Texas Register

Volume 13, Number 7, January 22, 1988

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The Texas Register (ISSN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1987 with the exception of January 6, September 1, December 1, and December 29 by the Office of the Secretary of State.

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POSTMASTER: Please send Form 3579 changes to the Texas Register, PO. Box 13824, Austin, Texas 78711-3824.

Information Available: The 10 sections of the Register represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for public comment
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date
- Adopted Rules—rules adopted following a 30 day public comment period
- Open Meetings—notices of open meetings
- In addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes an annual index and monthly index to aid in researching material published.

How To Cite: Material published in the Texas Register is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "12 TexReg 2—issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written: "issue date 12 TexReg 3."

How To Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register office, 503E Sam Houston Building, Austin. Material can be found by using Register indexes, the Texas Administrative Code, rule number, or TRD number.

Texas Administrative Code

The Texas Administrative Code (TAC) is the approved, collected volumes of Texas administrative rules.

How To Cite: Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15

1 indicates the title under which the agency appears in the Texas Administrative Code;

TAC stands for the Texas Administrative Code;

27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).
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Appointments Made
November 16
To be a member of the State Commission on Judicial Conduct for a term to expire November 19, 1991:

Claude J. Keelley, Jr., Route 3, Box 300, Fredericksburg, Texas 78624. Mr. Kelley will be filling the unexpired term of Dr. Ralph Smith of Austin who is no longer eligible.

To be a member of the State Board of Veterinary Medical Examiners for a term to expire August 36, 1993:

Olivia Ruth Eudaly, Rafter Seven Ranch, 2307 Longhorn Trail, Crowley, Texas 76036. Mrs. Eudaly is being appointed to a vacant position on the board.

To be a member of the Texas Animal Health Commission for a term to expire September 6, 1993:

Gaye Lynn Seawright, 1329 Essex Drive, De Soto, Texas 75115.

Mrs. Seawright will be replacing Lawrence Hostick of Brookshire whose term expired.

To be a member of the Texas Animal Health Commission for a term to expire September 6, 1993:

Allan C. Otjen, DVM, Route 2, Box 33, Canyon, Texas 79015. Dr. Otjen will be replacing Dr. Kenneth Dorris of Stephenville whose term expired.

To be a member of the Texas Animal Health Commission for a term to expire September 6, 1993:

Bruce Benjamin Rigler, P.O. Box 1950, Plainview, Texas 79072.

Mr. Rigler will be replacing C.E. Knolle of Sandia whose term expired.

To be a member of the Crime Stoppers Advisory Council for a term to expire September 1, 1989:

Sam J. Chase, 400 Oak, Suite 105, Abilene, Texas 79602. Mr. Chase is replacing Mr. Richard Carter of Arlington who resigned.

To be a member of the Agricultural Diversification Board pursuant to House Bill 49, 70th Legislature, 1987, for a term to expire January 1, 1989:

Jerry Harris, P.O. Box M, Lamesa, Texas 79331.

To be a member of the Crime Stoppers Advisory Council for a term to expire September 1, 1989:

John Keith McKissick, 250 Glenwood Trail, Forney, Texas 75126. Mr. McKissick will be replacing Rogelio Martinez of McAllen whose term expired.

To be a member of the Hospital Licensing Advisory Council for a term to expire December 7, 1993:

Larry M. Graham, Terrell Community Hospital, 1551 South Virginia, Terrell, Texas 75160. Mr. Graham will be replacing Joe M. Stevens of Gonzales whose term expired.

To be a member of the Texas Cosmetology Commission for a term to expire December 31, 1993:

Evelyn Aileen Hunter, 7820 Meadow Park Drive, Dallas, Texas 75230. Ms. Hunter will be replacing Hope Scott of San Antonio whose term expired.

Issued in Austin, Texas, on January 14, 1988
TRD-8800494 William P. Clements, Jr Governor of Texas

Appointments Made
January 13
To be a member of the State Board of Medical Examiners for a term to expire April 13, 1993:

George Salim Bayoud, M.D., 2636 West Walnut, Garland, Texas 75042. Dr. Bayoud will be replacing Dr. Jesse D. Ibarra of Temple, whose term expired.

To be a member of the State Board of Medical Examiners for a term to expire April 13, 1991:

James Garnett Morris, M.D., 1421 Ninth Street, Lubbock, Texas 79401. Dr. Morris will be filling the unexpired term of Dr. Carlos D. Godinez of McAllen, who resigned.

To be a member of the State Board of Medical Examiners for a term to expire April 13, 1993:

Alfred Raymond Johnson, D.O., 8345 Walnut Hill Lane, Number 205, Dallas, Texas 75231-4262. Dr. Johnson will be replacing Dr. Joel Holliday of Mesquite whose term expired.

To be a member of the State Seed and Plant Board for a term to expire October 6, 1989:

David Edward Koepp, Texas Tech University, P.O. Box 4169, Lubbock, Texas 79409. Dr. Koepp is being reappointed.

To be a member of the Board of Trustees of the Texas County and District Retirement System for a term to expire December 31, 1993:

Durward O. Wright, P.O. Box 3651, Midland, Texas 79702 Mr. Wright is being reappointed.

To be a member of the Long-Term Care Coordinating Council for the Elderly, for a term to expire January 31, 1989:

Ernestine H. Bridge, 202 Schirra Way, Mesquite, Texas 75150. Mrs. Bridge will be replacing Mrs. Johnnie Cavanaugh whose term expired.

Issued in Austin, Texas, on January 13, 1988
TRD-8800394 William P. Clements, Jr Governor of Texas
Requests for Opinions

RQ-1319. Request from Carl Dossay, City Manager, City of Woodway, Waco, Robert T. McCullu, Dallas, and Jacque Kruse, City Secretary, Addison, concerning whether the working files maintained separately by a private attorney appointed on a contract basis as city attorney are subject to the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.
TRD-8800364

RQ-1320. Request from Fred G. Rodriguez, Bexar County, County and District Attorney, San Antonio, concerning whether certain custodial death reports are available to the public under the Texas Code of Criminal Procedure, Article 49.18, and the Texas Open Records Act, Article 6252-17a.
TRD-8800363

RQ-1321. Request from J. Scott Chafin, University Counsel, University of Houston System, Houston, concerning whether information related to the University of Houston patent applications on superconductivity research is available under the Texas Open Records Act.
TRD-8800362

RQ-1322. Request from Fred Toler, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, Austin, concerning whether the Texas Commission on Law Enforcement Officer Standards and Education is authorized to license application to an armed security officer to be employed by the Port of Houston.
TRD-8800361

RQ-1323. Request from Edward Woolery-Price, County Attorney, Columbus, concerning whether suspension of fines and deferrals of final disposition in light of amendments to the Code of Criminal Procedure, Article 45.54.
TRD-8800360

RQ-1324. Request from Stanley D. Curbo, County Attorney, Graham, concerning whether a county is required to reimburse employees of the Department of Mental Health and Mental Retardation for testimony given pursuant to subpoena in a probable cause hearing for an order of protective custody.
TRD-8800359

RQ-1325. Request from Jimmy F. Davis, Castro County-District Attorney, Dimmitt, concerning the expungement of criminal convictions under certain provisions of the Texas Code of Criminal Procedure.
TRD-8800358

RQ-1326. Request from Kent A. Caperton, Chairman, Senate Committee on Jurisprudence, Austin, concerning whether House Bill 364, Acts of the 70th Legislature, 1987, which requires an applicant for probate to disclose his social security number, conflicts with certain provisions of federal law.
TRD-8800357

RQ-1327. Request from Kenneth H. Ashworth, Commissioner, Texas Higher Education Coordinating Board, Austin, concerning vesting period for participation in the optional retirement system.
TRD-8800356

RQ-1328. Request from Charles D. Houston, District Attorney, 155th Judicial District, Bellevue, concerning authority of the county auditor to require travel documentation from county commissioners and related questions.
TRD-8800355

RQ-1329. Request from James L. Rex, Andrews County Attorney, Andrews, concerning whether the Indigent Health Care Act requires a county to pay a staff physician of a county hospital on care given indigent patients.
TRD-8800354

RQ-1330. Request from Vernon M. Arrerr, Commissioner, Texas Rehabilitation Commission, Austin, concerning whether members of the board of the Texas Rehabilitation Commission and its subordinate components.
TRD-8800353

Opinions

JM-838 (RQ-1260). Request from George Pierce, Chairman, Urban Affairs Committee, Texas House of Representatives, Austin, concerning whether a police chief may see results of a psychological evaluation of a police officer given under a civil service requirement.

Summary of Opinion. Unless the facts warrant the application of the exception in the Medical Practice Act, Texas Civil Statutes, Article 4495b, §5.08(b)(2), or Article 5561h, subsection 4(b)(2), a psychological examiner engaged by the City of San Antonio would violate the patient-physician privilege created by §5.08 and by Article 5561h if, without a signed release from the police officer, the physician disclosed to the chief of police the results of a psychological examination which he administered to the officer.
TRD-8800368

JM-839 (RQ-1232). Request from Charles E. Lane, County and District Attorney, Midland County Courthouse, Cameron, concerning whether a commissioners court may reduce the salary of a county attorney below an amount previously approved.

Summary of Opinion. The commissioners court is without authority to reduce the salary of the county attorney set pursuant to Texas Civil Statutes, Article 3912k, (now Local Government Code, §152.013), from the amount approved at the annual budget hearing and budget adoption proceedings. Whether the commissioners court of Midland County may eliminate the amount of compensation paid the county attorney by the county is a matter left to the discretion of the commissioners court at the regular annual budget hearings following the effective
date of Senate Bill 162 (now Government Code, §45.266), Acts of the 70th Legislature, 1987, Chapter 34, §1, page 137, effective September 1, 1987.

TRD-8800367

JM-840 (RQ-1244). Request from Robert O. Vitera, Executive Director, Commission on Jail Standards, Austin, concerning “certified agenda” requirements imposed by recent amendments to the Open Meetings Act, Texas Civil Statutes, Article 6252-17.

Summary of Decision. The Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17, requires governmental bodies, as defined in the Act, to deliberate and take all final actions on governmental policy and business in meetings that are open to the public. The Act authorizes governmental bodies to adjourn, subject to certain limited circumstances, in closed or executive sessions. In Senate Bill 162, Acts of the 70th Legislature, 1987, Chapter 34, §1, the legislature added §2A to the Act to require governmental bodies to keep a certified agenda or a tape recording for each of their meetings that is closed to the public. Section 2A expressly does not apply to consultations between a governmental body and its attorney when those consultations comply with subsection (e) of the Act, i.e., when only subsection (e) matters are discussed. For other executive sessions, a tape or “certified agenda” must be kept. The agenda must be “a true and correct record of the proceedings” of the executive session. Although the agenda need not be a verbatim transcript of the executive session, §2A requires more than a one or two word list of the subjects actually discussed. Ultimately, the question of whether a particular “certified agenda” complies with the Act is a fact question for the courts, but in general, the greater the likelihood of violation, the greater the detail necessary.

