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Volume 2, Number 71, September 13, 1977  
Pages 3429 - 3490

# TEXAS REGISTER

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TEXAS DOCUMENTS

## In This Issue...

Emergency adoption by Texas Department of Mental Health and Mental Retardation on determination of manifest dangerousness

Emergency adoptions of the Texas Water Development Board

Proposed pesticide control regulations of the Department of Agriculture

Proposed sanitation rules of the Texas Cosmetology Commission

Department of Human Resources' proposals concerning illegal aliens

Parks and Wildlife Department's adoptions on falconry



Office of the Secretary of State

USPS Publication Number 120090

# NOTES ON THE ISSUE

The Department of Human Resources has adopted rules governing 24-hour care licensing. The rules, directed to half-way houses, residential treatment centers, institutions serving the mentally retarded, and institutions providing basic care, require that children be separated from adult residents or that the staff-resident ratio and space requirements be those set for children rather than the less stringent ones for adults.

The Department of Human Resources proposes the repeal of rules requiring workers to report suspected illegal aliens to the Immigration and Naturalization Service

The newly created Department of Water Resources has filed emergency rules with the secretary of state. The Texas Water Development Board, the Texas Water Commission, and the Texas Water Rights Commission had jurisdiction over the matters now governed by this new agency. The complete texts of the rules of the new agency, which encompasses the older agencies, are not being published because of their length. However, the Emergency Rules section contains a list of the categories and subcategories as well as information on obtaining or inspecting copies of the text.

*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



**Mark White**  
Secretary of State

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## The Attorney General

### Requests for Opinions

- 3433 *RQ-1711 (technical-vocational education)*
- 3433 *RQ-1712 (Harris County justices of the peace)*

### Opinions

- 3433 *H-1045 (concerning the selection of a chancellor and president at Texas A&I University)*
- 3433 *H-1046 (deferred compensation plans for public employees)*
- 3433 *H-1047 (Open Meetings Act)*
- 3434 *H-1048 (Firemen's Pension Commissioner)*

## Emergency Rules

### Texas Department of Mental Health and Mental Retardation

- 3435 *Client (Patient) Care*

### State Securities Board

- 3438 *Administration Guidelines for Minimum Standards in Tender Offers*

### Texas Water Commission

- 3439 *Introductory Provisions*
- 3440 *General Rules*
- 3442 *Procedures Before Public Hearing*
- 3443 *Procedures During Public Hearing*
- 3445 *Procedures After Public Hearing Before An Examiner*
- 3445 *Procedures After Public Hearing Before the Full Commission*
- 3446 *Procedures After Final Decision*
- 3446 *Special Procedures*

### Texas Water Development Board

## Proposed Rules

### Texas Department of Agriculture

- 3454 *Agricultural and Environmental Sciences Division*

### Texas Cosmetology Commission

- 3455 *Sanitary Rulings*
- 3455 *General Rules and Regulations*

### Texas Department of Human Resources

- 3456 *AFDC*
- 3456 *Food Stamps*

## Adopted Rules

### Texas Historical Commission

- 3458 *Administrative Department*

### Texas Department of Human Resources

- 3458 *Food Stamps*
- 3459 *Commodity Program*
- 3461 *Child Support Collection*
- 3461 *24 Hour Care Licensing*

### Texas Parks and Wildlife

- 3464 *Fisheries*

## The Courts

### 1st Court of Civil Appeals

- 3469 *Earl Hayes Rents and Trucks v. City of Houston*
- 3469 *Rash v. City Council of City of Houston*
- 3469 *Tuesday Morning, Inc. v. City of Houston*

### 3rd Court of Civil Appeals

- 3469 *Hurlbut v. State Board of Insurance*
- 3469 *Texas Youth Council v. State*

### 6th Court of Civil Appeals

- 3470 *Davenport v. Commissioners Court of Denton County*
- 3470 *Elkins v. West*

### 10th Court of Civil Appeals

- 3470 *Public Utility Commission of Texas v. City of Corpus Christi*

## Open Meetings

- 3471 *Texas Aeronautics Commission*
- 3471 *State Board of Examiners in the Basic Sciences*
- 3471 *Texas Education Agency*
- 3473 *Employees Retirement System of Texas*
- 3473 *Texas Energy Advisory Council*
- 3473 *Texas Health Facilities Commission*
- 3474 *Texas Department of Human Resources*
- 3475 *University of Houston*
- 3475 *State Board of Insurance*
- 3477 *State Board of Medical Examiners*
- 3477 *Texas Municipal Retirement System*
- 3478 *Natural Fibers and Food Protein Commission*
- 3478 *North Texas State University*
- 3478 *Board of Nurse Examiners*

- 3478 *Texas Board of Licensure for Nursing Home Administrators*
- 3478 *Board of Pardons and Paroles*
- 3479 *Texas Parks and Wildlife Department*
- 3479 *Texas Private Employment Agency Regulatory Board*
- 3480 *Texas State Board of Registration of Professional Engineers*
- 3480 *Texas State Board of Public Accountancy*
- 3480 *Public Utility Commission of Texas*
- 3481 *Railroad Commission of Texas*
- 3481 *Texas Rehabilitation Commission*
- 3481 *University System of South Texas*
- 3482 *State Securities Board*
- 3482 *Texas Supreme Court*
- 3483 *Texas Water Commission*
- 3485 *Department of Water Resources*
- 3486 *Texas Water Quality Board*
- 3486 *Texas Youth Council*
- 3486 *Regional Agencies*

## In Addition

### Department of Banking

3488 *Notice of Application*

### State Bar of Texas

3488 *Fall 1977 Institutes*

### Comptroller of Public Accounts

3488 *Administrative Decisions*

### Texas Health Facilities Commission

3489 *Notice of Applications*

### Texas Register

3489 *Correction of Error*

### Savings and Loan Department

3490 *Notice of Approval of Merger*

## Requests for Opinions

### Summary of Request for Opinion RQ-1711

Request for opinion sent to the Attorney General's Opinion Committee by Alton D. Ice, Executive Director, Advisory Council for Technical-Vocational Education in Texas, Austin.

#### *Summary of Request:*

(1) Is the Advisory Council for Technical-Vocational Education in Texas a state agency rather than a "sub-agency" of the Texas Education Agency?

(2) Is the Executive Director of the Advisory Council for Technical-Vocational Education in Texas authorized under Section 15(a), Article V, House Bill 510, Regular Session, 65th Legislature, to claim actual expenses, as set forth in this section, as the executive head of the advisory council?

Doc No 774819

### Summary of Request for Opinion RQ-1712

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

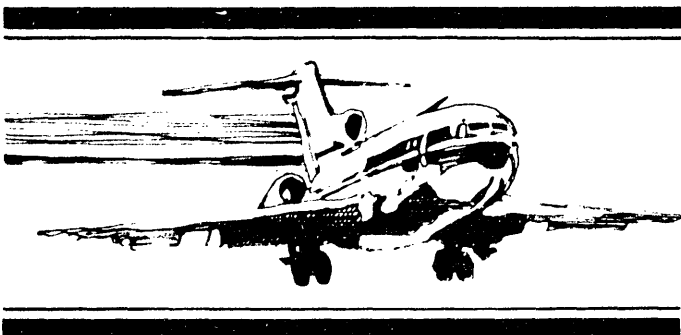
*Summary of Request:* Are the Harris County justices of the peace required to publish a semi-annual status report, as provided for by Section 6 of House Bill 2238, enacted as Chapter 16, General Laws, 65th Legislature, Regular Session, 1977?

Issued in Austin, Texas, on September 2, 1977.

Doc No 774820      C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

Filed: September 6, 1977, 11 51 a m

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



## Opinions

### Summary of Opinion H-1045

Request from J. C. Martin, Jr., President, Texas A&I University, Kingsville, concerning the selection of a chancellor and president at Texas A&I University.

*Summary of Opinion:* The Board of Directors of the Texas A&I University System has authority to select and appoint administrative officers by any procedure it chooses, as long as its action is not unreasonable, arbitrary, capricious, or discriminatory. Notice of an executive session on "discussion of personnel changes" is not sufficiently specific as to subject matter to comply with the Open Meetings Act notice requirement in regard to the appointment of a university system chancellor and a university president, since the positions are ones in which the public can reasonably be expected to have a special interest.

Doc No 774815

### Summary of Opinion H-1046

Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning whether amendments to public employees deferred compensation plan can be delayed until the Internal Revenue Service issues a tax ruling on their effect.

*Summary of Opinion:* The comptroller may delay entering contracts authorized by recent amendments to the public employees deferred compensation plan until federal income tax consequences can be established.

Doc No 774816

### Summary of Opinion H-1047

Request from A. R. Schwartz, Chairman, Jurisprudence Committee, Texas Senate, Austin, concerning whether the Open Meetings Act prohibits a governmental body from choosing its officers in closed session.

*Summary of Opinion:* The Open Meetings Act does not prevent a city council from meeting in closed session to discuss the selection of a mayor pro tem unless the person under consideration objects. Other governmental bodies may meet in closed session to discuss the appointment of public officers. A meeting to consider selection of the officers of a city council or governing board may be opened by request of a prospective appointee, by charter or rule, or by the council or board itself.

Doc No 774817

## Summary of Opinion H-1048

Request from Hal H. Hood, Firemen's Pension Commissioner, Austin, concerning the authority of Firemen's Pension Commissioner to permit out-of-time appeals.

**Summary of Opinion:** The Firemen's Pension Commissioner has no jurisdiction to hear an appeal from an order of a board of trustees of a firemen's relief and retirement fund unless the aggrieved fireman has filed his notice of appeal with the board of trustees within 20 days after the date of the board's order, absent a judicial finding that the late filing was due to fraud or misrepresentation.

Issued in Austin, Texas, on September 2, 1977.

Doc No 774818     C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

Filed: September 6, 1977 11:52 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 Mental Health and Mental Retardation

### Client (Patient) Care

#### Review Boards for Making a Determination of Manifest Dangerousness 302.04.10

Because of amendments to Articles 46.02 and 46.03 of the Texas Code of Criminal Procedure and to the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Texas Civil Statutes, enacted by the 65th Legislature, the Texas Department of Mental Health and Mental Retardation is of the opinion that Rules 302.04.10.003, 302.04.10.004, 302.04.10.005, 302.04.10.006, 302.04.10.008, 302.04.10.019, 302.04.10.033, and 302.04.10.035 must be amended on an emergency basis, to become effective immediately on filing with the Texas Register Division of the Office of the Secretary of State.

The emergency amendment to Rule 302.04.10.003 changes the title of the rule to read "Function of Review Boards" and deletes paragraph (b) of the rule. The emergency amendment to Rule 302.04.10.004 changes the definition of "patient" in paragraph (4) by inserting the proper citation to the Texas Code of Criminal Procedure, as amended. Also, a new paragraph (9) is added to define the term "psychiatrist," and a new paragraph (10) is added to define the term "manifestly dangerous."

The emergency amendment to Rule 302.04.10.005 changes the title of the rule to read "Appointment of Review Boards; When a Review Board May Act; Appointment of Alternate Members; Appointment of New Members; Notice of Appointment." The amendment changes paragraph (a) of the rule to make clear that each review board will consist of three psychiatrists. Paragraph (b) of the rule is amended to provide that actions cannot be taken or determinations made by a review board except upon a majority vote of three members. Paragraph (c) is amended to require the commissioner to appoint alternate members to serve on a review board when regular members are unable to serve. A new paragraph (d) is added to the rule to make clear when a review board member is disqualified because of his prior association with the patient to be reviewed. A new paragraph (e) is added to the rule to state the duty of the chairperson with regard to determining when a regular member is unavailable to serve and alternate members will have to be present. A new paragraph (f) is added to the rule to require the commissioner from time to time to replace members of a review board with new members. A new paragraph (g) is added to the rule to specify who will be notified when the commissioner appoints a person to be a member of a review board.

The emergency amendment to Rule 302.04.10.006 amends paragraph (a) of the rule to require a review board to meet each month or as determined by the chairperson. The rule further provides that no more than 45 days shall elapse between meetings of review boards. The emergency amendment to Rule 302.04.10.008 amends paragraph (2) of the rule to require the superintendent of Rusk State Hospital to provide to the review board a statement of facts and circumstances surrounding the alleged criminal offense.

The emergency amendment to Rule 302.04.10.019 in paragraph (a) of the rule inserts the proper citation to the Texas Code of Criminal Procedure, as amended. The amendment also changes paragraphs (c) and (d) of the rule to provide that the patient being reviewed may request the presence of a member of the staff of Rusk State Hospital at the hearing or interview of the patient. The emergency amendment to Rule 302.04.10.033 changes the language of the rule to make it consistent with the statutory amendments to Article 6252-13a, Vernon's Texas Civil Statutes. The emergency amendment to Rule 302.04.10.035 provides that if the superintendent of Rusk State Hospital disagrees with a review board's determination, the superintendent may refer the matter to the commissioner, who will determine whether the patient is manifestly dangerous.

The Texas Department of Mental Health and Mental Retardation adopts these amendments on an emergen-

cy basis to be effective immediately on filing with the Texas Register Division of the Office of the Secretary of State. Said amendments are promulgated under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

**.003. Function of Review Boards** [*Statement of Philosophy*].

(a) Review boards are established to determine whether patients civilly committed to the Maximum Security Unit of Rusk State Hospital are manifestly dangerous in accordance with the provisions of Articles 46.02 and 46.03, Texas Code of Criminal Procedure.

(b) The department asserts that such a determination may best be made by qualified teams of professional personnel who do not have direct responsibility for the diagnosis, care, treatment, or disposition of such patients.]

**.004. Definitions.** In these rules

(4) "Patient" means any person committed to the Rusk State Hospital *Maximum Security Unit* as a result of proceedings initiated pursuant to the provisions of *Sections 6 and 7 of Article 46.02, or Section 4(a) of Article 46.03* [Section 6(a), Article 46.02, or Section 4(a), Article 46.02], Texas Code of Criminal Procedure.

(9) "Psychiatrist" means a physician licensed to practice medicine in the State of Texas who is a graduate of an accredited professional college and has completed at least two years of residency in psychiatry.

(10) "Manifestly dangerous" means that an individual has engaged, is presently engaging, or will likely engage in violent behavior; that such behavior is likely to endanger another person or persons; and that if the individual is not confined in a maximum security environment, he will most likely engage in such behavior.

**.005. Appointment of Review Boards; When a Review Board May Act; Appointment of Alternate Members** [*Replacement of Members Unable to Serve*]; *Appointment of New Members; Notice of Appointment.*

(a) One or more review boards at Rusk State Hospital shall be appointed by the commissioner. Each board shall consist of *three* [seven] members, *all of whom shall be psychiatrists*. The commissioner shall appoint the chairperson of each board.

(b) *No action shall be taken or determination made by a review board unless three members are present and voting. No action shall be taken or determination made by a review board except upon a majority vote of the review board.* [If at any time a member of a review board is unable for any reason to serve as a member, the commissioner shall appoint a replacement. Notice of such appointment will be by letter to the superintendent, the chairperson of the review

board, the deputy commissioners, and the new member.]

(c) The commissioner shall *appoint such alternate members as may be necessary to serve on a review board when regular members are unable to serve for any reason.* [from time to time replace members or the chairperson of a review board with new members. Notice of such appointment will be in the form of a letter to the member, the new member, the superintendent, the chairperson, and the deputy commissioners.] *Such alternate members shall be psychiatrists.*

(d) *A member of a review board shall be disqualified from taking action or making a determination concerning a patient when that member has served on the patient's treatment team, has served on an institutional review board which heard the patient's case, or has personal knowledge of the behavior which precipitated the transfer of the patient to the Rusk State Hospital Maximum Security Unit.*

(e) *It shall be the duty of the chairperson to determine in advance of the meeting whether any regular member is unable to serve and to arrange for alternate members to be present. In the event that the chairperson is unable to serve on a review board for any reason, he shall appoint another member of the review board to act in his place. If the chairperson is unable to appoint such person, the commissioner shall make the appointment.*

(f) *The commissioner shall from time to time replace members or the chairperson of a review board with new members.*

(g) *Notice of appointment of all review board members will be in the form of a letter to the person appointed, the superintendent, the chairperson, the deputy commissioners, and the superintendent of the institution where the member is employed.*

**.006. Meetings and Minutes of the Review Board.**

(a) A review board shall convene [on a working Monday of] each month or at such other times as may be determined by the chairperson; *provided, however, that no more than 45 days shall elapse between meetings.*

**.008. Information and Records to be Furnished Review Boards by the Superintendent.** The department shall provide all necessary information and records regarding the patient to the review board including:

(b) *a statement of facts and circumstances surrounding the* [date and full description of] *alleged criminal offense;*

**.019. Procedure for the Determination of Manifest Dangerousness by a Review Board.**

(a) A review board shall review the information available on each patient and shall conduct a hearing to



determine whether the patient is "manifestly dangerous" as required by Section 8(a) [6(b)], Article 46.02, and Section 4(b), Article 46.03, Texas Code of Criminal Procedure.

(c) No member of the staff of Rusk State Hospital shall be present during the hearing unless requested by a review board, *the patient being reviewed*, or as required by Rule .032(d) of these rules.

(d) No member of the staff of Rusk State Hospital shall be present during the interview of the patient unless requested by a review board, *the patient being reviewed*, or as required by Rule .032(d) of these rules.

.033. *Ex Parte Communications.* Unless required for the disposition of *ex parte* matters authorized by law, members of a review board assigned to render a decision or to make findings of fact and conclusions of law in a hearing before a review board may not communicate, directly or indirectly, in connection with any issue of fact or law with any *agency, person, party, or their representatives* [his representative], except on notice and opportunity for all parties to participate. *Members of a review board may communicate ex parte with other members of a review board, and pursuant to the authority provided in Section 14(q) of Article 6252-13a, Vernon's Texas Civil Statutes. Members of a review board may communicate ex parte with employees of the department who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the department and its staff in evaluating the evidence.*

.035. *Final Decisions and Orders; Request for Rehearing by Superintendent; Request for New Hearing by Superintendent or by Patient, Motions for Rehearing.*

(d) In the event the superintendent disagrees with the determination of a review board, he may *then refer the matter to the commissioner who will make the determination of whether the patient is manifestly dangerous* [petition the appropriate deputy commissioner for a rehearing. The deputy commissioner may, after a review of the decision, order a rehearing by the review board].

Doc No 774799

### Admissions, Transfers, Furloughs, and Discharges-- State Mental Health Facilities 302.04.23

Because of the passage of House Bill 951, Acts of the 65th Legislature, Regular Session, 1977, which amended the Texas Code of Criminal Procedure and the Texas Mental Health Code, and became effective September 1, 1977, the Texas Department of Mental Health and Mental Retardation has determined that Rule 302.04.23.049 must be amended on an emergency basis to reflect the recent changes in the law.

The emergency amendment to Rule 302.04.23.049 amends paragraph (a) of the rule to make clear that the criminal court can civilly commit a defendant. Transfer of the defendant to a civil court for commitment will no longer be necessary. Paragraph (b) of the rule is also amended to provide that a person will be transferred to a non-secure facility within 60 days following his arrival at a maximum security unit unless the person is determined to be manifestly dangerous by a review board. Paragraph (c) of the rule is amended to provide that if a court or prosecuting attorney has given notice to the head of a department facility to which a person has been committed or transferred that the person has criminal charges pending against him, then the head of the facility will notify the court at least 14 days prior to the discharge of the person.

The Texas Department of Mental Health and Mental Retardation hereby promulgates emergency amendments to Rule 302.04.23.049, to become effective immediately on filing with the Texas Register Division of the Office of the Secretary of State. The emergency amendments to Rule 302.04.23.049 are promulgated under the authority of Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

.049. *Transfers: From Maximum Security Unit, Rusk State Hospital, to Non-Security Facility (Civily Criminal Defendants).*

(a) If in a criminal proceeding, a defendant is found *not guilty by reason of insanity under the provisions of Article 46.03, Code of Criminal Procedure, or* [insane at the time of the offense with which he is charged] if a defendant is found incompetent to stand trial and there is found no substantial probability that he will become competent in the foreseeable future, or if the defendant has been previously committed to a facility under subsection (a) of Section 5 of Article 46.02, Code of Criminal Procedure, and [it appears to] the court *determines that there is evidence to support findings that the defendant is mentally ill or mentally retarded and requires commitment to a mental health or mental retardation facility, the defendant may be civilly committed to a mental health or mental retardation facility* [the defendant requires observation or treatment in a mental health or mental retardation facility for his own welfare and protection or the protection of others, the court shall transfer the defendant to the appropriate court for civil commitment proceedings].

(b) A person committed to a mental health or mental retardation facility as a result of the proceedings initiated pursuant to subsection (a) of this rule shall be committed to the maximum security unit of Rusk State Hospital or the maximum security unit of any other facility designated by the department. Within 60 [30] days following *arrival at the maximum security unit* [commitment], the person shall be

transferred to a non-security unit of a mental health or mental retardation facility designated by the department unless the person is determined to be manifestly dangerous by a review board with the department. See Rules Affecting Client (Patient) Care, Review Board (Rusk State Hospital- Maximum Security Unit) for Making a Determination of Manifest Dangerousness, 302.04.10.

(c) The head of a mental health or mental retardation facility to which a person has been committed or transferred as a result of the proceedings initiated pursuant to subsection (a) of this rule and who has received written notice from a *court or* prosecuting attorney that criminal charges are pending against the person shall notify the *court* [prosecuting attorney] in writing at least 14 days prior to the discharge of the person. A written report as to the competency of the person to stand trial shall accompany the notice *of discharge*.

(d) On written notice by the head of a mental health or mental retardation facility that in his opinion a person who has been civilly committed to that facility and against whom criminal charges are pending is competent to stand trial, or on good cause shown by the defendant, his counsel, or the prosecuting attorney, the court in which criminal charges are pending may hold a hearing to determine the competency of the defendant to stand trial. If the defendant is found competent to stand trial, the proceedings on the criminal charges may be continued. If the defendant is found incompetent to stand trial and is under an order of commitment to a mental health or mental retardation facility, the court shall order him placed in the custody of the sheriff for transportation to that facility.

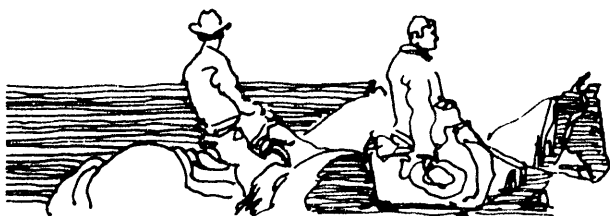
Issued in Austin, Texas, on September 2, 1977.

