within the region, excluding medical assistance units.

(2) A state office committee of five members chaired by the chief of the Continuing Education Bureau is appointed by the deputy commissioner. The stipend manager serves as a non-voting recorder for the committee. Members will include the assistant commissioner for personnel administration and a representative from Social Services, Financial Services, and Medical Services.

(e) Procedures.

(1) Each regional committee interviews all of the applicants from within the region and establishes a priority list for recommending their attendance at graduate school.

(2) The state office committee interviews all those who apply from within the state office as well as all applicants from Medical Assistance and Quality Control Units throughout the state.

(3) The committees meet during April of each year to select individuals for school periods beginning between the months of June and September. If funds are available for students to enter school in January or February, the committees meet during the fall to make selections. The stipend manager's office provides information on the need for a fall meeting.

(f) At a minimum the selection criteria include consideration of:

(1) demonstrated job performance as revealed in all performance evaluations and recommendations from the supervisor on the Report of Immediate Supervisor form;

(2) administrative or managerial potential as indicated by the discussion with the committee, Report of Immediate Supervisor form, Report of Regional Ad-

ministrator or Division Head, and reports in the personnel folder;

(3) leadership capacity as indicated in discussion with the committee and as outlined in personnel records and the report forms;

(4) contributions to and support of department goals;

(5) acceptability for return to the region, division, or MAU upon completion of graduate training. This information should be based upon records and comments provided the committee in written form;

(6) flexibility of applicant to relocate should department needs require; and

(7) potential department needs for the field of education requested by the applicant based upon known requirements at the time of selection and the nonavailability of similar skills on the open job market.

(g) Each committee develops a priority list of applicants with the most qualified individual listed as first choice and the least qualified as the last choice. Factors which influence the positioning of each applicant are cited in the deliberation record. All information concerning the priority assigned or the comments made on suitability for training is confidential. A copy of the proceedings and the priority listing is submitted to the regional administrator or deputy commissioner. A copy is also forwarded to the stipend manager's office.

(h) The stipend manager determines the number of first-year stipends which can be supported each year after determining the amount of money required to support students in their second year of graduate study. This information is provided to the chief of the Continuing Education Bureau, who, with the assistant commissioner for personnel administration, ensures that stipends are apportioned as follows:

(1) A minimum of one stipend is allotted to each region requesting training for qualified applicants and to the state office. The individual named as the first choice of each selection committee is the person receiving the stipend.

(2) When sufficient funds are available, each metropolitan region and the Rio Grande Valley Region receive one additional stipend allocation.

(3) Should money be available after the above apportionment, one additional stipend is given to the state office.

(4) Any additional funds remaining are used to support statewide requirements for graduate study. Based on the length of training which his money can support, the recommendations of individuals named as second or third choice on each list are reviewed by the state office committee. Their selection of recipients is based on the listings provided from the regions. The state office committee's decision is final.

(5) The state office committee reviews the information available on all applicants not selected for

stipends and prepares a priority listing of individuals to serve as alternates in the event that a selectee declines the appointment or is unable for some reason to enter graduate school.

(6) The stipend manager notifies each individual whether he or she was selected, made an alternate, or not selected.

(i) Selections based on regional or state office priority listings do not have to occur if:

(1) the individual named as first priority recipient leaves the department by reason of resignation, illness, discharge, or death;

(2) the individual named as first priority recipient declines the appointment prior to entry into school;

(3) derogatory information which would jeopardize the individual's continuance with the department is proven to be true;

(4) the deliberation record clearly indicates that no qualified applicants are or remain on the priority list; or

(5) selectee cannot gain admission to a school in the discipline for which he or she was selected.

.017. Placement of Employees Completing Graduate Training.

(a) Statewide department needs are the primary basis for determining where graduated employees are assigned. Insofar as possible, the desires of the individual are considered in making this determination.

(b) The assistant commissioner for personnel administration ensures that a survey is made of all regional, MAU, and state office requirements for advanced degree positions. This information is provided to the chief of the Continuing Education Bureau and to each regional administrator.

(c) The stipend manager obtains from each graduating student a statement listing, in priority, the three geographic areas or fields of service for which he or she would like to be considered. This information is provided to each region, MAU, and division where placement needs exist.

(d) A placement committee visits each employee in graduate school in Texas as they near completion of their training. The visits are made to the employee's graduate school for the purpose of conducting an interview. Members of the committee are the chief of the Continuing Education Bureau, the assistant commissioner for personnel administration, the stipend manager, and representatives from the MAU's, divisions, and regions attend these placement interviews if they wish to interview a specific employee.

(e) When there is no need to place the employee elsewhere in the state, he or she may be returned to the region from which selected since willingness to accept the individual upon completion of graduate training is one of the criteria used in selection.

.018. Procedures after Approval.

(a) The employee must sign Graduate Education Program Agreement, and Graduate Education Program Note for First Year before beginning the first year of school. The employee signs Graduate Education Program Note for Second Year before beginning the second year of school.

(b) Immediately upon reporting to the school, the employee provides the stipend manager with his or her mailing address and telephone number and furnishes subsequent changes when they occur.

(c) The employee must submit a Graduate Program Worker's Time Report to the stipend manager no later than the last working day of each month while in school in order to receive a monthly salary warrant. A sufficient supply of these forms is given to the employee when the educational leave is approved. No salary warrant is mailed until the report is received. Any absences from school are to be reported on the time report in accordance with existing policies as related to regular employment.

(d) By January 1 of each year while in school, the employee must submit a preference memorandum which indicates the individual's request for summer assignment if it is the first year and permanent assignment if it is the second year. Prompt attention should be given to this since the department gives this information consideration in making assignments.

(e) When the employee leaves for the school assignment, the immediate supervisor forwards the field folders, leave records, and a memorandum to the stipend manager stating the date the employee left the job.

.019. General Information About the Graduate Education Program.

(a) Travel time from the job assignment to the school is allowed and should be arranged to be taken prior to the date of registration. Travel time is allowed as follows:

- (1) one day travel from the place of assignment to any graduate school within 400 miles;
- (2) two days travel time from the place of assignment to any school up to 800 miles;
- (3) three days travel time for schools over 800 miles.

(b) All expenses incident to attendance at the graduate school, including travel to and from school and for summer assignments, are borne by the employee. When the employee completes his or her schooling, the department may pay the cost of transporting the employee's household goods and personal effects to his or her assignment when it is the department's judgment that the best interest of the state and the department will be served.

(c) Educational pay begins on the date of registration. The exact date that the school begins and ends are obtained by the stipend manager.

(d) If it becomes impossible for the department to make the educational payment to the employee due to legislative changes or the unavailability of funds, the department is not obligated to the employee for the full amount of the educational leave with pay as agreed upon.

(e) If this should occur during the second year, the employee could return to the department and accept regular employment. However, if the employee can make financial arrangements for the balance of the school term, the obligation would be satisfied if he or she worked to repay the educational leave for the first year only. Whether an employee is on the first or second year of educational leave, the employee's obligation will be discharged for the full school term during which the department is unable to carry out its obligations.

(f) If the employee dies or becomes permanently unable to work as required by the agreement, the obligation will be waived in full. The inability of the employee to work is determined by the department and can be a physical or mental disability.

(g) Employees in the graduate education program are required to work for the department in fulfillment of the signed agreement(s). Calculations on the following basis fulfill the agreement(s):

(1) If the educational leave was granted in accordance with one of the plans in effect to September 1, 1969, the employees are required to repay the commitment in accordance with the conditions outlined in the memorandum covering the plan used.

(2) If the leave is granted in accordance with the first year or second year plans, effective September 1, 1969, or March 14, 1974, the commitment is satisfied by crediting the educational leave note each month in

an amount equal to 50 percent of the employee's current monthly salary. This is counted from the date the individual returns to regular employment. Summer work assignments are credited on the note as payment for an installment or *pro rata* part thereof.

(3) If the leave is granted in accordance with the first- or second-year plans, effective September 1, 1976, the number of monthly installments will be twice the number of months for which the educational leave was granted. The amount of each monthly installment will be the amount of the principal sum divided by the number of monthly installments. For each month worked at the end of the educational leave or between terms, the note is credited with one payment or a *pro rata* thereof.

(h) At the discretion of the department, employees who drop out of school may be reassigned to regular employment in accordance with the terms of this agreement. If reassigned to regular employment,

the employee complies with the provisions of this agreement and is credited on a *pro rata* basis for the time worked which constitutes discharge of the work obligation. If, at the discretion of the department, the employee is not reassigned to regular employment, the amount of the educational payments received in accordance with the agreement is repaid, and such repayment constitutes discharge of the obligation.

(i) A grantee of education leave who fails to comply with the agreements to perform functions in the department as described above refunds, on a *pro rata* basis and as provided in the signed agreement, the amount of the educational payments received.

(j) The educational leave plans outlines above are subject to revision. Approval of all requests for the graduate education program are governed by available funds for this purpose at the time of the request and by the employee's agreement for continued service at the end of the educational training.

Issued in Austin, Texas, on August 23, 1977.

Doc. No. 774347 Raymond W. Vowell
 Commissioner
 State Department of Public
 Welfare

Proposed Date of Adoption: September 29, 1977

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

Texas Industrial Accident Board

Processing of Claims

The Texas Industrial Accident Board is responsible for administering the Workers' Compensation Law of Texas. The board is authorized by Section 4 of Article 8307, Texas Revised Civil Statutes, to make rules not inconsistent with the law for carrying out and enforcing its provisions.