TRD-8800366

JM-841 (RQ-1251). Request from Travis S. Ware, Criminal District Attorney, Lubbock County Courthouse, Lubbock, concerning whether the Code of Criminal Procedure, Article 18.17, requires peace officers employed by a state institution of higher education to deliver abandoned and unclaimed property to the county purchasing agent.

Summary of Opinion. The Code of Criminal Procedure, Article 18.17, as amended by House Bill 2187, Acts of the 70th Legislature, 1987, does not require peace officers employed by a state institution of higher education to deliver abandoned and unclaimed property to the county purchasing agent where the governing body of the state institution of higher learning has promulgated rules and regulations for the disposition of such property pursuant to the provisions of the Education Code, §51.203 and §51.213.

TRD-8800365

Open Records Decision

ORD-486 (RQ-1268). Request from Lloyd Gara, San Antonio City Attorney, San Antonio, concerning whether the recent amendment of the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(15), to include birth and death records maintained by a local registration official prohibits a city from releasing summary daily birth and death lists.

Summary of Decision. The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(15), as amended by the 70th Legislature, 1987, Chapter 349, §1, page 3509), protects from required public disclosure birth and death records held by local registration officials. Access to birth and death certificates must be obtained through the procedures set forth in Texas Civil Statutes, Article 4477. Section 3(a)(15) applies to copies of birth and death certificates and official records and not to summary lists of births and deaths.

TRD-8800369

Attorney General January 22, 1988 13 TexReg 371
Emergency Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the Texas Register, or on a stated date less than 70 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency rules. New language added to an existing rule is indicated by the use of bold text. [Brackets] indicate deletion of existing material within a rule.

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 25. Prepaid Funeral Contracts

Subchapter B. Regulation of Licenses

★ 7 TAC §25.13

The Banking Department of Texas adopts on an emergency basis new §25.13, concerning applications for withdrawal of excess earnings. The new section requires that applications for withdrawal of excess earnings be filed on an application form prescribed by the commissioner. The new section also requires that each application must pay a nonrefundable fee of $500, which will be used by the department to cover the costs of processing such applications. This section is adopted on an emergency basis because recent amendments to Texas Civil Statutes, Article 548b, created the opportunity for applying for a withdrawal of excess earnings and the department has received numerous inquiries for applications.

The new section is adopted on an emergency basis pursuant to Texas Civil Statutes, Article 548b, which provide the Banking Department with the authority to promulgate such rules and regulations as may be necessary to facilitate the fair processing of applications for withdrawals of excess earnings.

★ 7 TAC §25.17

The Banking Department of Texas adopts on an emergency basis new §25.17, concerning the establishment of the prepaid funeral guaranty fund. The new section establishes a guaranty fund to guarantee performance by sellers of prepaid funeral services. The new section is adopted on an emergency basis because recent amendments to Texas Civil Statutes, Article 548b, require that an actuarial study of the fund be conducted prior to April 1, 1988.

The new section is adopted on an emergency basis pursuant to Texas Civil Statutes, Article 548b, §8a, which provide that the department will, by rule, create and maintain a guaranty fund to guarantee performance by sellers of prepaid funeral services.


(a) Pursuant to Texas Civil Statutes, Article 548b, §8a, a guaranty fund is hereby created to guarantee performance by sellers of prepaid funeral services. The fund will be named the prepaid funeral guaranty fund, and will be supervised by an advisory council composed of the following: the banking commissioner, or his designee; the attorney general of the state; and an industry representative appointed by the commissioner. The advisory council will serve a two-year term beginning on January 1 of an even numbered year and ending December 31 of the following odd numbered year. The advisory council may not serve more than one term.

(b) The prepaid funeral guaranty fund will be capitalized as follows:

(1) The department shall assess and collect from all trust funded prepaid funeral sellers $10.00 for each unmatured contract existing on January 1, 1988.

(2) The department shall assess and collect from all trust funded prepaid funeral sellers $10.00 for each unmatured contract sold in 1988 from a permettee first receiving a permit in 1988.

(3) The department is also authorized, when it deems advisable, to assess and collect up to $1.00 per contract for each outstanding unmatured contract existing at the time of the assessment in order to maintain a sound fund.

(c) The commissioner may use any earnings from the fund for the expenses of operating, maintaining, and supervising the fund, including the reimbursement of travel expenses incurred by the industry representative pursuant to the same travel guidelines of state employees.

(d) The advisory council shall meet on a periodic basis as determined by the commissioner in order to fulfill the requirements of supervising the operation and maintenance of the fund. However, in no event shall the advisory council fail to meet at least once annually.

Issued in Austin, Texas, on January 14, 1988

TRD-8600384 Jorge A. Gutierrez
General Counsel
Banking Department of Texas

Effective date: January 14, 1988
Expiration date: May 13, 1988
For further information, please call (512) 479-1200

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 41. State Commissioner of Education

Subchapter B. Duties and Responsibilities

★ 19 TAC §41.22

The Texas Education Agency adopts on an emergency basis new §41.22, concerning discretionary authority for the commissioner of education to waive State Board of Education rules under certain circumstances. The new section provides that, upon written request of a school district superintendent, the commissioner of education is authorized to waive one or more regulations of the State Board of Education for that school district when, in the commissioner's judgment, granting the waiver would enable the district to improve its educational program. Statutory requirements may not be waived. All waivers requested and all waivers granted must be reported to the State Board of Education. The board will collectively review the waivers annually.

This new section is adopted on an emergency basis to enable the commissioner of education to give relief to school
districts which have had scheduling difficulties during the fall 1987 semester due to the requirements concerning the length of semesters in 19 TAC §105.71, concerning days of operating required.

The new section is adopted on an emergency basis under the Texas Education Code, §11.224(b), which gives the State Board of Education authority to make rules for carrying out the duties placed on it by law. The Central Education Agency by the legislature.

§22. Commissioner of Education's Discretionary Authority to Waive State Board of Education Rules Under Certain Circumstances

(a) Upon written request of a school district superintendent, the commissioner of education is authorized to waive one or more regulations of the State Board of Education for the school district when, in the judgment of the commissioner, granting the waiver would enable the district to improve its educational program.

(b) The district's request must state the nature of the waiver requested, the reasons for the request, and the anticipated educational consequences of the waiver.

(c) It is the intent of this section that the commissioner's waiver authority may be used to enable districts to explore innovative strategies for educational improvement, as well as to enable them to address emergency or hardship situations.

(d) Waivers under this section are entirely within the discretion of the commissioner of education. This section in no way creates a right to a waiver on the part of any school district. Statutory requirements may not be waived.

(e) Waivers requested and those granted under this section shall be reported to the State Board of Education as an agenda item at the next meeting of the board and shall be collectively reviewed by the board annually.

Issued in Austin, Texas, on January 12, 1988.

W. N. Kirby
Commissioner of Education

Effective date: January 15, 1988
Expiration date: May 14, 1988
For further information, please call (512) 463-9212

Chapter 385, Student Services
Subchapter B, Guidance Services

§19 TAC §85.22

The Texas Education Agency is renewing the effectiveness of the emergency adoption of an amendment to §85.22, for a 60-day period effective January 20, 1988.

The text of amended §85.22 was original-


Issued in Austin, Texas, on January 15, 1988.

TRD-8800487
Beverly J. Bardley
Director for Policy Development
Texas Education Agency

Effective date: January 20, 1988
Expiration date: February 5, 1988
For further information, please call (512) 463-9212.

TITLE 22, EXAMINING BOARDS
Part XX, Texas Board of Private Investigators and Private Security Agencies
Chapter 429, Application and Examination

22 TAC §429.11

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of the repeal of §429.11, for a 60-day period effective February 9, 1988.

The text of repealed §429.11 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3806).

Issued in Austin, Texas, on January 15, 1988.

TRD-8800447
Clerna D. Sanders
Executive Director
Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545

Chapter 435, Training Programs

22 TAC §§435.12-435.15

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of new §§435.12-435.15, for a 60-day period effective February 9, 1988.

The text of new §§435.12-435.15 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3806).

Issued in Austin, Texas, on January 15, 1988.

TRD-8800446
Clerna D. Sanders
Executive Director
Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545

Chapter 433, Handgun; Security Officer Commission

22 TAC §§433.1-433.11

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of new §§433.1-433.11, for a 60-day period effective February 9, 1988.

The text of new §§433.1-433.11 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3805).

Issued in Austin, Texas, on January 15, 1988.

TRD-8800442
Clerna D. Sanders
Executive Director
Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545

22 TAC §§435.12-435.16

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of the repeal of §§435.12-435.16, for a 60-day period effective February 9, 1988.

The text of the repealed §§435.12-435.16 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3806).

Issued in Austin, Texas, on January 15, 1988.

Emergency Rules January 22, 1988 13 TexReg 373
Chapter 451. Registration of Employers or Private Investigators

★ 22 TAC §451.8

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of repealed §451.8, for a 60-day period effective February 9, 1988. The text of repealed §451.8 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3807).

Issued in Austin, Texas, on January 15, 1988

TRD-8800443 Clema D. Sanders Executive Director Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545.

★ 22 TAC §451.7, §451.8

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of new §451.7 and §451.8, for a 60-day period effective February 9, 1988. The text of new §451.7 and §451.8 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3807).

Issued in Austin, Texas, on January 15, 1988

TRD-8800441 Clema D. Sanders Executive Director Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545.

Chapter 455. Fees

★ 22 TAC §455.1

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of repealed §455.1, for a 60-day period effective February 9, 1988. The text of repealed §455.1 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3807).

Issued in Austin, Texas, on January 15, 1988

TRD-8800440 Clema D. Sanders Executive Director Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545.

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of new §455.1, for a 60-day period effective February 9, 1988. The text of new §455.1 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3807).

Issued in Austin, Texas, on January 15, 1988

TRD-8800448 Clema D. Sanders Executive Director Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545.

Chapter 460. Application Processing and Refunds

★ 22 TAC §460.1

The Texas Board of Private Investigators and Private Security Agencies is renewing the effectiveness of the emergency adoption of new §460.1 for a 60-day period effective February 9, 1988. The text of new §460.1 was originally published in the October 16, 1987, issue of the Texas Register (12 TexReg 3808).

Issued in Austin, Texas, on January 15, 1988

TRD-8800445 Clema D. Sanders Executive Director Texas Board of Private Investigators and Private Security Agencies

Effective date: February 9, 1988
Expiration date: April 9, 1988
For further information, please call (512) 463-5545.

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 157. Emergency Medical Care

Emergency Medical Services

★ 25 TAC §§157.63, 157.77, 157.82

The Texas Department of Health is renewing the effectiveness of the emergency adoption of amendments to §§157.63, 157.77, and 157.82, for a 60-day period effective January 23, 1988. The text of amended §§157.63, 157.77, and 157.82 was originally published in the October 2, 1987, issue of the Texas Register (12 TexReg 3507).