Doc. No 774800      Kenneth D. Gaver, M.D.  
    Commissioner  
    Texas Department of Mental  
    Health and Mental Retardation

Effective Date: September 2, 1977

Expiration Date: January 4, 1978

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



## State Securities Board Administration Guidelines for Minimum Standards in Tender Offers 065.15.00

The effectiveness of Emergency Rules 065.15.00.100-.800, Administrative Guidelines for Minimum Standards in Tender Offers, is being renewed for 60 days. This emergency rule was originally published in 2 TexReg 1909.

Doc No 774806

## Forms 065.90.00

The effectiveness of Emergency Rule 065.90.00.090, Forms, is being renewed for 60 days. This emergency rule was originally published in 2 TexReg 1914.

Issued in Austin, Texas, on September 2, 1977.

Doc No 774807      Richard D. Latham  
    Securities Commissioner  
    State Securities Board

Effective Date: September 2, 1977

Expiration Date: November 1, 1977

For further information please call (512) 475-4561

## Texas Water Commission

The Texas Department of Water Resources was created by Senate Bill 1139, which was passed by the 65th Legislature and signed by the governor on June 16, 1977, to become effective on September 1, 1977. The department replaces the three former water agencies: the Texas Water Quality Board, the Texas Water Development Board, and the Texas Water Rights Commission. The department is separated into executive, legislative, and judicial functions with the Texas Water Commission designated as the agency within the department to exercise judicial authority. Section 5.262 of the Texas Water Code authorizes the Texas Water Commission to adopt procedural rules. Because the rules of the three former water agencies no longer will be effective and due to statutory requirements that the Texas Water Commission adopt procedural rules, the Texas Water Commission finds that imminent peril to the public health, safety, or welfare requires an emergency adoption of its procedural rules to be effective September 1, 1977.

The Texas Water Commission is the agency within the Department of Water Resources which performs the judicial functions of the department. The purpose for assigning those functions to the commission, while

assigning the legislative functions to the Texas Water Development Board and executive functions to the executive director, is to assure that fundamental safeguards guaranteed by the constitution are enjoyed by persons subject to the department. As a result of the consolidation of the Texas Water Development Board, Texas Water Quality Board, and Texas Water Rights Commission, all of the judicial functions previously exercised by those agencies are now performed by the Texas Water Commission.

The commission is composed of three members, appointed by the governor with the advice and consent of the senate. Each member is from a different section of the state and serves on a full-time basis. The governor designates one of the members to serve as chairman. The procedures before the commission are governed by these rules. Substantive rules of the department are promulgated by the Texas Water Development Board.

## Introductory Provisions 155.01.00

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

.001. *Business Offices and Mailing Address of the Commission.* The commission's offices are located in the City of Austin, Texas, in the Stephen F. Austin State Office Building at 17th Street and Congress Avenue. The commission's mailing address is P.O. Box 13207, Capitol Station, Austin, Texas 78711.

.005. *Regular Meetings.* Mondays at 10 a.m. are designated for regular meetings (sometimes referred to in these rules as "agenda meetings") in order to allow disposition of business matters that come before the commission. In the event Monday is a legal holiday, the meeting will be on the following business day.

.010. *Special Meetings.* The commission may meet at any time and at any place in the state after due notice to the members and other parties required by law to be notified of the meeting.

.020. *Seal.* The seal of the commission shall be a circle with the words "Texas Water Commission" circularly arranged about the inner edge, and in the center of the circle there shall be a five-pointed star, together with the live oak and olive branches common to other official state seals.

.025. *Minutes of the Commission.* The minutes of the commission are kept by the chief clerk in a form and manner as the commission prescribes from time-to-time under existing laws.

.030. *Liaison with Secretary of State.* The commission's chief clerk and deputy clerks are each designated to act as liaison through whom all required documents may be submitted to the secretary of state for filing and publication.

.035. *Statutory References.* Statutory references in the commission's rules are to sections of the Water Code, or to Vernon's Texas Civil Statutes, as amended, and will be cited as Section, or Article, respectively.

### .040. Definitions.

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

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

(c) "Commission" means the Texas Water Commission. When used in connection with hearing which may be conducted by a hearing examiner, the word "commission" includes any hearing examiner assigned to the proceeding. "Hearing examiner" and "examiner" are used interchangeably in these rules.

(d) "Director" or "executive director" means the Executive Director, or an Acting Executive Director of the Texas Department of Water Resources, or any authorized individual designated by the executive director to act in his place for the department.

(e) "Person" means any individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, and any other legal entity or association.

(f) "Applicant" or "petitioner" is a party seeking a license, permit, order, or rule from the commission.

(g) "Member" means one of the appointed members of the commission.

(h) "Complainant" means any party who has filed a signed, written complaint with the department against any party subject to the jurisdiction of the commission.

(i) "Intervenor" means any party otherwise not defined.

(j) "License" includes the whole or part of any commission permit, certificate, approval, registration, or similar form of permission required by law.

(k) "Licensing" includes the department process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(l) "Party" means each person named or admitted as a party by the commission.

(m) "Pleadings" are written allegations filed by parties concerning their respective claims, such as applications, protests, complaints, claims, and other similar documents, including those submitted by the executive director and the public interest advocate.

(n) "Protestant" means any party opposing, in whole or in part, an application or petition filed with the commission.

(o) "Register" means the *Texas Register*.

(p) "Respondent" means any party against whom any complaint has been filed.

## General Rules 155.02.00

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

*.001. Purpose of Rules.* These rules set forth necessary and implied powers of the Texas Water Commission and establish reasonable procedures for the institution, conduct, and final determination of matters before the commission in order to avoid delays, save expense, and facilitate the just administration and enforcement of the water laws of the state and the rules of the Texas Water Development Board. The commission's rules are designed to supplement procedures established by statute and any statutory procedures not specifically included in these rules shall be applicable to practice before the Texas Water Commission. The commission's rules shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, power, duties, or authority conferred by law on the Texas Department of Water Resources.

*.005. Procedures Not Otherwise Provided For.* If, in connection with any hearing, the commission determines that there are no statutes or other applicable rules resolving particular procedural questions then before the agency, the commission will direct the parties to follow procedures consistent with the purpose of these rules.

*.010. Effect of Invalidity of Rule.* If any provision of any rule or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

*.015. Copies and Certification.* Subject to the rules of the board, upon the application of any person, the commission will furnish copies, certified or otherwise, as requested, of any of its proceedings or other official acts of record or of any information collected, assembled, or maintained by the department when such materials are in the custody and control of the commission. Certified copies shall be made under the hand of the chairman, the chief clerk, or any deputy clerk and affixed with the seal of the commission.

*.020. Lost Records and Papers.* When any papers or records in the custody and control of the commission are lost or destroyed, the parties, with the approval of the commission, may agree in writing on a brief statement of the matters contained therein or any person may at any time supply such lost records or papers as follows:

(a) Any person may make written sworn motion before the commission stating the loss or destruction of such record or papers, accompanied by certified copies

of the originals, if obtainable, or by substantial copies thereof.

(b) If, upon hearing, the commission is satisfied that they are substantial copies of the original, an order will be entered substituting such copies for the missing originals.

(c) Such substituted copies will be filed with the chief clerk constitute a part of the record, and have the force and effect of the originals.

*.025. Hearing Examiners.* The commission employs hearing examiners to preside at certain public hearings and to report to the commission on such hearings in the manner provided by law. The chief examiner shall assign matters to the hearing examiners. Where more than one hearing examiner is assigned to hear a particular matter, one of the examiners will be designated to be the presiding officer and shall resolve all procedural questions.

*.030. Powers of the Hearing Examiner.* The hearing examiner presiding shall have authority to do the following:

- (a) set hearing dates;
- (b) convene the hearing at the time and place specified in the notice for the public hearing;
- (c) establish the jurisdiction of the commission concerning the matter under consideration;
- (d) rule on motions and on the admissibility of evidence and amendments to pleadings;
- (e) designate parties and establish the order for presentation of evidence;
- (f) administer oaths to all persons presenting testimony;
- (g) examine witnesses;
- (h) issue subpoenas, when required, to compel the attendance of witnesses or the production of papers and documents related to the hearing;
- (i) commission and require the taking of depositions;
- (j) insure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing any rights of parties to the proceeding;
- (k) conduct public hearings in an orderly manner in accordance with these rules;
- (l) recess any hearing from time to time and from place to place; and
- (m) exercise any other appropriate powers necessary or convenient to carry out his responsibilities.

*.035. Substitution of Hearing Examiners.* If a hearing examiner fails to complete an assigned case, another examiner may be substituted without the necessity of duplicating any duty or function performed by the previous examiner.

*.040. Appearance.* Any person may appear at a hearing in person or by authorized representative. A

person appearing in a representative capacity may be required to prove his authority. All attorneys and other representatives must conform to the standards of ethical conduct required by the Code of Professional Responsibility of the State Bar of Texas.

*.045. Failure to Appear.* Except for good cause and extenuating circumstances, the applicant or petitioner shall appear at the public hearing. Failure to so appear may be grounds for withholding consideration of a matter or for denial without prejudice.

*.050. Affidavit by Representative.* Whenever it is necessary or proper for any party to an application or proceeding to make an affidavit, it may be made by either the party or his representative, unless otherwise provided by statute.

*.055. Attorney of Record.* An attorney of record is one who has appeared in a proceeding or whose name is subscribed to any application or other pleading or to some agreement of the parties filed in the proceedings. He shall be considered to have continued as attorney of record to the end of the proceeding with the commission unless there is a statement to the contrary appearing in the record.

*.060. Lead Counsel.* A party represented by more than one attorney in a matter before the commission shall designate a lead counsel who shall have control in the management of the matter, but all other attorneys for the party may take part in the proceeding in an orderly manner.

*.065. Motions.* Motions, unless made during a hearing, shall be made in writing, set forth the relief or order sought, and be filed with the commission. If parties have been designated, copies shall be furnished by the movant to the applicant, petitioner, and other parties of record. Failure to furnish copies may be grounds for withholding consideration of the motions. Motions based on matters which do not appear of record shall be supported by affidavit.

*.070. Extensions for Filing Pleading.* Unless otherwise provided by statute, the time for filing any pleading may be extended by the commission (a) upon its own motion, or (b) upon written motion duly filed by any party prior to the expiration of the applicable period of time for the filing of the same which shows that there is good cause for such extension of time and that the need therefor is not caused by the neglect, indifference, or lack of diligence of the movant. In the interest of justice, the commission may hold a hearing to consider any motion for extension of time for filing any pleading.

*.075. Amended and Supplemental Pleadings.* Unless otherwise provided in these rules, the Texas Rules of Civil Procedure pertaining to amended and supplemen-

tal pleadings in trials before the district courts of this state shall apply in hearings before the commission.

*.080. Subpoenas and Depositions.* Subpoenas may be issued and depositions commissioned by the commission in accordance with Section 15 (Appendix A) of Article 6252-13a.

If a deposition is returned by mail, it shall be clearly marked on the exterior of its wrapper with the notation that it is to be forwarded unopened to the chief clerk of the commission. If not returned by mail, the deposition shall be accompanied by the affidavit required under Section 14(i), Article 6252-13a, and shall be delivered to the chief clerk of the commission for execution of said affidavit before the chief clerk or deputy.

The fee to which witnesses or deponents are entitled shall be \$25, or \$50 for expert witnesses, for each day or part of a day the person is necessarily present as a witness or deponent.

*.085. Service by Mail.* Service by mail is complete upon deposit in the mail.

*.090. Computing Time.* In computing any period of time prescribed or allowed by these rules, by order of the commission or by law, the following applies:

(a) the first day is excluded and the last day is included;

(b) if the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday;

(c) if a number of months is to be computed from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

*.095. Appointment of Official Hearing Reporters.* The commission shall appoint the necessary hearing reporters to assist in carrying out its responsibilities.

*.100. Transcription of Public Hearings.* All hearings shall be recorded electronically. When a party makes a written request, a hearing may be transcribed by the official hearing reporter. When a reporter is provided at the request of a party, the commission may reasonably assess the cost among the parties to the proceeding. Upon being requested to transcribe a hearing, the reporter shall provide the original transcript to the commission within a reasonable period of time after the close of the hearing or the written request. Copies of the transcript may be sold by the official hearing reporter at a rate to be determined by the commission. A party may file a motion to offer corrections to a transcript within 10 days after the transcript is filed in a proceeding. The presiding officer may order any of

the corrections for referral to the commission. If requested by a party, this rule shall be applied to conferences before or during a hearing.

.105. *Consolidated Hearing.* Consistent with notices required by law, the commission may consolidate related matters if the consolidation will not injure any party and may save time and expense or benefit the public interest and welfare.

Doc No 774639

## Procedures Before Public Hearing

### 155.03.00

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

.001 *Initial Pleadings.* Applications, petitions, complaints, and other pleadings which initiate actions before the department should be delivered to the executive director, together with all related materials, for initial processing and review in accordance with the rules of the board.

.005 *Executive Director Forwards Initial Pleadings to the Commission.* After an application, petition, or other document is processed requiring action by the commission, the executive director shall forward the pleading to the chief clerk for disposition. Pleadings, including those of the executive director and public interest advocate, shall be accompanied by proposed agenda items and notices of hearing, if such are required by law.

.010. *Acceptance for Filing.* The commission's acceptance of a pleading for filing is a formal action which is not a final decision, but is a preliminary and rebuttable determination that the pleading meets the minimum standards required by law in order to be ready for a public hearing.

.015. *Setting and Notice of Public Hearing.* If the commission determines that the pleading should be accepted for filing and that a public hearing should be held, it may refer the matter to the chief examiner and direct that due notice be issued as required by law.

.020. *Affidavit of Publication.* Notice of a public hearing shall be published in such manner as required by law and the rules and orders of the commission. Where notice is given by publication, the publisher of the notice shall furnish a copy of the published notice and a sworn affidavit to the commission on or before the hearing date. The affidavit shall state the date or dates on which the notice was published and the counties in which the newspaper is of general circulation. The affidavit shall be considered *prima facie* evidence of publication.

.025. *Effect of Failure to Furnish Affidavit.* Failure to furnish evidence of publication of the notice in the manner required, either at or before the public hearing thereof, may be deemed evidence of abandonment of the application. If at the public hearing the affidavit of publication is not produced, the hearing may be postponed and action withheld pending receipt of the affidavit. The application may be dismissed if the affidavit of publication is not received within a reasonable time.

.030. *Conference Before Hearing.* At the discretion of the commission, a conference before hearing may be held at a time and place stated in the notice. If notice of the conference is not given in the notice of public hearing, notice of the conference shall be mailed and published in the same manner as the notice of the hearing. A conference may be held to consider the following:

- (a) the formulation and simplification of issues;
- (b) the necessity or desirability of amending the pleadings;
- (c) the possibility of making admissions or stipulations;
- (d) the procedure at the hearing;
- (e) the identification of witnesses;
- (f) the mutual exchange of prepared testimony and exhibits;
- (g) the designation of parties; and
- (h) other matters which may expedite the hearing.

.035. *Recording of Conference Action.* As directed by the presiding officer, action taken at the conference shall be reduced to writing, signed by the parties, and made a part of the record, or a statement thereof shall be made on the record at the close of the conference or at the hearing.

.040. *Written Protest Requirements.* In the event any person desires to protest in writing any matter pending before the commission, he shall file his written protest with the commission at least five days before the hearing date. At the time of filing, protestant shall serve a copy on the applicant or petitioner and all designated parties, if any, and proof of service shall be filed with the commission. The commission may authorize the late filing of a written protest upon a showing of good cause and extenuating circumstances. A protest to be submitted in writing shall comply in substantial manner with the following requirements:

- (a) show the name and address of the protestant;
- (b) state the basis of his interest and allege any relevant facts and conclusions;
- (c) describe the location of any property of the protestant if it is material to his protest relative to the matter under consideration; and

(d) call attention to any amendment or adjustment which, if made, would result in withdrawal of the protest.

A written protest may be dismissed if it is not in substantial compliance with this rule.

Doc No 774640

## Procedures During Public Hearing 155.04.00

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

*001 Designation of Parties.* All parties to a proceeding shall be designated at the first day of hearing or at such time as may be designated by the commission. In order to be admitted as a party, a person must have a justiciable interest in the matter being considered. Only a person who appears at the hearing in person or by representative may be admitted as a party, unless the person is specifically named in the proceeding. Regardless of the designations of pleadings, the parties and their pleadings shall be accorded their true status in the proceeding. After parties are designated, no other person will be admitted as a party except upon a finding of good cause and extenuating circumstances and that the hearing in progress will not be unreasonably delayed. At the discretion of the commission, persons who are not parties may be permitted to make or file statements.

*005 Executive Director as a Party.* The executive director or his designated representative shall be admitted as a party. The executive director may not appeal any commission ruling, decision, or other act but has all other procedural rights and obligations of a party, including the right to file a motion for rehearing in accordance with these rules.

*010 Public Interest Advocate as a Party.* The public interest advocate or his designated representative shall be admitted as a party. The public interest advocate may not appeal any commission ruling, decision, or other act but has all other procedural rights and obligations of a party, including the right to file a motion for rehearing in accordance with these rules.

*015 Protestants as Parties.* A person protesting a matter, regardless of whether a written protest was filed, is not entitled to be admitted as a party to the proceedings unless he appears at the hearing either in person or by representative and timely seeks to be admitted as a party.

*020 Furnishing Copies of Pleadings.* After the parties to a proceeding have been designated, a copy of every pleading or written motion thereafter filed shall be

provided by the author to each party or his representative. A certification of this fact shall accompany the original instrument when filed with the commission. Failure to provide copies shall be grounds for withholding consideration of the pleadings.

*025 Conference During Hearing.* Upon notice written or stated in the record in any proceeding, parties or their representatives may be directed to appear at a specified time and place for a conference to consider the following:

- (a) the formulation and simplification of issues;
- (b) the necessity or desirability of amending the pleadings;
- (c) the possibility of making admissions or stipulations;
- (d) the procedure at the resumption of the hearing;
- (e) the specification of the number of witnesses;
- (f) the mutual exchange of prepared testimony and exhibits; and
- (g) other matters which may expedite the hearing.

*030 Recording of Conference Action.* As directed by the presiding officer, action taken at the conference shall be reduced to writing, signed by the parties, and made a part of the record, or a statement thereof shall be made on the record at the close of the conference or at the hearing.

*035 Agreements to be in Writing.* No agreement between parties or their representatives affecting any pending matter will be considered by the commission unless it is in writing, signed, and filed as a part of the record, or unless it is announced at the hearing and entered of record.

*040 Number of Counsel Heard.* The commission may limit the number of counsel heard on any matter.

*045 Limiting Number of Witnesses.* The commission may limit the number of witnesses appearing in any proceeding when it appears that additional testimony would be cumulative.

*050 Order of Presentation.* In all proceedings, the moving party shall have the right to open and close. Where several matters have been consolidated, the commission will designate who will open and close. The commission will determine at what stage intervenors will be permitted to offer evidence and argument. After all parties have completed the presentation of their evidence, the commission may call upon any party for further material or relevant evidence upon any issue.

*055 General Admissibility.* Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. When nec-

essary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The commission shall give effect to the rules of privilege recognized by law.

*.060. Objections.* Objections shall be timely and noted in the record. Formal exception to the ruling of the commission is not necessary to preserve the objecting party's right on appeal. If the matter is heard before an examiner, no objection will be considered by the full commission until it considers the examiner's proposal for decision.

*.065. Cross Examination of Witnesses.* Witnesses shall be subject to cross-examination by any party. The commission may allow any person to cross-examine witnesses only where it appears that such questioning may lead to a full and true disclosure of the facts without unduly delaying the hearing or burdening the record.

*.070. Stipulation.* Evidence may be stipulated by agreement of all parties. The commission will determine the weight, if any, to be accorded stipulated evidence.

*.075. Exhibits.* Exhibits of a documentary character shall not exceed 8-1/2 by 14 inches unless they are folded to the required size. Maps and drawings which are offered as exhibits shall be rolled or folded so as not to unduly encumber the record. Exhibits not conforming to this rule may be excluded.

*.080. Copies of Exhibits.* The original of each exhibit offered shall be tendered for identification and placed in the record. When convenient, copies shall be furnished to the presiding officer and to each of the parties.

*.085. Prepared Testimony and Exhibits to be Prefiled.* The commission may direct the parties to file all prepared testimony and other exhibits prior to the hearing and to provide copies to all other parties as designated.

*.090. Admissibility of Prepared Testimony.* Upon being sworn, a witness may identify and present his prepared testimony as an exhibit. The witness shall be subject to cross-examination.

*.095. Abstracts of Documents.* When documents are numerous, the commission may receive in evidence only those which are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties shall have the right to examine the documents from which the abstracts are made.

*.100. Excluding Exhibits.* In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned. If not withdrawn, it shall be included in the record for the purpose of preserving the objection.

*.105. Official Notice.* The commission may take official notice of all facts judicially cognizable. In addition, the commission may take official notice of any generally recognized facts within the specialized knowledge of the department.

*.110. Parties to be Informed of Material Officially Noticed.* All parties shall be notified before or during the hearing or by reference in preliminary reports, drafts of orders, or otherwise, of any material officially noticed, including any memoranda or data prepared by the staff of the department and relied upon by the commission in prior proceedings. All parties shall be afforded an opportunity to contest any material so noticed.

*.115. Utilizing Special Skills of the Department.* When the commission desires to utilize the special skills of the department in evaluating the evidence received at the hearing in connection with any matter, it shall request in writing to the executive director the assignment of appropriate personnel who have not participated in the review and processing of the matter. In evaluating the evidence, the commission may communicate with any employee of the department assigned under this rule.

*.120. Continuance.* The commission may continue a public hearing or meeting from time to time and from place to place. If the continuance is not announced at the hearing or meeting, a notice shall be mailed at a reasonable time to all parties and other persons who, in the judgment of the commission, may be affected by action taken as a result of the hearing.

*.125. Oral Argument.* At the conclusion of the hearing, oral argument may be heard upon request or upon directive to the parties. Reasonable time limits may be prescribed. When any matter heard before an examiner is presented to the commission for final decision, further oral argument may be heard by the commission.

*.130. Party to Draft Order.* The commission may request that any party draft and submit a proposed order which shall include proposed findings of fact and conclusions of law separately stated. In making such a request the commission will indicate to all parties the general nature of the intended proposal or final decision to be drafted. The proposed order shall be circulated among the parties.