The direct system of workers' compensation payments depends upon all parties being apprised of the status of claims. The board proposes the permanent adoption of Chapter 061.01, which deals with communications to and from the board regarding pending claims.

When employers become subscribers or self-insured, notice of such fact must be filed with the board. The board proposes the permanent adoption of Chapter 061.02, describing the information which must be furnished when an employer becomes a subscriber or self-insured.

The board proposes the permanent adoption of Chapter 061.03, relating to employer reports of injury.

Claimants are, in general, required to file a claim for compensation within six months from the date of injury. The board proposes the permanent adoption of Chapter 061.04, describing the procedure for filing a claim.

If a claim is not settled at pre-hearing conference, a formal hearing is scheduled before the board in Austin. The board proposes the permanent adoption of Chapter 061.05, describing the scheduling of hearings and the evidence to be considered by the board in certain cases.

The board is authorized to approve attorney's fees and expenses, to order awards paid in periodic installments or in a lump sum, and to review awards based on fraud, mistake, or change of physical condition. The board proposes the permanent adoption of Chapter 061.06, describing procedures for the approval of attorney's fees and expenses, the procedure of payment of board awards, and the procedure for review of an award.

The just and efficient administration of the Workers' Compensation Law depends upon insurance carriers promptly notifying the board of the initial, suspension, or resumption of compensation. The board proposes the permanent adoption of Chapter 061.07, describing the filing with the board of forms evidencing the initial, suspension, or resumption of compensation.

Cases may be settled when the liability of the association or the extent of injury is uncertain, indefinite, or incapable of being satisfactorily established. The board proposes the permanent adoption of Chapter 061.08, describing the procedure for approval of compromise settlement agreements by the board.

The board proposes the permanent adoption of Chapter 061.09, describing the procedure for furnishing information from claim files to persons entitled thereto.

Parties dissatisfied with awards of the board are entitled to appeal from the board's decision. The board proposes the permanent adoption of Chapter 061.10, describing the procedure for filing notice of intention to appeal and acknowledgment of such notices.

The purpose of pre-hearing conferences is to attempt to adjust and settle compensation claims amicably. The board proposes the permanent adoption of Chapter 061.11, describing pre-hearing conference procedures.

If incapacity extends beyond one week, compensation accrues on the eighth day after the injury. The board proposes the permanent adoption of Chapter 061.12, describing reports of the promptness of first payment of compensation by all insurance carriers and describing sanctions for carriers to pay compensation within a reasonable time after the same becomes due and payable.

The board is authorized to bar persons guilty of unethical or fraudulent practices before the board. The board

proposes the permanent adoption of Chapter 061.13, describing action which, if willful, is deemed unethical or fraudulent conduct.

The attorney general is directed to investigate any allegations of fraud. The board proposes the permanent adoption of Chapter 061.14, describing the policy of referring any written allegations of fraud to the attorney general.

These rules were adopted on an emergency basis in the August 30, 1977, issue of the *Register*, and the full text was published at that time.

These proposed rules have no fiscal implications.

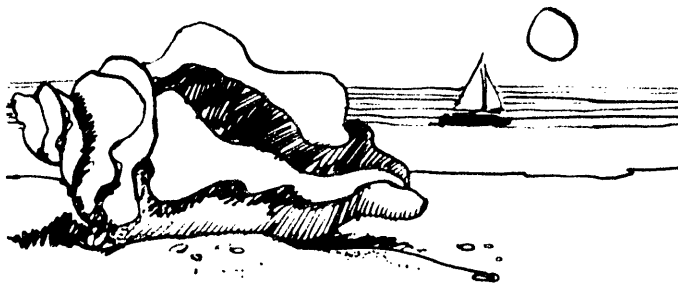
Public comment on these rules is invited. Persons should submit their comments in writing to Jerry W. Belcher, Executive Director, Texas Industrial Accident Board, P.O. Box 12757, Austin, Texas 78711. Comments will be accepted until September 10, 1977.

Issued in Austin, Texas, on August 23, 1977.

Doc. No. 774413 William (Bill) Treacy
Assistant Executive Director
Texas Industrial Accident
Board

Proposed Date of Adoption: October 1, 1977

For further information, please call (512) 475-4538



Railroad Commission of Texas

Surface Mining and Reclamation Division

Reclamation 051.07.03

The Railroad Commission proposes to amend Rule 051.07.03.251, which sets out the performance stan-

dards for operators of coal and uranium surface mining by adopting a new standard, by adding paragraph (cc). The proposed standard will establish operational and safety procedures to be followed when a major transmission pipeline crosses a permitted mining area.

A public hearing on the proposed standard will be held on Tuesday, October 11, 1977, at 9 a.m., at the E. O. Thompson Building, Room 812, 10th and Colorado Streets, Austin, for the purpose of receiving public testimony relative to the proposed amendment. Interested persons are invited to submit data, views, and recommendations on the amendment, either orally or in writing. Written comments may be submitted to Roy D. Payne, Director, Surface Mining and Reclamation Division, at P.O. Drawer 12967, Austin, Texas 78711, prior to the hearing.

The proposed rule has no fiscal implications for the state nor for units of local government. Additional information may be obtained by contacting Mr. Payne at the above address or by telephone at (512) 475-5789.

Rule 051.07.03.251 (cc), proposed under the authority of Article 5920-10, Vernon's Annotated Civil Statutes, reads as follows:

.251. Standards. The operator of all surface mining and reclamation operations not otherwise exempted or excluded shall as a minimum:

(cc) With respect to crude oil pipelines and gas transmission lines:

(1) insure a minimum of six feet of compacted materials between the crude oil pipeline or gas transmission lines and any haul road or access road which crosses over it,

(2) not create a cut within 1000 feet of any crude oil pipeline or gas transmission lines,

(3) comply with rules and regulations pursuant to Article 6053-1(1962), Texas Revised Civil Statutes Annotated; RE: Safety Regulations for Gas Pipeline Facilities, Texas Railroad Commission, Gas Utilities Docket No. 446 (December 31, 1970); 49 C.F.R. 191 and 192.

Issued in Austin, Texas, on August 23, 1977.

Doc. No. 774432 Roy D. Payne, Director
Surface Mining and Reclamation
Division
Railroad Commission of Texas

Proposed Date of Adoption: within 60 days of October 11

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

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 category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. The fourth unit (three digits) indicates the individual rule.

Texas State Board of Control

Central Purchasing Division

Leasing 028.12.04

The Texas State Board of Control has repealed its leasing Rules 028.12.04.400-411, which sets out the requirements for state leasing under Article 666b, Vernon's Texas Civil Statutes, prior to its amendment by House Bill 625, Acts of the 65th Legislature, Regular Session, 1977. The board has adopted new rules under the amended law; the new rules appear in this issue of the *Register*. The new rules will be implemented under the Building and Property Services Division of the board within the rule sequence 028.13.02.550-558.

The repeal of Rules 028.12.04.400-411 is made pursuant to the authority of Article 666b, Vernon's Texas Civil Statutes.

Doc. No 774387

Building and Property Services Division

State Leased Property 028.13.02

The Texas State Board of Control has adopted new leasing rules for state leased property. Prior to proposing these rules, the board invited several concerned state agencies and private lessors to review the proposals. As a result of that meeting, a number of changes were made before the proposed rules were published in the July 19, 1977, edition of this *Register*. Subsequent to

publication, two agencies submitted comments and suggestions on the proposed rules as they had existed prior to publication. These comments and suggestions touched upon five or six areas of concern which had already been changed prior to publication. Two changes were suggested, however, which were not previously made, and which require comment here.

(1) Rule .554(d)(4) places final authority for acceptance of the bid with the Board of Control. Two state agencies suggested that some avenue for appeal to an arbitration panel should be open to them in cases where they felt the board's decision would not permit them to perform statutory functions in the most economical and efficient manner. House Bill 625, Acts of the 65th Legislature, Regular Session, 1977, places final authority for acceptance of a bid with the Board of Control. The rule in question merely repeats that legislative determination. It is, however, incumbent upon the board to work with all using agencies to obtain the space needed for their legislatively mandated functions, and the board will make every effort to meet those needs within the requirements of competitive bidding. As a result of the foregoing, Rule 544(d)(4) has not been changed from the proposed language previously published.

(2) Section 7 of the act (Article 666b, Vernon's Civil Statutes, as amended by House Bill 625, *supra*) requires an occupying agency to notify the board of any circumstance concerning the lease space which requires remedial action against the lessor. Upon notification, the board has responsibility to carry out any needed investigation of lessor's performance, or lack of it, and may call upon the attorney general if his services are needed. No rule was proposed incident to this provision of the act.

Two state agencies felt that the board should establish a procedure for the occupying agencies to follow in reporting alleged lease violations to the board. Such a procedure should insure fairness to the lessor and leave no misunderstanding of the seriousness with which the state holds a lease violation. The provisions of Section 7 establish within the statute a simple process for handling alleged lease violations for the state. We cannot know at this early date what, if any, procedures will be needed to implement this provisions, or what problems might arise which could be solved by rule-making. Additional rules may be needed in the future to address this matter.

The Texas State Board of Control, on its own motion, made one procedural change in Rule 554, moving paragraph (1) of Section (b) to paragraph (4) of Section (a), and renumbering the remaining paragraphs under (b)(1) through (12).

Under the previous Article 666b, the board had promulgated Leasing Rules 028.12.04.400-411 under its

Central Purchasing Division. The board has repealed those rules.

For convenience in ascertaining the source of these new rules in the old rules now repealed, the following conversion chart provides a cross-reference to the old rules: (In the following list, new numbers are listed first, then old ones. The old rules were classified in Subcategory 028.12.04.)