Issued in Austin, Texas, on January 19, 1988

TRD-8800406 Robert A. MacLean Deputy Commissioner Professional Services Texas Department of Health

Effective date: January 23, 1988
Expiration date: March 23, 1988
For further information, please call (512) 458-7236.
TITLE 7. BANKING AND SECURITIES
Part II. Banking
Department of Texas
Chapter 25. Prepaid Funeral Contracts
Subchapter B. Regulation of Licenses

* 7 TAC §25.13

(EDITOR'S NOTE The Banking Department of Texas proposes for permanent adoption the section as it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)

The Banking Department of Texas proposes new §25.13, concerning applications for withdrawal of excess earnings under Texas Civil Statutes, Article 548b, §54.

Carlos J. Contreras, II, assistant general counsel, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of enforcing or administering the section. Although there will be fiscal implications as a result of enforcing or administering this section, all revenues will be offset by actual costs incurred by the Banking Department in processing the applications. There will be no impact on local government. The cost of compliance with the section for small businesses will be the same as the cost of compliance for all businesses.

Mr. Contreras also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced efficiency in processing applications for withdrawals of excess earnings. The possible economic cost to individuals who are required to comply with the section as proposed will be $500 per application.

Comments on the proposal may be submitted to Carlos J. Contreras, III, Assistant General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Civil Statutes, Article 548b, which provide the Banking Department with the authority to prescribe reasonable rules concerning applications fees and all other matters incidental to the orderly administration of the law.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 14, 1988
TRD-8800385 Jorge A. Gutierrez General Counsel Banking Department of Texas

Earliest possible date of adoption
February 22, 1988

For further information, please call
(512) 479-1200

* 7 TAC §25.17

(EDITOR'S NOTE The Banking Department of Texas proposes for permanent adoption the new section as it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)

The Banking Department of Texas proposes new §25.17, concerning the creation of the prepaid funeral guaranty fund. The new section establishes a guaranty fund to guarantee performance by sellers of prepaid funeral services.

Carlos J. Contreras, III, assistant general counsel, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of enforcing or administering the section. There will be no impact on state or local government. The cost of compliance with the section for small business will be the same for all businesses. Each prepaid funeral seller will be required to pay an assessment of $1.00 for each trust funded prepaid funeral contract.

Mr. Contreras also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced efficiency in processing applications for withdrawals of excess earnings. The possible economic cost to individuals who are required to comply with the proposed section is $500 per application.

Comments on the proposal may be submitted to Carlos J. Contreras, III, Assistant General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Civil Statutes, Article 548b, which provide the Banking Department with the authority to create by rule a guaranty fund to guarantee performance by sellers of prepaid funeral contracts.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 14, 1988
TRD-8800383 Jorge A. Gutierrez General Counsel Banking Department of Texas

Earliest possible date of adoption
February 22, 1988

For further information, please call
(512) 479-1200

TITLE 13. CULTURAL RESOURCES
Part IV. Texas Antiquities Committee
Chapter 41. Practice and Procedure

* 13 TAC §§41.1, 41.3-41.13, 41.16, 41.17, 41.19-41.23, 41.25-41.27

The Texas Antiquities Committee proposes new §§41.1, 41.3-41.13, 41.16, 41.17, 41.19-41.23, and 41.25-41.27, concerning agency procedural rules. These new sections define commonly used cultural resource management and historic preservation terms, establish reasonable rules and regulations concerning compliance specific criteria for evaluation of historic structures, archeological sites, caves, collections, and historic shipwrecks, set out procedures for the discovery and designation of public and private properties as state archeological landmarks (SALs); clarify applications for and issuance of historic structure and archeological investigations on public property; provide for...
monitoring of permit projects; describe requirements for reports of investigations; and delineate procedures for disposition of publically owned antiquities and data. The new sections are proposed to comply with statutory changes by the 70th Legislature, 1987, and to effect a more efficient and economical management of publically owned prehistoric and historic properties.

Molly F. Godwin, administrative technician, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Godwin also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of definitions pertaining to cultural resource management, historic preservation, political subdivisions of the State of Texas, and historically important buildings. These new sections provide for improvement in the identification, protection, preservation, and management of significant prehistoric and historic properties in public ownership. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Molly F. Godwin, Administrative Technician, Texas Antiquities Comment Committee, P.O. Box 12276, Austin, Texas 78711-2276.

The new sections are proposed under the Natural Resources Code, Title 9, Chapter 191 revised by Senate Bill 231, 68th Legislature, 1983, and House Bill 2056, 70th Legislature, 1987). §191.052, which provides the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

§41.4. Amending of Rules. The rules and regulations of the Texas Antiquities Committee may be amended with the approval of a majority of the committee members.

§41.5. Definitions. The following words and terms, when used in this chapter and the Antiquities Code of Texas, shall have the following meanings, unless the context clearly indicates otherwise.

Antiquity—The tangible aspects of the past which relate to human life and culture. Some examples include objects, written histories, architectural designs, cultural traditions and patterns, art forms, and technologies.

Appropriate historical or archeological authorities—For purposes of implementing the Antiquities Code of Texas, the Texas Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276, working with the Texas Historical Commission, is the statutorily created body responsible for protecting and preserving state archeological landmarks, Texas Natural Resources Code of 1977, Title 9, Chapter 191. In cases where federal statutes apply, appropriate authorities include the secretary of the interior, the state historic preservation officer, the state archeologist, and their designated representatives.

Cultural group—A group of individuals or an organization of people related through common social structures and customs.

Cultural resource—Any building, site, district, structure, object, pre-20th century shipwreck, data, and locations of historical, archeological, educational, or scientific interest, including, but not limited to, prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, archeological sites of every character, treasure embedded in the earth, sunken or abandoned ships, and wrecks of the sea or any part of the contents thereof, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, prehistory, history, natural history, government, or culture. Examples of cultural resources include Indian mounds and campgrounds, aboriginal lithic resource areas, early industrial and engineering sites, rock art, early cottage and craft industry sites, bison kill sites, cemeteries, battlegrounds, all manner of historical structures, local historical records, etc.

Cultural resources reconnaissance—A literature search and record review plus an on-the-ground surface examination of selected portions of an area adequate to assess the general nature of the resource probably present. Test excavations may be required at some sites where evaluations may be adequately accomplished. This level of investigation is appropriate to preliminary planning decisions and will be of assistance in determining viable project alternatives.

Cultural resources survey—An intensive on-the-ground survey of an area sufficient to permit determination of the number and extent of the resources present, their scientific importance, and the time factors and cost of investigating, preserving, recovering, or otherwise studying or mitigating adverse effects on them. This level of investigation is appropriate when a construction project has been authorized and finally formulated.

Environmental data—Presently available information as well as data derived as an adjunct to an archeological investigation which includes, but is not limited to, area drainage, physiography, surface and subsurface geology, soils, flora, fauna, climate, the alteration of prehistoric and historic land forms, and so forth. The implications of present and/or hypothetical microenvironments should be presented when sufficient data are available for such inferences. These elements of the environment through time must be considered during attempts to reconstruct past technological, subsistence, and settlement patterns.

Ethnic group—A group of individuals or an organization of people that share the same race or a class of people with common traits or customs.

Excavation—The principal recovery mode of archeology. The evidence from a skillfully accomplished archeological excavation provides a detailed picture of the human activities at the site; emphasis is placed on evidence rather than artifacts. In excavation, the archeological deposits are removed by digging and so destroyed. The destruction can be justified only if:

A. it is done with such care that all antiquities and all cultural and environmental data in the area excavated are discovered, and if possible, preserved, however faint the surviving trace may be;

B. all information has been accurately recorded, whether its importance is immediately recognized or not, to remain available after the site has disappeared; and

C. the record and results of the investigation are readily made available through publication.

Local society—Any historical preservation group, archeological society, or other community group whose aim is related to or involved in architectural or archeological site preservation.

Mitigation—The amelioration of losses of significant cultural resources, accomplished through preplanned actions to preserve or recover the maximum amount of data by application of current professional techniques and procedures, as defined in the permits' scope of work.

National Register—The National Register of Historic Places is a register of districts, sites, buildings, and objects significant in American history, architecture.
archeology, and culture maintained by the secretary of the interior. Information concern- ing the National Register is available through the state historic preservation officer. Texas Historical Commission, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276

Permit application forms—Prior to the issuance of an antiquities permit for either archeological or architectural investigations, the committee must receive a completed application form from either the principal investigator, architect, or permittee. These forms supply the committee with the information necessary to issue a permit and contain the proposed scope of work and research design for the investigations. Application forms can be obtained from the Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276.

Political subdivision—A local governmental entity created and operating under the laws of this state, including a city, county, school district, or special district created under the Texas Constitution, Article III, §52 (b)(1) or (2), or Article XVI, §59.

Professional personnel—Appropriately trained specialists required to perform adequate archeological and architectural investigations. These personnel include the following:

(A) Principal investigator. A professional archeologist or underwater archeologist with demonstrated competence in field archeology and laboratory analysis, as well as experience in administration, logistics, personnel deployment, report publication, and fiscal management. The principal investigator must have at least three months of full-time experience in a supervisory role involving complete responsibility for a major portion of a project of comparable complexity to that which is to be undertaken under permit. The principal investigator must have demonstrated the ability to disseminate the results of an archeological investigation in published form conforming to current professional standards. The principal investigator must remain on-site for a minimum of 40% of the time required for the field investigation and must be a co-author of the project report. When not on-site, the principal investigator must be able to supervise the field investigation. In the event of controversy or court challenge, the principal investigator shall testify concerning project findings.

(B) Project architect. A professional architect who is a qualified historic architect and has had full-time experience in a supervisory role on at least one historic preservation project. The project architect must be involved, at a minimum, in 25% of the time required for historic structure permit project and, when not involved with the project, must assign a qualified historic architect to supervise the preservation project.

(C) Historical archeologist. One who is a professional archeologist and, in addition, has been trained in the field of historical archeology under a competent historical archeologist and has a minimum experience of two comprehensive archeological field seasons on archeological sites that contain historic (post-14th century) archeological deposits, and has published the results of those archeological investigations in scholarly journals or publications.

(D) Historic architect. The minimum professional qualifications of an historic architect are a professional degree in architecture or a state license to practice architecture, plus one of the following:

(i) at least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
(ii) at least one year of full-time professional experience on historic preservation projects to include detailed investigations of historic structures, preparation of historic structure research reports, and preparation of plans and specifications for preservation projects.

(E) Professional archeologist. One who:

(i) has a graduate degree in archeology from an accredited institution of higher education or the equivalent as approved by the Antiquities Committee, has a minimum of experience of two comprehensive archeological field seasons under competent supervision, and has published results of archeological investigations in scholarly journals; or
(ii) is accredited by the Society of Professional Archologists (SOPA) with emphasis in field research, historical archeology, or underwater archeology, as appropriate.

(F) Underwater archeologist. One who is a professional archeologist and, in addition, is a competent diver with a minimum of two full seasons in underwater archeological testing or excavation projects.

(G) Underwater archeological surveyor. One who has training and experience sufficient for the safe and proficient use of the specialized underwater remote sensing equipment, and equipment are required.