## Procedures After Public Hearing Before An Examiner 155.05.00

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

*.001. Action Following Hearing.* After closing the hearing for receipt of evidence, the examiner shall submit a written proposal for decision to the commission.

*.005. Pleadings Prior to Proposal for Decision.* Prior to the issuance of a proposal for decision, briefs or proposed findings of fact may be filed when permitted or requested by the examiner. Four copies shall be delivered or mailed to the examiner. Copies shall also be served on all other parties with certification of service furnished to the examiner.

Each proposed finding of fact shall be accompanied by a concise statement of the supportive evidence, referenced to specific portions of the record.

*.010. Examiner's Proposal for Decision: Adverse to a Party.* A written proposal for decision shall be submitted to the commission by the examiner who conducted the hearing or by a substitute examiner who has reviewed the record. If the proposal for decision is adverse to a party to the proceeding, it shall contain a statement of the reasons for the proposal as well as findings of facts and conclusions of law which support the proposal. If any party has filed proposed findings of fact, the examiner shall include with his proposal for decision recommended rulings on all findings of fact so proposed. Where more than one examiner has been assigned to hear a particular matter, the examiners may join in a proposal for decision, issue separate proposals for decision, or each propose a portion of a single proposal for decision. Each party shall be sent a copy of the proposal for decision by certified mail, return receipt requested.

*.015. Proposal for Decision - Not Adverse to any Party.* If the proposal for decision is not adverse to any party to the proceeding, the examiner may informally dispose of the matter by proposing to the commission an order which need not contain findings of fact, conclusions of law, or reasons for the proposal.

*.020. Waiver of Right to Review Examiner's Proposal.* Any party may waive the right to review and comment upon the examiner's proposal for decision. The waiver may either be in writing or stated into the record at the hearing.

*.025. Pleadings Following Proposal for Decision.* Within 10 days after the date of issuance of the proposal for decision, any party may file exceptions, briefs, or proposed findings of fact by delivering four copies to the examiner. Any replies to exceptions, briefs, or proposed findings of fact shall be filed within 20 days after

the date of issuance of the proposal for decision. Copies of all exceptions, briefs, proposed findings of fact, and replies shall be served promptly on all other parties with certification of service furnished to the examiner. Failure to provide copies shall be grounds for withholding consideration of the pleadings.

*.030. Examiner May Amend Proposal for Decision.* The examiner's proposal for decision may be amended pursuant to exceptions, replies, or briefs submitted by the parties without again being served on the parties.

*.035. Remand to Examiner.* The commission may remand any matter to an examiner with instructions as to the subject matter of further hearings, if any, and the examiner's duties in preparing supplemental materials or revised orders for the commission's final adoption.

*.040. Final Decision.* Upon the expiration of 20 days following service of the examiner's proposal for decision, the commission may by written order make its final decision which, if adverse to any party, shall include findings of fact and conclusions of law separately stated. If any party has filed proposed findings of fact to the examiner, the commission shall include in its final decision a ruling on the proposed findings of fact, unless waived by the party.

*.045. Prompt Final Decision.* The commission's final decision customarily will be rendered within 60 days after the date the hearing is finally closed. In a case heard by an examiner, a longer period of time may be necessary in order to present the matter to the commission for final decision. If additional time is likely to be required, that fact shall be announced by the examiner presiding at the conclusion of the hearing.

Doc No 774642

## Procedures After Public Hearing Before the Full Commission 155.06.00

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

*.001. Parties May Propose Findings of Fact.* Within 20 days after the commission closes the hearing for receipt of evidence, any party may file proposed findings of fact by delivering or mailing four copies to the commission. Copies shall also be served on all other parties with certification of service furnished to the commission. Each proposed finding of fact shall be in writing, accompanied by a concise statement of the supportive evidence, and referenced to specific portions of the record. Failure to provide copies shall be grounds for withholding consideration of the proposed findings of fact.

.005 *Briefs* In matters heard before a majority of the commission, briefs may be filed when permitted or requested by the commission. If briefs are permitted or requested, five copies shall be filed with the commission, and copies shall also be served on all other parties with certification of service furnished to the commission.

.010 *Final Decision* The commission shall by written order make its final decision which, if adverse to any party, shall include findings of fact and conclusions of law separately stated. If any party filed proposed findings of fact, the commission shall include in its final decision a ruling on the proposed findings of fact, unless waived by the party.

Doc No 774643

## Procedures After Final Decision 155.07.00

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

.001 *Motion for Rehearing* A person affected by a final decision or order of the commission may file a motion for rehearing. The motion shall be filed within 15 days after the date of rendition of a final decision or order. On or before the date of filing of a motion for rehearing, a copy of the motion shall be served on all parties with certification of service furnished to the commission. The motion shall contain the following information:

- (a) the name of the person filing the motion;
- (b) the style and number of the case;
- (c) the date of the final decision or order; and
- (d) a concise statement of each allegation of error.

.005 *Granting of Motion for Rehearing* A motion for rehearing may be granted in whole or in part. When the motion for rehearing is granted, the final decision or order is nullified. The commission may reopen the hearing to the extent it deems necessary. Thereafter, the commission shall render a final decision or order as required by these rules.

.010 *The Record* The record in a contested case shall include the following:

- (a) all pleadings, motions, and intermediate rulings;
- (b) evidence received or considered;
- (c) a statement of matters officially noticed;
- (d) questions and offers of proof, objections, and rulings on them;

(e) summaries of the results of any conferences held before or during the hearing;

(f) proposed findings, exceptions, and briefs;

(g) any decision, opinion, or report by the officer presiding at the hearing; and

(h) all staff memoranda and data submitted to or considered by the commission.

Doc No 774644

## Special Procedures

### General 155.08.01

This rule is promulgated under the authority of Section 5.262, Texas Water Code.

.001 *Special Procedures to Preval* The rules in this chapter are adopted for the purpose of supplementing Chapters Two through Seven by providing special procedures to be followed for particular types of hearings. Whenever there is a conflict between a rule in this chapter and a rule from Chapters Two through Seven, the commission will resolve the conflict by following the rule in this chapter in a manner consistent with the purpose of the commission's rules.

Doc No 774645

### Water Rights Adjudication 155.08.02

These rules are promulgated under the authority of Section 5.262, Texas Water Code.

#### .001 *General*

(a) *Applicability* This chapter applies to the duties, responsibilities, and activities of the department under Section 11.301, *et seq.*, Water Rights Adjudication Act of 1967.

(b) *Motions* Motions may be filed with the commission by any party at any time. If there are parties whose interests are likely to be substantially affected by the relief sought in the motion, the commission may require that the motion be made in writing and copies served on each of those parties or their representatives who shall have a reasonable period of time in which to file a written reply. At the time the motion is served on other parties, the moving party shall notify parties of the deadline for filing replies. A copy of any reply filed shall be served on the moving party. Proof of service required under this rule shall be filed with the commission by the moving party and each replying party. After the time for the filing of replies to the motion has expired, the commission shall rule on the motion. The ruling shall be reduced to writing and a copy sent by first-class mail to all affected parties.

*.005. Pre-hearing Procedures.*

(a) Initiation of adjudication. The water rights in any stream or segment may be adjudicated as provided in Section 11.504.

- (1) on motion of the commission;
- (2) on petition to the commission signed by 10 or more claimants;
- (3) water rights from the source of supply; or
- (4) on petition of the board.

(b) Investigation and preparation of investigation report. Promptly after an adjudication is initiated under Section 11.304, the commission shall investigate the facts and conditions necessary to determine whether the adjudication would be in the public interest.

(1) If the commission finds that an adjudication would be in the public interest, it shall enter an order to that effect, designating the stream or segment to be adjudicated and directing an investigation of the area involved to be made by the executive director in order to gather relevant data and information essential to the proper understanding of the claimed water rights involved. The results of the investigation shall be reduced to a written report and made a matter of record in the commission's office. This report shall be available for public inspection during regular business hours of the commission at its offices in Austin, Texas.

(2) In connection with the investigation, the executive director shall have a map or plat made showing, with substantial accuracy, the course of the stream or segment, the location of reservoirs, and diversion works and places of use, including irrigated lands which are relevant to the alleged water rights involved.

(c) Notice of adjudication. The commission shall prepare a notice of adjudication which describes the stream or segment to be adjudicated and the date by which all claims of water rights in the stream or segment shall be filed with the commission under Section 11.307. This date shall be not less than 90 days after the date the notice is issued.

(1) The notice shall be published once a week for two consecutive weeks in one or more newspapers having general circulation in the counties in which the stream or segment is located.

(2) The notice shall be sent by first class mail to all persons appearing on the commission's official mailing list for the stream or segment being adjudicated.

(3) The notice provided for in Section 11.308 may be incorporated with the notice required by this rule and Section 11.306.

(d) Filing of claims. Every person claiming a water right of any nature, except for domestic or livestock purposes, from the stream or segment under adjudication, shall file a sworn claim pursuant to Section 11.307 within the time prescribed in the notice of adjudication or any extension.

(1) Sworn claims shall state the following:

- (A) the name and mailing address of the claimant;
- (B) the nature of the right claimed, including the number of any permit, certified filing, or claim filed pursuant to Section 11.303;
- (C) the maximum acre-feet of water claimed;
- (D) the purpose of use claimed;
- (E) the date of first diversion of state water for other than domestic or livestock purposes;
- (F) the earliest priority date claimed;
- (G) the source of water;
- (H) a description of diversion works;
- (I) the maximum total diversion rate claimed;
- (J) a description of impounding facilities, including the location, whether it is on-channel or off-channel, the impounding capacity, surface area, and average depth at normal maximum operating level;
- (K) the maximum number of acres per annum if an irrigation right is claimed; and
- (L) all other information necessary to show the nature and extent of the claim.

(2) The commission shall prescribe forms for claims filed under this rule, but use of commission forms is not mandatory.

(3) The commission may extend the time for the filing of claims required to be filed under this rule and Section 11.307 and may accept a claim which is filed beyond the deadline or any extension thereof.

(4) All claimants of water rights, except users of water for domestic or livestock purposes, shall file a sworn statement of the claim of right with the commission. Failure to file a sworn statement under this provision in accordance with the commission's notice of adjudication bars the recognition of any right in the claimant.

(e) Notice of hearings. The commission shall set a time and place for hearing of all claims in the stream or segment being adjudicated.

(1) The commission shall give 30 days notice of the commencement of the hearings by certified mail to all persons who appear on the commission's official mailing list for the stream or segment being adjudicated as described below. This notice may be included in the notice of adjudication provided for in Section 11.306.

(2) The commission shall schedule individual evidentiary hearings for each diverter of state water within the segment being adjudicated who can be ascertained from the records of the department or from the executive director's investigation. The commission shall give notice by first class mail of the date, time, and place of all individual evidentiary hearings to all persons appearing on the commission's official mailing list for the segment being adjudicated.

(3) Default hearings will be held as necessary in each segment being adjudicated. These hearings will be scheduled for individual claims that were continued during the regularly scheduled hearings. The date, time, and place of default hearings will be set by the commission. Notice of the date, time, and place of default hearings shall be mailed by certified mail to each person appearing on the default docket and by first-class mail to all other persons appearing on the commission's official mailing list for the segment being adjudicated.

(4) The commission may continue hearings from time to time and place to place. At the time of continuation, the commission shall state on the record the date, time, and place of the subsequent hearing. If unknown at the time of continuation, the commission shall give notice of the date, time, and place of the subsequent hearing to all parties who appear on the commission's official mailing list for the segment being adjudicated.

(5) The commission shall maintain an official mailing list for each stream or segment being adjudicated, which shall include the following:

- (A) the persons within the stream or segment being adjudicated who filed claims in accordance with Section 11.307;
- (B) all other persons who filed claims in accordance with Section 11.303, or who have permits or certified filings within the segment being adjudicated;
- (C) all other diverters of state water within the segment being adjudicated who can be reasonably ascertained from the records of the department or from the executive director's investigation;
- (D) all attorneys or other interested persons who request to be put on the mailing list, either in writing or on the record during one of the hearings, in the adjudication; and
- (E) all contesting parties.

.010 Jurisdiction Hearing

(a) Purpose. Jurisdictional hearings are to establish jurisdiction of the commission to adjudicate all claims of water rights in the stream or segment and to provide information concerning the adjudication.

(b) Procedure. Exhibits will be introduced to evidence jurisdiction. The qualifications of the project engineer or project manager, and any assistants, will be examined and a ruling made on their abilities to testify in the upcoming individual evidentiary hearings as expert witnesses.

(c) Question and answer. The commission will entertain questions of general concern to all parties in the adjudication from any person attending the hearing.

.015 Procedure at Individual Evidentiary Hearings.

(a) Opening statements and exhibits. The commission shall call up the individual claim and entertain

any opening statement on behalf of any party. Exhibits may be tendered into evidence after the parties present are provided an opportunity to view them.

(b) Order of testimony. After the introduction of exhibits, the project engineer or project manager shall orient the parties to facts concerning the claim derived from his investigation. Thereafter, the claimant shall present evidence concerning the claim. The executive director's staff may then present evidence. Upon completion of presentation by the claimant and the executive director's staff, any other party may offer relevant evidence.

.020 Preliminary Determination

(a) Preparation of examiner's recommendations. An examiner presiding at the individual evidentiary hearings or one who has read the record shall prepare written recommendations, including proposed findings of fact and conclusions of law, in regard to each individual claim and shall submit his recommendations and the record of the hearings to the commission for its consideration.

(b) Preparation of preliminary determination. After reviewing an examiner's recommendations and the record of the hearings, the commission shall adopt a preliminary determination of all claims of water rights in the segment being adjudicated as required by Section 11.309.

(c) Distribution of preliminary determination. One copy of the preliminary determination shall be furnished and sent without charge by first-class mail to each person listed on the commission's official mailing list for the segment being adjudicated. Additional copies of the preliminary determination shall be made available for public inspection at convenient locations throughout the river basin as designated by the commission. Copies shall also be made available for other persons at a reasonable price based upon the cost of reproduction.

(d) Public inspection of record. The record of the hearings shall be open to public inspection as required by Article 6252-17a and Section 5.310.

(e) Notice of preliminary determination. The commission shall publish notice of the preliminary determination.

(1) Promptly after the preliminary determination is adopted, notice shall be published once a week for two consecutive weeks in one or more newspapers having general circulation in the river basin in which the segment that is the subject of the adjudication is located.

(2) The commission shall also send the notice by first-class mail to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the commission, and to other persons on the commission's official

mailing list for the stream or segment being adjudicated.

(3) Each notice shall state the following:

(A) the place where the preliminary determination and record of the hearings will be open for public inspection;

(B) the locations throughout the river basin where copies of the preliminary determination will be available for public inspection;

(C) the method of ordering copies of the preliminary determination and the charge for copies; and

(D) the date by which contests of the preliminary determination must be filed

#### *.025. Contests to Preliminary Determination*

(a) Filing deadline. The commission shall set a date for filing contests to the preliminary determination, which shall be not less than 90 days from the date of the notice of the preliminary determination

(b) Filing of contest. Any person affected by the preliminary determination, including any claimant to water rights within the river basin but outside the segment under adjudication, who disputes the preliminary determination may, within the time for filing contests prescribed by the commission in the notice, including any extensions of the time, file a written contest with the commission.

(c) Copy of contest to claimant. If the contest is directed against the preliminary determination of the water rights of other claimants, a copy shall be sent by the contestant to each of these claimants or his representative by certified mail, and proof of service shall be filed with the commission

(d) Extension of time for filing contests. The commission may accept contests filed beyond the deadline but prior to the issuance of the notice of hearings on the contests.

(e) Contents of contests. Each contest shall do the following:

(1) state the name of the claimant, nature of the claim, and the page number in the preliminary determination to which the contest is directed;

(2) describe the specific parts of the preliminary determination to which objection is made, pointing out the specific findings of fact, conclusions of law, or other matters objected to, or specifying the findings of fact, conclusions of law, or other matters alleged to have been erroneously omitted from the preliminary determination, and

(3) describe the facts relied upon to support the grounds of the contest and be verified by an affidavit of the contestant or his representative

(f) Amendments to contests. Amendments to contests may be authorized at any time provided that the commission finds that the amendment will not result in undue surprise to any party and will not sig-

nificantly change the grounds of the contest as described in the commission's notice of the contest hearings.

(g) Notice of hearings on contests. After the time for filing contests has expired, the commission shall prepare a notice setting forth the parts of the preliminary determination to which each contest is directed and the date, time, and place of the hearing on each contest. The notice shall be sent by certified mail to each contestant and by first-class mail to each claimant of water rights within the river basin within which the segment is located and to all other persons who appear on the commission's official mailing list for the segment being adjudicated. The notice shall set a specific date, time, and place for each contestant to appear

#### *.030. Procedure at Contest Hearing*

(a) Jurisdiction. The commission shall consider evidence concerning jurisdiction

(b) Individual cases - presentation of evidence. The commission may allow the project manager or project engineer to orient the parties to the claim involved in the contest. Thereafter, each contestant may make an opening statement and present evidence in support of the contest. Rebuttal evidence may be presented. Any other party may then present evidence relevant to the particular contestant's case

(c) Legal argument. Oral arguments may be permitted by the commission upon request, but the commission will prescribe reasonable limits

#### *.035. Final Determination and Appeal*

(a) Proposed final decision. When a majority of the commission has not heard the contest or read the record, the examiner who presided at the contest hearing or one who has read the record shall prepare a proposal for final decision and shall send it by first-class mail to all persons on the commission's official mailing list for the adjudication. The proposed final decision shall contain a statement of the reasons therefor and a statement of each finding of fact and conclusion of law necessary to the proposed final decision. Any affected person may file exceptions and present briefs to the commission concerning the proposal for final determination within the time limit stated in the notice of the proposal for final determination. The parties may waive compliance with this rule by written stipulation filed with the commission

(b) Final determination. The adjudication hearings shall be closed at the conclusion of the last contest hearing or oral argument, whichever is later. The commission shall make a final determination of the claims to water rights in the adjudication within 60 days after the closing of the adjudication hearings, provided that where the case was not heard by the commission, the examiner may set a reasonable time for the issuance of a final determination and shall announce such extension at the closing of the adjudication hearings. The

commission shall send a copy of the final determination, and any modification thereof, by regular mail to each person of record on the commission's official mailing list for the stream or segment being adjudicated as required by Section 11.315.

(c) Notice of final determination. The commission shall send a notice of the final determination by first-class mail to each claimant of water rights within the river basin in which the segment is located, to the extent that the claimants can be reasonably ascertained from the records of the commission, and to each other person on the commission's official mailing list for the segment being adjudicated.

(1) Each notice shall state the following:

(A) the place that the final determination and record of hearings will be open for public inspection;

(B) the method of ordering copies of the final determination and the cost of copies; and

(C) the date by which applications for rehearing must be filed, which shall be not less than 30 days from the effective date of the final determination.

(2) The commission will provide in the final determination and notice thereof the effective date of the determination in order to provide a sufficient period of time within which the determination and notice can be printed and mailed.

(d) Application for rehearing of final determination. An application for rehearing is the same as a motion for rehearing under Section 16, Article 6252-13a, and is a prerequisite to filing an exception to the final determination under Section 11.318, *et seq.*

(1) Within 30 days after the effective date of the final determination, any affected party may apply to the commission for a rehearing. Any other party may reply to an application for rehearing within 10 days after the expiration of the time limit for the filing of applications for rehearing. Within 45 days after the effective date of the final determination, the commission shall take action either granting or denying the applications for rehearing. If the commission fails to take action either granting or denying the applications for rehearing within this time, the applications are overruled by operation of law. The commission may extend the time for filing the applications and replies and taking commission action, provided that an extension may not extend the period for commission action beyond 90 days after the effective date of the final determination. In the event of an extension of time, the application for rehearing is overruled by operation of law on the date fixed by the order or, in the absence of a fixed date, 90 days after the effective date of the final determination. Applications for rehearing which, in the opinion of the commission, are without merit may be denied without notice to other parties, but no application for rehearing shall be granted without notice

to each person on the commission's official mailing list for the segment being adjudicated.

(2) If an application for rehearing is granted, the commission shall issue notice setting forth the substance of the application and setting the time and place of the hearing. Notice shall be sent in the same manner provided for in contest hearings.

(3) If the final determination is modified after a rehearing, the commission shall send a copy of the modified final determination by regular mail to each person on the commission's official mailing list for the segment being adjudicated. However, if the modifications are such that they are likely to substantially affect the rights of other water right holders within the basin but outside the watershed or segment being adjudicated, then a summary of the modifications shall also be sent to all other water right holders in the basin.

Issued in Austin, Texas, on September 1, 1977.

Doc No 774646      Joe D Carter  
Chairman  
Texas Water Commission

Effective Date September 1, 1977  
Expiration Date December 30, 1977

For further information please call (512) 475-4514

## Texas Water Development Board

Senate Bill 1139 of the 65th Legislature, Regular Session, effective September 1, 1977, created the Texas Department of Water Resources and the Texas Water Commission. The department is the successor to the Texas Water Quality Board and the Texas Water Rights Commission, which were abolished on September 1, 1977, by this act, and incorporates the Texas Water Development Board, and shall carry out their respective duties, responsibilities, and functions from September 1, 1977. The act provides that all legislative functions of the department will be performed by the Texas Water Development Board, all executive functions will be performed by the executive director of the department, and all judicial functions will be performed by the Texas Water Commission.

The Texas Water Development Board is composed of six members who serve on a part-time basis and who are appointed by the governor with the advice and consent of the senate. The board does not have a business office. All applications, petitions, or other documents requiring action of the board shall be presented to the executive director to be processed as provided for by the Texas Water Code and these rules.

The act provides that the Texas Water Development Board will adopt any rules necessary to establish and approve all general policy of the department to carry out the powers and duties of the department under the Texas Water Code and other laws of the state. Accordingly, the board has adopted rules to govern all proceedings and actions of the department. Because of the length of these rules, they will not be published in the *Texas Register*. Copies may be inspected at the Office of the Texas Register, Suite 550, Texas Commodore Building, 8th and Brazos, Austin.

The Texas Water Commission is composed of three members who serve on a full time basis and who are appointed by the governor with the advice and consent of the senate. The commission's business office is located in the Stephen F. Austin Building, at 17th Street and Congress Avenue, Austin. The commission has adopted procedural rules to be followed in commission hearings, which are not republished herein.

The executive director of the department is appointed by the board to serve at the will of the board. The executive director's central business offices are located in the Stephen F. Austin Building, 17th Street and Congress Avenue, Austin.

As defined and provided for in the act, the rules of the board, and the rules of the commission, the executive director generally performs his duties and responsibilities by designated or authorized personnel of the department; however, with regard to certain responsibilities, the executive director may not delegate performance.