550	400
551(a)	--
551(b)	--
551(c)	--
551(d)	--
551(e)	--
551(f)	--
551(g)	--
551(h)	--
551(i)	401(c)
551(j)	--
551(k)	--
551(l)	--
551(m)	--
552(a)	402(a)
552(b)	402(b)
552(c)	402(c)
553(a)	--
553(b)	--
553(c)	--
553(d)	--
554(a)	--
554(b)	404 and 405
554(c)	406
554(d)	407
555	--
556	409
557	411
558	--

The adoption of Rules 028.13.02.550-558 is under the authority of Article 666b, Vernon's Civil Statutes of Texas, as amended by House Bill 625, Acts of the 65th Legislature, 1977.

.550. General. The authority for obtaining leased space for state agencies or departments rests with the Board of Control by virtue of Article 666b, Vernon's Civil Statutes, and the responsibility for exercising this authority is in the State Leased Property Section of the Building and Property Services Division.

.551. Definitions.

(a) "Advertisement." When required by Article 666b, Vernon's Civil Statutes, and these rules in a competitive bidding situation, advertisement shall be published in a newspaper of general circulation in the city, county, or area in which leased space is sought.

(b) "Bidders' list" refers to a list of prospective bidders maintained by the leasing section which sets

out the names and addresses of building owners and agents who have shown an interest in bidding to the state and from whom bids can be solicited for obtaining leased space for state use. Each prospective bidder on this list shall be asked to designate by zip codes the areas for which he is interested in receiving bids.

(c) "Board" shall mean the State Board of Control.

(d) "Competitive bidding," when used by the board under Article 666b, Vernon's Civil Statutes, refers to a formal process requiring sealed bids through which a lease is awarded to the lowest and best bidder meeting the advertised specifications and on the terms agreed to by the board and the lessor.

(e) "Effective monthly cost" shall mean the result of dividing the total anticipated cost to the state projected over the life of the lease (excluding any effect of options to renew and/or options to purchase) by the number of months in the lease term.

(f) "Emergency." An emergency arises when the board receives a requisition for needed lease space too near the specified occupancy date to allow for adequate competitive bidding. (See Rule .552(a).)

(g) "Interior hallways" means circulation space within the area reserved for the exclusive use of the agency, clearly defined as a hallway by walls, not less than minimum width as set out in local building codes and not used by the agency for any purpose other than circulation. For the purpose of measurement, one-half of the thickness of the bordering walls shall be considered as belonging to the interior hallways.

(h) "Minor technicality," when used in the evaluation of bids, refers to a specification or procedural requirement which:

(1) if omitted by the bidder or submitted by him in a manner different from that described in the invitation for bid, would not have the effect of disqualifying his bid; and

(2) if waived by the board, would not give him unfair advantage over other competitive bidders.

(i) "Net usable square feet" shall refer to an area within the exterior walls of a building identified in the specifications as needed by the occupying agency to carry out its function, including interior hallways for the exclusive use of the occupying agency, but shall not include areas reserved for:

(1) public hallways, restrooms, stairwells, and elevator shafts;

(2) mechanical rooms or closets for heating, air conditioning, plumbing, janitorial, electrical, telephone, and other general building services;

(3) interior atriums, courts, etc., for public use;

(4) fire tower and fire tower court.

(j) "State agency" shall mean a board, a commission, a department, an office, or other agency of the state government.

(k) "Unduly restrictive specifications" means specifications that unnecessarily limit competition by setting requirements unrelated to the state's actual needs, which have the effect of favoring one or more prospective bidders over all the rest.

(l) "Utilities," when used in these rules and in the forms implemented for use hereunder, shall refer only to gas, electricity, and all water and water-related services supplied to the leased space, and which are under the jurisdiction of a recognized rate setting authority.

(m) "Zip code" shall refer to those codes established by the United States Postal Service for the delivery of mail.

.552. Receipt and Processing of Requisitions for Leased Space.

(a) **Requests.** All requests from a state agency for leased space should be submitted to the board at least 180 days prior to the required occupancy date on forms prescribed by the board. If a requisition is received by the board under emergency conditions, the board may fill the requisition temporarily by negotiating a short-term lease not to exceed six months.

(b) **Signature.** All requests for leased space must be submitted by the requisitioning agency and signed by an authorized official, duly certifying to the availability of funds for the payment of such leased space.

(c) **Specifications.** All requisitions must contain specifications for leased space which shall include but not be limited to information disclosing the following:

(1) The city where the space is to be located.

(2) The type of space required (office, warehouse, laboratory, classroom, living quarters, etc.).

(3) The minimum number of net usable square feet of space required, setting out separately the specific requirements for work space, and an allowance for interior hallways to effectively utilize this work space. (Please refer to Rule .554(c)(5) for a description of the evaluation of response to this requirement.)

(4) The term of the lease up to a maximum of 10 years. (Please note that Section 5(g) of Article 666b, Vernon's Civil Statutes, permits the consideration of an option to renew for additional terms not to exceed 10 years each, as may be considered by the board in the state's best interests; and the requisition should note, in the area provided, the length of occupancy time anticipated by the agency.)

(5) The board may include in all specifications for space exceeding a two-year term, where the lessor is to pay utilities, a provisions requiring a separate bid price for such utility cost, and may allow an escalation clause to be included in the terms and conditions of the lease to cover periodic escalation of utility costs on account of increases in utility rates caused by the utility authority in question.

(6) If the board considers it advisable, it may include an option for the board to purchase the space subject to the legislature's appropriation of funds for the purchase, and such an option shall show the amount that would be accumulated by the state and credited toward the purchase at various periods during the term of the lease, if any, and the purchase price of the property at the beginning of each fiscal biennium during the term of the lease.

(7) The requesting agency shall submit specifications concerning location which describe an area not less than the recognized limits of an incorporated city, town, or village, unless the requesting agency:

(A) provides justification in its requisition to the board that a restricted area defined by zip code is desired to carry out its responsibilities. In approving such a specification, the board shall consider the degree of competition within the described area, and may add to the requested area another code or codes, or parts thereof, which are contiguous to the requested area, in order to obtain adequate competition;

(i) once a specification describing location by reference to zip codes, or parts thereof, has been approved by the board, invitations for bid may be sent to bidders having those zip codes on file with the board;

(ii) only bids for buildings lying within the area circumscribed by the specification shall be accepted for evaluation; or

(B) provides detailed, written justification to the board that a more restricted area than that defined in paragraph (A) above is necessary to the effective performance of its essential functions and purposes. In considering such a restrictive specification, the board shall make every effort to insure that adequate competition is available whenever possible.

(8) As required by Section 5(h) and Section 8 of Article 666b, Vernon's Civil Statutes, the requesting agency must certify to the availability of funds appropriated by the legislature to cover the provisions of the proposed lease.

(9) Development of needed specifications for submission to the board should be handled by the requesting agency with the help of the board, if possible. In no event should the requesting agency allow a prospective bidder to develop or improperly influence the written specifications. Evidence of any such cooperative effort which has the effect of eliminating effective competition and which results in the bidder receiving a lease from the state shall be grounds for seeking to void the lease, removal of the bidder from the bidders' list, and any other remedy available to the state. The board shall alter or reject any specification it considers unduly restrictive. (See Rule .551(k).)

(10) The agency shall estimate its anticipated moving costs from its present leased quarters, if any. Such an estimate shall include only the actual, out-of-

pocket costs of drayage and relocation of communication equipment.

.553. Filling Requisitions from Non-Private Sources.

(a) In filling a request for space as set out in Rule 552, the board shall give preference to available state-owned space under its control; or

(b) if such state-owned space is not available, space may be leased from another state agency through an interagency contract; or

(c) space may be obtained from the federal government through a negotiated lease; or

(d) space may be obtained from a political subdivision of this state, including a county, a municipality, a school district, a water or irrigation district, a council of government, or a regional planning council, through a negotiated lease.

.554. Leasing from a Private Source. Leasing from a private source must be through competitive bidding whenever possible.

(a) Solicitation of bids. Bids shall be solicited by the board using the following methods:

(1) Advertisement. The board shall advertise for bids in all cases where competitive bidding is used.

(2) Bidders' list. (See Rule .558.) The board shall maintain a list of qualified bidders from which prospective bidders may receive invitations for bid, or notices of invitations by mail. However, the board need not send invitations or notices to bidders having buildings outside the location specified. Zip codes shall be a primary means for identifying location of available buildings and limiting the scope of a particular mailing.

(3) Referenced bidders. The requesting agency may identify to the board other prospective bidders for receipt of the invitation or notice referred to in (2) above.

(4) Bid invitation availability. Prospective bidders not receiving an invitation, or qualified bidders receiving only a notice of the invitation, should request specific bid invitations, including specifications and plans, if any, from the board either orally or in writing at any time prior to the bid opening. Copies of the specified bid invitation will be handed or mailed to the requestor.

(b) Receipt and tabulation of bids.

(1) Public bid openings. All bid openings conducted by the board shall be open to the public.

(2) Changing bid opening date. Bid opening dates may be changed and bid openings rescheduled provided bidders are properly notified by addendum in advance of the new opening date.

(3) Cancelling of bid opening. If the bid opening is cancelled, all bids which are being held for opening will be returned to the bidders.

(4) Withdrawal of bid by bidder. Bidder may withdraw his bid upon his written request at any time prior to the bid opening date and hour.