Religious organization—Any group of individuals with a prevailing spiritual belief system or that is devoted to an organized system of faith and worship or to furthering such a system.

Research design—Research designs prepared prior to implementation of a field study and submitted with an archeological permit application form are essential to the success of scientific objectives, resource management decision-making, and project management. The following points should be considered during formulation of a research design:

(A) Research designs present the essential objectives of a project or study and the means by which those objectives will be attained. As such, the research design is an efficient means of communicating with resource managers and the professional community at large.

(B) Research design provides a logical basis for detailed project planning and assessment of resource significance.

(C) Research designs may contain a wide range of theoretical and methodological approaches. Similarly, research designs may address quite general research objectives, as well as more focused types of problem orientation. The following criteria must be met:

(1) Care must be taken to link the research design to existing topical and geographical bodies of data.
(2) The nature of the resources under investigation must be considered.
(3) The need to address a wide range of cultural and scientific resources must be considered.
(4) Applied research that addresses cultural resource management and impact-related issues should be recognized as necessary and incorporated into research designs whenever possible.
(5) The skills of the investigative personnel must be appropriate to the project goals and specifications in the research design. In many cases it may be desirable to include provisions for consultants with special expertise.

(D) Research designs not be conceived as rigid, unchanging plans. Although research designs may place relatively greater emphasis on certain kinds of scientific questions and certain kinds of data collection, as circumstances warrant, the investigator is not relieved of responsibility to recognize ongoing research. Whether such alternative questions and data warrant changes in the ongoing investigation is a question that should be explicitly addressed and answered in the context of pertinent resource management objectives and research goals. It is expected that research designs will be modified as projects develop. A conscious effort should be made to modify research designs to efficiently exploit new information. It is to be expected that some research objectives will, for many reasons, prove less productive than anticipated, while other objectives will become more important than anticipated or perhaps materialize for the first time. The crucial objectives in the modification process are:

(1) Demonstrate progress in solving stated problems; and

(D) Provide a logical basis for detailed project planning and assessment of resource significance.
implementing the National Historic Preservation Act.

Testing—Application of current archeological techniques to the investigation and evaluation of one or more sites. Testing must be accomplished in such a way as to recover the maximum amount of archeological, historical, and scientific data through detailed examination of a representative sample of the site or sites. Testing must result in the recovery of data, specimens, and samples relating to the total cultural content of the site or sites. Results of testing will be utilized in preservation of the remaining portions of the resource.

Texas Antiquities Committee—Committee created by the Natural Resources Code of 1977, Title 9, Chapter 191, Antiquities Code of Texas, to determine the site of, and to designate, and to remove from such designation (if determined to be of no further historical, archeological, educational, or scientific value) state archeological landmarks, to contract or otherwise provide for discovery and salvage operations; to consider the requests for and issue the permits provided for; and to protect and preserve the cultural resources of Texas.

§19.130. Specific Criteria for Evaluating Historic Structures. Specific criteria for evaluation of historic structures as state archeological landmarks include the following:

(1) any structure or building owned or controlled by the State of Texas or any of its political subdivisions that is listed in the National Register of Historic Places, or is situated on private lands and is listed in the National Register; and

(2) any structure or building that fits within at least one of the following criteria shall be eligible for designation as a state archeological landmark:

(A) is associated with events that have made a significant contribution to the broad patterns of our history;

(B) is associated with the lives of persons significant in our past;

(C) is important to a particular cultural or ethnic group;

(D) is the work of a significant architect, master builder, or craftsman;

(E) embodies the distinctive characteristics of a type, period, or method of construction, possesses high aesthetic value, or represents a significant and distinguishable entity whose components may lack individual distinctions; or

(F) has yielded or may be likely to yield information important to the understanding of Texas culture or history.

§19.147. Specific Criteria for Evaluating Archeological Sites. Specific criteria for evaluation of archeological sites as state archeological landmarks include one of the following:

(1) the site is situated on land owned or controlled by the State of Texas or one of its political subdivisions; or

(2) the site is situated on private land which has been specifically designated as a state archeological landmark, Texas Natural Resource Code of 1977, Title 9, Chapter 191, Texas Antiquities Committee, §191.094, entitled “Designating a Landmark on Private Land,” and at least two of the following:

(A) preservation of materials must be sufficient to allow application of standard archeological techniques to advantage;

(B) the majority of artifacts are in place so that a significant portion of the site’s original characteristics can be defined through investigation;

(C) the site has the potential to contribute to cumulative cultural history by the addition of new information;

(D) the site offers evidence of unique or rare attributes; or

(E) the site offers a unique or rare opportunity to test techniques, theory, or method of preservation, thereby contributing to scientific knowledge.


(a) State archeological landmarks can usually be placed in one of two time periods, the prehistoric or the historic. The prehistoric period encompasses a great length of time beginning when man first entered the new world and ending with the arrival of the Spanish Europeans, which has been approximated for purposes of these guidelines at A.D. 1500. For purposes of state archeological landmark designation, the historic time period is defined as extending from A.D. 1500 to 50 years before the present date. Cultural resources for these time periods have been divided here into two major types, habitation and nonhabitation sites. Descriptions of the various kinds of sites within the two types are given in the following paragraphs.

(b) Because both prehistoric and historic sites may be located beneath the surface, they are often discovered in the course of large construction projects. Administrators of public lands should be aware that all sites meeting the listed qualifications are eligible for state archeological landmark status regardless of their surface or subsurface location. If a site is discovered in the course of construction or other work, work must cease in the site area; the site is to be protected and the site must be reported immediately to the Texas Antiquities Committee. Sites which may be eligible for state archeological landmark designation will be protected and preserved pending consideration for landmark status.

In addition to the guidelines presented in this section, descriptions and examples of kinds of landmarks are included in a separate publication so that all interested parties can identify properties as being potential or designated state archeological landmarks. The publication, entitled Texas State Archeological Landmarks, is available from
the Texas Antiquities Committee, P O Box 12276, Capitol Station, Austin, Texas 78711-2276

(1) Habitation sites. Habitation sites are areas or structures where people live or have lived on a permanent or temporary basis. Standing structures may or may not be present. Habitation sites may also contain evidence of activities that are listed in the following as site types in the nonhabitation category.

(A) Campsites

(i) American Indian open campsites were occupied on a temporary, seasonal, or intermittent basis. Evidence of structures may or may not be present. American Indian campsites of both periods may have accumulations of shell or burned rock as well as hearths, hearth fields, bedrock mortars, burials, and or scatterings or accumulations of ceramics, stone debitage, flaked tools, and grinding stones. A site size from the square meters to several hectares. Additionally, American Indian sites near missions, forts, and trading posts were present during the historic period. These sites, termed encampments, are of varying degrees of permanence with the site generally being continuously occupied but not necessarily in the same group, tribe, or culture.

(ii) American Indian rock shelters, in general, are a special kind of campsite. These sites are located in caves or under rock overhangs and have been occupied either temporarily, seasonally, or intermittently. Many articles of perishable materials such as clothing, basketry, sandals, and matting may be preserved if the shelter is located in a natural environment. Shelter sites include not only the shelter area itself but also the area of debris accumulation located in the immediate vicinity. Not the result of activity by those occupying the rock shelter. Associated hearths, burials, bedrock mortars, dumps, etc., may be present. Rock shelters vary in size from an area large enough to accommodate only one person to areas of several hundred meters in the largest dimension.

(iii) Non-American Indian campsites are the cultural remains of activities by people who are not American Indian. Examples are sites that represent the activities of railroad workers, military units, settlers, slaves, and other groups as yet unidentified. These sites include the area and remains of temporary encampments such as Chinese railroad camps, wagon train camps, shepherd shelters, line camps, buffalo hunter camps, cavalry campgrounds, trail drive camps, camps at river fords, candelilla wax camps, and others.

(B) Residence sites.

(i) Residence sites are those where routine daily activities were carried out and which were intended for year-round use. A greater degree of permanence is implied in a residence site than a campsite; therefore, structural evidence in the form of post molds, foundations, and so forth is more likely to be present. Examples include remains of cabins, dugsouts, farmhouses, ranch headquarters, plantation residences, slave quarters, and urban homes, as well as tepees, hogans, pueblos, and Caddoan houses constructed by American Indians.

(ii) Residence sites resulting from American Indian activities may include additional features and structures, including hearths, retaining walls, enclosures, compounds, patios, burials, cemeteries, mounds, platforms, and borrow areas, as well as scatterings and accumulations of stone debitage, ceramic debitage, burned rock, flaked tools, grinding stones, and bedrock mortars.

(iii) Non-Indian sites may include, in addition to the main structure, outbuildings, water systems, trash dumps, garden areas, driveways, and other remains that were an integral part of the site when it was inhabited. Examples of structures or structural remains which might be present in addition to the residence include, but are not limited to, barns, silos, cisterns, corrals, wells, smokehouses, stables, gazebo, carriage houses, fences, walls, corn cribs, barns, mills, cellars, kitchens, and bunkhouses. Family cemeteries are often associated with early historic sites.

(2) Nonhabitation sites. Nonhabitation sites result from use during specialized activities and may include standing structures. Descriptions of each kind of site are given.

(A) Rock art and graffiti sites consist of symbols or representations that have been painted, ground, carved, sculpted, scratched, or pecked on or into the surface of rocks, wood, or metal. Names, dates, symbols, and representations or likenesses of people, animals, plants, or objects are common elements in such sites.

(B) Mines, quarry areas, and lithic procurement sites are those from which raw materials such as flint, slate, coal, minerals, or other materials were collected or mined for future use. Sites where flint was obtained can be identified by the abundance of flint flakes, broken blanks, and flint cobbles. Mines often have associated structures such as headframes, support timbers, and transportation facilities.

(C) Game procurement and processing sites are areas where game was killed or butchered for food or hides. Remnants of structures such as game runs, hunting blinds, and fish weirs as well as stone, bone, and metal tools may be present in association with animal remains. Often the animal remains form a boneded with cultural material dispersed sparsely among the bones.

(D) Engineering structures such as aqueducts, irrigation canals and ditches, earthen mounds, ramps, platforms, terraces, dams, bordered and leveled fields, constructed trails, medicine wheels, bridges, tunnels, shafts, roads, rock fences, dams, lighthouses, and railroad, streetcar, and thoroughfare systems are the most common but not the only kind of engineering structures.

(E) Cemeteries and burials, marked and unmarked, are special locales set aside for burial purposes. Cemeteries contain the remains of more than one person placed in a regular or patterned order. Burials, in contrast, may contain the remains of one or more individuals located in a common grave in a locale not formerly or subsequently used as a cemetery. The site area encompasses the human remains present and also grave sites, markers, containers, covings, garments, vessels, tools, and other goods which may be present.

(F) Fortifications, battlefields, and skirmish sites include fortifications of the historic period and the central areas of encounter between opposing forces, whether major fortresses or areas of small skirmishes. Trenches, mounds, walls, bastions, and other fortifications may be present. Trash dumps will also be considered a part of the site. Included here are battlefields of the Civil War, the Texas War for Independence, the Mexican War, and skirmish sites between non-Indian and American Indian forces. Standing structures may or may not be present.