The following is a list of the chapter and subchapter titles of the rules filed with the Office of the Secretary of State on an emergency basis. Copies of the rules may be obtained from the Texas Water Development Board, Office of the General Counsel, P.O. Box 13087, Austin, Texas 78711.

#### Introductory Provisions

- Introductory Provisions
- Environmental Impacts Statements
- Definitions
- Rulemaking Public Hearings of the Board and Commission
- Guidelines on the Preparation of Environmental, Social and Economic Impacts Statements

#### Appropriation of Water

- Classes of Water Rights Permits
- Types of Water Rights Permits
- General Requirements of Permit Applications
- Maps, Plats, and Drawings Accompanying Application for Regular Water Permit
- Additional Requirements for Irrigation
- Additional Requirements for Dams and Reservoirs

#### Diversion from Un-sponsored or Storage Limited Projects

- Temporary Water Permits
- Application for Water Permit Under Section 11.143
- Contractual Water Permit
- Emergency Water Permit
- Water Permit Fees
- Issuance and Conditions of a Water Permit

#### Additional Provisions

- Filing of Instruments
- Reports
- Change of Address and Ownership
- Conveying Stored Water

#### Particular Proceedings

- Amending Water Rights on Motion of Executive Director
- Amending Water Rights
- Amendments to Water Rights Requiring Mailed and Published Notice
- Cancellation of Water Rights
- Transwatershed Diversion
- Transwatershed Diversion Time Extensions
- Complaints
- Condemnation
- Federal Projects
- Designation of Local Sponsors on Federal Projects

#### Requirements for Construction, Maintenance, Operation, and Removal of Dams and Reservoirs

- General Provisions
- Authority of the Department
- Commission Approval of Construction
- Inspection and Construction Requirements
- Maintenance, Operation, and Removal

#### Requirements for Creation, Bond Issues, Supervision, and Dissolution of Water Districts

- General Provisions
- Creation of Water Districts
- Underground Water Conservation Districts
- Appointment of Directors
- Issuance of Bonds
- District Actions if the Commission Approves the Engineering Project and Issuance of Bonds
- Other Actions Requiring Commission Consideration for Approval
- Reports
- District Name Signs
- Sanitary Sewer System

#### Rules Relating to Financial Programs

- Introductory Provisions
- General Procedures
- Policy Declarations
- Initiating Action Under the Loan Assistance, Water Facilities Acquisition, and Water Quality Enhancement Programs
- Applications to the Board

- Formal Action by the Board
- Prerequisites to Release of State Funds
- Loan Assistance Program and Water Quality Enhancement, Final Procedures, and Requirements
- Construction Phase for Loan Assistance Project and Water Quality Enhancement Project
- Water Facilities Acquisition Program Negotiation of Contracts
- Water Facilities Acquisition Program Construction Phase
- Procedure for State Acquisition Initiated by the Board
- Transfer of State-Acquired Facilities and Sale of Water
- Application to Acquire State Interests or to Purchase Water
- Post-Construction Responsibilities Compliance Procedure
- Definitions
  - Definitions of Terms
  - Administrative Policy of the Board
  - General Provisions Relating to All Applicants
  - Provisions Relating to Districts
  - Applications for Approval of Projects Requiring Commission Approval
  - Unauthorized Projects and Projects Not Constructed According to Commission Approval
  - Submission of Final Plans
- Texas Weather Modification Act
  - Definitions
  - Issuance of Licenses and Permits
  - Revocation and Suspension of License and Permits
  - Records Required
  - General Information and Instructions
- The Texas Water Well Drillers Act
  - General Provisions
  - Certification of Registration Procedures
  - Well Logs and Completion
  - Well Plugging
  - Miscellaneous Provisions
- Grants Administration
  - Federal Construction Grant Program
  - Planning Grants, Loans, and Contracts
- Particular Proceedings
  - Review and Approval of Plans and Specifications for Disposal Systems
  - Approved Ratings for Waste Disposal Systems
  - Certification Notice for NPDES Permits
- Design Criteria for Sewerage Systems
  - General Provisions
- Effluent Standards
  - Domestic Wastewater Treatment Plants
  - General Regulation Incorporated into Permits Monitoring and Reporting System
  - Discharge of Untreated or Partially Treated Wastewater
  - Hazardous Metals
  - Edwards Aquifer Orders
    - Bexar County
    - Comal County
    - Hays County
    - Kendall County
    - Kinney County
    - Medina County
    - Uvalde County
  - Area Water Quality Management
    - Clear Lake
  - Industrial Solid Waste
    - Industrial Solid Waste Management
  - Boat Regulations
    - Boat Sewage Disposal
  - Control of Certain Discharges by Rule
    - Commercial Swine Production Operation
    - Meat Processing
    - Sand and Gravel Washing
  - Waste Discharge Permits
    - General Provisions
    - Procedure for Obtaining Waste Discharge Permits
    - Revocation, Suspension, and Amendment of Waste Discharge Permits
    - Corrections and Transfers of Waste Discharge Permits
    - Renewals
    - Emergency Orders
    - Enforcement
  - Operation of Rio Grande
    - Introductory Provisions
    - Definitions
    - Watermaster-Regulatory Functions
    - Allocation of Waters
    - Enforcement of Rules
  - Operation of Lower Rio Grande
    - Introductory Provisions
    - Financing Watermaster Operation
    - Amendments to and Sales of Water Rights
  - Operation of Middle Rio Grande
    - Introductory Provisions
    - Amendments to and Sales of Water Rights
  - Regionalization Orders
    - Northbelt
    - Shoreacres
    - South Mayde Creek
    - Rosillo Creek
    - East Fork Trinity River
    - Lower Rio Grande Valley



Harris County Fresh Water Supply District No. 63  
Cibolo Creek  
Blackhawk  
Vidor Metropolitan Area

Issued in Austin, Texas, on September 1, 1977.

Doc No 774647 Bruce Bigelow  
774775 General Counsel  
Texas Department of Water  
Resources

Effective Date September 1 1977  
Expiration Date December 28 1977

For further information please call (512) 475-3969



# PROPOSED RULES

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

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

Numbering System-- Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the 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 Agriculture

### Agricultural and Environmental Sciences Division

#### Texas Pesticide Control Regulations 176.23.10

The Texas Department of Agriculture is proposing to adopt amendments to Texas Pesticide Control Regulations 176.23.10.111 and 176.23.10.128.

Proposed amendments to Rule .111 are necessary in the department's pesticide regulations in order to obtain full approval of the department's state plan from the Environmental Protection Agency.

Proposed amendments to Rule .128 are necessary in the department's pesticide regulations in order to correct some administrative problems.

The Texas Department of Agriculture has determined that proposed amendments to Rules .111 and .128 will cause no fiscal change.

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning David Ivie, (512) 475-4457, or by writing to the Agricultural and Environmental Sciences Division, Texas Department of Agriculture, P.O. Box 12847, Capitol Station, Austin, Texas 78711.

Amendments to Rules 176.23.10.111 and 176.23.10.128 are proposed under the authority of Article 135b-5, Texas Civil Statutes.

#### 111. *Pesticide Dealers.*

(d) Records of sales of restricted-use or state-limited use pesticides.

(1) All pesticide dealers are required to maintain records of sales for a period of two years.

(2) These records will be submitted to the commissioner at his request.

(3) Information to be recorded in the register shall include:

(A) name, [and] address, ***and certified applicator number*** of the person to whom the pesticide was sold or delivered;

(B) date of sale;

(C) brand name and manufacturer of the pesticide;

(D) quantity of pesticide sold.

(4) Invoices with above information will be accepted as record as long as they are kept separate from other sales records.

(5) ***Restricted-use or state-limited-use pesticides can only be sold to certified applicators or person acting under the direct supervision of a certified applicator.***

#### .128. *Regulation and Inspection of Equipment.*

(a) All application equipment used by commercial applicators must be registered with the licensing agency. The agency shall issue a decal to the licensee to be attached to each such piece of equipment in a conspicuous place. The decal will contain the following information:

(1) the year licensed;

(2) ***an identification*** [the applicator license] number;

(3) ***the name of the issuing agency*** [the category or subcategory of license].

[(4) the name of the issuing agency;]

[(5) the identification number of the equipment.]

Issued in Austin, Texas, on August 19, 1977.

Doc. No. 774327      Reagan V. Brown  
Commissioner  
Texas Department of  
Agriculture

Proposed Date of Adoption: September 29, 1977

For further information, please call (512) 475-4457.

# Texas Cosmetology Commission

## Sanitary Rulings 381.07.00

The Texas Cosmetology Commission proposes to amend Sanitary Rules .025 and .027, to alleviate the shortage of storage space in schools and salons.

The commission has determined that the proposed amendments have no fiscal implications for any person or agency.

Comments are invited and may be sent to the executive director of the Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701.

The amendments are proposed under the authority of Section 4, Article 8451a of Vernon's Annotated Civil Statutes.

### .025. *Proper Quarters.*

(g) Styling stations, styling bars, dresserettes, or working stations must be kept clean at all times to the sight and touch. All drawers and shelves of the above being used for the storage of rollers, brushes, combs, pins, nets, and equipment must have proper sanitation, and shall not be used for storage of non-related cosmetology equipment or supplies. ***One drawer or cabinet may be designated for storage of personal items.***

### .027. *Waste and Refuse.*

(c) Trash containers used for the disposal of hair clippings must be covered. ***There must be ample closed trash containers in each salon or school.*** [There must be at least two large closed trash containers (minimum of 30 gallons) in each salon or school.]

Doc No 774822



## General Rules and Regulations 381.14.00

The 65th Legislature has passed several pieces of legislation that will require amendments in the general rules and regulations. Additionally, several changes are proposed to alleviate the severe shortage of licensed instructors.

The commission has determined that the proposed amendments have no fiscal implications for any person or agency.

Comments are invited and may be sent to the Executive Director of the Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701.

The amendments are proposed under the authority of Section 4, Article 8451a Vernon's Annotated Civil Statutes.

.010. *Monthly Hour Report.* On a form prescribed ***and furnished*** by the commission, [and printed, secured or reproduced at school expense], the school will file with the commission, no later than the 10th day of the month following, a record of hours acquired by each student during the preceding month.

### .019. *Definitions of License Authorization.*

(a) Temporary license. A temporary license authorizes the holder of a valid license from another state or nation to practice cosmetology in the State of Texas for 30 days while waiting for reciprocity clearance, ***or*** waiting to take the commission examination. [or do a show or seminar not in conjunction with a *bona fide* association.] A temporary license is not renewable.

.021. *Instructor Applicant.* The student instructor must first have a valid [Texas] operator's license before re-entering beauty school to complete the additional 1,000 hours in cosmetology courses and methods of teaching.

### .024. *Length of Courses.*

(a) Wig specialist. A wig specialist course shall be for 300 hours in an approved school in not less than ***eight*** [12] weeks from date of enrollment.

(b) Manicurist: The manicuring course shall be for 150 hours in an approved school in not less than ***four*** [6] weeks from date of enrollment.

.029. *Health Certificate.* A student enrolling in school shall furnish a health certificate which includes a [blood test] physical and tuberculosis test not over eight weeks old at the time of enrollment date. No credit for hours shall be given prior to the date of the health certificate. ***Students re-taking the written portion of the examination only will not be required to obtain a new health certificate.***

**.042. Out-of-State Instructors.** Instructors holding licenses from a state not qualifying for reciprocity may make application for the examination by meeting the same requirements as a Texas student instructor. Previous hours *or work experience as an instructor* acquired may be applied upon presentation of a transcript and approval of the executive director. *For out-of-state instructors who have less than 1,000 hours of instructor training, to qualify for examination, each year of full-time experience as an instructor verified by employer may equal 250 hours.*

Issued in Austin, Texas, on September 1, 1977.

Doc. No. 774823      Ron Resech  
 Executive Director  
 Texas Cosmetology  
 Commission

Proposed Date of Adoption: October 12, 1977

For further information, please call (512) 475-3304.

## Texas Department of Human Resources

### AFDC

#### Citizenship 326.10.24

The Department of Human Resources proposes the repeal of its rules about reporting illegal aliens to the Immigration and Naturalization Service (INS). These rules were previously authorized under plans pursuant to Department of Health, Education, and Welfare (HEW) and United States Department of Agriculture (USDA) instructions. The rules provide that if it becomes known to the department during the application process for food stamps or Aid to Families with Dependent Children (AFDC) that an alien has entered or remained in the United States illegally and INS has not declined deportation action, a referral must be sent to notify INS. USDA and HEW recently advised the department that this authorization is no longer in effect. Therefore, the department proposes the following repeals.

The proposed repeals may become effective prior to the expiration of the public comment period in accordance with Section 10(a)(3), Article 6252-13a, Texas Civil Statutes. Consequently, the department will release related handbook material to field staff to facilitate application of the new policy in the event the repeal is made effective immediately in accordance with federal law.

The department has determined that these proposed repeals have no fiscal implications for the state nor for units of local government.

Written comments are invited and may be sent to Susan Johnson, Administrator, Systems and Procedures Bureau-- 584, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

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

**.007. Cooperation with the Immigration and Naturalization Service.** When an individual is denied assistance because the facts indicate he was not lawfully admitted to this country, the Immigration and Naturalization Service must be notified. A copy of the notification form is filed in the case folder. This referral is also applicable when a noncitizen applicant has failed to complete the application process and the worker has reason to believe that the applicant was not lawfully admitted to the U.S.

Doc No. 774840

## Food Stamps

### Citizenship 326.15.33

The Department of Human Resources proposes the repeal of its rules about reporting illegal aliens to the Immigration and Naturalization Service (INS). These rules were previously authorized under plans pursuant to Department of Health, Education, and Welfare (HEW) and United States Department of Agriculture (USDA) instructions. The rules provide that if it becomes known to the department during the application process for food stamps or Aid to Families with Dependent Children (AFDC) that an alien has entered or remained in the United States illegally and INS has not delined deportation action, a referral must be sent to notify INS. USDA and HEW recently advised the department that this authorization is no longer in effect. Therefore, the department proposes the following repeals.

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

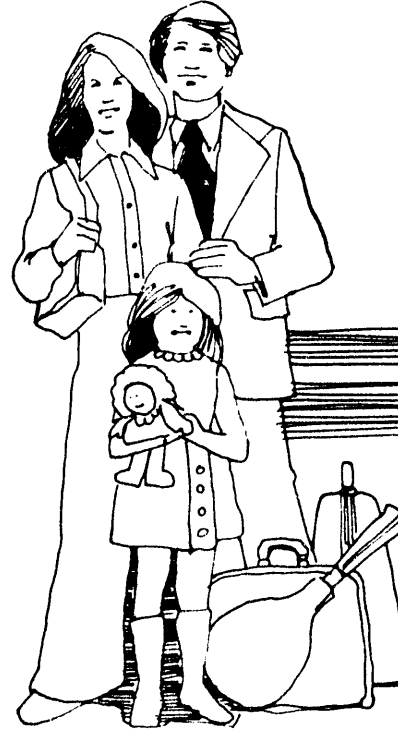
.012. *Reporting Illegal Aliens.* If, in the application process, it becomes known to the department that an alien has entered or remained in the United States illegally and INS has not declined deportation action, such aliens shall be promptly brought to the attention of the INS district office for appropriate action. A written referral must be sent to the service. A copy of the referral form is to be filed in the case record. This referral is also applicable when a noncitizen applicant has failed to complete the application process, or withdraws his application, and the worker has reason to believe the applicant was not lawfully admitted into the United States.

Issued in Austin, Texas, on September 7, 1977.

Doc. No. 774841 Jerome Chapman  
Acting Commissioner  
Texas Department of Human  
Resources

Proposed Date of Adoption: October 12, 1977

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



# ADOPTED RULES

3458

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 Historical Commission

### Administrative Department

#### Use of Gethsemane Church, Carrington-Covert House, and Grounds 352.01.01

These rules are promulgated pursuant to the authority of Article 6145, Vernon's Texas Civil Statutes, and establish procedures for use of the Gethsemane Church and Carrington-Covert House and grounds which are properties of the Texas Historical Commission.

**.001. Requests.** A request for use of said building(s) and/or grounds shall not be considered if it appears that carrying out the request would destroy, damage, or threaten to destroy or damage the properties. Requests for use must be made, in writing, to the executive director not less than four weeks prior to intended use date.

**.002. Prohibiting Use.** The executive director may, at his discretion, prohibit use of the buildings or grounds if such use requires overtime work of Texas Historical Commission employees. This provision does not apply to agency-sponsored events.

**.003. Interference Prohibited.** Intended use may not interfere with any regular daily use of Gethsemane Church, Carrington-Covert House, or grounds.

**.004. Reimbursement for Expenses.** Any person or organization that uses the buildings or grounds during hours other than normal working hours must reimburse the Texas Historical Commission for any utilities consumed during that period, and for any extra janitorial work required either before or after such use.

**.005. Liability.** Persons using the buildings and grounds shall be liable for any damage to state property caused by the described activity, or occurring as a proximate result of the activity.

Issued in Austin, Texas, on September 2, 1977.

Doc. No. 774821      Truett Latimer  
Executive Director  
Texas Historical Commission

Effective Date: September 26, 1977

For further information, please call (512) 475-3092.

## Texas Department of Human Resources

### Food Stamps

#### Responsibilities 326.15.12

The Department of Human Resources adopts the amendment to its rule about disclosure of information in the Food Stamp Program, as proposed in the June 28, 1977, issue of the *Texas Register*. This amendment expands current policy on disclosing information by addressing procedures for providing information to persons or agencies in addition to those currently allowed.

A comment on the proposed amendment objected to the referral of illegal aliens to the Immigration and Naturalization Service. The department is unable to change this requirement since it is a mandate of the United States Department of Agriculture (USDA). No other comments were received on the proposed amendment; therefore the department adopts the amendment with no changes in the proposed text.

This amendment has been approved by the Texas Board of Human Resources and is adopted under the authority of Article 695c, Texas Civil Statutes.

#### **.014. Disclosure of Information.**

(a) Case information may be released only under the following circumstances:

(1) food stamp case information is available routinely to those persons directly connected with the administration and enforcement of the Food Stamp Program;

(2) names and addresses of participating households may be made available to persons or agencies connected with nutrition education and outreach efforts;

(3) a food stamp recipient's or applicant's most recent address and place of employment may be disclosed to the Parent Locator Service, established according to the Child Support Program;

(4) illegal aliens are reported to the Immigration and Naturalization Service (INS);

(5) case information may be released to a governmental agency if the worker obtains information during an interview or from a collateral contact indicating the client provided false information to that agency. In this situation, the eligibility worker can disclose this information to the agency involved. Information not relating to the incident cannot be released. The release of this information must be documented in the case record;

(6) the worker may release case record information in other than the above situations only on written authorization of the head of the household or certified spouse. The recipient's release must include:

(A) the date of the release;

(B) the name of the person or agency to whom the information will be released;

(C) what information will be released, either itemizing specific items or time periods, or a general release;

(D) the expiration date of the release;

(E) signature of head of household, or spouse if a certified household member.

(b) The release must be filed in the case record.

(c) Persons whose requests for information about current or past food stamp recipients in Texas do not meet the above criteria should submit a written inquiry on the requesting agency's letterhead to the State Department of Human Resources, Special Services Division, John H. Reagan Building, Austin, Texas 78701. The inquiry should contain enough detailed information about the household to enable the department to identify the household. If persons requesting information feel that the information is required in connection with the administration and enforcement of the Food Stamp Program, they should indicate this in their request.

(d) Telephone inquiries will be answered by Special Services Division if the information is required immediately. State office does not accept collect calls.

(e) If an employee is subpoenaed to appear in court with the record of an applicant or recipient, he or she will notify the supervisor and furnish all facts about the case and the date and time of the court hearing. Normally the subpoenaed employee must take the record and appear in court as directed by the summons. When the employee is requested to disclose the confidential information from the record, he or she will ask the judge to be excused from disclosing it because of the statutory prohibitions governing such disclosure. The employee must abide by the judge's ruling or he or she can be held in contempt of court.

(f) DHR has an agreement with Texas A&M Extension Service to provide county extension agents with the names and addresses of food stamp households when these households are interested in nutrition

education. Certification staff are responsible for forwarding this information to their county extension agent by letter on a regular basis which is worked out at the local level. The names, addresses, and referral dates of the households referred must be maintained on file in each certification office as a source for periodic reporting when required.

Issued in Austin, Texas, on September 2, 1977.

Doc. No. 774809 Jerome Chapman  
Acting Commissioner  
Texas Department of Human  
Resources

Effective Date: September 22, 1977

For further information, please call (512) 476-4801.

## Commodity Program

### Child Care Food Program 326.18.09

The Department of Human Resources (DHR) adopts the following rules about the Child Care Food Program (CCFP), as proposed in the July 29, 1977, issue of the *Texas Register*. Effective October 1, 1977, the United States Department of Agriculture is transferring the responsibility for administration of this program to DHR.

The Child Care Food Program provides assistance to initiate, maintain, and expand nonprofit food service programs for children in nonresidential child-caring institutions. The following rules contain policy about assignment of rates of reimbursement, claims for reimbursement of institutions for meals served to children, and audits.

No comments were received on the proposed rules; therefore, the department adopts the rules with no changes in the proposed text.

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

#### .001. Assignment of Rates of Reimbursement.

(a) The department shall, for reimbursement purposes, establish claiming percentages for each participating institution based on the national average payment for meals established by USDA.

(b) Each institution shall submit, not less frequently than annually, information necessary to determine the claiming percentages for that institution. The following information shall be submitted:

(1) the number of enrolled children from families meeting the state's family-size income standards for free school meals,

(2) the number of enrolled children from families meeting the state's family-size income standards for reduced price meals, and

(3) the number of enrolled children from families with incomes exceeding the state's family-size income standards for reduced price meals.

(c) The department shall assign rates of reimbursement for each institution for each meal type (breakfast, lunch, supplements, supper). Assigned rates of reimbursement may vary among the institutions.

**.002. Claim for Reimbursement.**

(a) The department will base reimbursement to institutions on claiming percentages by determining a blended per-meal rate of reimbursement by multiplying the assigned rate for each category (free, reduced price, paid) by the claiming percentage for that category and multiplying the product by the total number of meals served by type.

**.003. Non-Food Assistance.**

(a) Criteria for designation of especially needy centers will be as follows:

(1) All children participating in the center must be eligible for free lunches.

(2) The sponsor must demonstrate inability to finance the matching portion of the non-food assistance grant.

**.004. Audits.**

(a) Sponsors are required to employ a C.P.A. firm to conduct an audit of the fiscal management of the program.