(5) Late bids. Any bid which is received at the place designated in the invitation for bid after the time and date established by the invitation is a late bid and will not be considered. Such bids will be returned.

(6) Identification of bid envelopes.

(A) Envelopes received by the board which do not contain adequate bid identification information on the outside of the envelopes will be opened for the purpose of ascertaining proper bid identification information and will be processed as any other bid.

(B) If a bid has incorrect identification on the envelope, e.g. wrong opening date, which results in its not being considered in making the award, the bid will be considered as an invalid bid and will not be acceptable.

(7) Telegraphic responses. Bids may be considered when submitted via telegraph provided the telegram carries information sufficient to properly identify the space offered, its location, its total cost per month, and other necessary information. Telegrams must be confirmed in writing on the board's invitation for bid form and received by the board within 48 hours after bid opening time. Postmarks on envelopes must show posting on or before opening date. Confirmation data must agree with that on telegram. Any confirmation not manually signed or not in full agreement with the telegram voids the entire bid.

(8) Unsigned bids. Any bid received which is not signed is not a valid bid and is returned to the sender.

(9) Reading of bids. Bidders and/or representatives of state agencies may request that a specific bid be read aloud by appearing in person at the bid opening place when bids are opened and making that request. Nothing in this rule shall require that a bid be read aloud at any time other than during regular working hours and days.

(10) Bid tabulation files for public inspection. Files of all bid tabulations are made available for public inspection. Tabulations may be inspected by any interested person during regular working hours at the offices of the State Board of Control. Employees of the board are not required or encouraged to give bid tabulations by telephone.

(11) Oral bids. When formal bids are requested, bids may not be taken or accepted by telephone.

(12) Addendum. If it is determined that an error was made in preparing a bid invitation or certain requirements changed prior to the opening of a bid, an addendum either correcting or changing the specifications will be mailed not later than seven days prior to opening to all bidders originally listed on the mailing list for that bid invitation and those responding to an advertisement. It is not necessary that the addendum be returned with a bid, and bids will not be rejected for failure to return the addendum provided the correction

is noted on the bid or the bid offered would not be changed by the addendum.

(c) Evaluation of bids.

(1) The board will evaluate all bids and make its award to the lowest and best bidder meeting the advertised specifications and on the terms agreed to by the board and the lessor.

(2) The board reserves the right to accept or reject any or all bids, waive minor technicalities, and award in a manner which best serves the interests of the state.

(3) If, in the opinion of the board, the price quoted is excessive and the board is of the opinion that a lesser, more acceptable, price may be obtained through a rebid with or without changed specifications, a bid may be rejected.

(4) No bid will be considered that offers less than the minimum amount of net usable square feet required, or that specified for work space. Measurement for purposes of determining net usable square feet shall assume perpendicular walls and shall:

(A) be measured from the inside surface of the exterior walls without regard to baseboards, moldings, etc., which do not interfere with the effective use of the space. For this measurement, the inside surface shall be the predominant surface of the masonry, glass, plaster, sheetrock, or other wall material.

(B) be to the centerline of the common wall between the net usable space, including interior hallways set apart for agency use, and areas defined in Rule .551(i) (1)-(4).

(5) All bids received shall be evaluated with the understanding that all relevant construction plans requested by the board during evaluation will have to be approved by the board (and other relevant authorities) prior to execution of the formal lease or occupancy by the state. With regard to the allowance shown for interior hallways (Rule .552(c) (3)), please note the following:

(A) In no event may the area identified in the specifications as work space, and being a part of net usable space, be reduced.

(B) Should the area for required interior hallways be greater than the allowance, the bidder will supply the additional area at no increase in cost to the state.

(C) If the approved plans show that interior hallways do not take up the space allowed for that purpose, the excess must be added to the work space for use by the state.

(6) All bids will be evaluated based on the effective monthly cost to the state projected over the life of the lease. (For purposes of this paragraph, options to renew and options to purchase will not be considered.)

(7) In evaluating bids, the board shall give no credence to nor make any allowances for any comments to prospective lessors allegedly made to them by

employees of the requesting agency. No statements or promises made by such employees shall be binding upon the board in making its award or considered to be a term or condition of the resulting lease. (See Rule .552(c)(9).)

(8) The board may not enter into a lease unless the space in question complies with the provisions of Article 678g, Vernon's Civil Statutes, relating to the elimination of barriers to handicapped persons.

(9) When only one bid meeting specifications is received, the board, in addition to other actions available to it, may elect to negotiate with that bidder to obtain a satisfactory lease for the state.

(10) Moving costs, as described in Rule .552(c)(10), may not be used in the evaluation of a bid unless the full amount allowed for such an expense is advertised as a part of the specifications.

(d) Award of a lease.

(1) The notice of award shall be the means by which the successful bidder and the requesting agency are notified of an award. The notice of award, when received by the successful bidder, shall be a binding lease.

(2) The original notice of award and completed lease forms shall be sent to the successful bidder, with a carbon copy of the notice of award sent to the requesting agency.

(3) The lessor shall execute and return the signed formal lease documents to the board.

(4) The State of Texas, acting through the board, shall be the lessee under any lease entered into under the provisions of Article 666b, Vernon's Civil Statutes.

(e) Negotiation of terms. The board, when acquiring space for the State of Texas through competitive bidding from a private source, shall not negotiate with bidders to alter any of the terms and conditions advertised. Additional terms may be agreed upon between the board and the successful bidder for addition to the lease which do not alter the original terms and conditions or specifications and which do not give special advantage to the successful bidder or result in an increased cost to the state.

.555. Negotiation with a Private Source. Negotiation with a private source to secure a state lease shall be utilized only in cases where competition is not considered by the board to be available. Such cases shall include but not be limited to the following:

(a) Requests for lease of radio tower space.

(b) Requests for space in emergency situations.

(c) When only one bid meeting specifications is received, or when no bids are received, following advertisement; and the board determines, after a review of advertised specifications, that no unduly restrictive specifications were used.

(d) When the board determines that specifications needed by the requesting agency are so restrictive as to effectively eliminate competition. Specifications of this restrictive a nature must be justified in writing to and approved by the board as necessary to the essential function and purpose of the agency. (See Rule .552(c)(7)(B).

.556. *Amendment of Lease.* Any lease entered into pursuant to the Article 666b, Vernon's Civil Statutes, and these rules may be amended during its term so long as the board finds the amendment to be in the best interests of the state, and does not, in the case of a lease awarded under competitive bid rules, give undue advantage to the lessor.

.557. *Transfer by Lessor.* Lessor's sale, assignment, or transfer of his right to receive payments for his obligation to perform under the lease may be provided for in the terms and conditions of the lease, but lease payments to the new lessor shall be approved by the board only if the transfer is sufficiently documented in the records of the board.

.558. *Bidders' List.*

(a) Requirements for bidders' list. All prospective bidders may be considered for inclusion on the bidders' list.

(1) The prospective bidder must complete and return to the board the bidder's application form which is supplied by the board.

(2) All completed applications will be evaluated by the board before the prospective bidder may be placed on the mailing list to receive invitations for bid. Evaluation shall consider, but not be limited to, the following:

(A) The ability, capacity and skill of the bidder to perform under a state lease.

(B) The bidder's past performance under previous leases with the state.

(C) The character, responsibility, integrity, reputation, and experience of the bidder.

(D) The sufficiency of the financial resources and ability of the bidder.

(E) Compliance of specific buildings with the provisions of Article 678g, Vernon's Civil Statutes, insofar as those buildings are identified by the bidder in his application.

(3) No prospective bidder on the list will be entitled to receive notice of invitations by mail unless registered for the zip code area being advertised. (See Rule .552(c)(7).)

(4) No prospective bidder shall be placed on the list to receive invitations for information purposes only.

(b) Temporary suspension and removal from bidders' list. Use of the bidders' list facilitates the acquisition of space for use by state agencies, and it is maintained by the board for that purpose. Inclusion on the list is a privilege extended by the state conditioned upon

continued benefits realized to the state.

(1) Removal or temporary suspension from the bidders' list as determined by the executive director may occur for one or more of the following reasons:

(A) Failure of the bidder adequately to disclose ownership of the building bid, or his authority to act.

(B) Continued submission of bids showing excessively high prices in light of prevailing area price for similar space.

(C) Termination of an existing lease for failure of bidder to perform or to perform properly under the lease, where such failure is due to the negligence or willfulness of the bidder.

(D) The board shall review the bidders' list from time to time and suspend those bidders who have not shown an interest in bidding on state leases in their areas during a prolonged period. Suspension for this reason shall be communicated in writing to the concerned bidder, and either removal or restoration to the list determined by the board from the response.

(2) A bidder who has been temporarily suspended may have the suspension rescinded upon prompt correction of the reasons for suspension. Failure to correct the reasons for suspension within the time set in the order of suspension will result in removal from the bidders' list.

(3) Once a bidder has been removed, he may not be reinstated to the bidders' list except after presentation of a written request for reinstatement to the executive director which results in his order for reinstatement.

(4) A bidder not on the bidders' list who submits an otherwise acceptable bid in response to an invitation for bid shall have his qualifications reviewed in accordance with the provisions of paragraph (a)(2) of this rule. No award can be made to such a bidder until the board has approved the bidder under the same standards required of applicants to the bidders' list.

Issued in Austin, Texas, on August 24, 1977.

Doc. No. 774388

Homer A. Foerster
Executive Director
State Board of Control

Effective Date: September 13, 1977

For further information, please call (512) 475-5966.