(G) Public service and ceremonial sites include, but are not limited to, kivas, temple mounds, shrines, missions, churches, libraries, museums, educational institutions, courthouses, fire stations, and hospitals. Standing structures may or may not be present.

(H) Commercial business structures and industrial structures and sites where products or services are produced, stored, distributed, or sold include, but are not limited to, markets, stores, shops, banks, hostels, stables, inns, stage stops, brew-eries, bakeries, factories, kils, mills, storage facilities, and railroad, bus, and tramway depots. Trash or dump deposits, outbuildings, wells, cisterns, and other features associated with the principal structures are considered to be a part of the site.

(I) Monuments and markers include structures erected to commemorate or designate the importance of an event, person, or place, and may or may not be located at the sites they commemorate. Included in this category are certain markers erected by the Texas Historical Commission and county historical commissions, and markers or statuary located on public grounds such as courthouse squares and the capitol grounds. Examples of such sites constructed by American Indians will be included in this category upon identification.

(J) Shipwrecks by definition, Texas Natural Resource Code of 1977, Title 9, Chapter 191, §191.091, also include the wrecks of naval vessels, Spanish treasure ships, coastal trading schooners, sailing ships, steamships, and river steamships, among others.

§419. Specific Criteria for Evaluating Cache and Collections. Specific criteria for recognizing caches and collections as state archeological landmarks include one of the following:

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(1) the cache or collection was assembled with public funds or taken from public lands;  
(2) preservation of materials is adequate to allow the application of standard archeological or conservation techniques;  
(3) the cache or collection must be of research value, thereby contributing to scientific knowledge; and  
(4) the cache or collection is of historic value or contributes to a theme.

§ 41.10 Specific Criteria for Evaluating Shipwrecks. Specific criteria for recognizing shipwrecks as state archeological landmarks include the following:  
(1) the shipwreck is located on land owned or controlled by the State of Texas or one of its political subdivisions; and  
(2) the shipwreck is pre-20th century in age and is a sunken, abandoned, or wrecked at sea; or  
(3) the contents of the embedded treasure of a pre-20th century shipwreck.

§ 41.11 Designation Procedure.  
(a) Nomination Any group or individual, public or private, may submit a property in public ownership to the committee for consideration. The nomination must be submitted on an approved form available from the Antiquities Committee's office, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276. The committee's staff may also submit nominations to the committee.  
(b) Evaluation: The committee's staff will review the property and determine if it is eligible according to the criteria for evaluation specified in §§ 41.6-41.10 of this title relating to Specific Criteria for Evaluating Historic Structures, Specific Criteria for Evaluating Archeological Sites, Guidelines for Recognizing Archeological Sites, Specific Criteria for Evaluating Caches and Collections, and Specific Criteria for Evaluating Shipwrecks as State Archeological Landmarks.  
(c) Presentation: Following staff evaluation and recommendation, the nomination will be presented to the committee at its next available meeting. Written notice of the presentation will be sent to the owner.  
(d) Comment period: No vote on final designation may be taken by the committee for a minimum period of 30 days, during which time all concerned parties may present evidence in support of or against designation of the property. Comments should address the property's merits in light of the criteria specified in §§ 41.6-41.10 of this title relating to Specific Criteria for Evaluating Historic Structures, Specific Criteria for Evaluating Archeological Sites, Guidelines for Recognizing Archeological Sites, Specific Criteria for Evaluating Caches and Collections, and Specific Criteria for Evaluating Shipwrecks as State Archeological Landmarks.  
(e) Designation: After the minimum comment period of 30 days has elapsed, the committee will consider the property for designation at its next available meeting. Concerned parties will be informed of the agenda by written notice at least 15 calendar days in advance of the meeting date. Anyone may present evidence or testify at the meeting when the final decision is to be made. The committee may vote to designate, to deny designation, to request further information, or to make any other appropriate decision.  
(f) Additional evidence: If designation of a property is denied, interested parties may present additional evidence at any time for the committee's reconsideration. The evidence will be considered by the committee at its next available meeting date.  
(g) Additional hearings: Any owner of a property designated as a state archeological landmark who is aggrieved by the designation procedure as applied to his or her property will receive a full evidentiary hearing upon request, or the formal designation can be removed by action of the committee.  
(h) Notification of designation: Written notification of the committee's decision on designation of a property as a state archeological landmark will be forwarded to the owner and, in the case of private ownership, to the deeds clerk of the county in which the property is located.  
(i) Mailing of state archeological landmarks: If a property is officially designated as a state archeological landmark, the property will be listed in the committee's inventory and may be marked with the standard state archeological landmark marker. A list of all historic structures, sites, and objects so designated will be maintained in the office of the Texas Antiquities Committee, P.O. Box 12276, Capitol Station Austin, Texas 78711-2276.  
(j) Privileged information: The location of designated sites is not public information. However, inquiries as to the status of specific sites may be disclosed to qualified professionals.

§ 41.12 Designation of Private Property. Cultural resources of national, state, or local significance in private ownership may be nominated by individuals or institutions holding title to the property on which the resources are located. Nominations must be made on the committee's approved nomination form. In submitting a nomination form, the owner agrees that if the property in question is designated as a state archeological landmark, he or she will execute a designation form provided by the committee and file a copy with the deeds clerk of the county where the property is located and pay any filing fees required. After filing of the designation form, the committee will provide the owner of the landmark with one cast aluminum marker. The owner will be responsible for prompt and permanent placement of the marker or markers on the site in such a way so as not to damage the resource. A site or structure on privately owned property which is designated as a state archeological landmark is afforded the same protection under the Code as resources on public property.

§ 41.13 Discovery of Potential Landmark During Construction: Contractors working on public lands who discover archeological sites or historic structures which may qualify for designation as a state archeological landmark according to the criteria listed in §§ 41.6-41.10 of this title relating to Specific Criteria for Evaluating Historic Structures, Specific Criteria for Evaluating Archeological Sites, Guidelines for Recognizing Archeological Sites, Specific Criteria for Evaluating Caches and Collections, and Specific Criteria for Evaluating Shipwrecks as State Archeological Landmarks shall report such discovery to the state agency or political subdivision owning or controlling the property, and to the Texas Antiquities Committee, P.O. Box 12276, Capitol Station Austin, Texas 78711-2276. Upon notification, the committee may initiate designation proceedings if it determines the site to be a significant cultural or historical property or the committee may issue a permit for mitigative archeological investigations or any other investigations. The cost of a proper investigation, excavation, or preservation of such a landmark or potential landmark will be borne by the owner or developer of the property rather than by the committee.

§ 41.14 Management of State Archeological Landmarks.  
(a) Properties in public ownership: Whether archeological or architectural, which have been determined to be of cultural importance must be recognized as public assets and protected accordingly. Most older public buildings represent a substantial investment of public funds and a quality of construction, craftsmanship, and materials which could be prohibitively expensive to reproduce in today's market. The proper care and preservation of these investments should, therefore, be seen as good management policy. Forsworn abandonment for economic reasons or小编 rewrite that to make it consistent with the rest.

(b) Protection and preservation of the landmark in place is the first management preference. If an historic landmark cannot be preserved in place, then relocation will be considered. If stabilization or restora-
tion of an historic structure is to be attempted, an archeological investigation may be required depending on the quality and amount of historic documentation available and the amount of subsurface disturbance resulting from the project.

(c) If a structure or site cannot be protected through any of the means listed in subsection (b) of this section, then its loss may be lessened by a thorough investigation which would include some or all of the standard archeological and architectural survey or archeological excavation techniques. These techniques include mapping to scale, photographing, surveying, testing, excavating, collecting, interviewing, researching of historic documents, and analysis and publication.

(d) State archeological landmarks may be investigated for research purposes, provided the research is directed toward the acquisition of information as outlined in this chapter.

§41.17. Historic Structures Permits.

(a) Permit application procedure.

(1) Eligibility. Only the controlling agency, organization, or political subdivision having administrative control over a publicly owned landmark or the owner of a privately owned landmark (hereinafter called the applicant) may be issued an architectural permit.

(2) Notification. The Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276, must be notified of any work to a state archeological landmark. Such notice should be made early enough to allow adequate time to prepare the formal application as described in paragraph (d) of this subsection. The notification must include a brief written description of the project and at least one photograph of the structure or affected portion of that structure. The committee staff will provide the applicant with the appropriate permit application form and notify the need for the necessary attachments or application reports within 30 days of receipt of notification.

(3) Normal maintenance or repair. Any work performed on architectural materials or landforms which does not cause removal, alteration, or damage to that material or landform is considered to be normal maintenance and repair and shall be exempt from the notification requirement. For example, sandblasting or other harmful methods of cleaning masonry constitutes damage, while painting of previously unpainted surfaces constitutes alteration.

(4) Interior spaces. Nonpublic interior spaces are exempt from the authority of the Antiquities Code. The interior spaces to be considered public and therefore not exempt are those spaces which were originally intended for public use (lobbies, corridors, restrooms, meeting halls, etc.) or those which are of overriding importance to the public because of its significant historical, architectural, cultural, or ceremonial value.

(5) Advance review. For more complex projects, it is advisable that the commission staff be consulted early in the planning or design process in order to avoid delays in issuing the final permit.

(6) Formal application. The applicant must submit the completed application form along with any required attachments or application reports at least 60 days prior to commencement of work or issuance of bid documents, whichever comes first. All applications must be submitted in forms approved by and available from the Texas Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276.

(7) Emergency application. If protection, stabilization, or conservation work must be performed quickly in a crisis situation or due to deteriorating circumstances, the minimum 60-day submission requirement may be waived with approval from the committee staff.

(8) Attachments. Any permit application must be accompanied by plans, specifications, and any other documents prepared for the project which will adequately describe the full scope of work. If requested, a substitute map locating the property and/or 8 by 10 inches black and white photographs of the structure or affected portions of the structure may be required.

(9) Application reports. In the case of more complex projects, one or more of the following reports may be required to be submitted with the permit application. See §41.25(b) of this title (relating to Reports Relating to Historic Structures Permits) for a discussion of each type of report:

(A) architectural structure report;
(B) historic documentation;
(C) architectural documentation, and/or
(D) archeological documentation

(10) Project reports. Depending upon the scope of work, one or more of the following reports may be required as a condition of a permit to be prepared during the course of a project and to be submitted upon completion of that project. Any required reports will be specified when the permit is issued. See §41.25(b) of this title (relating to Reports Relating to Historic Structures Permits) for a discussion of each type of report:

(A) architectural documentation;
(B) archeological documentation;
(C) curation report; and/or
(D) completion report.

(11) Issuance of permit. Contract documents should not be issued for bidding purposes before a permit has been issued by the Texas Antiquities Committee. If no response has been made by the committee within 60 days of receipt of any permit application, the permit shall be considered to be granted.