(b) Audit findings necessitating corrective action(s) will be handled in 30 days unless unusual circumstances warrant extension.

Doc No 774776

## Support Documents 326.18.99.002

The Department of Human Resources (DHR) adopts by reference the federal regulations for the Child Care Food Program, as proposed in the July 29, 1977, issue of the *Texas Register*. Effective October 1, 1977, the United States Department of Agriculture (USDA) is transferring the responsibility for administration of this program to DHR.

The Child Care Food Program provides assistance to initiate, maintain, and expand nonprofit food service programs for children in nonresidential child-caring institutions. Included in the regulations are general provisions for institutions, requirements for meals, effective date for reimbursement payments, free and reduced price meals, and grant closeout procedures.

No comments were received on the proposed rule; therefore, the department adopts the rule with no changes in the proposed text.

This rule has been approved by the Texas Board of Human Resources and is adopted under the authority of Article 695c, Texas Civil Statutes.

**.002. Child Care Food Program Regulations.** The Department of Human Resources adopts by reference the Child Care Food Program rules contained in Sections 226.9, 226.10, 226.13, 226.14, 226.15, 226.22, 226.23, 226.24, 226.25, 226.26, 226.27, 226.28, and 226.29 of Part 226, Title 7, Code of Federal Regulations.

Doc. No 774777

## 326.18.99.003

The Department of Human Resources adopts the rule about the Special Milk Program, as proposed in the July 26, 1977, issue of the *Texas Register*. This rule adopts by reference the rules in the federal regulations about the Special Milk Program which include requirements for participation, reimbursement payments, reimbursement procedures, and miscellaneous provisions.

As of October 1, 1977, the department will be responsible for the administration of this 100 percent federally funded program.

No comments were received on the proposed rule; therefore, the department adopts the rule with no changes in the proposed text.

This rule has been approved by the Texas Board of Human Resources and is adopted under the authority of Article 695c, Texas Civil Statutes.

**.003. Special Milk Program Regulations.** The Department of Human Resources adopts by reference the Special Milk Program rules contained in Title 7, Code of Federal Regulations, Part 215, as amended by *Federal Register* Document No. 76-21579, pages 31172-31178 of Volume 41, No. 145.

Issued in Austin, Texas, on September 1, 1977.

Doc. No. 774778 Jerome Chapman  
Acting Commissioner  
Texas Department of Human  
Resources

Effective Date: October 1, 1977

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



## Child Support Collection

### Child Support Collection Services 326.20.21

The Texas Department of Human Resources adopts the amendment to its rule about non-Aid to Families with Dependent Children (AFDC) applicants for child support collection services as proposed in the June 17, 1977, issue of the *Texas Register*. This amendment requires that non-AFDC applicants for child support services apply for services in the state in which they reside.

No comments were received on the proposed amendment; however the department has made minor changes in the language of the rule for clarification.

This amendment has been approved by the Texas Board of Human Resources and is adopted under the authority of Article 695c, Texas Civil Statutes.

#### .003. Other Applicants.

(a) Non-AFDC applicants must be residents of the State of Texas. Non-residents must make application through the IV-D Agency of the state in which they reside.

(b) The client completed form, Parent Profile Questionnaire, is also used for non-AFDC Texas residents who apply for child support services. It shall be the regional attorney's responsibility to ensure that applications are available to clients.

(c) All child support services will be available upon application and payment of an application fee. An assignment of rights to support, until actual costs have been recovered, shall be requested. Non-AFDC applicants may withdraw from child support services by sending written notice to the local child support unit any time after costs have been recovered or upon full payment of costs.

(d) Any individual making application for child support services must be provided information regarding probable costs.

Issued in Austin, Texas, on September 6, 1977.

Doc. No. 774837 Jerome Chapman  
Acting Commissioner  
Texas Department of Human  
Resources

Effective Date: September 26, 1977

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

## 24 Hour Care Licensing

### Minimum Standards for Halfway Houses 326.91.05

The Texas Department of Human Resources (DHR) has adopted an amended and a new rule for each of these sets of 24-hour care licensing standards: halfway

houses, institutions serving mentally retarded children, institutions providing basic child care, and residential treatment centers.

The adoptions contain additional standards to be met when both children and adults are being cared for, to ensure the protection of the resident children's interests. The rules were proposed in the May 6, 1977, issue of the *Texas Register*. Public comments generally supported the amendments, and a suggested editorial change was used in the final versions.

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

#### .012. Plan of Service.

(c) Halfway houses providing care for children and adults are required to meet the standards in Rule 326.91.05.031.

#### .031. Providing Care for Children and Adults.

(a) Halfway houses providing care for children and adults shall ensure that the required staff-resident ratio is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific staff shall be assigned to work exclusively with the children in care. Job descriptions and staffing assignments shall show no conflicts in assignments to resident care staff; or

(2) If staffing assignments are such that staff must be responsible for children and adults, then the required staff-resident ratio shall be maintained for all the residents in care.

(b) Adult residents cannot be counted as staff in the staff-resident ratio.

(c) Halfway houses providing care for children and adults shall ensure that the required 40 square feet of indoor area per individual is maintained for the children in care. The indoor areas are places where individuals can gather for quiet, reading, study, relaxation, and entertainment. Bedrooms, halls, kitchens, and any rooms not available to individuals in care shall not be included in the minimum space requirement. This shall be accomplished by one of two alternatives:

(1) A specific indoor area shall be assigned to be used exclusively by the children in care; or

(2) If children and adults must share the living area, then the required minimum square footage shall be maintained for all the residents in care.

(d) Halfway houses providing care for children and adults shall ensure that the required 60 square feet of bedroom space per occupant is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific bedroom areas shall be assigned to be used exclusively by the children in care; or

(2) If bedrooms areas are shared by children and adults, then the minimum square footage shall be maintained for all the residents in care.

(e) Any serious occurrences involving children or adult residents shall be reported to the Licensing Division. A serious accident, suicide attempt, incident of cruel or abusive treatment, dangerous situation, or death shall be reported to the Licensing Division within 24 hours or the next working day.

(f) If adults are allowed responsibility for their own medication, the halfway house shall establish safeguards to prevent children in care from having access to the medications.

(g) Adults in care shall have a tuberculosis test within six months prior to admission and annually thereafter. A report of the skin test, with follow-up or a negative chest x ray, if appropriate, is mandatory.

Doc No 774779

## Minimum Standards for Institutions Serving Mentally Retarded Children 326.91.06

The Texas Department of Human Resources (DHR) has adopted an amended and a new rule for each of these sets of 24-hour care licensing standards: halfway houses, institutions serving mentally retarded children, institutions providing basic child care, and residential treatment centers.

The adoptions contain additional standards to be met when both children and adults are being cared for, to ensure the protection of the resident children's interests. The rules were proposed in the May 6, 1977, issue of the *Texas Register*. Public comments generally supported the amendments, and a suggested editorial change was used in the final versions.

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

### .013. *Plan of Service.*

(e) Institutions providing care for children and adults are required to meet the standards in Rule 326.91.06.033.

### .033. *Serving Children and Adults.*

(a) Institutions serving mentally retarded children and adults shall ensure that the required staff-child ratio is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific staff shall be assigned to work exclusively with the children in care. Job descriptions and staffing assignments shall show no conflicts in assignments to child care staff; or

(2) If staffing assignments are such that staff must be responsible for children and adults, then the

required staff-child ratio shall be maintained for all the residents in care.

(b) Adult residents cannot be counted as staff in the staff-child ratio.

(c) Institutions serving mentally retarded children and adults shall ensure that the required 40 square feet of indoor area per child is maintained for the children in care. The indoor areas are places where ambulatory children can gather for relaxation, entertainment, or recreation. This shall be accomplished by one of two alternatives:

(1) A specific indoor area shall be assigned to be used exclusively by the children in care; or

(2) If children and adults must share the living area, then the required minimum square footage shall be maintained for all residents in care.

(d) Institutions serving mentally retarded children and adults shall ensure that the required 60 square feet of bedroom space for ambulatory occupants is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific bedroom areas shall be assigned to be used exclusively by the children in care; or

(2) If bedroom areas are shared by children and adults, then the minimum square footage shall be maintained for all the residents in care.

(e) Any serious occurrences involving children or adult residents shall be reported to the Licensing Division. A serious accident, suicide attempt, incident of cruel or abusive treatment, dangerous situation, or death shall be reported to the Licensing Division within 24 hours or the next working day.

(f) If adults are allowed responsibility for their own medication, the institution shall establish safeguards to prevent children in care from having access to the medications.

(g) Adults in care shall have a tuberculosis test within six months prior to admission and annually thereafter. A report of the skin test, with follow-up or a negative chest x ray, if appropriate, is mandatory.

Doc No. 774780

## Minimum Standards for Institutions Providing Basic Child Care 326.91.07

The Texas Department of Human Resources (DHR) has adopted an amended and a new rule for each of these sets of 24-hour care licensing standards: halfway houses, institutions serving mentally retarded children, institutions providing basic child care, and residential treatment centers.

The adoptions contain additional standards to be met when both children and adults are being cared for, to ensure the protection of the resident children's interests. The rules were proposed in the May 6, 1977,

issue of the *Texas Register*. Public comments generally supported the amendments, and a suggested editorial change was used in the final versions.

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

*.013. Plan of Service.*

(d) Institutions providing care for children and adults are required to meet the standards in Rule 326.91.07.031.

*.031. Providing Care for Children and Adults.*

(a) Institutions providing care for children and adults shall ensure that the required staff-child ratio is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific staff shall be assigned to work exclusively with the children in care. Job descriptions and staffing assignments shall show no conflicts in assignments to child care staff; or

(2) If staff assignments are such that staff must be responsible for children and adults, then the required staff-child ratio shall be maintained for all the residents in care.

(b) Adult residents cannot be counted as staff in the staff-child ratio.

(c) Institutions providing care for children and adults shall ensure that the required 40 square feet of indoor area per child is maintained for the children in care. The indoor areas are places where children can gather for quiet, reading, study, relaxation, entertainment, or recreation. Bedrooms, halls, kitchens, and any rooms not available to children in care shall not be included in the minimum space requirement. This shall be accomplished by one of two alternatives:

(1) A specific indoor area shall be assigned to be used exclusively by the children in care; or

(2) If children and adults must share the living area, then the required minimum square footage shall be maintained for all the residents in care.

(d) Institutions providing care for children and adults shall ensure that the required 60 square feet of bedroom space per occupant is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific bedroom areas shall be assigned to be used exclusively by the children in care; or

(2) If bedroom areas are shared by children and adults, then the minimum square footage shall be maintained for all the residents in care.

(e) Any serious occurrences involving children or adult residents shall be reported to the Licensing Division. A serious accident, suicide attempt, incident of cruel or abusive treatment, dangerous situation, or death shall be reported to the Licensing Division within 24 hours or the next working day.

(f) If adults are allowed responsibility for their own medication, the institution shall establish safeguards to prevent children in care from having access to the medications.

(g) Adults in care shall have a tuberculosis test within six months prior to admission and annually thereafter. A report of the skin test, with follow-up or a negative chest x ray, if appropriate, is mandatory.

Doc. No. 774781

### Minimum Standards for Residential Treatment Centers 326.91.09

The Texas Department of Human Resources (DHR) has adopted an amended and a new rule for each of these sets of 24-hour care licensing standards: halfway houses, institutions serving mentally retarded children, institutions providing basic child care, and residential treatment centers.

The adoptions contain additional standards to be met when both children and adults are being cared for, to ensure the protection of the resident children's interests. The rules were proposed in the May 6, 1977, issue of the *Texas Register*. Public comments generally supported the amendments, and a suggested editorial change was used in the final versions.

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

*.013. Assessment and Treatment Planning.*

(d) Residential treatment centers providing care for children and adults are required to meet the standards in Rule 326.91.032.

*.032. Providing Care for Children and Adults.*

(a) Residential treatment centers providing care for children and adults shall ensure that the required staff-resident ratio is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific staff shall be assigned to work exclusively with the children in care. Job descriptions and staffing assignments shall show no conflicts in assignments to resident care staff; or

(2) If staff assignments are such that staff must be responsible for children and adults, then the required staff-resident ratio shall be maintained for all the residents in care.

(b) Adult residents cannot be counted as staff in the staff-resident ratio.

(c) Residential treatment centers providing care for children and adults shall ensure that the required 40 square feet of indoor area per resident is maintained for the children in care. The indoor areas are places where residents can gather for quiet, reading, study,

relaxation, entertainment, or recreation. Bedrooms, halls, kitchens, and any rooms not available to residents in care shall not be included in the minimum space requirement. This shall be accomplished by one of two alternatives:

(1) A specific indoor area shall be assigned to be used exclusively by the children in care; or

(2) If children and adults must share the living area, then the required minimum square footage shall be maintained for all the residents in care.

(d) Residential treatment centers providing care for children and adults shall ensure that the required 60 square feet of bedroom space per occupant is maintained for the children in care. This shall be accomplished by one of two alternatives:

(1) Specific bedroom areas shall be assigned to be used exclusively by the children in care; or

(2) If bedroom areas are shared by children and adults, then the minimum square footage shall be maintained for all the residents in care.

(e) Any serious occurrences involving children or adult residents shall be reported to the Licensing Division. A serious accident, suicide attempt, incident of cruel or abusive treatment, dangerous situation, or death shall be reported to the Licensing Division within 24 hours or the next working day.

(f) If adults are allowed responsibility for their own medication, then the residential treatment center shall establish safeguards to prevent children in care from having access to the medications.

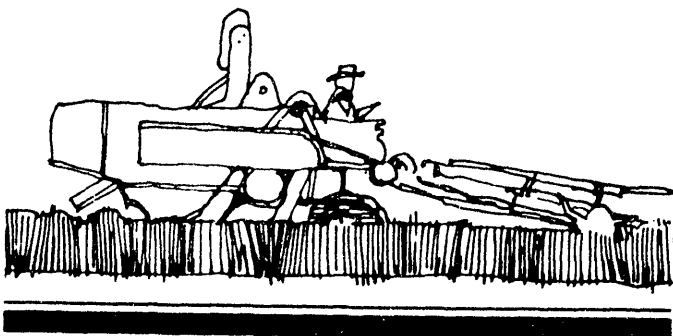
(g) Adults in care shall have a tuberculosis test within six months prior to admission and annually thereafter. A report of the skin test, with follow-up or a negative chest x ray, if appropriate, is mandatory.

Issued in Austin, Texas, on September 1, 1977.

Doc. No. 774782 Jerome Chapman  
Acting Commissioner  
Texas Department of Human  
Resources

Effective Date September 21 1977

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



## Texas Parks and Wildlife Department

### Fisheries

#### Taking and Possessing Raptors For Falconry Purposes 127.30.10

Pursuant to the authority of Sections 49.001 - 49.017, Texas Parks and Wildlife Code, the Texas Parks and Wildlife Commission has repealed Rules 127.30.10.001-.010 relating to falconry.

Doc. No. 774838

#### Taking and Possessing Raptors for Falconry Purposes 127.30.24

The Texas Parks and Wildlife Commission has adopted Rules 127.30.24.001-.013, as originally published in the *Register* with the following exceptions:

(1) Subsection (6) has been deleted in Rule .001(b) to separate this statement from the preceding subpart. This subpart has also been amended to include the peregrine falcon (*Falco peregrinus*) as a raptor which cannot be taken from the wild. Similar changes have been made in Rule .001(c).

(2) Rule .002(b)(2)(B) has been changed to specify that traditional one-piece jesses may not be used "at any time" to prevent a raptor which is accidentally lost from becoming entangled. Rule .002(c) has been amended to specify that a "federally approved" examination is required in accordance with federal regulations. Rule .007 has been expanded to include additional counties where a special permit is needed in order to trap raptors. Rule .012 is amended to reflect an effective date 20 days after publication in the *Texas Register*.

Rules 127.30.10.001-.010 are repealed and replaced by Rules 127.30.24.001-.013. No objections to the adoption or repeal have been received by the department.

These rules are adopted under the authority of Sections 49.001-49.017, Texas Parks and Wildlife Code.

#### .001. Definitions.

(a) "Apprentice falconry permit" is an authorization issued to a citizen of Texas, 14 years of age or older, under the guidance of a sponsor who is a holder of a general or master permit, to take, possess, transport, and use in the sport of falconry one raptor, limited to one of the following:

- (1) American kestrel (*Falco sparverius*);
- (2) red-tailed hawk (*Buteo jamaicensis*); or
- (3) red-shouldered hawk (*Buteo lineatus*).

(b) "General falconry permit" is an authorization issued to a citizen of Texas, 18 years of age or older, with at least two years of experience at the apprentice level, to take, possess, transport, and use in the sport of falconry, two raptors, except the following, unless specifically provided for in the permit:

- (1) kites (*Elaninae* and *Milvinae*);
- (2) osprey (*Pandion haliaetus*);
- (3) caracara (*Caracara cheriway*);
- (4) aplomado falcon (*Falco femoralis*); or
- (5) strigiformes, except the great-horned owl (*Bubo virginianus*).

The holder of a general falconry permit may not take from the wild in Texas a peregrine falcon (*Falco peregrinus*) or prairie falcon (*Falco mexicanus*) and may not take, transport, or possess a golden eagle (*Aquila chrysaetos*), black hawk (*Buteogallus anthracinus*), gray hawk (*Buteo nitidus*), white-tailed hawk (*Buteo albicaudatus*), zone-tailed hawk (*Buteo albonotatus*), or any raptor listed as threatened or endangered by federal or state regulations.

(c) "Master falconry permit" is an authorization issued to a citizen of Texas, 21 years of age or older, with at least five years of experience at the general permit level, to take, possess, transport, and use in the sport of falconry three raptors, except the following, unless specifically provided for in the permit:

- (1) kites (*Elaninae* and *Milvinae*);
- (2) osprey (*Pandion haliaetus*);
- (3) caracara (*Caracara cheriway*);
- (4) aplomado falcon (*Falco femoralis*);
- (5) strigiformes, except the great-horned owl (*Bubo virginianus*);
- (6) golden eagle (*Aquila chrysaetos*); or
- (7) any raptor listed as threatened by federal regulations, except no more than one threatened raptor may be included in the three raptor limit.

The holder of a master falconry permit may not take from the wild in Texas a peregrine falcon (*Falco peregrinus*) or prairie falcon (*Falco mexicanus*) and may not take, transport, or possess a black hawk (*Buteogallus anthracinus*), gray hawk (*Buteo nitidus*), white-tailed hawk (*Buteo albicaudatus*), zone-tailed hawk (*Buteo albonotatus*), or any raptor listed as endangered by federal or state regulations.

(d) "Non-resident or alien falconry permit" is an authorization issued to a non-resident or alien, prior to entry into this state and upon payment of the \$5 fee, granting permission to import a raptor legally held within his state of residence to hunt birds, wild animals, and migratory game birds for a period of five consecutive days during any prescribed open season.

(e) "Falconry" means the sport of taking wild birds or wild mammals during any prescribed open seasons by means of a trained raptor.

(f) "Raptor" means a live migratory bird of the family *Accipitridae*, other than the bald eagle (*Haliaeetus leucocephalus*), or of the family *Falconidae*, or the great-horned owl (*Bubo virginianus*) of the family *Strigidae*.

(g) "Take" means to trap or capture, or attempt to trap or capture, a raptor for the purpose of falconry.

(h) "Department" means the Texas Parks and Wildlife Department.

.002. *Procedure for Processing Applications.* A falconry permit is required before any person may take, transport, or possess raptors for falconry purposes in this state. Before an original apprentice, general, or master permit is issued, the applicant will:

(a) Complete and forward a notarized application to the department indicating applicant has knowledge of the sport of falconry and is in possession of the minimal amount of equipment required by these regulations to insure the care and well-being of a raptorial bird.

(b) Undergo an inspection of the equipment and raptor housing facilities by a designated employee of the department who will certify that the following items are available:

(1) An outdoor area that:

(A) offers protection to the birds from excessive sun, wind, and inclement weather;

(B) is fenced and covered with netting or roofed to protect the birds from disturbance and attack by predators, except that perches more than 6-1/2 feet high need not be covered or roofed;

(C) has a floor which is covered with an absorbent material; and has minimum dimensions of at least eight feet wide and eight feet long per bird.

(2) At least one each of the following items:

(A) gauntlet glove;

(B) one pair of alkymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. (Traditional one piece jesses may not be used at any time);

(C) hood;

(D) a strong swivel of acceptable falconry design per bird;

(E) a reliable scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than one-half ounce (15 grams);

(F) a flexible, weather-resistant leash per bird;

(G) a bath container, two to six inches deep and wider than the length of the raptor, for drinking and bathing for each bird; and

(H) one weathering area perch for each raptor.

(3) A quiet, dark room (mew) in a building, shed, or room which is eight feet wide by eight feet long

per bird, where the bird(s) may be kept in periods of inclement weather. If more than one raptor is to be kept in a mew, the raptors shall be tethered or separated by partitions. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a secure door that can be easily closed. The floor of the mew shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.

(4) All facilities and equipment shall be kept at or above the standards specified at .002(b)(1)-(3) at all times and are subject to inspection by authorized employees of the department at any time.

(5) A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbances for a period not to exceed 30 days.

(c) Upon the successful completion of the above requirements, the applicant will be required to take and pass, with a minimum score of 80, a supervised federally approved examination relating to basic biology, care, handling, literature, laws, and regulations concerning falconry and raptors. Once an applicant has passed the examination, no future examination will be required for permit renewal or for changes in permit level.

(d) The applicant will be informed by mail of the results of the written examination. When the test and other state requirements have been met, appropriate fees will be requested.

(e) Upon compliance with Rule .002(a)-(d) above, the applicant will be notified that all state requirements have been met and that his permit application is being forwarded to the U.S. Fish and Wildlife Service for concurrence and final processing prior to the issuance of a joint federal/state permit.

### .003. Permit Provisions.

(a) Permits will contain the following provisions:

(1) The maintenance of safe and sanitary facilities shall be the responsibility of the permit holder.

(2) The department retains the right to reinspect the facilities and equipment at any time and to remove any raptors when it is judged to be in the best interest of the raptor.

(3) It shall be illegal for any person to buy, sell, barter, or offer to buy, sell, or barter any raptor held under the terms of a permit, except that a permit holder may exchange or transfer a raptor legally held under a valid permit to another permit holder if no consideration is involved and when prior written approval is obtained from the department.

(4) Issuance or possession of a permit does not authorize entry upon public or private lands or waters of this state for either trapping or hunting purposes.