Office of the Governor Criminal Justice Division

LEAA Guidelines Adopted by Reference
001.55.02.006

The Law Enforcement Assistance Administration,
under the authority of Public Law 93-83, Crime Control

Act of 1973, Public Law 94-503, Crime Control Act of 1976, and Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974, has issued Change M4500.1E, Chg-3, Community Anti-Crime Program Guidelines, dated June 14, 1977, which is required to be implemented on the issue date. The change was delivered to the Criminal Justice Division subsequent to June 14, 1977.

The Criminal Justice Division, under the authority of Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 91-644, Omnibus Crime Control Act of 1970, and Public Law 93-83, Crime Control Act of 1973; Public Law 94-503, Crime Control Act of 1976; and Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974; and rules and guidelines promulgated by the Law Enforcement Assistance Administration; and the provisions of Section 10(a)(3), Article 6252-13, Vernon's Annotated Civil Statutes, adopts by reference Change M4500.1E, Chg-3, and amends Rule 001.55.02.006, LEAA Guidelines Adopted by Reference, by adding a new subsection, (yyy).

.006. LEAA Guidelines Adopted by Reference.

(yyy) M4500.1E, Chg-3, Community Anti-Crime Program Guidelines.

Issued in Austin, Texas, on July 18, 1977.

Doc. No. 774411 Robert C. Flowers
Executive Director
Criminal Justice Division

Effective Date: June 14, 1977

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



001.55.02.009

The Law Enforcement Assistance Administration, under the authority of Public Law 94-503, Crime Control Act of 1976, and Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974, has issued the 1977 Criminal Justice Plan for Texas.

The Criminal Justice Division, under the authority of Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 91-644, Omnibus Crime Control Act of 1970, Public Law 93-83, Crime Control Act of 1973, and Public Law 94-503, Crime Control Act of 1976, and Public Law 93-415, Juvenile Justice and Delinquency Prevention Act of 1974; and rules and guidelines promulgated by the Law Enforcement Assistance Administration; and the provisions of Section 10(a)(3), Article 6252-13, Vernon's Annotated Civil Statutes, adopts by reference the 1977 Criminal Justice Plan for Texas, and amends Rule 001.55.02.009, Criminal Justice Division State Plans Adopted by Reference, by adding a new subdivision, (i).

.009. Criminal Justice Division State Plans Adopted by Reference:

(i) 1977 Criminal Justice Plan for Texas

Issued in Austin, Texas, on August 15, 1977.

Doc. No. 774412 Robert C. Flowers
Executive Director
Criminal Justice Division

Effective Date: October 1, 1976

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

State Securities Board

Terminology 065.04.00

The State Securities Board adopts the amendments to Rule 065.04.00.002, as they were published in the *Texas Register* on July 26, 1977. The first amendment concerns the definition of "investment adviser" found at paragraph 12. The amendment replaces the term "fee" with the broader term "compensation" and places savings and loans on a parity with banks in their treatment as investment advisers. The amendment excludes professional geologists and engineers from the definition of investment adviser. The amendment also deletes the provision exempting from that definition dealers who receive no special compensation for advice, as a registered dealer is not required by the Securities Act to be registered as an investment adviser to render investment advice for a fee.

The second amendment would define "days," found at paragraph 29, to mean ordinary business days for the

purpose of the filing periods for certain documents with the Securities Board.

Cosmetic amendments to Sections 1, 2, 10, and 23 refer to the appropriate sections of Vernon's Annotated Texas Statutes.

The following amendment is adopted under the authority of Sections 4.C and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.002. Definitions. The following terms shall have the following respective meanings unless the context otherwise indicates:

(a) "Act" or "Securities Act" or "Texas Securities Act" is the Securities Act, Article 581, *et seq.*, Vernon's Texas Civil Statutes, as amended.

(b) "APA" or "Administrative Procedure Act" is the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Annotated Texas Statutes, as amended.

(j) "Credit union": for definition see the Texas Credit Union Act (Article 2461-1, *et seq.*, Vernon's Texas Civil Statutes, as amended).

(l) "Investment adviser" means every person or company who for compensation engages in this state in the business of advising the public, either directly or through publications or writing, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. However, this interpretation is deemed not to apply to: (1) state or national banks in the conduct of their normal banking functions or state or federally chartered savings and loan institutions in the conduct of their normal functions; (2) any lawyer, accountant, engineer, or geologist, whose performance of such practices is solely incidental to the practice of his profession; (3) the publisher of any *bona fide* newspaper, news magazine, or business and financial publication of general and regular circulation, except such publications a principal purpose of which is to recommend the purchase and sale of specific securities issues.

(w) "Savings and loan association": for definition see the Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes, as amended), which regulates such savings and loan associations.

(cc) "Days": for the purposes of Section 5.I(C) of the act, "days" means ordinary business days and does not include Saturdays, Sundays, or state holidays. For the purpose of determining when the information required by Section 5.I(C) has been "on file" for five days, the counting period begins on the day when the last exhibit or piece of information required by 5.I(C) is received by the commissioner.

Doc. No 774405

Transactions Exempt from Registration 065.05.00

The State Securities Board adopts Rule 065.05.00.018, which was published in the *Texas Register* on July 26, 1977.

The following amendment to Rule 065.06.00.018 is adopted under the authority of Sections 5.Q and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.018. Oil and Gas Interests. For the purposes of Section 5.Q, an employee of the owner of an oil, gas, or mineral lease, fee, or title may aid such owner/employer in selling interests in such lease, fee, or title and will not be considered an agent required to be licensed under the act provided all the following conditions are satisfied:

(a) the employee was not hired for the purpose of offering or selling such securities;

(b) the employee's activity involving the offer and sale of such securities is strictly incidental to his *bona fide* primary non-securities related work duties; and

(c) the employee's compensation is based solely on the performance of such other duties, *i.e.*, the employee does not receive any compensation for offering for sale, selling, or otherwise aiding in the sale of securities.

Doc. No. 774406

Securities Exempt from Registration 065.06.00

The State Securities Board adopts an amendment to Rule 065.06.00.006, whose title will be changed from "Approved Stock Exchanges" to "Listed Securities." The amendment clarifies language in Section 6.F of the Securities Act to reflect that "fully listed" securities on an exchange include securities approved for listing upon future issuance.

The following amendment to Rule 065.06.00.006 is adopted under the authority of Sections 6.F and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.006. Listed Securities.

(a) As used in Section 6.F of the act, "fully listed" includes any security listed or approved for listing upon notice of issuance on an exchange specified in Section 6.F or subsection (b) of this rule.

(b) The commissioner has approved the following exchanges, by written order, as satisfying the requirements of Section 6.F eligibility:

- (1) Pacific Stock Exchange;
- (2) Chicago Board Options Exchange.

Doc No 774407

Dealers and Salesmen 065.08.00.003

The State Securities Board adopts the amendment to Rule 065.08.00.003. The amendment clarifies in Section (c)(3)(D) that a person licensed as a salesman under the Real Estate Act is exempt from the "General Law" portion of the examination requirement when applying for a dealer license under the Securities Act.

The following amendment is adopted under the authority of Sections 13.D and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.003. Examination.

(c) Exemptions.

(3) A partial waiver of the examination requirements of Section 13.D is granted by the board for the following classes of persons:

(D) Any person seeking registration as a securities dealer exclusively in real estate syndication interests and/or condominium securities, provided such person if he is applying as a dealer is licensed at the time of his application as a broker under the Real Estate License Act of Texas, or if such person is applying as a salesman is licensed at the time of his application as a salesman or broker under the Real Estate License Act of Texas. Such person is not required to take the general securities portion of the examination prescribed by Section 13.D, but is required to pass an examination on the Texas Securities Act.

Doc No 774408

065.08.00.004

The State Securities Board adopts the amendments to Rule 065.08.00.004, as proposed in the July 26, 1977, issue of the *Texas Register*.

The first amendment changes Section 1 of the rule to reflect that separate licenses will be sent to each branch office of a dealer, rather than sending a duplicate of the home office license. Section 2 is amended to reflect that the \$1 charge for license amendments is \$5. Erroneous surplus language is deleted from Section 3. Changes to improve clarity are made to Sections 1, 2, 3, 4, and 6.

The following amendments are proposed by authority of Sections 28-1 and 35, Article 1158, Vernon's Annotated Texas Statutes (as amended by House Bill 1158, Acts of the 65th Legislature, effective August 29, 1977), and Article 6252-13, Vernon's Annotated Texas Statutes.

.004. Licenses.

(a) Issuance. Dealers are issued, after payment of the appropriate fee, a license certificate in the firm name with each registered officer listed on the license. In addition, a license is issued for each branch office. The fee is \$5 for each branch office license. Each salesman of a dealer, after payment of the appropriate fee, is issued a license in the name of the salesman, reflecting the name and address of the dealer and the residential address of the salesman. The salesman license certificate is retained by the dealer and the dealer gives the salesman the identification slip.

(b) Amendments. Any change in any of the information reflected on a license certificate must be submitted to the commissioner, along with a \$5 amendment fee per license certificate, so that an amended license certificate may be issued. Upon receipt of the amended certificate, the dealer must surrender the original to the commissioner.

(c) Transfer. A salesman who is registered in Texas may transfer his registration to another registered dealer. The transfer application, along with a \$5 fee, must be filed in duplicate with the salesman's current identification slip attached. If the identification slip has been lost or destroyed, or if it is in the possession of the former employer, a notarized statement setting forth such fact will be accepted. The application must be signed by the salesman, and it must be properly notarized.