(b) Permit categories for historic structures

(1) Research investigation. If the applicant can demonstrate that careful investigation of a structure through controlled dismantling of historic material or later modifications will contribute to the understanding of that structure's history or of the history and culture of Texas in general, a permit for research investigation may be issued. Such a permit does not indicate approval for restoration, rehabilitation, or reconstruction and may entail replacement of removed materials, curation of selected samples, or documentation of research findings.

(2) Preservation. Any work done to a structure on its original or present site will be permitted and reviewed according to one or more of the following treatments. The treatments are discussed in the committee standards for historic preservation which are available in printed form from the Texas Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711 (subsection (c) of this section).

(A) Protection is defined as the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss, or attack, or to cover or shield the property from danger or injury. Such treatment is generally of a temporary nature and anticipates future historic preservation treatment.

(B) Stabilization is defined as the act or process of applying measures designed to re-establish a weather resistant envelope and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

(C) Conservation is defined as the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

(D) Rehabilitation is defined as the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient or contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

(E) Restoration is defined as the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(F) Reconstruction is defined as the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object of a part thereof as it appeared at a specific period of time. Reconstruction of a vanished structure or any part thereof within the described limits of a designated state archeological landmark will be reviewed and permitted in light of its impact on the historic, architectural, or cultural integrity of that site.

(7) Blanket permit. An agency in.stitution, or political subdivision may be
granted a blanket permit by the committee, allowing protection, stabilization, or conservation projects. The blanket permit will be issued for a specific period of time and will become effective when signed by the committee chairman. Upon expiration of the blanket permit, a committee review of the investigations completed is required prior to renewal of the blanket permit. The preservation plan or MOA will be developed by the agency, institution, or political subdivision and approved by the committee to govern protection, stabilization, and conservation projects on designated state archeological landmarks owned by that particular public entity. The preservation plan or MOA will adhere to, but not be limited to, the committee's standards for historic preservation, subsection (c) of this section, and the principles described in the Preservation Briefs series published by the Technical Preservation Services, Preservation Assistance Division, National Park Service, United States Department of the Interior. The standards described in the preservation plan or MOA will be administered by a qualified architect on the staff of or contacted at that agency, institution, or political subdivision. See §415 of this title (relating to Definitions). The committee will be informed of all projects completed under the guidance of the preservation manual and provided with details adequate to confirm compliance with the blanket permit.

(4) Relocation. Under most circumstances, a permit to relocate a structure from its original site will not be issued unless the committee has been satisfied that there is a necessity or a real and unavoidable threat to the structure's existence and that the applicant has made a reasonable effort to find the means to preserve that structure on its original site. If relocation is unavoidable, the structure should be relocated to a site which resembles its original context as closely as is possible or feasible. A removal permit will require thorough documentation of the relationship between the structure and its site. An archeological investigation of both the old and new site locations may be required.

(5) Demolition. Under most circumstances, a permit to demolish a structure will not be issued unless the committee is satisfied that there is a necessity due to a deterioration of the structure that constitutes a threat to the health, safety, or welfare of citizens. A real and unavoidable threat to the structure's existence. The applicant must show that he or she has made a reasonable effort to find the means to preserve that structure on its original site or, failing that, to relocate the structure to another site of comparable context. The applicant must show evidence that he or she has, in good faith, conducted feasibility studies, invited and considered alternative suggestions, or otherwise explored other reasonable possibilities. A demolition permit will require thorough documentation of the structure and its relationship to its existing site as well as archeological investigation if required by the committee.

(6) New construction. Any new construction to be built within the described limits of a state archeological landmark must be reviewed and permitted in light of its impact on the historical, architectural, and cultural integrity of that structure or site. The applicant must submit plans, elevations, and sections which adequately describe the full scope of the project and its relationship to the existing structure or site.

(c) Standards for historic preservation. The Secretary of the Interior's Standards for Historic Preservation (1983) are hereby adopted by reference by the Texas Antiquities Committee and shall be considered to be a part of these rules for practice and procedure. Copies of these standards, referred to in this document as the committee standards, are available in printed form from the Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276. Failure to comply with these standards, failure to complete any required reports, or failure to complete a project according to the approved plans, specifications, addenda, or other terms of a permit shall be considered grounds for refusing the services of any architect, contractor, or craftsman for future permits.

§419. Techniques of Archeological Investigation. The Texas Antiquities Code specifies that all permit investigation must be carried out in such a manner that the maximum amount of historical, scientific, archeological, and educational information may be recovered and preserved. The site or sites or area to be investigated shall be thoroughly researched, including archeological background, history and ethnological history, architecture, management, data, and other useful information, prior to initiation of the field phases of the project. Such investigations must involve the exclusive use of scientific techniques of excavation, recovery, recording, presentation, and analysis normally used in archeological investigations. Use of any new or unusual techniques must be approved in advance by the Texas Antiquities Committee. Special regulations concerning particular aspects of investigations will be part of the permit. There are varying kinds of impacts to archeological sites depending on the type of development which is occurring. Because of this, different techniques and requirements will be devised to collect data from the archeological deposits and to manage those deposits as cultural resources. In most cases, the committee relies on the principal investigator to develop these collection and management systems through research designs and the scope of work for a project. These systems are often redesigned once the archeologists have worked in the field for a while and collected data and experienced site working conditions. This is a normal learning experience related to archeological investigations. However, there are many different types of developments, i.e., reservoirs, strip mining, rechannelizations, surface landscaping, etc., that create rather standardized scopes of work. Each development type has uniform impact elements that shape the archeological techniques used. For that reason, the committee has standardized some survey requirements for various development types. The following are standard survey investigation expectations for various development types.

(1) Reservoirs. The area of a proposed reservoir that must be surveyed is the area upstream from the dam at a contour elevation equal to the elevation of a point situated five feet above the emergency spillway. Additionally, any downstream impact areas from the dam such as borrow pits and spillways and all auxiliary impact areas such as roadways, parks, boat dock areas, picnic areas, and bridge construction areas must be surveyed.

(2) Strip mines. All affected areas must be surveyed, including plant construction areas, roads, and auxiliary construction or development areas.

(3) Highways and pipelines. All affected areas within the right-of-way must be surveyed.

(4) Solid waste landfill sites. All affected areas must be surveyed, including access roads and fence construction areas.

(5) Other surface or subsurface construction sites. All affected areas must be surveyed.

§41.20. Application for Archeological Permit.

(a) Justification for investigation. Investigations undertaken on state archeological landmarks or potential landmarks must be oriented toward solving a particular research problem, preparation of a site for public interpretation, or for the purpose of salvaging information and specimens from a site threatened with immediate destruction.

(b) Eligibility for application. Permits to conduct investigations of any nature on state archeological landmarks or potential landmarks, or for the discovery of potential landmarks, will be issued exclusively by the Texas Antiquities Committee under the conditions provided in the Antiquities Code and in these rules and regulations.

(1) Permits will be issued by the Texas Antiquities Committee to scientific and educational institutions, nonprofit corporations and organizations, and governmental agencies which have demonstrated their ability to carry out proper archeological investigations through their own staffs, including one or more professional archeologists who will supervise the project or through contract with a professional archeologist. Permits may also be issued to individuals and private corporations who retain a professional archeologist to be in direct charge of the project from field investigation through preservation of collections and analysis of data to report.
(A) provide proof that adequate funds, equipment, facilities, and personnel are available to properly conduct the investigation as proposed to the Antiquities Committee, and to report the results.

(2) State or local archeological societies wishing to conduct investigations on state archeological landmarks must be sponsored by or contracted with a professional archeologist or a scientific or educational institution or reputable museum, whose staff includes a professional archeologist to supervise the project.

(3) Permits for limited investigations may also be issued to particularly qualified individuals who, in the judgment of the Texas Antiquities Committee, are qualified to undertake and complete a specific project of limited scope under the supervision of a professional archeologist.

(c) Application for permit. Permit application forms may be obtained from the Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276. Any institution, corporation, organization, museum, or individual desiring a permit for investigations should file an application with the committee at least one month prior to the proposed beginning date of the project.

Special circumstances may require that a permit be issued on short notice when a site is threatened with immediate destruction. When a permit is issued for emergency salvage of a site threatened with destruction, the same rules and regulations apply as with all other permits. The permit applications should include:

(1) a statement of the purpose of the investigation;

(2) an outline of the proposed work and research design;

(3) proposed beginning date for the fieldwork and the length of time which will be devoted to field work;

(4) the proposed date of submission of report on the results of the investigation;

(5) name, address, and telephone number of the principal investigator, sponsor, and landowner or controlling agency;

(6) an accurate United States Geological Survey (USGS) quadrangle map plotting the particular site or area to be investigated and locational data indicating the latitude and longitude or universal transverse mercator (UTM) coordinates;

(7) the name of the facility where the specimens, material, and data will be kept during analysis of results of the investigation; and

(8) evidence of adequate funds, personnel, equipment, and facilities to properly complete the proposed investigation.

§ 412  Archeological Permit Categories.

Several categories of permits oriented toward specific types of investigations are issued by the Antiquities Committee:

(1) Reconnaissance or intensive survey. These permits are designed for the purpose of assessment of cultural resources of a specific area by searching for sites, including visual examination of the surface, recording of data, plus use of specialized equipment such as magnetometers and metal detectors. Under these permits, investigation is limited to recording site locations, mapping, photographing, controlled surface sampling, and limited site testing. Site data will be recorded in the format adopted by the Texas Antiquities Committee and returned to the committee for uniform data processing.

An intensive survey is a 100% pedestrian survey of a project or permit area. Such a survey can be performed in many ways but must, at a minimum, include walking transects no more than 75 feet apart in open terrain and 30 feet apart in dense ground cover. Specific requirements are included in the permit.

(2) Testing. This permit allows detailed examination, including systematic test excavations of a particular site or area. Testing must be oriented toward sampling a representative portion of a site or sites in all environmental contexts.

Specific requirements are included in the permit.

(3) Excavation. This permit covers full investigation and extensive excavation of a particular locality(ies). Specific requirements are included in the permit.

(4) Preservation of rock art. This permit is issued for purposes of preserving, removing, recording, and copying all manner of rock art. Preservation techniques which involve application of brushes, heat, chemicals, water, chalk, petroleum products, or other preparations to the rock surfaces are prohibited unless specifically authorized by the Antiquities Committee. Specific requirements are included in the permit.

(5) Underwater surveys. Underwater resources include shipwrecks and drowned prehistoric and historic sites. Surveys for these cultural resources are conducted with electronic instrumentation, including the proton magnetometer, side scan and subbottom sonar, and radio and radar positioning systems. In some instances, divers using scuba gear are used to search for and examine a specific site or structure.

Work is conducted under the direct supervision of an underwater archeologist or under a survey technician reporting to an underwater archeologist who is responsible for the quality of the work. Data acquired are to be rendered to the committee along with an analysis and report. Specific requirements are included in the permit.