(5) Any willful or intentional violation of the terms of the permit or statutory laws is cause for cancellation of a permit.

(6) The holder of an apprentice permit may not obtain more than one raptor for replacement during any 12-month period. The holder of a general or master permit may not obtain more than two raptors for replacement during any 12-month period.

(7) Another person may care for the birds of a permit holder if written authorization from the permit holder accompanies the birds when they are transferred. If the period of transfer will exceed 30 days, the permit holder will inform the department in writing within three days of the transfer stating:

(A) where the bird(s) will be held;

(B) the reason for the transfer;

(C) the name and address of the person who will be caring for the bird(s); and

(D) the approximate number of days the birds will be in the care of the second person.

(8) Feathers that are molted or those feathers from birds held in captivity that die may be retained and exchanged by permit holders only for imping purposes.

(b) Additional conditions may be included in a permit in accord with federal regulations when a joint federal/state permit is issued.

.004. *Permit: Period of Validity.* A permit or the renewal of a permit is valid when issued by the department and the U.S. Fish and Wildlife Service and expires on June 30th of the second calendar year after it is issued unless the permit is revoked by the department or the U.S. Fish and Wildlife Service prior to the expiration of the two-year term.

### .005. Permit: Renewal and Report.

(a) No permit shall be renewed to a permit holder unless a report is first submitted to the department by June 30th containing the following information:

(1) A listing of all raptors in possession on June 30th or on the reporting date if earlier, by species, marker number, sex (if known), age (if known), and date and where acquired, or from whom acquired.

(2) A listing of all raptors possessed or acquired since the previous annual report, but no longer possessed, by specie, marker number, sex (if known), age (if known), date and where acquired, or from whom acquired or transferred to; whether escaped, died, or released and when such event occurred. If a raptor dies in permittee's possession, the cause of death as certified by a licensed D.V.M. must be indicated in the annual report.

(b) An annual report containing the same information specified at .005(1) and (2) will be due each June 30th.

**.006. Permit Fees.**

- (a) The apprentice falconry permit costs \$20.
- (b) The general falconry permit costs \$30.
- (c) The master falconry permit costs \$40.
- (d) The renewal fee of \$10 is due with each application for renewal.

**.007. Collecting Areas and Seasons for Trapping Raptors.**

(a) All raptors captured, taken, or held in this state remain the property of the people of the state and may only be captured, taken, or held in compliance with state law and department regulations.

(b) Except by special permit from the department, raptors shall not be trapped at any time in the following counties:

- (1) Orange;
- (2) Jefferson;
- (3) Chambers;
- (4) Harris;
- (5) Aransas;
- (6) Nueces;
- (7) Kleberg;
- (8) Kenedy;
- (9) Brazoria;
- (10) Matagorda;
- (11) Galveston;
- (12) Calhoun;
- (13) Jackson;
- (14) San Patricio;
- (15) Willacy;
- (16) Cameron;
- (17) Brewster;
- (18) Terrell;
- (19) Presidio;
- (20) Hudspeth;
- (21) El Paso;
- (22) Culberson; and
- (23) Jeff Davis.

(c) No eggs may be taken from raptor nests.

(d) Young birds not yet capable of flight (eyasses) may only be taken by a general or master falconer during the season specified at .007(f) below and no more than two eyasses may be taken by the same permit holder during the specified season.

(e) Only American kestrels (*Falco sparverius*) and great-horned owls (*Bubo virginianus*) may be taken when over one year old, except that any raptor other than endangered or threatened species taken under a depredation (or special purpose) permit may be used for falconry by a general and master falconer.

(f) Where permitted, raptors may be trapped only during a season extending from September 15 through November 15, except that a marked raptor may be retrapped at any time. Eyasses may be taken only during a season extending from May 15 through July 15.

**.008. Marking.**

(a) No raptor may be acquired after the effective date of these rules unless held for scientific or zoological purposes, unless the person acquiring the raptor first obtains a numbered non-reusable marker supplied by the U.S. Fish and Wildlife Service and attaches it to the raptor immediately upon acquisition.

(b) It shall be a violation of these regulations for any person to alter, counterfeit, or deface a marker except that a permit holder may remove the rear tab on markers and smooth an imperfect surface provided the integrity of the marker and numbering are not affected.

**.009. Transfers.** A general or master permit holder may possess, transfer, or exchange captive-bred raptors when no consideration for the transfer or exchange is involved with prior written approval of the department and subject to all other requirements contained in these rules.

**.010. Special Provision.**

(a) Permits may be granted to general or master falconry permit holders to hold, transport, or use in the sport of falconry species not indigenous to this state, except that no permit holder may exceed the number of raptors authorized by Rule .001. Written authority shall be obtained from the department before any species not indigenous to this state is intentionally released to the wild, at which time the marker from the released bird shall be removed and surrendered to the department. The marker from an intentionally released bird which is indigenous to this state shall also be removed and surrendered to the department. A standard federal bird band shall be attached to such birds by a state or authorized federal bird bander.

(b) A person who possesses raptors before the enactment of the federal regulations (January 15, 1975) in excess of the number allowed under his class permit shall be allowed to retain the extra raptors. All such birds shall be identified with markers supplied by the U.S. Fish and Wildlife Service and no replacement of the raptor can occur, nor may an additional raptor be obtained until the number in possession is at least one less than the total number authorized by the class of permit held by the permittee.

(c) All permit holders will be required to submit an inventory and description of all raptors held within Texas, except those held for scientific and zoological purposes, within 90 days after the effective date of these rules or within 90 days after the State of Texas is listed in Section 21.29(k) of the Federal Permit Regulations as a falconry state, whichever date is first.

(d) Permits to hold, transport, or use in the sport of falconry, peregrine falcons (*Falco peregrinus*) or prairie falcons (*Falco mexicanus*) may be granted on a special basis to qualified applicants who give satisfactory proof that their birds were owned by them and were

in their possession prior to October 15, 1971, but no person having such permit shall be entitled to replace such birds with any new or different bird of the same species in the event of death, loss, or transfer of the original bird, except in accord with these regulations.

.011. *Penalties.* A person who violates any provisions of these rules or any of the terms of a falconry permit is guilty of a misdemeanor and, on conviction, is punishable by a fine of not less than \$25 nor more than \$200 for each violation.

.012. *Effective Date.* These rules become effective September 27, 1977.

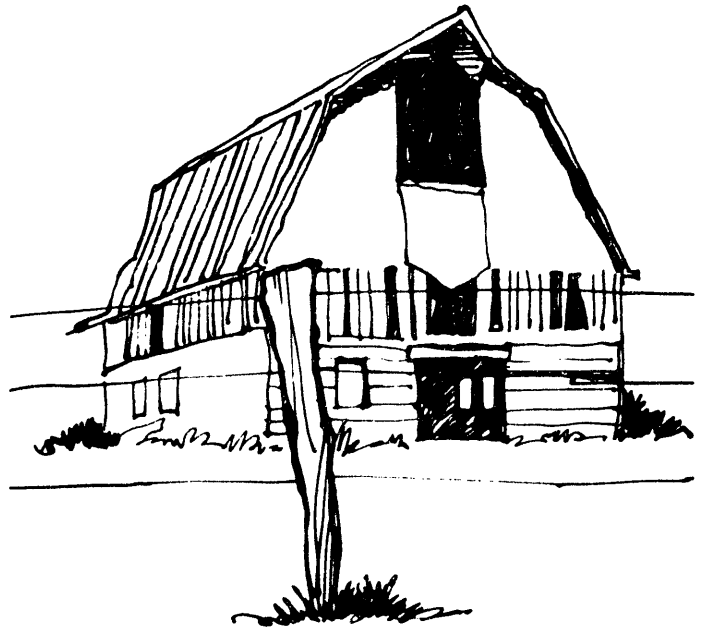
.013. *Amendments.* Upon finding that need exists, the commission may amend, modify, or revoke these rules during any regular or special meeting.

Issued in Austin, Texas, on September 6, 1977.

Doc. No. 774839      Maurine Ray  
                                 Administrative Assistant  
                                 Texas Parks and Wildlife  
                                 Department

Effective Date: September 27, 1977

For further information, please call (512) 475-4831.





This section includes summarized opinions in cases on appeal from administrative decisions of local, state, and federal governments and agencies. The section contains opinions of the U.S. Supreme Court, U.S. Circuit Courts of Appeals, U.S. District Courts, the Texas Supreme Court, and Texas Courts of Civil Appeals. Selected opinions of particular importance dealing with other than administrative appeals may also be included here from time to time. State court opinions are cited in the *Texas Lawyers' Weekly Digest*. Opinions from federal courts are cited in *The United States Law Week*.

## 1st Court of Civil Appeals Earl Hayes Rents Cars and Trucks v. City of Houston

A refusal by one party to honor its obligations under a contract will not constitute an anticipatory breach if made in good faith and as a result of misunderstanding or mistake.

Where interest is allowed as a damage, it must be computed at the rate which was legal during the particular time in question. (14 TLWD 34, at 5)

Filed: August 4, 1977, Houston  
Doc. No. 2C97

## Rash v. City Council of City of Houston

Where a municipal board has a clear legal duty to issue a license or a permit and refuses to do so, a *mandamus* is an appropriate remedy, even though the complaining party does not allege a vested property right or a violation of a constitutional right. (14 TLWD 34, at 5)

Filed: August 11, 1977, Houston  
Doc No 2C94

## Tuesday Morning, Inc. v. City of Houston

Occasional sales of items prohibited by Article 9001, Revised Civil Statutes, are not exempted under Section 5 of the statute when the defendant is engaged in the business of selling items within the city 80 days of each year. That section applies only to those not engaged in the business of selling items. (14 TLWD 34, at 5)

Filed: August 11, 1977, Houston  
Doc. No 2C95

## 3rd Court of Civil Appeals Hurlbut v. State Board of Insurance

A filing of a motion for rehearing is a prerequisite to an appeal (of the Board of Insurance's order revoking a license) to the courts under Article 6252-13a, Revised Civil Statutes (Administrative Procedure and Texas Register Act). (14 TLWD 34, at 4)

Filed: August 10, 1977, Austin  
Doc. No 2C99

## Texas Youth Council v. State

The Texas Youth Council's administrative determination that a delinquent child is mentally ill or feeble-minded is not final. After such a determination, the child is returned to the committing court for appropriate action, or to the court in the county in which the training school is located, to take such action as the child's conditions require. If, after hearing and from evidence, the court determines the child is mentally ill or feeble-minded, an appropriate judgment should be entered pursuant to Article 5547-1, *et seq.*, or Article 3871b, Revised Civil Statutes. If, after hearing, however, the court is of the opinion from the evidence that the child is not mentally ill or feeble-minded, then the court is empowered to order the child returned to the care, custody, and control of the Texas Youth Council. (14 TLWD 34, at 4)

Filed: August 10, 1977, Austin  
Doc. No. 2C98



## 6th Court of Civil Appeals Davenport v. Commissioners Court of Denton County

A notice of intent to contest a local option election could be served upon the members of the commission which declared the result of the election.

The omission of the word "legal" from the negative side of the issue in a local option election (ballot should read: "Against the legal sale of beer and wine") renders void any ballot case where the word is omitted. (14 TLWD 34, at 2)

Filed: July 26, 1977, Texarkana

Doc. No. 2C93

## Elkins v. West

Having questioned the jurisdiction of the court of another state in that state's court, a defendant may not relitigate the issue of jurisdiction in Texas, even though the defendant did not further appear in the foreign state's court after an interlocutory order concerning jurisdiction was entered. The defendant could have appealed after contesting the merits. Since the defendant allowed a default judgment to be entered, the defendant is bound by the judgment of the foreign state.

One served with substituted service (upon the Louisiana secretary of state) may not question the constitutionality of the substituted service statute after voluntarily appearing to contest jurisdiction. The defendant has suffered no injury, for there was obviously notice and opportunity for a hearing.

When a plaintiff produces copies of a foreign judgment authenticated, as provided by Section 1738, 28 United States Code, the plaintiff has shown the judgment to be entitled to full faith and credit in Texas courts and is entitled to recognition and enforcement, unless there was a showing of fraud or lack of jurisdiction on the part of the rendering court.

The right of a court of one state to question whether a court of another state had jurisdiction when it entered a judgment sought to be accorded full faith and credit is restricted and does not exist if the defendant raised the question of jurisdiction in a foreign state. The rule applies even though the defendant's appearance in the rendering court is a special one limited to contesting jurisdiction. (14 TLWD 34, at 2)

Filed: July 26, 1977, Texarkana

Doc. No. 2C92

## 10th Court of Civil Appeals Public Utility Commission of Texas v. City of Corpus Christi

The Public Utility Commission has the implied power to set temporary rates by an interim order in a rate case on appeal from a city having original jurisdiction. The Public Utility Commission's power to set interim rates is necessarily inferred from or incidental to the express power to fix a permanent rate.

A finding of imminent peril to the public health, safety, or welfare is applicable only to a "final" decision of the Public Utility Commission and not to an interim or a temporary order.

Since the parties did not exhaust their administrative remedy of proceeding to a final order before the Public Utility Commission, the trial court was without jurisdiction to grant a temporary injunction enjoining the Public Utility Commission from enforcing the interim rate order. (14 TLWD 34, at 5)

Filed: August 11, 1977, Waco

Doc. No. 2C96

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 Aeronautics Commission

### Meeting

A meeting of the Texas Aeronautics Commission will be held on Thursday, September 15, 1977, 2 p.m., at 1414 Colorado, Austin. The commission will consider the following items: general counsel report; carrier regulation-- final action on Texicana Commuter Airlines (Docket 77-1); and director's report.

Additional information may be obtained from Robert G. Cross, Room 1104, LBJ Building, Austin, Texas 78701, telephone (512) 475-6977.

Filed: September 7, 1977, 4:08 p.m.

Doc. No. 774855

## State Board of Examiners in the Basic Sciences

### Meeting

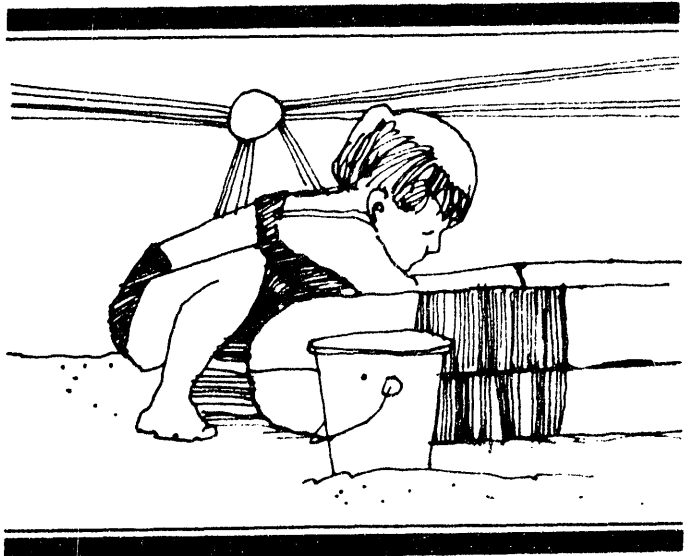
A meeting of the Board of Examiners in the Basic Sciences will be held 8 p.m., Friday, September 16, and at 8 a.m., Saturday, September 17, 1977, at the Lakeway Inn, Austin. The agenda will include consideration of the following: examination questions for October session; minutes of the board meeting of June 17, 1977;

operating budget for Fiscal Year 1978; recommendations for internal office operation; report on recent legislation; applications for certification by waiver; executive secretary's report; and establishment of next meeting date.

Additional information may be obtained from Betty J. Anderson, Room 319, Sam Houston Building, Austin, Texas 78711, telephone (512) 475-2683.

Filed: September 2, 1977, 3:04 p.m.

Doc. No. 774797



## Texas Education Agency Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the State Board of Education of the Texas Education Agency held on Saturday, September 10, 1977, 8:30 a.m., at 150 East Riverside Drive, Austin, to include consideration of the following items: appeal-- Charles Lee Berny v. Sabine Pass ISD; and application for retirement of bond.

Additional information may be obtained from M. L. Brockette, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3271.

Filed: September 7, 1977, 4:33 p.m.

Doc. No. 774863

## Meeting

A meeting of the Teachers' Professional Practices Commission of Texas of the Texas Education Agency will be held on Tuesday, September 10, 1977 (immediately following a private hearing to begin at 9 a.m.), in the state board room, 150 East Riverside, Austin. The commission will consider the following items: resolution from TCTA; deferred consideration of Section 13.213(a), Texas Education Code; and election of officers.

Additional information may be obtained from Dr. Thomas E. Anderson, Jr., 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-6836.

Filed: September 7, 1977, 4:34 p.m.

Doc. No. 774866

## Meeting

A meeting of the Advisory Committee on Instructional Television Services of the Texas Education Agency will be held on Thursday, September 15, 1977, 10 a.m., in the sixth floor conference room, Southwest Tower Building, 6th and Brazos, Austin. The committee will consider the following items: charge to the committee, purpose and objectives of the committee; discussion of areas in which the committee is responsible for recommendations-- governance, planning needs, criteria for eligibility, and program and fiscal accountability for the Instructional Television Services Program (Section 21.915, Texas Education Code); and expenses for committee members.

Additional information may be obtained from George Lipscomb, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-5813.

Filed: September 7, 1977, 4:33 p.m.

Doc. No. 774864

## Meeting

A meeting of the Joint Committee of the Texas Education Agency will be held on Saturday, September 17, 1977, 9:30 a.m., in the board room, first floor, North Building, 150 East Riverside Drive. The agenda will include consideration of the following items: general appropriation; minimum tuition payments for students enrolled in more than one college; reimbursement for exempt tuition; removing ceiling on contingency funds;

apprentice training; report on 1202 commission activities; student information system; and off-campus teaching. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from W. A. Grusy, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3589.

Filed: September 7, 1977, 4:34 p.m.

Doc. No. 774865

## Meeting

A meeting of the State Board of Examiners for Teacher Education of the Texas Education Agency will be held on 1 p.m. Thursday, September 22, and 8:30 a.m. Friday, September 23, 1977, at 158 East Riverside Drive, Austin. The agenda will include consideration of the following items: college/university progress reports-- institutional reports and approvals, report on special program, and interim reports; college/university approvals; college/university programs-- regular and special. The complete agenda is available for inspection at the office of the Texas Register Division, Suite 550, Texas Commodore Building, 8th and Brazos, Austin.

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

Filed: September 7, 1977, 4:35 p.m.

Doc. No. 774867



## Employees Retirement System of Texas

### Meeting

A meeting of the Board of Trustees of the Employees Retirement System of Texas will be held on Monday, September 19, 1977, 10 a.m., at 1705 San Jacinto, Austin.

The board will consider the following items: oath of office for Leo E. Gossett; report on retirement since June 20; report on Article 6228a, Occupation Deaths and Disabilities, and Article 6228f, beneficiaries; report from actuary; report on investment of retirement funds; report on results of election of members to Group Insurance Advisory Committee; report of newly appointed member to Group Insurance Advisory Committee; and adoption of proposed rules for Group Insurance Program.

Additional information may be obtained from Joseph N. Murphy, Jr., P.O. Box 12337, Austin, Texas 78711, telephone (512) 476-6431.

Filed: September 8, 1977, 9:06 a.m.  
Doc No. 774869

## Texas Energy Advisory Council

### Emergency Amendment to Agenda

An emergency amendment was made to the agenda of a meeting of the Texas Energy Advisory Council held on Friday, September 9, 1977, 9 a.m., in the Senate Chambers, State Capitol, Austin. The council considered the following items: approval of TEAC organization structure, work plan, budget and articles of organization; approval of the draft of the energy development fund plan for publication; discussion of and potential adoption of TEAC participation in coordinating the selection of a leading university for submission of a proposal for a federally funded coal laboratory; adoption of procedure for selecting the advisory committee; brief review of the current status and federal energy policy; and consideration of resolutions.

Additional information may be obtained from Dr. Milton L. Holloway, 7703 North Lamar, Austin, Texas 78752, telephone (512) 475-5588.

Filed September 2, 1977, 3:32 p.m.  
Doc No 774802

## Texas Health Facilities Commission

### Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Texas Health Facilities Commission held on Thursday, September 8, 1977, 10 a.m., in Suite 305, 1600 West 38th, Austin, to include consideration of the following applications:

The Methodist Hospital, Houston-- certificate of need  
Care Village, El Paso-- declaratory ruling

San Antonio Chest Hospital, San Antonio-- *nunc pro tunc* exemption certificate

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: September 7, 1977, 4:08 p.m.  
Doc. No. 774854

### Addition to Agenda

An addition has been made to the agenda of a meeting of the Texas Health Facilities Commission to be held on Thursday, September 15, 1977, 10 a.m., in Suite 305, 1600 West 38th, Austin.

The commission will consider the following applications:

Austin-Travis County MH/MR Board of Trustees, Austin-- reissuance of certificate of need

Scott and White Memorial Hospital, Temple-- two exemption certificates

Land Manor, Inc., Beaumont-- declaratory ruling

San Antonio State Hospital, San Antonio-- exemption certificate

Texas Healthcare Facilities, Inc., Fort Worth-- exemption certificate

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

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: September 7, 1977, 12:06 p.m.  
Doc No 774846

## Meeting

A meeting of the Texas Health Facilities Commission will be held on Thursday, September 22, 1977, 10 a.m., in Suite 305, 1600 West 38th, Austin.

The commission will consider the following applications:

Eagle Mountain Area Suburban Hospital, Azle-- administrative order

Girlstown, U.S.A., Austin Campus, Austin-- exemption certificate

Deer Park Community Hospital, Deer Park-- declaratory ruling

St. Joseph Hospital, Houston-- certificate of need

Campbell Memorial Hospital, Weatherford-- exemption certificate

Homcare Health Services, Inc., Marlin-- certificate of need

Homcare Health Services, Inc., Gatesville-- certificate of need

Homcare Health Services, Inc., Cameron-- certificate of need

Texas Children's Hospital, Houston-- exemption certificate

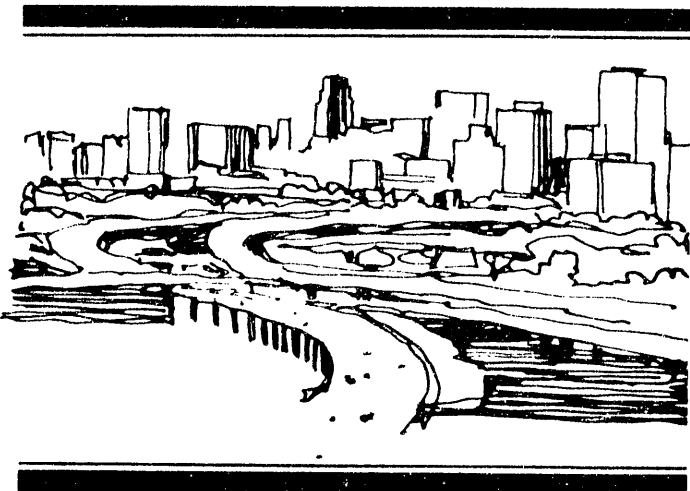
Dyer Vocational Training Center, Inc., Leona-- certificate of need

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

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed September 7, 1977, 12:05 p.m.