(d) Termination. Upon termination of a registered salesman, the securities dealer must surrender the salesman's license to the commissioner for cancellation. Upon receipt of notice from a registered dealer to cancel the registration of a registered salesman, the salesman's license will be cancelled, and such salesman is not eligible to transfer his registration. After cancellation the registered dealer seeking to register said salesman must submit an original salesman's application.

(f) Classifications. Securities licenses are classified as follows:

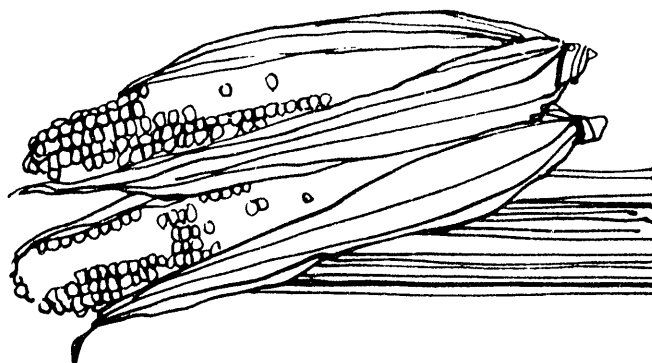
- (1) General securities dealer-- fee, \$35 for original or renewal;
- (2) Individual dealer-- fee, \$35 for original or renewal;
- (3) Issuer dealer-- fee, \$35 for original or renewal;
- (4) Dealer in oil and gas interests-- fee, \$35 for original or renewal;
- (5) Restricted bond dealer-- fee, \$35 for original or renewal;

(6) Restricted real estate securities dealer-- fee, \$35 for original or renewal;

(7) Investment adviser-- fee, \$35 for original or renewal of dealer/investment adviser and \$15 for original or renewal of a salesman/investment adviser;

(8) Salesman-- fee, \$15 for original or renewal.

Doc. No. 774409



Administrative Guidelines for Registration of Oil and Gas Drilling Programs 065.11.00

The State Securities Board adopts amendments to Rules 065.11.00.002-.004. A limited amount of public commentary was received, which generally suggested the Guideline of the North American Securities Administrators Association be adopted as a complete substitute. It was decided to retain the current guidelines with the following changes, as they appeared in the *Texas Register* on July 26, 1977:

(1) maximum compensation to program sponsors is raised to 15 percent;

(2) minimum purchase unit for income (but not drilling) programs is reduced to \$2,500;

(3) minimum amount of subscriptions to a program is increased to \$500,000, and preliminary escrow of funds is required; and

(4) provisions for repurchase of specified amounts of program interests each year have been eliminated.

The following amendments to Rules 065.11.00.002-.004 are adopted under the authority of Sections 7, 9, 10, and 28-1, Article 581, Vernon's Annotated Texas Statutes, and Article 6252-13a, Vernon's Annotated Texas Statutes.

.002. Plan of Business.

(d) Compensation. A maximum of 15 percent of the dollar amount of cash receipts to the program from a public offering is allowable to the program sponsor for organizational and offering expenses out of which must be paid any "management fees" for the first year of operation. Overhead and administrative expenses, fully audited, may be chargeable to the program and must be reasonable. If per well charges are made or contemplated, overhead and administrative charges must be reduced accordingly. Compensation to the sponsor (and its affiliates) of a program is limited as follows: The participation in program revenues by the sponsor and any affiliate shall be reasonable, taking into account all relevant factors. Sponsors' retained interests may be considered reasonable if they meet the standards set forth in paragraphs (1) through (6) below. Any other combinations of fees, overriding royalty interests, and working or net profits interests, which are generally accepted as reasonable in the industry and are justified, in light of the entire offering, may be considered reasonable by the commissioner.

.003. Plan of Distribution.

(a) Minimum unit. For a drilling program, the minimum purchase shall not be less than \$5,000 and the initial investment by a participant not less than \$5,000. For an income or production purchase program, the minimum purchase shall not be less than \$2,500 and the initial investment not less than \$2,500. All of the aforesaid minimums must be paid within 12 months from the date the program commences. Assignability of the unit must be limited so that no assignee (transferee) or assignor (transferor) may hold less than the prescribed minimums except by gift, devise, descent, or other operation of law.

.004. Prospectus and its Contents.

(d) Maximum and minimum. The prospectus shall indicate the maximum amount of subscriptions to be sought from the public and the minimum amount of subscriptions necessary to activate the program. The minimum amount of funds to activate the program shall be sufficient to accomplish the objectives of the program, including "spreading the risk," and shall be set out in the prospectus. Any minimum less than \$500,000 will be presumed to be inadequate to spread the risk of the public investors. Provision must be made for the return to public investors of 100 percent of paid subscriptions in the event that the established minimum to activate the program is not reached. All funds received prior to activation of the program must be deposited with an independent custodian, trustee, or escrow agent whose name and address shall be disclosed in the prospectus.

(6) Repurchase of participations. No representation shall be made that program interests are readily

marketable. If any provision is made for the repurchase of program interests by the sponsor or an affiliate, the offer must be made to all participants. Valuation of the interests shall be determined by independent petroleum engineers and interest holders may tender their interests for repurchase within 30 days following the valuation date. If the tender is for cash, payment must be made within 30 days of a satisfactory tender. If the interests tendered exceed the maximum dollar amount which the sponsor or affiliate desire to repurchase, those interests which are repurchased must be selected by lot.

Issued in Austin, Texas, on August 25, 1977.

Doc. No. 774410 Richard D. Latham
 Securities Commissioner
 State Securities Board

Effective Date: September 14, 1977

For further information, please call (512) 475-4561.



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 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.

Texas Department of Health Resources Hearings

The Texas Department of Health Resources will conduct hearings on applications to locate solid waste disposal sites. Listed below are the dates, times, and places of hearings; the applicants; and the locations of the solid waste disposal sites.

Thursday, September 8, 1977

9 a.m., City Council Chambers, City Hall, 411 West 8th Street, Odessa; City of Odessa; site Type VI approximately 1-1/3 miles southwest of city limits of Odessa, approximately 0.5 mile east of State Highway 302 and IH 20 intersection on the south side of IH 20 in Ector County

Thursday, September 15, 1977

9 a.m., District Courtroom, Duval County Courthouse, San Diego; Duval County; sites in Duval County
9:30 a.m., same location as above; City of Freer; site near Freer

Tuesday, September 20, 1977

1 p.m., Law Offices of Darden, Fowler and Creighton, 414 West Phillips Street, Conroe; Dana Richardson Properties, Inc.; site near the town of Willis

Thursday, September 22, 1977

9 a.m., County Courtroom, Shelby County Courthouse, Center; City of Garrison; site near Garrison
9 a.m., County Courtroom, Shelby County Courthouse, Center; City of Timpson; site near Timpson

Wednesday, September 21, 1977

9 a.m., Commissioners Courtroom, Hardin County Courthouse, Kountze; Hardin County; site near Kountze

9:30 a.m., same location as above; City of Kountze; site near Kountze

Tuesday, September 27, 1977

9 a.m., City Council Chambers, City Hall, 104 South Main Street, Linden; City of Maud; site near Maud

9 a.m., same location as above; City of Linden; site near Linden

11 a.m., same location as above; City of Avinger; site near Avinger

11 a.m., same location as above; Queen City; site near Queen City

11 a.m., same location as above; City of Bloomburg; site near Bloomburg

Thursday, September 29, 1977

10 a.m., Auditorium, Houston City Health Department, 1115 North MacGregor, Houston; City of Houston; site (transfer station) immediately north of Westpark Road, 200 feet south of U.S. Highway 59 and 0.4 mile west of Chimney Rock Road in Houston.

The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained Jack C. Carmichael, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 448-7271.

Filed: August 29, 1977, 9:29 a.m.

Doc. No. 774454

Texas Advisory Commission on Intergovernmental Relations

Meeting

A meeting of the Special Committee on Work Program Development of the Texas Advisory Commission on Intergovernmental Relations will be held on Friday, September 9, 1977, 7:30 a.m., in the Breakpoint Cafeteria Meeting Room, Stephen F. Austin Building, 17th and Congress, Austin, to consider the committee report reviewing commission funding, work products, and work procedures and organization.

Additional information may be obtained from Joy F. Markel, Room 622, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3728.

Filed: August 29, 1977, 9:37 a.m.

Doc No 774456

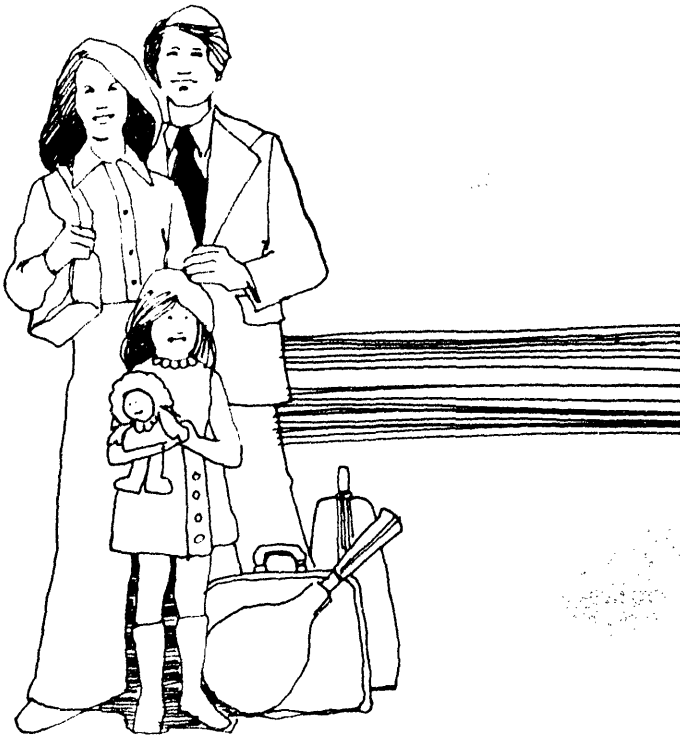
Meeting

A meeting of the Texas Advisory Commission on Intergovernmental Relations will be held on Friday, September 9, 1977, 9 a.m., in Room 118, Stephen F. Austin Building, 17th and Congress, Austin, to consider personnel matters related to staff vacancies on the commission; consider the commission report on the Resource Conservation and Recovery Act of 1976; and hear a report of the special committee on Work Program Development.

