

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Air Control Board Correction of Error

The Texas Air Control Board adopted an amendment to 31 TAC §111.111, concerning requirements for specified sources. The rule appeared in the July 9, 1993, *Texas Register* (18 TexReg 4508).

In the second paragraph of the preamble a reference to §111.111(a)(4)(B) states that in the amendment requires "that daily visual observation of gas flares for the purpose of determining the existence of visible emission be conducted for a minimum of six minutes." This a proofreading error by the agency. The rule language requires a "spot check of flares for smoke." No minimum observation time is specified except in the case of noncomplying flares.



## Notice of Contested Case Hearing Number 308

An Examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing to consider the application of Livingston Materials Company (the Applicant) as to whether the proposed facility meets the criteria as an exempted facility. The application filed by the Applicant is for construction and operation of a concrete batch plant under TACB Standard Exemption Number 71. The plant will perform wet batching and will emit air contaminants, specifically particulate matter. The plant location is at 1002 Beatty Street, Polk County, Livingston, Texas 77351.

**Deadline for Requesting to be a Party.** At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the Applicant and the TACB Staff. Any person who may be affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to Hearings Examiner Patricia Robards, and make sure that this request is actually received at the TACB Central Office, 12124 Park 35 Circle, Austin, Texas 78753 by 5:00 p.m. on Monday, August 2, 1993. The Examiner cannot grant party status after that deadline, unless there is good cause for the request arriving late. Hearing requests, comments, or other correspondence sent to the TACB before publication of this notice will not be considered as a request for party status. No Correspondence should be sent to any member of the Texas Air Control Board at any time regarding this hearing. The Examiner will decide on party status at the prehearing conference.

**Prehearing Conference.** The Examiner has scheduled a prehearing conference at 1:30 p.m. on Wednesday, August 11, 1993, at the TACB Central Office, Room 246-E, 12124 Park 35 Circle, Austin, Texas 78753. At this conference, the Examiner will consider any motions of the

parties, but may grant contested motions for continuance only upon proof of good cause. The Examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence.

**Time and Place of Hearing.** The Examiner has set the hearing on the merits to begin at 1:30 p.m. on Tuesday, August 24, 1993, at the TACB Central Office, Room 246-E, 12124 Park 35 Circle, Austin, Texas 78753.

**What the Applicant Must Prove.** This hearing is a contested case hearing under §13 of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. It is generally conducted like a trial in district court. The Applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will meet the qualifications and requirements of TACB Regulation VI, §116.6, TACB Standard Exemption Number 71, and the Texas Health and Safety Code, §382.058.

**Public Attendance and Testimony.** Members of the general public may attend the prehearing conference and the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin, Texas at (512) 908-1770 a day or two prior to the prehearing conference and the hearing date in order to confirm the settings, since continuances are sometimes granted. Any person who wants to give testimony at the hearing, but who does not want to be a party, may call the Hearings Section of the TACB Legal Division at (512) 908-1770 to find out the names and addresses of all persons who may be contacted about the possibility of presenting testimony. Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (512) 908-1815. (Requests should be made as far in advance as possible.)

**Information About the Application and TACB Rules.** Information about the application and copies of the TACB's Rules and Regulations are available at the Texas Air Control Board Regional Office located at 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, the TACB Central Office located at 12124 Park 35 Circle, Austin, Texas 78753 and at the Livingston City Hall Office, located at 200 West Church Street, Livingston, Texas 77351.

**Legal Authority.** This hearing is called and will be conducted under the authority of the Act, §§382.029, 382.0291, 382.031, 382.057, and 382.058 and TACB §§103.31, and 103.41-103.66.

Issued in Austin, Texas, on July 13, 1993.

TRD-9325791 William R. Campbell  
Executive Director  
Texas Air Control Board

Filed: July 15, 1993