Doc No 774847



## Texas Department of Human Resources

### Meeting

A meeting of the Texas Board of Human Resources of the Texas Department of Human Resources will be held on Friday, September 16, 1977, 9 a.m., in Room 406, John H. Reagan Building, Austin. The agenda includes consideration of the following items: contract with Texas Department of Health for implementation of Senate Bill 9; repeal of policy on referral of illegal aliens to Immigration and Naturalization Service; verification of vendor payment rates for nursing homes; vendor payment rates for intermediate care facilities for the mentally retarded; adjustment to Fiscal Year 1978 operating budget for medical assistance in state institutions; authorized signatures for the comptroller's office; technical amendments to program policies and procedures; commissioner's report; executive session on personnel matters and pending litigation; and appointment of Commissioner of Human Resources.

Additional information may be obtained from Bill Woods, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6297.

Filed: September 7, 1977, 9:38 a.m.

Doc No 774843

### Meeting

A meeting of the Medical Care Advisory Committee of the Texas Department of Human Resources will be held on Saturday, September 17, 1977, 9 a.m., in the Highland Room, Hilton Inn, Austin. The agenda includes consideration of the following items: alternate care pilot projects; rural and migrant health services; medical programs report; MAC/EAC progress report; locality fee differentials; and National Health Insurance status.

Additional information may be obtained from John F. Boff, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-6364.

Filed: September 6, 1977, 4:48 p.m.

Doc No 774835

## University of Houston Meeting

A meeting of the Board of Regents of the University of Houston will be held on Monday, September 12, 1977, 11:30 a.m., in Room 220, E. Cullen Building, University Campus, Houston.

The board will consider the following items: approval of small class reports, all campuses, second summer semester 1977; approval of course inventories, 1977-78; approval of dual employment requests for James E. Anderson, Professor of Political Science, and James U. Todd, Director of Scholarships and Financial Aid; approval of budgets for Fiscal Year 1977-78; approval of personnel recommendations; resolution updating security clearance, University of Houston System; resolution concerning sale and endorsement of securities for permanent endowment; resolution concerning short-term investment transactions; resolution concerning approval and payment of all accounts; resolution concerning tuition scholarships; approval of University of Houston Central Campus Bank resolutions; approval of new bank account-- University of Houston, Downtown College, CETA Project Account, Riverside National Bank of Houston; approval of commissioning of peace officers; report of Faculty Memorial Resolution Committee; report of Building Committee; report of Investment Committee for months of June and July, 1977; report of Nominating Committee for officers of board for the next biennium; report of gift income for the months of June and July, 1977. University of Houston System; and report of grants for research, traineeships, fellowships, equipment, and building purposes received during June and July, 1977.

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

Additional information may be obtained from Philip G. Hoffman, University of Houston, Houston, Texas 77704, telephone (713) 749-2214.

Filed: September 8, 1977, 10:39 a.m.  
Doc. No. 774871

## State Board of Insurance

### Emergency Meeting

An emergency meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on

Monday, September 12, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Guarantee Insurance Company, Richardson-- application for a hearing to consider charter amendment.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 2, 1977, 3:05 p.m.  
Doc. No. 774794

### Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, September 14, 1977, 2 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Stevens Life Insurance Company, Coleman-- application for a hearing to consider temporary certificate of authority (stipulated premium company).

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 2, 1977, 3:05 p.m.  
Doc No 774795

### Meeting

A meeting of the State Board of Insurance will be held on Thursday, September 15, 1977, 10 a.m., in Room 408, 1110 San Jacinto, Austin, to consider insurance agents' errors and omissions coverage.

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

Filed: September 6, 1977, 11:27 a.m.  
Doc. No 774813

### Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday,

September 16, 1977, 2 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Western Preferred Corporation, Denver, Colorado-- application for a hearing to consider acquisition of control of World Service Life Insurance Company, Fort Worth, pursuant to Article 21.49-1 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:38 a.m.

Doc No 774880

## Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Monday, September 19, 1977, 9 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Hartford Variable Annuity Life Insurance Company of Connecticut, Hartford, Connecticut-- application for a hearing to consider admission to Texas (stock life company).

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:38 a.m.

Doc No 774881

## Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Monday, September 19, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Hartford Variable Annuity Life Insurance Company of Connecticut, Hartford, Connecticut-- application for a hearing to consider writing variable annuity contracts in Texas.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:36 a.m.

Doc No. 774882

## Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Monday,

September 19, 1977, 11 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Hartford Life Insurance Company, Boston, Massachusetts-- application for a hearing to consider writing variable annuity contracts in Texas.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:35 a.m.

Doc. No. 774883

## Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Tuesday, September 20, 1977, 2 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Knickerbocker Life Insurance Company of Ohio, Columbus, Ohio-- application for a hearing to consider admission to Texas (stock life company).

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:35 a.m.

Doc No 774884

## Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Wednesday, September 21, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider George L. Shinn-- application for a hearing to consider eligibility for Group I Agent's License.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:35 a.m.

Doc. No. 774885

## Addition to Agenda

An addition has been made to a meeting of the Commissioner's Hearing Section of the State Board of Insurance to be held on Wednesday, September 21, 1977, 2 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Guarantee Insurance Company, Richardson-- application for a hearing to consider charter amendment.



Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:35 a.m.  
Doc No 774886

## Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Thursday, September 22, 1977, 10 a.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Sunbelt Insurance Company, Evadale-- application for a hearing to consider original articles of incorporation, pursuant to Article 3.04 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:35 a.m.  
Doc No 774887

## Meeting

A meeting of the Commissioner's Hearing Section of the State Board of Insurance will be held on Friday, September 23, 1977, 2 p.m., in Room 343, 1110 San Jacinto Street, Austin, to consider Central Security Life Insurance Company, Fort Worth-- application for a hearing to consider charter amendment to increase amount of capital stock, pursuant to Article 3.05 of the Texas Insurance Code.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4230.

Filed: September 8, 1977, 10:35 a.m.  
Doc No 774888

## State Board of Medical Examiners

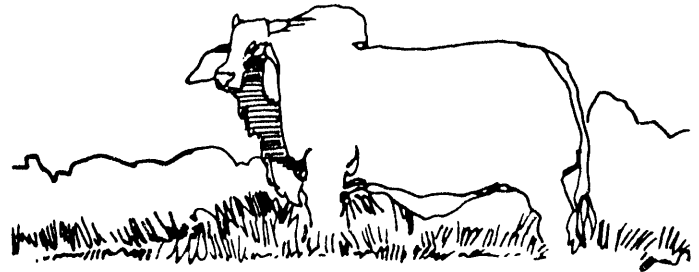
### Meeting

A meeting of the Texas State Board of Medical Examiners will be held at 8:30 a.m., Saturday, September 24, and at 9 a.m., Sunday, September 25, 1977. On Saturday, the meeting will be held on the 10th floor, 211 East 7th, Austin; on Sunday, it will be held in the Old Supreme Court Room, State Capitol, Austin.

The agenda for Saturday will include consideration of the following items: hearing on possible medical practice act violation; possible rule amendments; possible application amendments; presentation of committee reports; and discussion of various board business. On Sunday, the agenda includes public hearings and testimony regarding House Bills 1309 and 1048, and consideration of various licensure matters.

Additional information may be obtained from J. C. Randolph, Suite 900, 211 East 7th, Austin, Texas 78701, telephone (512) 474-6335.

Filed: September 8, 1977, 10:37 a.m.  
Doc No 774877



## Texas Municipal Retirement System

### Meeting

A meeting of the Board of Trustees of the Texas Municipal Retirement System will be held on Saturday, September 17, 1977, 9 a.m., in the La Vista Room, Hilton Palacio del Rio, 200 Block South Alamo Street, San Antonio. The agenda will include consideration of the following items: service retirements (123); disability retirements (30); supplemental disability retirements (3); financial statements; report by Reed Parker, investment counsel; director's proposal for decision in the case of Andrew Floyd Merida (deceased), Docket No. 1977 CL-2; budget amendments; report of the actuary; report of legal counsel; and a report by the director. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Jimmie L. Mormon, 500 Perry Brooks Building, Austin, Texas 78701, telephone (512) 475-7577.

Filed: September 6, 1977, 2:22 p.m.  
Doc No. 774825

## Natural Fibers and Food Protein Commission

### Emergency Meeting

An emergency meeting of the Natural Fibers and Food Protein Commission was held on Wednesday, September 7, 1977, 10 a.m., at Texas Woman's University, Denton. This joint meeting of Food Protein and Executive Advisory Committee considered projects funded for 1977-78.

Additional information may be obtained from J. L. VandLune, 17360 Coit Road, Dallas, Texas 75252, telephone (512) 231-0852.

Filed: September 6, 1977, 4:59 p.m.

Doc. No. 774870

## North Texas State University

### Meeting

The Board of Regents of North Texas State University will meet in executive session on Saturday, September 17, 1977, 10 a.m., in the main conference room of Texas College of Osteopathic Medicine, 3516 Camp Bowie Boulevard, Fort Worth.

Additional information may be obtained from Roy K. Busby, North Texas State University, Denton, Texas 76203, telephone (817) 788-2275.

Filed: September 6, 1977, 2:23 p.m.

Doc. No. 774824

## Board of Nurse Examiners Meeting

A meeting of the Board of Nurse Examiners will be held at 8:30 a.m. daily Tuesday through Thursday, September 13-15, 1977, in Suite 502, 7600 Chevy Chase Drive, Austin. The agenda will include consideration of the following items: hearing on proposed rules for nurse practitioner programs; treasurer's report; disciplinary hearings; reinstatements; progress reports; faculty petitions; change of director of nursing schools; and report of executive secretary.

Additional information may be obtained from Margaret Rowland, R.N., 7600 Chevy Chase Drive, Austin, Texas 78752, telephone (512) 451-0201.

Filed: September 2, 1977, 3:31 p.m.

Doc. No. 774801

## Texas Board of Licensure for Nursing Home Administrators

### Meeting

A meeting of the Texas Board of Licensure for Nursing Home Administrators will be held on Wednesday, September 28, 1977, 1:30 p.m., at 7333 Highway 290 East, Austin. The board will consider the following items: general board business; policy guidelines for Human Resources and Health Department employees who wish to become nursing home administrators; expiration date of Preceptor certificates; and development of correspondence course for associate degree.

Additional information may be obtained from E. M. Lawrence, Jr., 7333 Highway 290 East, Austin, Texas 78723, telephone (512) 926-9530.

Filed: September 8, 1977, 10:34 a.m.

Doc. No. 774889

## Board of Pardons and Paroles

### Meeting

A meeting of the Board of Pardons and Paroles will be held at 9 a.m. daily, Monday through Friday, September 19-23, in Room 711, Stephen F. Austin Building, Austin. The board will review cases of inmates for parole consideration, act on emergency reprieve requests and other acts of executive clemency, and review reports regarding persons on parole.

Additional information may be obtained from Ken Casner, Room 711, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: September 7, 1977, 2:50 p.m.

Doc. No. 774850

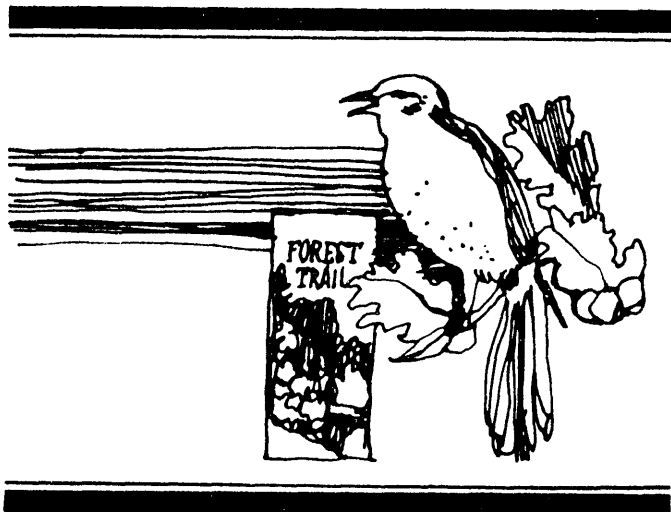
## Meeting

A meeting of the Board of Pardons and Paroles will be held on Wednesday, September 21, 1977, 9 a.m., in Room 711, Stephen F. Austin Building, Austin. A parole panel consisting of members of the board and members of the Texas Parole Commission will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, Room 711, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

Filed: September 7, 1977, 2:51 p.m.

Doc No. 774851



## Texas Parks and Wildlife Department

### Meeting

A meeting of the Fisheries Division-Resource Protection Branch of the Texas Parks and Wildlife Department will be held on Tuesday, September 27, 1977, 2 p.m., in Room A-200, 4200 Smith School Road, Austin, to consider the application of David J. Dawe for a permit to remove approximately 6,000 cubic yards (total) of sand from the Laguna Madre, Corpus Christi, Nueces County.

Additional information may be obtained from Chester D. Harris, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4831.

Filed: September 2, 1977, 10:37 a.m.

Doc. No. 774703

## Meeting

A meeting of the Parks Division of the Texas Parks and Wildlife Department will be held on Thursday, October 13, 1977, 11 a.m., in Room A-100, Headquarters Building, 4200 Smith School Road, Austin, to consider issuing a salt water disposal lease and easement to Teal Petroleum Company at Tyler State Park, Smith County.

Additional information may be obtained from Loyd Booth, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

Filed: September 7, 1977, 9:15 a.m.

Doc. No. 774844

## Meeting

A meeting of the Parks Division of the Texas Parks and Wildlife Department will be held on Thursday, October 13, 1977, 2 p.m., in Room A-100, Headquarters Building, 4200 Smith School Road, Austin. The division will consider matters regarding the Jose Antonio Navarro Historic Site-- restoration and renovation of existing historical structures, replacement of deteriorated materials, renovation of restrooms and maintenance building, site drainage and utility improvements, and modifications to accommodate the handicapped.

Additional information may be obtained from Dr. Harold D. Toy, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

Filed: September 2, 1977, 3:40 p.m.

Doc No. 774803

## Texas Private Employment Agency Regulatory Board

### Meeting

A meeting of the Texas Private Employment Agency Regulatory Board will be held on Friday, September 16, 1977, 10 a.m., at 1115 Congress, Houston. The board will consider the following items: Proposed Rule 398.01.00.009(a), (b), (c), (d); proposed repeal of Rule 398.01.00.003(f); Proposed Rule 398.01.00.011; and attorney general's opinion requests.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: September 7, 1977, 3:43 p.m.

Doc No. 774853

## Texas State Board of Registration for Professional Engineers

### Meeting

A meeting of the Texas State Board of Registration for Professional Engineers will be held on Wednesday, September 21, 1977, 10:30 a.m., in Room 200, John H. Reagan Building, 1400 Congress, Austin. The agenda includes consideration of the following items: review of soil analysis and report of a proposed building site for a new engineering registration building; approve purchase of site if appropriate; and review and consider architectural engineering firms.

Additional information may be obtained from Donald C. Klein, Room 200, John H. Reagan Building, Austin, Texas 78701, telephone (512) 475-3141.

Filed September 7, 1977, 11:15 a.m.  
Doc No 774845

## Texas State Board of Public Accountancy

### Meeting

A meeting of the Texas State Board of Public Accountancy will be held on Friday, September 16, 1977, 9:30 a.m., at Williamsburg Lodge, Williamsburg, Virginia.

The CPA members of the board will meet at 9:30 a.m. to approve applications for the CPA certificate by the board or by ratification. The full board will then meet at 9:45 and consider the following items: approval of applications by ratification; financial reports; and its policy statement concerning data processing services by licensed accountants, the Texas Sunset Act, and rules of professional conduct and interpretations thereof. The complete agenda is posted in the East Wing of the State Capitol.

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

Filed: September 2, 1977, 4:50 p.m.  
Doc No 774805

## Public Utility Commission of Texas

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Friday, September 16, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider an application of Elm Creek Water Supply Corporation for a rate increase (Docket No. 396).

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

Filed: September 6, 1977, 11:26 a.m.  
Doc No. 774812

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Tuesday, September 20, 1977, 10 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider an application of Wildwood Acres to increase rates and for a certificate of convenience and necessity (Docket Nos. 585 and 685).

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

Filed September 8, 1977, 10:38 a.m.  
Doc No 774878

### Meeting

A meeting of the Public Utility Commission of Texas will be held on Thursday, September 22, 1977, 9 a.m., in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider the applications of Karnak Telephone Company, Avery Telephone Company, and Hooks Telephone Company for rate increases (Docket No. 502, 503, and 504).

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

Filed September 1, 1977, 9:52 a.m.  
Doc. No 774616

## Meeting Rescheduled

A meeting of the Public Utility Commission of Texas will be held on Tuesday, September 27, 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 158.70 MHz to Austin Paging Service (Docket No. 413). A hearing on this application was previously scheduled for 9 a.m., September 20, 1977.

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

Filed: September 2, 1977, 3:05 p.m.

Doc No 774793



## Railroad Commission of Texas

### Emergency Meeting

An emergency meeting of the Railroad Commission of Texas will be held on Tuesday, September 6, 1977, 2 p.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin, to review and sign a supplemental agreement to contract No. 2411-1.

Additional information may be obtained from Rex H. White, Jr., P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-4686.

Filed: September 6, 1977, 10:35 a.m.

Doc. No. 774811

## Meeting

A meeting of the Oil and Gas Division of the Railroad Commission of Texas will be held on Monday, September 19, 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) 475-3003.

Filed: September 2, 1977, 10:47 a.m.

Doc. No 774790

## Texas Rehabilitation Commission

### Meeting

A meeting of the board of the Texas Rehabilitation Commission will be held on Monday, September 19, 1977, 9:30 a.m., in Room 302, 118 East Riverside Drive, Austin. The board will consider the following items: approval of the state plan for administration of the vocational rehabilitation program for Texas; approval of revision of commission budget for Fiscal Year 1977; approval of commission budget for Fiscal Year 1978; approval of grants; consideration of displaced homemaker proposals for establishing multi-purpose service centers; review of pending or contemplated litigation involving the commission; and review of matters pertaining to the employment, evaluation, reassignment, duties, discipline, and dismissal of employees. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Herbert A. Underwood, 118 East Riverside Drive, Austin, Texas 78704, telephone (512) 447-0236.

Filed: September 8, 1977, 10:33 a.m.

Doc No 774879

## University System of South Texas

### Meeting

A meeting of the Committee on Physical Plant, Facilities, and New Construction of the Board of Directors of the University System of South Texas will be

held on Thursday, September 15, 1977, 8:30 a.m., in the Green Room, Laird Hall, Laredo State University, Laredo. The agenda will include review of construction projects within the University System of South Texas and architectural firms for future construction on the several campuses within the system.

Additional information may be obtained from William C. English, P.O. Box 1238, Kingsville, Texas, 78363, telephone (512) 595-2215.

Filed September 7, 1977, 11:37 a.m.

Doc No 774848

## Meeting

A meeting of the Board of Directors of the University System of South Texas will be held on Thursday, September 15, 1977, 11 a.m., in the Gold Room, Laird Hall, Laredo State University, Laredo.

The agenda will include consideration of the following items: revision of by-laws for board of directors; progress report on construction program on the campuses of Corpus Christi State University and Texas A&I University; approval of gifts, donations, budget changes, and small classes for second summer term, 1977; approval of necessary signatures for all accounts for Corpus Christi State University; authorization for Dr. Sugg to approve in-state and out-of-state travel as President of Corpus Christi State University; authorization to seek approval by the Coordinating Board for a coordinated doctoral degree program in educational administration offered by Corpus Christi State University and the University of Texas at Austin; authorization to seek approval by the Coordinating Board to offer a master of arts degree in psychology at Corpus Christi State University; and report from Dr. Halladay. In executive session, the board will discuss personnel changes and acceptance of land for Laredo State University. In open session, the board will consider the following items: action relative to the position of the chancellor for the University System of South Texas and the president for Corpus Christi State University; ratification of the mail ballot regarding the recommendation for the recipient of the Texas A&I University Distinguished Alumni Award for 1977; report from the standing committees; and naming of architects for construction programs for several campuses. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from William C. English, P.O. Box 1238, Kingsville, Texas 78363, telephone (512) 595-2215.

Filed: September 7, 1977, 11:37 a.m.

Doc No 774849

## State Securities Board

### Emergency Meeting

An emergency meeting of the State Securities Board will be held on Wednesday, September 14, 1977, 10 a.m., in the conference room, 2424 Houston Natural Gas Building, Houston. The board will consider the following items: rules adopted since June 16, 1977; Rule XV; staff proposals for amended or new rules; preliminary discussion of annual report; enforcement; and waiver requests.

Additional information may be obtained from Richard D. Latham, 17th and Brazos, Austin, Texas 78701, telephone (512) 475-4561.

Filed September 8, 1977, 10:39 a.m.

Doc No 774876

### Hearing

A hearing before the Securities Commissioner of the State Securities Board will be held on Wednesday, September 21, 1977, 10 a.m., in Room 709, Lyndon Baines Johnson Building, Austin, to determine whether a cease and desist order should be issued suspending or prohibiting the sale of securities issued by Texas Teachers and Associates, Inc.

Additional information may be obtained from Patrick Lanier, Room 709, LBJ Building, Austin, Texas 78711, telephone (512) 475-4561.

Filed September 2, 1977, 3:05 p.m.

Doc No 774796

## Texas Supreme Court

### Meeting

A meeting of the Judicial Planning Committee Program and Review Subcommittee of the Texas Supreme Court will be held on Saturday, October 1, 1977, 9 a.m., in the conference room, Supreme Court of Texas, Austin. The committee will review applications for LEAA, criminal justice funds for court (adjudication) projects; and make recommendations to the Governor's Office Criminal Justice Advisory Board.

Additional information may be obtained from David B. West, P.O. Box 13071, Austin, Texas 78711, telephone (512) 475-1545.

Filed: September 6, 1977, 11:31 a.m.