Additional information may be obtained from Joy F. Markel, Room 622, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3728.

Filed: August 29, 1977, 9:36 a.m.

Doc No. 774457



Public Utility Commission of Texas

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Public Utility Commission of Texas held on Wednesday, August 31, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The commission considered Docket Nos. 481, 482, 483, and 484 (consolidated)-- application for the sale of Kings Point Water Corporation, Shalimar Water Corporation, Primrose Water Corporation, and Twin Valley Water Corporation.

Additional information may be obtained from Roy J. Henderson, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 475-7921.

Filed: August 26, 1977, 3:03 p.m.

Doc. No. 774443

Hearing

A hearing by the Public Utility Commission of Texas will be held on Tuesday, September 20, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Mobilfone Communications, Inc., to transfer its authority to operate a one-way paging channel upon frequency 158.70MHZ to Austin Paging Service (Docket No. 413).

Additional information may be obtained from Roy J. Henderson, Suite 450N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 475-7921.

Filed: August 26, 1977, 10:23 a.m.

Doc. No. 774427

Railroad Commission of Texas

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Transportation Division of the Railroad Commission of Texas held on Monday, August 29, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin, to include consideration of the ap-

plication of Wolfe Brothers for interstate exempt commodity authority (Docket No. 4854EA1NE).

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

Filed: August 26, 1977, 11 a.m.
Doc. No. 774435

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Oil and Gas Division of the Railroad Commission of Texas held on Monday, August 29, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin.

The commission considered the applications of the following: Atlantic Richfield Company, Irish Oil and Gas Company, Scott L. Taliaferro, Rominger and Pitzer, American Quasar Petroleum Company, and Woodrow Lesiker.

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

Filed: August 26, 1977, 11:03 a.m.
Doc. No. 774434

Emergency Amendment to Agenda

An emergency amendment was made to the agenda of a meeting of the Gas Utilites Division of the Railroad Commission of Texas held on Monday, August 29, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin, to include consideration of a petition of the City of Fort Stockton to compel continued natural gas deliveries (Docket No. 1171).

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

Filed: August 26, 1977, 11:03 a.m.
Doc. No. 774436

Meeting

A meeting of the Transportation Division of the Railroad Commission of Texas will be held on Tuesday, September 6, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin.

The commission will consider contested applications concerning new authority and rail rates; and uncontested applications to amend authority, for motor brokers license, to divide authority, to amend ICC authority registration, for ICC authority registration, for lease authority, for new authority, for name change, for interstate exempt authority, for rail rate, to request authority cancellation, for reinstatement, to sell authority, for bus schedule change, for truck rate, and for voluntary suspension. The complete agenda is posted in the East Wing of the State Capitol.

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

Filed: August 26, 1977, 11:01 a.m.
Doc. No. 774438

Meeting

A meeting of the Gas Utilities Division of the Railroad Commission of Texas will be held on Tuesday, September 6, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin, to consider the application of High Plains Natural Gas Company (Docket No. 668).

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

Filed: August 26, 1977, 11:02 a.m.
Doc. No. 774439

Addition to Agenda

An addition has been made to the agenda of a meeting of the Oil and Gas Division of the Railroad Commission of Texas to be held on Tuesday, September 6, 1977, 9 a.m., at 10th and Colorado Streets, Austin. The commission will consider the applications of Texaco, Inc. (Docket No. 77,727) and Shell Oil Company (Docket No. 4-67,590). The complete agenda is posted in the East Wing of the State Capitol.

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

Filed: August 26, 1977, 11:03 a.m.
Doc. No. 774437

Meeting

A meeting of the Liquefied Petroleum Gas Division of the Railroad Commission of Texas will be held on Monday, September 12, 1977, 9 a.m., in the Ernest O. Thompson Building, Austin, to adopt proposed rules. The complete agenda is posted in the East Wing of the State Capitol.

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

Filed: August 26, 1977, 11:01 a.m.
Doc. No. 774440

Meeting

A meeting of the Oil and Gas Division of the Railroad Commission of Texas will be held on Monday, September 12, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin, to consider hearing and administrative applications. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Luci Castleberry, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-1002.

Filed: August 26, 1977, 11:02 a.m.
Doc. No. 774441

Hearing

The Oil and Gas Division of the Railroad Commission of Texas will meet on Tuesday, September 20, 1977, 9 a.m., in the Houston Room, Stephen F. Austin Hotel, Austin, to conduct a monthly statewide oil and gas hearing. The complete hearing notice is posted in the East Wing of the State Capitol.

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

Filed: August 26, 1977, 11:02 a.m.
Doc. No. 774442

School Land Board

Meeting

A meeting of the School Land Board will be held on Tuesday, September 6, 1977, 10 a.m., in Room 831, 1700 North Congress Avenue, Austin, to consider the following items: 15 pooling agreements; one excess acreage;

Coastal Public Lands, 10 easement applications; four permit applications; three permit alteration requests; five permit transfer requests; and Coastal Public Lands Report, 29 permit renewals.

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

Filed: August 29, 1977, 11:51 a.m.
Doc. No. 774479



State Securities Board Hearing

A hearing before the Securities Commissioner of the State Securities Board will be held on Tuesday, September 13, 1977, 10 a.m., in Room 709, Lyndon Baines Johnson Building, Austin, to determine whether cease and desist order No. CD-428 should be modified or amended so as to allow H. D. Cameron to purchase stock in the company to comply with the State Board of Insurance requirements that insurance company directors be owners of stock.

Additional information may be obtained from Frank Arnold, Room 709, LBJ Building, Austin, Texas 78701, telephone (512) 475-4561.

Filed: August 25, 1977, 3:43 a.m.
Doc. No. 774403

Teacher Retirement System of Texas

Meeting

A meeting of the Investment Advisory Committee of the Teacher Retirement System of Texas will be held on Friday, September 9, 1977, 10 a.m., in the fourth floor board room, 1001 Trinity, Austin. The agenda will include consideration of the following items: review of investments for previous quarter; economic and investment outlook; recommendations on investments for next quarter; action on recommendations; and consideration of proposed additions to investment policy. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Shari Cooper, 1001 Trinity, Austin, Texas 78701, telephone (512) 477-7911, extension 201.

Filed: August 29, 1977, 11:22 a.m.

Doc. No. 774477

Meeting

A meeting of the Board of Trustees of the Teacher Retirement System of Texas will be held on Friday, September 9, 1977, 10 a.m., in the fourth floor board room, 1001 Trinity, Austin.

The agenda includes the following items: report of nominating committee and election of board officers; approval of minutes; review of investments for previous quarter; economic and investment outlook; recommendations on investments for next quarter; action on recommendations; consideration of proposed additions to investment policy; discussion of guidelines for benefits committee; appointment of audit committee of the board; report on trustee election; review of pending litigation; report of member benefits division; and consideration of expansion of physical plant and property. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Shari Cooper, 1001 Trinity, Austin, Texas 78701, telephone (512) 477-9711, extension 201.

Filed: August 29, 1977, 11:22 a.m.

Doc. No. 774476

Veterans Land Board

Meeting

A meeting of the Veterans Land Board of the General-Land Office will be held on September 7, 1977, 10 a.m.,

in the Stephen F. Austin Building, 1700 North Congress, Austin. The board will hear the report of the executive secretary; and discuss the constitutional amendment authorizing \$200 million additional Veterans Land Board bonds.

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

Filed: August 25, 1977, 3:43 p.m.

Doc. No. 774404

Texas Water Rights Commission

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Texas Water Rights Commission held on Monday, August 29, 1977, 10 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission considered the appointment of the Board of Directors of Fort Bend County Municipal Utility District No. 13; and the application of Hidalgo County Water Control and Improvement District No. 15 for approval of \$325,000 irrigation improvement tax bonds.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13207, Austin, Texas 78711, (512) 475-4514.

Filed: August 26, 1977, 11:41 a.m.

Doc. No. 774433

Texas Water Well Drillers Board

Meeting

A meeting of the Texas Water Well Drillers Board will be held on Tuesday, September 6, 1977, 9:30 a.m., in Room 119, Stephen F. Austin Building, 1700 North Congress, Austin. The board will consider the following items: election of officers for Fiscal Year 1978; certification of new applicants for registration; report on water well drillers examination held since the July 5, 1977, board meeting; progress report on registration of new drillers since the July 5 board meeting that were certified by board action; report on investigator's ac-

tivities; consideration of complaints and violations of the Water Well Drillers Act; and discussion of proposed rule changes.

Additional information may be obtained from Fred Osborne, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-6176.

Filed August 29, 1977, 9:28 a.m.
Doc No 774455

Regional Agencies

Meetings Filed August 26, 1977

The Upper Leon River Municipal Water District, Board of Directors, met at Proctor Lake, Comanche, on September 1, 1977, at 7:30 p.m. Further information may be obtained from Lowell G. Pittman, P.O. Box 67, Comanche, Texas 76442, telephone (817) 879-2258.