(6) Underwater test excavations. Significant magnetic or acoustic anomalies discovered during surveys must be tested by excavation under the direct supervision of an underwater archeologist in order to determine the cause of the anomalies. Inspection by divers, diving, or other appropriate means must be used to test the nature of suspected prehistoric or historic sites. In the case of magnetic anomalies, sediment must in many cases be removed to allow identification, approximate dating, and determination of the importance of objects and sites found. Any artifacts recovered from the state lands are property of the State of Texas. Extensive recovery during testing is discouraged. Accepted standards for provenience control and archeological data recovery must be maintained. Data must be analyzed and rendered to the committee in a written report. Proper conservation of any artifacts recovered must be carried out. Specific requirements are included in the permit.

(7) Underwater excavations. In order to fulfill justified research objectives, or if damage to significant historic and prehistoric sites cannot be avoided, a full-scale underwater archeological excavation must be carried out under the direct supervision of an underwater archeologist. The intensive investigation and excavation calls for must be preceded by documentary research and, for shipwrecks, detailed magnetometer work. Excavations must be supported by adequate equipment and supplies to ensure proper recording, preservation, and the recovery of the maximum amount of data. Thorough analysis and a complete report are required. Proper antiquities conservation is required for all artifacts, and all specimens recovered are state property. Specific requirements are included in the permit.

(8) Destruction. Under exceptional circumstances, when all preservation alternatives have been exhausted and the public welfare clearly requires destruction of a state archeological landmark, the Antiquities Committee may issue a destruction permit after thorough mitigation has been accomplished.

§ 412 2: Issuance of Permits

(a) Review by controlling entities. On receipt of an application for a permit to carry out an investigation on a state archeological landmark, the Antiquities Committee shall supply notification of such application to the owner, agency, individuals, or political subdivision having administrative control of the land upon which the site is located for their review prior to issuance of the permit if such application does not come from the owner.

(b) Special regulations. When a permit is issued, it will contain all special regulations governing that particular investigation, and it must be signed by the chairman or his designated representative. Anyone carrying out an investigation will have a copy of the permit available at the site of the investigation during all working hours.

(c) Permit period. Usually, no permit will be granted for a period of more than two years, but if the work has been diligently prosecuted under the permit, the time may be extended upon application showing good cause.

(d) Transferral of permits. No permit issued by the Texas Antiquities Committee will be assigned by the permittee in whole or in part to any other institution, museum, corporation, organization, or individual.

(e) State site survey forms. Standard state site survey forms for all sites recorded
as a result of activities undertaken through an antiquities permit will be completed and submitted to the Texas Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276, upon the completion of field work.

§41.23. Permit Monitoring. Any member or agent of the Texas Antiquities Committee and any officer in charge of land owned or controlled by the State of Texas may, at any time, visit the area or site being investigated under permit. Such a representative of the state may examine the permit as well as the field records, materials, and specimens being recovered.

§41.25. Reports Relating to Historic Structures Permits.
(a) Application reports. It is important in the case of more complex historic preservation projects such as restoration, reconstruction, and, occasionally, for rehabilitation to ensure the historical accuracy or appropriateness of that project and to gather important information relating to the property through the means of investigation, research, and documentation. When the scope of a project indicates it is advisable, one or more of the following: application reports may be required to be submitted as a part of the permit application. A permit may not be issued before all required application reports have been received. All application reports must be prepared under the supervision of professionally qualified individuals as specified in §41.5 of this title (relating to Definitions).

(1) Historic structure report.
(A) Purpose. This report should be utilized to evaluate the existing conditions of the structure, to establish preservation objectives for the property, and to schedule the accomplishment of these preservation objectives. The applicability of the various areas for research and analysis will vary, depending upon the preservation objectives and the physical condition of the historic property.
(B) When required. When a proposed rehabilitation, restoration, or reconstruction project involves fabricating significant missing architectural or landscape features, recapturing the appearance of a property at one particular period of its history, or removing later additions, an historic structure report must be completed prior to application for an historic preservation permit.
(C) Minimum report requirements. Written documentation must include the following:
(i) the explanation and evaluation of existing conditions;
(ii) photographic documentation of the existing conditions (preferably black and white 8 by 10 inch photographs);
(iii) explanation of preservation objectives and intended modifications to the structure; and
(iv) blueprints of existing condition and a schedule of objectives.
(2) Historical documentation.

(A) Purpose. In order to understand the changes to an historic property over time and to better justify proposed action, documentary research is important.
(B) When required. When a proposed rehabilitation, restoration, or reconstruction project involves fabricating significant missing architectural or landscaping features, recapturing the appearance of a property at one particular period of its history, or removing later additions, historical documentation must be done. Historical documentation is required for all relocation or demolition permits.
(C) Minimum report requirements. Written documentation must include the following:
(i) name of original architect;
(ii) brief history of the use and modifications to the structure;
(iii) brief history, including information on important historical events or persons associated with the structure; and
(iv) historical justifications for any proposed rehabilitation, restoration, or reconstruction.
(3) Architectural documentation.
(A) Purpose. Investigation and documentation of physical evidence regarding architectural design and technology enables the study of the structure in question and its comparison with other structures of the period, type, or region. This information is important in conjunction with historical and archeological documentation for the synthesis and study of all related materials.
(B) When required. Architectural documentation should precede any work which will damage, alter, or obscure significant architectural configurations, elements, details, or materials. For rehabilitation which will significantly alter a structure and for restoration projects, measured drawings according to Historic American Buildings Survey (HABS) standards will be required. Architectural documentation is required for all relocation or demolition permits.
(C) Minimum report requirements. Written documentation must include the following:
(i) blueprints and specifications of intended architectural changes; and
(ii) explanation of purposes and objectives of the changes.
(4) Archeological documentation.
(A) Purpose. Almost all standing structures have an archeological component, and archeological remains exist in urban areas as well as rural areas. The information available from archeological investigations in and around a structure is important in conjunction with architectural and historical documentation for the synthesis and study of all related materials.
(B) When required. When development or historic preservation treatment of an historic property requires disturbance of the earth unavoidable, the specific areas affected may need to be tested archeologically to determine if the undertaking will disturb or destroy archeological remains, including subsurface features of an aboveground structure. If the exploratory tests indicate the area has archeological value and if the development plans cannot be altered, the archeological data directly affected by the project are to be recovered.
(b) Project reports. When the situation indicates it is advisable, one or more of the following project reports may be required to be compiled during the course of a project and submitted along with the completion report. All project reports must be compiled under the supervision of professionally qualified individuals as specified in §41.5 of this title (relating to Definitions).
(1) Architectural documentation. When investigation and documentation is not possible prior to commencement of work because of physical obstruction or when previously obscured conditions are subsequently discovered, architectural documentation may be required during the course of a project (see paragraph (3) of this subsection).
(2) Archeological documentation. When investigation and documentation is not possible prior to commencement of work because of physical obstruction, or when previously obscured evidence is subsequently discovered, archeological documentation may be required during the course of a project. Archeological documentation may be required for relocation or demolition permits (see paragraph (4) of this subsection).
(3) Curation report.
(A) Purpose. Materials or artifacts original to the structure or otherwise significant to that structure's evolution are important to the understanding of Texas culture and history.
(B) When required. When materials or artifacts original to the structure or otherwise significant to the structure's history are removed during the course of a project, selected samples must be curated at the site or at a site approved by the committee, and a curation report must be filed.
(C) Minimum report requirements. Written documentation must include the following:
(i) photo documentation of the structural or architectural elements to be removed in their original position and in storage;
(ii) documentation of the existing condition of the elements prior to removal; and
(iii) documentation of the storage (preservation) efforts.
(4) Completion report.
(A) Purpose. When work is done to an historic structure, it is important to record the changes that take place so that the structure's historic evolution might be completely documented for future study.
(B) When required. All historic structures permits, except for new structures permit, will require a completion report.
(C) Minimum report require-
ments. Written documentation must include the following:

(i) title page;
(ii) project name;
(iii) city, county;
(iv) permit number;
(v) date;
(ii) text:
(i) property name and location;
(ii) primary personnel (names, titles, addresses, and telephone numbers):

(a) owner;
(b) lessee;
(c) architect;
(d) engineer;
(e) contractor;
(f) consultant(s);
(g) others;
(iii) scope of work (major categories with corresponding costs);
(iv) project dates (beginning and ending);
(V) project narrative:

(a) description of work and description of anticipated future work (if any);
(b) description of special products, materials, and/or building techniques;
(c) description of intended use of the property;
(VI) index to photographs (black-and-white prints, minimum 8 by 10 inches):

(a) before construction;
(b) during construction;
(c) after construction is complete.

(D) Photographic record. The photographic documentation is a significant part of the record of the project work. Each view, before, during, and after, should be of the same area, to clearly illustrate the project work as it progresses.

(E) Report submittal. Submit all required copies with original photographic documentation; xerox copies are not acceptable. All completion reports must be submitted unbound. Submit copies to Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276.

§41.26. Reports Relating to Archeological Permits.

(a) The following are report standards for any permit investigation in which artifacts are recovered or archeological sites or deposits are discovered. Failure to comply with these standards will result in the rejection (pending rectification) of the report by the Texas Antiquities Committee. The fulfillment of these requirements should be considered the minimal threshold of acceptability, and a report should not be limited to addressing these responsibilities only.

1. Unless otherwise specified the format for reports will be 8½ by 11 inches. The title of the project and permit number must be noted on the cover. While ring binding of reports is acceptable, stapled and taped and/or perfect binding is preferred.

2. The title page of the report must contain the following information: type of investigation; project name; county or counties; authors, indicating which is the principal investigator; name and location of the sponsoring agency; Texas Antiquities Committee permit number; and data and place of publication.

3. The report must contain a table of contents and abstract; a list of figures and/or illustrations; definitions of terms used; a map of the project area; a map that specifically locates all cultural resources discovered or investigated; a discussion of the history and previous investigations (including documentary evidence) in the general as well as surrounding areas; a statement and justification of research design and how it was fulfilled; appropriate environmental data; analysis and interpretation of all recovered data and materials; name of facility where recovered materials and other data are permanently stored; specific recommendations of sites which are eligible for designation or should retain state archeological landmark status and of sites which appear to be eligible for nomination to the National Register of Historic Places; recommendations, including complete budget estimates, for mitigation of loss or further investigation if cultural resources will be adversely affected by a proposed project; and a list of references cited.

4. Two copies of the draft of the permit report must be submitted to the Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276, for review prior to the production of the final report. The draft report does not have to be bound but should contain all of the basic content elements required for the final report. The final report must also contain any revisions in the draft that are required in writing by the committee.

5. Upon completion of an investigation of a state archeological landmark, the permittee or principal investigator will furnish the Texas Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276, with 12 copies of the report at no charge to the committee.

(b) When no archeological sites are discovered nor artifacts recovered from a permit investigation, the report standards listed in subsection (a) of this section can be modified to a shorter negative results report or letter report. Letter reports must be authorized in advance by the committee and must contain the following minimum report standards:

1. formatted on 8½ by 11 inch paper, stapled, or ringbinding, with all appendices attached;
2. a title page that must contain the following information: project name; type of investigation; county or counties; authors, indicating which is the principal investigator; name of sponsoring agency; permit number; date;
3. an abstract;
4. project map showing the permit area with investigation areas clearly marked;
5. historical documentation of the permit area and surrounding region (region to be defined by the committee);
6. research design and scope of work/methodology; and
7. conclusions.