Doc No 774814

## Texas Water Commission

### Emergency Additions to Agenda

Emergency additions were made to the agenda of a meeting of the Texas Water Commission held on Tuesday, September 6, 1977, 10 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of Don P. and Johnnie Chester (Permit No. 2637), and Comanche Horizon Corporation (contractual application).

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

Filed September 2, 1977 4:08 p.m.  
Doc No. 774804

### Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Texas Water Commission held on Tuesday, September 6, 1977, 11 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of the budget, proposed personnel, and other related matters.

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

Filed September 6, 1977, 8:37 a.m.  
Doc No 774808

### Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Texas Water Commission held on Monday, September 12, 1977, 10 a.m., Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of the budget, proposed personnel, and applications from Lakewood Hills (Permit Nos. 2940, 2856, and 2855).

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

Filed: September 6, 1977, 3:35 p.m.  
Doc No 774833

### Amendment to Agenda

An amendment has been made to the agenda of a meeting of the Hearings Division of the Texas Water Commission to be held on Wednesday, September 14, 1977, 10 a.m., in the City of Houston Health Department Auditorium, 1115 North MacGregor, Houston. The commission will not consider an application for an amendment to Permit No. 01006 by Gulf Oil Chemicals Company.

Additional information may be obtained from Jack J. Aills, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-6658.

Filed September 6, 1977, 10:47 a.m.  
Doc No 774810

### Hearing

A hearing by the Texas Water Commission will be held on Tuesday, September 20, 1977, 9:30 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider the following temporary applications: Hays County Gravel Company; Ivan Dement, Inc.; Gus Morgan General Contractor, Inc.; Trunkline Gas Company; Tom Thorp Hot Oil Service; R. W. McKinney and T. L. James and Company, Inc. (2); Allan Construction Company, Inc.; R. B. Butler, Inc.; Dahlstrom Corporation (3); Natural Gas Pipeline Company of America; and Krueger Brangus.

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

Filed September 7, 1977, 3:08 p.m.  
Doc No 774852

### Hearing

A hearing by the Texas Water Commission will be held on Tuesday, September 20, 1977, 2 p.m., in Room 119, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the creation of Mission Bend Municipal Utility District No. 1. The complete hearing notice is posted in the East Wing of the State Capitol.

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

Filed: September 6, 1977, 2:35 p.m.  
Doc No 774826

## Meeting

A meeting of the Hearings Division of the Texas Water Commission will be held on Wednesday, September 21, 1977, 9 a.m., in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider an application for a disposal well permit by Malone Service Company, Texas City. The following applications for amendment to permits will also be considered: Lost Creek Developers, Austin, Permit No. 11319; City of Grand Saline, Permit No. 10179; City of Round Rock, Permit No. 10264; and City of Ranger (Southside Wastewater Treatment Plant), Permit No. 11557. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from Chesley Blevins, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7841.

Filed September 6, 1977, 2:34 p.m.  
Doc No 774827

## Meeting

A meeting of the Hearings Division of the Texas Water Commission will be held on Thursday, September 22, 1977, 10 a.m., in the Council Chambers, Municipal Building, Temple, to consider an application for amendment to Permit No. 10884, Stagecoach Properties, Inc., Salado. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from James Showen, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7836.

Filed September 6, 1977, 2:34 p.m.  
Doc No 774828

## Meeting

A meeting of the Hearings Division of the Texas Water Commission will be held on Friday, September 23, 1977, 10 a.m., in the Council Chamber, City Hall, 302 South Shoreline, Corpus Christi. An application for a permit will be considered for Blue Sea, Inc., Aransas. The commission will also consider an application for an amendment to Permit No. 00467 by Champlin Petroleum Company, Corpus Christi. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from David Hume, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7845.

Filed: September 6, 1977, 2:33 p.m.  
Doc. No. 774829

## Meeting

A meeting of the Hearings Division of the Texas Water Commission will be held on Tuesday, September 27, 1977, 9 a.m., in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin.

The commission will consider the following applications for amendment to permits: Union Oil Company of California (Union 76 Auto/Truck Plaza), Sweetwater, Permit No. 11254; City of Jewett (Lower Keechi Creek Plant), Jewett, Permit No. 11392; Fox & Jacobs, Inc. (Pine Trails Subdivision), Carrollton, Permit No. 11701; and Fort Bend County Water Control and Improvement District No. 2, Stafford, Permit No. 10086. Also to be considered are the following applications for permits: Harris County Municipal Utility District No. 123 and Harris County Municipal Utility District No. 49 (Timberhills Permanent Sewage Treatment Plant), Houston; Harris County Municipal Utility District No. 104 (Pinewalk Addition), Houston; Village Hill, Conroe; City of Bryan (Roland C. Dansby Power Plant), Bryan; and John E. Denton, doing business as Denton Dairy, Axtell. The complete hearing notices are posted in the East Wing of the State Capitol.

Additional information may be obtained from John Sutton, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7851.

Filed September 6, 1977, 2:33 p.m.  
Doc No 774830

## Hearing

A hearing by the Texas Water Commission will be held on Wednesday, October 5, 1977, 10 a.m., in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider cancellation of Permit No. 2375, Lena Mae Holland and Huberta Ross.

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

Filed September 1, 1977, 3:49 p.m.  
Doc No 774635



## Meeting

A meeting of the Hearings Division of the Texas Water Commission will be held on Thursday, October 6, 1977, 2 p.m., in the meeting room of the Lower Neches Valley Authority, 7850 Eastex Freeway, Beaumont. Applications for amendment to the following permits will be considered: Country Club Park Estates, Beaumont, Permit No. 11107; Orange County Water Control and Improvement District No. 3, Bridge City, Permit No. 10051; and A. Shulman, Inc., Orange, Permit No. 00337. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from James Showen, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7836.

Filed September 6 1977 2:33 p.m.

Doc No 774831

## Meeting

A meeting of the Hearings Division of the Texas Water Commission will be held on Friday, October 7, 1977, 10 a.m., in the City of Houston Health Department Auditorium, 1115 North MacGregor, Houston. The commission will consider an application for permit by ARCO Pipe Line Company, Houston. Also to be considered are the following applications for amendment to a permit: Texas City Regining, Inc., Texas City, Permit No. 00449; Dresser Systems, Inc., Houston, Permit No. 00469; and Cameron Iron Works, Houston, Permit No. 00357. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from James Showen, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7836.

Filed September 6, 1977, 2:32 p.m.

Doc No 774832

# Department of Water Resources

## Hearings

The Department of Water Resources will conduct adjudication hearings on Monday through Friday, October 24-28, 1977, in the commissioner's courtroom, Wharton County Courthouse, Wharton, in the Lower Colorado River Segment of the Colorado River Basin. The docket follows.

**Monday, October 24, 1977, 2 p.m.**

M. J. and T. P. Heyne

J. E. Heyne Estate, Mrs. James P. Flynn, Mrs. Henry Griffin, Jr., Mrs. Sam Henderson, Jr., Manford Heyne, T. P. Heyne, Mrs. Jimmie Phillips, Mrs. Lydia Stone, and Robert D. Williams

**Tuesday, October 25, 1977, 9 a.m.**

George W. Townsend

Lee R. Jones *et ux* Ruth Jones

Rancho Grande Farms

Maud Braswell, Mary Braswell, O'Neal Patrick Braswell, and Theodore E. Braswell

Melvin and Leona Harper

**Wednesday, October 26, 1977, 9 a.m.**

Mrs. Lacy W. Armour and Laurence H. Armour, Jr.

**Thursday, October 27, 1977, 9 a.m.**

Lonnie F. Beard

Eugene O. Wittig, Edwin E. Wittig, and Rosalie A. Beard

D. H. Braman, Jr.

R. M. Cole

J. L. Myatt Estate

**Friday, October 28, 1977, 9 a.m.**

Guy F. Stovall, Jr., David Stovall, Eric Stovall, Guy F. Stovall III, Linda Joy Stovall, and Rebecca Ann Stovall

Thomas B. Le Tulle

Mary E. Crouch

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

Filed May 5, 1977, 3:40 p.m.

Doc No 772234

## Hearings

The Department of Water Resources will conduct adjudication hearings on Monday, December 5, 1977, 2:30 p.m., to be continued as necessary from day to day, in the small district courtroom, Matagorda County Courthouse, Bay City, in the Lower Colorado River Segment of the Colorado River Basin. The claimant is the Lower Colorado River Authority.

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

Filed May 5, 1977, 3:40 p.m.

Doc No 772235

## Texas Water Quality Board Hearing

A hearing by the Enforcement Division of the Texas Water Quality Board will be held on Friday, September 30, 1977, 9 a.m., in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, to consider the status of Scenic Brook West, Inc.'s compliance with the terms and conditions of Permit No. 11021-1. The complete hearing notice is posted in the East Wing of the State Capitol.

Additional information may be obtained from Lee H. Mathews, P.O. Box 13246, Austin, Texas 78711, telephone (512) 475-7861.

Filed: September 1, 1977, 2:25 p.m.

Doc No 774632

## Texas Youth Council Meeting

A meeting of the Board of the Texas Youth Council will be held on Thursday, September 15, 1977, 10 a.m., in the conference room, 8900 Shoal Creek, Austin. The agenda will include consideration of the following items: Wende Property; Houston Achievement Place; promotions and new assignments; biennial budget request; El Paso Diversion Project; and Hogg Foundation Grant. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Ron Jackson, P.O. Box 9999, Austin, Texas 78766, telephone (512) 475-5681.

Filed: September 7, 1977, 4:15 p.m.

Doc No 774856

## Regional Agencies

### Meetings Filed August 31, 1977

*The Deep East Texas Council of Governments*, Criminal Justice Advisory Board, met at the Public Safety Building, U.S. Highway 59, Diboll, on September 1, 1977, at 1:30 p.m. Further information may be obtained from Ronald J. Willis, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

*The Deep East Texas Council of Governments*, Aging Advisory Council, met in the Science Building, Angelina College, Lufkin, on September 9, 1977, at 10 a.m. and 1:30 p.m. Further information may be obtained from Martha Jones, P.O. Drawer 1170, Jasper, Texas 75951, telephone (713) 384-5704.

Doc No 774604

### Meetings Filed September 6, 1977

*The Austin-Travis County MH/MR*, Board of Trustees, met at 1430 Collier, Austin, on September 9, 1977, at noon. Further information may be obtained from Dan Love, 1430 Collier Street, Austin, Texas 78704, telephone (512) 447-4141.

*The Brazos Valley Development Council*, Executive Committee, met at 3006 East 29th Street, Bryan, on September 8, 1977, at 1:30 p.m. Further information may be obtained from William R. Vance, P.O. Drawer 4128, Bryan, Texas 77801, telephone (713) 822-7421.

*The Central Plains MH/MR Center*, Board of Trustees, met at 2601 Dimmitt Road, Plainview, on September 7, 1977, at 6 p.m. Further information may be obtained from Roy Alexander, 2700 Yonkers Street, Plainview, Texas 79072, telephone (806) 296-2726.

*The Central Texas Council of Governments*, Executive Committee, will meet at the National Guard Armory, Gatesville, on September 15, 1977, at 10:30 a.m. Further information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, telephone (817) 939-1801.

*The Lower Rio Grande Valley Subarea Health Advisory Council*, Migrant Health Plan Development Committee, will meet at Su Clinica Familiar, 2018 Pease Street, Harlingen, on September 13, 1977, at 7 p.m. Further information may be obtained from E. M. Maese, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78363, telephone (512) 595-5545.

*The Middle Rio Grande Development Council*, Manpower Staff Selection Committee, met at the Multi-Purpose Center, Eagle Pass, on September 7, 1977, at 3:30 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. 774836

### Meetings Filed September 7, 1977

**The Alamo Area Council of Governments**, Housing Advisory Committee, met at 532 Three Americas Building, San Antonio, on September 12, 1977, at 1:30 p.m. Further information may be obtained from Al J. Notzon, III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 255-5201.

Doc. No. 774868

### Meetings Filed September 8, 1977

**The Education Service Center Region IV**, Board of Directors, met in the Heritage Room, Houston Club, 811 Rusk, Houston, on September 12, 1977, at 6 p.m. Further information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, telephone (713) 868-1051.

**The Permian Basin Health Systems Agency** Governing Body will meet at the West Texas Education Center, Midland-Odessa Air Terminal, on September 19, 1977, at 7:30 p.m. Further information may be obtained from Harley Reeves, P.O. Box 6391, Midland, Texas 79701, telephone (915) 563-1061.

**The South Plains Health Systems, Inc.**, Board of Directors, met in Rooms 108 and 109, Lubbock Memorial Civic Center, Lubbock, on September 10, 1977, at 9 a.m. Further information may be obtained from Ronald D. Warner, 1217 Avenue I, Lubbock, Texas 79401, telephone (806) 747-0181.

**The South Texas Development Council**, South Texas Advisory Committee on Aging, will meet in the conference room, Laredo International Airport Building S-1, Laredo, on September 14, 1977, at 2 p.m. Further information may be obtained from Lupita Rubio, P.O. Box 2187, Laredo, Texas 78041, telephone (512) 722-3995.

**The South Texas Development Council**, Board of Directors, will meet at Zapata Community Center, Zapata, on September 15, 1977, at 9:30 a.m. Further information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78041, telephone (512) 722-3995.

**The Trinity River Authority of Texas**, Administration Committee, will meet at Tarrant County Water Control and Improvement District No. 1 Lodge on Cedar Creek Reservoir, on September 14, 1977, at 8:30 a.m. Further information may be obtained from William J. Philbin, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

Doc No 774890

## Department of Banking Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes requires any person who intends to buy control of a state bank to file an application with the Banking Commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On August 26, 1977, the Banking Commissioner received an application to acquire control of Merchants and Farmers State Bank of Weatherford, by James Houston Doss, Weatherford.

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

Issued in Austin, Texas, on August 29, 1977.

Doc No 774834 Daniel A. Flynn  
Deputy Banking Commissioner

Filed: September 6, 1977, 3:07 p.m.

For further information, please call (512) 475-4451.

## State Bar of Texas Fall 1977 Institutes

The State Bar of Texas is sponsoring 25 institutes this fall which will cover seven different legal subject matters to provide continuing education for all attorneys. Listed below are the subject matters, locations, and dates of the institutes.

### **Damages**

San Antonio, Thursday, September 15  
Lubbock, Thursday, September 15  
Houston, Friday, September 16  
El Paso, Friday, September 16  
Dallas, Thursday, September 29  
Fort Worth, Friday, September 30  
Austin, Friday, October 7

### **How to Practice Law and Live a Full Life**

Austin, Friday and Saturday, September 23 and 24

### **International Law** (Private Practice of International Law for General Practitioners)

Houston, Friday, September 30

### **Real Estate Law**

San Antonio, Thursday, October 6  
Houston, Friday, October 7  
Midland, Thursday, October 20  
Amarillo, Friday, October 21

Austin, Friday, October 21  
Dallas, Thursday, October 27  
Fort Worth, Friday, October 28

### **Divorce Course**

Houston, Thursday and Friday, November 10 and 11

### **Pre-Trial** (The Art of Winning before Trial: The Final 100 Days)

Fort Worth, Thursday, November 17  
Lubbock, Thursday, November 17  
Dallas, Friday, November 18  
El Paso, Friday, November 18  
Houston, Thursday, December 1  
San Antonio, Friday, December 2  
Austin, Friday, December 9

### **Energy Law** (The Legal Challenge of the Energy Crisis in Texas)

Austin, Friday, December 2

Information on registration may be obtained by writing to the State Bar at P.O. Box 12487, Capitol Station, Austin, Texas 78711, or by telephoning Institute Registrations, (512) 475-6742

Doc. No 21A15

## Comptroller of Public Accounts

### Administrative Decisions

#### Summary of Administrative Decision H-8134

**Summary of Decision:** Petitioner's production of chilled water, heated water, or steam, which it piped to its customers for use in their heating and cooling systems, constituted the processing of tangible personal property under Article 20.04(R), Texas Taxation--General Annotated, and its purchases of gas and electricity used in this production process are therefore exempt.

For copies of recent opinions selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Issued in Austin, Texas, on September 7, 1977.

Doc. No. 774842 Harriet D. Burke  
Hearings Section  
Comptroller of Public Accounts

Filed: September 7, 1977, 11:39 a.m.

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

## Texas Health Facilities Commission

### Notice of Applications

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory rulings or exemption certificates accepted August 16, 1977, through August 29, 1977.

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

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

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

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

Gulf Home Health Service, Inc., Houston  
AS77-0816-005

EC-- Establish a home health agency

Beaumont Medical Surgical Hospital, Beaumont  
AH77-0818-008

DR-- Acquisition of Picker Echocardiography Unit

Gaston Episcopal Hospital, Dallas  
AH77-0819-001

EC-- Replace 107-bed hospital to comply with licensing, certification, safety, or health requirements

Park Place Nursing Home, Palestine  
AH77-0822-001

EC-- Relocation of laundry, addition of storage space, and remodeling for activity space

Memorial Hospital, Lufkin  
AH77-0819-011

EC-- Remodel laundry area to comply with Life Safety Code and air condition laundry area

Medical Center Hospital, Tyler  
AH77-0812-018

EC-- Acquisition and operation of B-Mode ultra-sound equipment

Issued in Austin, Texas, on September 2, 1977.

Doc No 774798 Bill Darling  
General Counsel  
Texas Health Facilities  
Commission

Filed: September 2, 1977, 1:26 p.m.

For further information please call (512) 475-6940

## Texas Register Correction of Error

Rule 026.02.20.042 of the Comptroller of Public Accounts, which appeared in the September 6, 1977, issue of the *Texas Register* was published with a section omitted. The newly amended sections of that rule are as follows:

### Sales Tax Division-- State Taxes 026.02.20

Under the authority of Article 20.11(A), Title 112A, Texas Taxation-General Annotated, Texas Civil Statutes, the Comptroller Public Accounts has adopted Rule 026.02.20.042 to read as follows:

.042. Organizations Exempted from Sales/Use Tax ((20.04(H)(5), (6), and (7), 20.04(DD)).

(b) Definition of exempt organization.

(2) In addition to the standards set out in subparagraph (1) above, an organization must meet certain other standards depending on the type of exemption desired.

(F) Internal Revenue Code 501(c)(3) Organizations (Article 20.04(H)(7)). An organization qualifies for exemption from federal income tax under Internal Revenue Code 501(c)(3):

(i) provided that no item purchased shall be used for the personal benefit of any private stockholder

or individual, and;

(ii) provided the items purchased must be related to the purpose of said organization or corporation;

(iii) Section 6104(c) of the Internal Revenue Code requires the Internal Revenue Service to notify the comptroller that an organization no longer qualifies under 501(c)(3). Upon notification, the exemption from the sales tax shall be immediately withdrawn. All purchases by the organization will then be subject to the sales tax. The organization shall immediately notify its suppliers of the loss of exempt status. Failure to provide the supplier such notification is a violation of the Limited Sales, Excise, and Use Tax Act. You may reapply for an exemption under the provisions of Rule .042 if the organization is otherwise qualified.

(c) Procedure of obtaining exemption. To qualify for exemption under Article 20.04(H)(5), (6), (7), or 20.04 (DD), the organization must submit a written statement setting out in detail the nature of the activities conducted or to be conducted; copies of the articles of incorporation if the organization is a corporation; a copy of the bylaws; a copy of any applicable trust agreement; and any other information which the comptroller deems necessary, including but not limited to, all services performed for the organization, all income assets and liabilities of the organization, and, in the case of an organization which holds a Federal 501(c)(3) Exemption, a copy of the letter granting the federal exemption. After a review of the material, the comptroller will inform the organization in writing of the decision of the exemption. The organization must inform the comptroller in writing of any change which might affect its exempt status. The comptroller may audit the organization at any time to verify the exempt status. Senate Bill 59 (Acts of the 65th Legislature) effective August 29, 1977.

(e) Sales by exempt organizations.

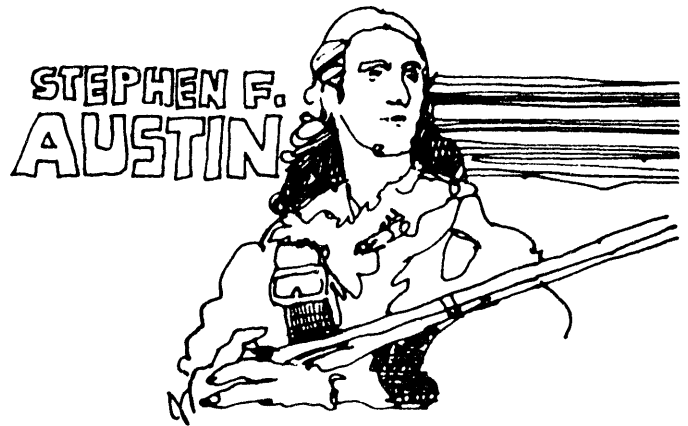
(1) An exempt organization is responsible for the collection and remittance of tax on all sales of taxable items made by the organization (except by comptroller's Rule 026.02.20.013, meals and beverages for human consumption) unless otherwise exempt.

(2) A religious, educational, charitable, or eleemosynary organization that qualifies for an exemption under this act is not required to collect the tax at a sale or auction which is held only once a year by the organization, providing such sale or auction is of one day duration only.

(A) The organization may employ an auctioneer to conduct the auction and pay the auctioneer a reasonable fee, not to exceed 20 percent of the gross sales.

(B) If two or more organizations jointly hold a tax-free sale or auction, neither may hold another tax-free sale or auction during the calendar year.

Doc No 774449



## Savings and Loan Department

### Notice of Approval of Merger

On June 15, 1977, the following five associations made application to the Savings and Loan Commissioner of Texas for approval to merge Equitable Savings Association, Fort Worth; First Savings Association of Corpus Christi, Corpus Christi; Gibraltar Savings Association, Houston; Imperial Savings Association of Amarillo; and Midland Savings Association, Midland.

On August 18, 1977, a hearing was held on said application and on August 30, 1977, the application and plan of merger was approved by the commissioner as being equitable to the members of each of the five associations and as not impairing the usefulness and success of other properly conducted associations. The order of the commissioner approving the merger is being delivered to applicants and to all other associations with offices in the 18 counties in which applicants have offices, as well as 11 adjacent or adjoining counties, and shall become final 10 days after delivery unless an association within the vicinity of the merging associations request, within the 10-day period, a public hearing before the commissioner on the basis that the merger would materially constrict the ability of the objecting association to compete within the vicinity.

Issued in Austin, Texas, on August 30, 1977.

Doc. No 774784      L. Alvis Vandygriff  
Deputy Commissioner  
Savings and Loan Department

Filed: September 2, 1977, 10:43 a.m.

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