Doc. No. 774445

Meetings Filed August 29, 1977

The Alamo Area Council of Governments, Executive Committee, will meet in Room 532, Three Americas Building, San Antonio, on September 4, 1977, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, Room 400, Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

The Education Service Center Region V, Board of Directors, met in the Board Room, 2900 North Street, Beaumont, on September 1, 1977, at 2:30 p.m. Further information may be obtained from Rex J. Shellingberger, P.O. Box 3546, Beaumont, Texas 77704, telephone (713) 892-9562.

The Education Service Center Region XVI, Board of Directors, met at Sutphen's 620 West 16th, Amarillo, on August 31, 1977, at 1:30 p.m. Further information may be obtained from Dr. Kenneth M. Laycock, P.O. Box 30600, Amarillo, Texas 79102, telephone (806) 376-5521.

The Middle Rio Grande Development Council, Regional Manpower Advisory Committee, will meet at the Multi-Purpose Center, Eagle Pass, on September 7, 1977, at 2 p.m. The Board of Directors will meet at the same location on September 7, 1977, 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.

Doc No 774478

Texas Department of Community Affairs

CETA State Services

Notification of Grant Application

The Texas Department of Community Affairs, Manpower Services Division, announces that it has submitted a grant application to the Department of Labor for funding under Title I, Section 106, of the Comprehensive Employment Training Act of 1973, as amended (CETA), Public Law 93-203. The amount of the grant allotment will be \$4,243,394.

In Fiscal Year 1978, it will be the purpose of programs administered under this grant to provide services throughout the state through state agencies responsible for employment and training and related services and to carry out special model training and employment programs and related services.

The complete grant application and a comparison of performance against Fiscal Year 1977's plan through the fourth quarter can be reviewed at the Texas Department of Community Affairs, Room 144, 210 Barton Springs Road, Austin, between the hours of 8 a.m. and 5 p.m. Interested persons wishing to make comments should phone (512) 475-6216 or mail them to L. C. Harris III, Director, Manpower Services Division, P.O. Box 12397, Austin, Texas 78711, and to William H. Harris, Regional Administrator, U.S. Department of Labor, Employment and Training Administration, 555 Griffin Square Building, Griffin and Young Streets, Dallas, Texas 75202. Comments should be made no later than September 30, 1977.

Doc. No 774429

Title I

Notification of Grant Application

The Texas Department of Community Affairs, Manpower Services Division, announces that it has submitted a grant application to the Department of Labor for funding under Title I of the Comprehensive Employment and Training Act of 1973, as amended (CETA), Public Law 93-203. The amount of the grant allotment will be \$12,910,213. The dollar amount represents the total allocation to the 119 counties of the balance of state area for Fiscal Year 1978 program year.

In Fiscal Year 1978, it will be the purpose of employment and training programs administered under this grant to provide economically disadvantaged,

unemployed, and underemployed individuals with an opportunity to develop the variety of personal resources, skills, education, training, and abilities needed to secure, maintain, and progress in any given employment experience which enhances self-sufficiency. To serve these individuals, programs will be developed under the components of classroom training (prime sponsor); classroom training (vocational education); on-the-job training (public and private); and work experience (youth services, youth out-of-school, and adult). Supportive services will be provided to participants as they are needed.

The complete grant application and a comparison of performance against prior year's plan through the third quarter can be reviewed at the Texas Department of Community Affairs, Room 131, 210 Barton Springs Road, Austin, between the hours of 8 a.m. and 5 p.m. Interested persons wishing to make comments should telephone (512) 475-6216 or mail them to L. C. Harris III, Director, Manpower Services Division, Texas Department of Community Affairs, P.O. Box 12397, Capitol Station, Austin, Texas 78711, and to William Harris, Regional Administrator, U.S. Department of Labor, Employment and Training Administration, 555 Griffin Square, Dallas, Texas 75202. Comments should be made no later than September 30, 1977. Further information about programs in your area can be obtained from your regional council of governments' offices.

Doc No 774430

Title II

Notification of Grant Modification

The Texas Department of Community Affairs announces that it has submitted to the Department of Labor a modification to its Title II grant under the Comprehensive Employment and Training Act of 1973, as amended. The intent of this modification is to decrease the federal obligation by \$306,828 to a new total of \$12,421,682 for the Title II grant, and to reflect program activities through September 30, 1978.

Funds under this Title II grant will serve approximately 1,033 individuals in the following areas of substantial unemployment (i.e., areas with 6.5 percent or more unemployment): Deep East Texas, East Texas, North East Texas, North Texas (includes parts of Texoma and North Central Texas), Middle Rio Grande, South Texas, North Central Texas, plus Calhoun, Burleson, and Robertson Counties. The purpose of these funds will be to provide underemployed and unemployed persons with transitional employment in jobs providing needed public services in areas of substantial unemployment

and, wherever feasible, related training and manpower services to enable such persons to move into employment or training.

The application may be reviewed between the hours of 8 a.m. and 5 p.m. at the Texas Department of Community Affairs, Room 131, 210 Barton Springs Road, P.O. Box 12397, Austin, Texas 78711, telephone (512) 475-6216.

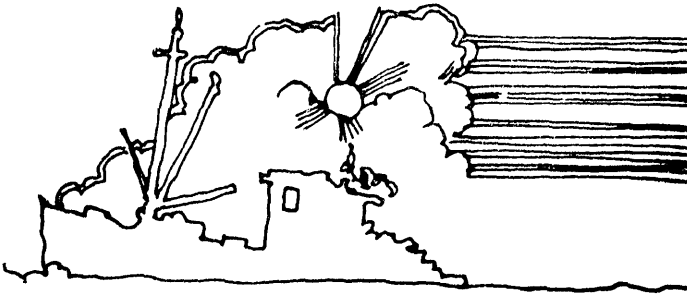
Questions and comments may be directed to L. C. Harris III, Director of Manpower Services Division, at the above address and telephone, or to William Harris, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, 555 Griffin Square, Dallas, Texas 75202. Comments should be made no later than September 30, 1977.

Issued in Austin, Texas, on August 25, 1977.

Doc. No. 774431 Tom A. Laramey, Jr.
 General Counsel
 Texas Department of Community
 Affairs

Filed: August 26, 1977, 11:20 a.m.

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



Comptroller of Public Accounts

Administrative Decisions

Summary of Administrative Decision H-8445

Summary of Decision: Liquid bottle cleaning compound which was used by a bottler to clean and sterilize its bottles prior to refilling was necessary to the bottler's manufacturing process and is exempt from the Limited Sales, Excise, and Use Tax Act under Texas Taxation-- General Annotated.

For copies of recent opinions selected and summarized by the Legal Services Division, contact Harriett 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 August 22, 1977.

Doc. No. 774382 Harriet D. Burke
 Hearings Section
 Comptroller of Public Accounts

Filed: August 24, 1977, 11:54 a.m.

For further information, please call (512) 475-2148.

Texas Youth Council

Correction of Error

The statutory authority for Emergency Rule 203.40.02.001, which appeared on 2 TexReg 3111, should have been Section 6e, Article 5243d, Vernon's Texas Civil Statutes.

1977 Publication Schedule for the Texas Register

Listed below are the deadline dates for the September through November, 1977, issues of the *Texas Register*. Because of our printing schedule, material received after the deadlines for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Friday of the preceding week and Monday of the week of publication. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays. Please note that the issue published on October 14 will be an index; no other material will be published in this issue. The *Texas Register* will not be published on November 29.

FOR ISSUE PUBLISHED ON:

Tuesday, September 6
 • Friday, September 9
 Tuesday, September 13
 Friday, September 16
 Tuesday, September 20
 Friday, September 23
 Tuesday, September 27
 Friday, September 30

 Tuesday, October 4
 Friday, October 7
 Tuesday, October 11
 Friday, October 14
 Tuesday, October 18
 Friday, October 21
 Tuesday, October 25
 Friday, October 28

 Tuesday, November 1
 Friday, November 4
 Tuesday, November 8
 Friday, November 11
 Tuesday, November 15
 • Friday, November 18
 Tuesday, November 22
 Friday, November 25
 Tuesday, November 29

ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY NOON ON:

Wednesday, August 31
 Thursday, September 1
 Wednesday, September 7
 Friday, September 9
 Wednesday, September 14
 Friday, September 16
 Wednesday, September 21
 Friday, September 23

 Wednesday, September 28
 Friday, September 30
 Wednesday, October 5

 CUMULATIVE INDEX
 Wednesday, October 12
 Friday, October 14
 Wednesday, October 19
 Friday, October 21

 Wednesday, October 26
 Friday, October 28
 Wednesday, November 2
 Friday, November 4
 Wednesday, November 9
 Thursday, November 10
 Wednesday, November 16
 Friday, November 18

NO ISSUE PUBLISHED

ALL NOTICES OF OPEN MEETINGS BY NOON ON:

Thursday, September 1
 Friday, September 2
 Thursday, September 8
 Monday, September 12
 Thursday, September 15
 Monday, September 19
 Thursday, September 22
 Monday, September 26

 Thursday, September 29
 Monday, October 3
 Thursday, October 6

 Thursday, October 13
 Monday, October 17
 Thursday, October 20
 Monday, October 24

 Thursday, October 27
 Monday, October 31
 Thursday, November 3
 Monday, November 7
 Thursday, November 10
 Monday, November 14
 Thursday, November 17
 Monday, November 21