§41.27. Dispositions of Archeological Artifacts and Data.

(a) Processing. Investigators who receive permits shall be responsible for cleaning, conserving, cataloging, and preserving all collections, specimens, samples, and records, and for the reporting of results of the investigation.

(b) Ownership. All specimens, artifacts, materials, and samples plus original field notes, maps, drawings, photographs, and standard state survey audits, resulting from the investigations remain the property of the State of Texas. Certain exceptions to the discretion of the Texas Antiquities Committee are contained in the Texas Natural Resources Code of 1977, Title 9, Chapter 191, §191.052 (b). The Antiquities Committee will determine the final disposition of all artifacts, specimens, materials, and data recovered by investigations on state archeological landmarks or potential landmarks which remain the property of the state. Antiquities from state archeological landmarks are of inestimable historical and scientific value and should be preserved and utilized in such a way as to benefit all the citizens of Texas. It is a policy of the Antiquities Committee that such antiquities shall never be used for commercial exploitation.

(c) Housing, conserving, and exhibiting antiquities from state archeological landmarks.

1. After investigation of a state archeological landmark has culminated in the reporting of results, the antiquities will be permanently preserved in research collections at the institution sponsoring the investigation unless other housing is specifically recommended.

2. Institutions housing antiquities from state archeological landmarks will be responsible for adequate security of the collections, continued conservation, periodic inventory, and for making the collections available to qualified institutions, individuals, or corporations for research purposes.

3. Exhibits of materials recovered from state archeological landmarks will be made in such a way as to provide the maximum amount of historical, scientific, archeological, and educational information to all the citizens of Texas. First preference will be given to travelling exhibits following guidelines provided by the Antiquities Committee and originating at an adequate facility nearest to the point of recovery. Permanent exhibits of antiquities may be prepared by institutions maintaining such collections.
following guidelines provided by the Antiquities Committee. A variety of special, short-term exhibits may also be authorized by the Antiquities Committee.

(d) Access to antiquities for research purposes. Antiquities retained under direct supervision of the committee will be available under the following conditions.

(1) Request for access to collections must be made in writing to the Texas Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276, indicating to which collection and what part of the collection access is desired; nature of research and special requirements during access; who will have access, when, and for how long; type of report which will result; and expected date of report.

(2) Access will be granted during regular working hours to qualified institutions or individuals for research culminating in nonprofit reporting. A copy of the report will be provided to the Antiquities Committee.

(3) Data such as descriptions or photos when available will be provided to institutions or individuals on a limited basis for research culminating in nonprofit reporting. A copy of the report will be provided to the Texas Antiquities Committee.

(4) Access will be granted to corporations or individuals preparing articles or books to be published on a profit-making basis only if there will be no interference with conservation activities or regular research projects; photos are made and data collected in the facility housing the collection; arrangements for access are made in writing at least one month in advance; cost of photos and data and a reasonable charge of supervision by responsible personnel are paid by the corporation or individual desiring access; planned article or publication does not encourage or condone treasure hunting activities on public lands, state archeological landmarks, or National Register sites, or other activities which damage, alter, or destroy cultural resources; proper credit for photos and data are indicated in the report; a copy of the report will be provided to the Texas Antiquities Committee.

(5) The committee may maintain a file of standard photographs and captions available for purchase by the public.

(6) A written agreement containing the appropriate stipulations will be prepared and executed prior to the access.

(7) Institutions, organizations, and agencies designated by the committee as depositories for antiquities collections shall promulgate reasonable rules and regulations governing access to those collections in their custody.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s authority to adopt.

Issued in Austin, Texas, on January 15, 1988.
The Texas Education Agency proposes new §41.22, concerning discretionary authority for the commissioner of education to waive State Board of Education rules under certain circumstances. The new section provides that upon written request of a school district superintendent, the commissioner of education is authorized to waive one or more regulations of the State Board of Education for that school district when, in the commissioner's judgment, granting the waiver would enable the district to improve its educational program. Statutory requirements may not be waived. All waivers requested and all waivers granted must be reported to the State Board of Education. The board will collectively review the waivers annually. This section is adopted on an emergency basis in this issue of the Texas Register.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enacting or administering the section.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enacting the section will be to enable school districts to explore innovative strategies for educational improvement, as well as to enable them to address emergency or hardship situations. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the Texas Register.

The new section is proposed under the Texas Education Code, §11.24(b), which gives the State Board of Education authority to make rules for carrying out the duties placed on it or the Central Education Agency by the legislature.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 12, 1988.

TRD-8800489 W. N. Kirby Commissioner of Education

Proposed date of adoption March 12, 1988
For further information, please call (512) 463-9212

Chapter 61. School Districts
Subchapter D. School District-Pupil Relationships
Health and Safety

§19 TAC §61.92

The Texas Education Agency proposes new §61.92, concerning missing child prevention and identification program: fingerprints and photographs. House Bill 538, 70th Legislature, 1997, provided for local school districts to participate in missing child prevention and identification programs. The new section provides for disposition of photographs and fingerprints taken as part of the missing child prevention and identification program. Photographs of students taken as part of the program shall be retained by the school for three years or until the photograph is replaced by a more recent one, whichever is earlier. If a student withdraws from a school district, all photographs and fingerprints taken as part of the program shall be returned to the parent or guardian of the student. If such return is not possible, the materials shall be destroyed by the school district.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enacting or administering the section. There will be additional costs for the first five-year period the proposed section will be in effect for local school districts which choose to participate in the program, but participation is voluntary and costs cannot be estimated. There will be no fiscal implications to state government or small businesses.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enacting the section will be to provide directions to school districts concerning disposition of photographs and fingerprints taken as part of a missing child prevention and identification program. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the Texas Register.

The new section is proposed under the Texas Education Code, §21.779, which directs the Central Education Agency to adopt rules relating to the destruction of fingerprints and photographs made as part of a missing child prevention and identification program.


(a) Participation permitted. School districts may participate in missing child prevention and identification programs in accordance with the Texas Education Code, Chapter 21, Subchapter U.

(b) Disposition of photographs and fingerprints.

(1) In accordance with the Texas Education Code, §21.775(d), a photograph of a student shall be retained by the participating school until the photograph is replaced by a subsequently made photograph or until the expiration of three years, whichever is the earlier.

(2) When a student withdraws from a school district, all photographs and fingerprints of the student taken as part of the missing child prevention and identification program shall be returned to the parent or guardian of the student. If the district is unable to return the photograph and fingerprints to the parent or guardian, the photograph and fingerprints shall be destroyed by the school district.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 12, 1988.

TRD-8800483 W. N. Kirby Commissioner of Education

Proposed date of adoption March 12, 1988
For further information, please call (512) 463-9212.
Title 22. Examining Boards
Part XX. Texas Board of Private Investigators and Private Security Agencies
Chapter 429. Application and Examination

22 TAC §429.11

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Austin, or in the Texas Register office, Room 103F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Board of Private Investigators and Private Security Agencies proposes the repeal of §429.11, concerning return of pocket cards. The section requires that pocket cards issued to all registrants and commissioned security officers must be returned to the board upon termination of employment. Texas Civil Statutes, Article 4413 (29bb) was revised effective September 1, 1987, due to the passage of House Bill 888, 70th Legislature, 1987. The bill provides for a transferable pocket card to be issued to all noncommissioned and commissioned security officers, thus eliminating the return of pocket cards by these persons.

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Sanders also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Clema D. Sanders, Executive Director, PO. Box 13509, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§429.11. Return of Pocket Card.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

22 TAC §§433.1-433.4, 433.7-433.17

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Board of Private Investigators and Private Security Agencies, P.O. Box 12157, Austin, or in the Texas Register office, Room 103F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Board of Private Investigators and Private Security Agencies proposes the repeal of §§433.1-433.4 and 433.7-433.17, concerning handgun and security officer commissions. The board has determined that repeal of these sections is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §13(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987. This bill provides for a two-year transferable pocket card to be issued to commissioned security officers and the deletion of temporary security officer commissions.

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed repeals will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Ms. Sanders also has determined that for each year of the first five years the repeals are in effect there will be no public benefit anticipated as a result of enforcing the repeals. There is no anticipated economic cost to individuals who are required to comply with the repeals.

Comments on the proposal may be submitted to Clema D. Sanders, PO. Box 13509, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

433.1. Renewal of Security Officer Commission.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

22 TAC §§433.1-433.11

The Texas Board of Private Investigators and Private Security Agencies proposes new §§433.1-433.11, concerning handguns and security officer commissions. The new sections set out requirements for issuance, application, renewal, temporary commissions, return of commissions to the board, record keeping, carrying of commission, and uniforms; standards for letter of authority holders and armored car businesses who employ commissioned security officers; and violations by, and the scope of authorization of commissioned security officers.

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed sections will be in effect.
there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Sanders also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that persons who have been convicted of certain crimes will not be allowed to carry a firearm as a security officer. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cleme D. Sanders, P.O. Box 13509, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§433.1. Renewal of Security Officer Commission. The renewal period for security officer commissions shall be the month prior to the expiration of the security officer commission.

§433.2. Letter of Authority.
(a) A letter of authority shall be obtained by a private business that employs commissioned or noncommissioned security officers so that the private business can comply with the provisions of the Act, §19 and §32.
(b) A license number shall be issued to each letter of authority approved by the board and this number shall be used on all applications submitted to the board.
(c) A letter of authority shall be issued for one year and shall be renewed upon receipt of an acceptable renewal application.
(d) The renewal period for a letter of authority is the month preceding the month of expiration.
(e) A letter of authority, for the purpose of the Act, shall be considered a license with respect to suspension, revocation, or denial.
(f) A private business that is issued a letter of authority shall have a security supervisor and maintain on file with the board the name and signature of the security supervisor.
(g) A private business that is issued a letter of authority shall notify the board in writing within 14 days after the security supervisor listed on the board records ceases for any reason to function as the security supervisor, and at the same time notify the board in writing of the name of the replacement security supervisor.

(h) Any notification of a change or fact relating to business for which a letter of authority is required shall be in writing and shall be signed by the security supervisor or the owner of the private business, in the temporary absence of the security supervisor.

§433.3. Requirements for Issuance of a Security Officer Commission by the Board.
(a) Applicant shall have successfully completed a board approved 30-hour training program and be awarded a certificate of completion from a board approved security officer training school.
(b) The employer shall submit and maintain on file with the board one color photograph of the company uniform(s) shown in full length and as worn by its commissioned security officer employees, size eight inches by ten inches desired, three inches by five inches minimum acceptable.

§433.4. Application for a Security Officer Commission. Applicant shall submit a completed application to the board for a security officer commission on a form provided by the board. To be complete, the application shall include:
(1) the required fee which is nonrefundable for any cause;
(2) at least two sets of fingerprints on a card furnished by the board. No security officer commission shall be issued prior to classification of fingerprints and receipt of concurrence from the Texas Department of Public Safety;
(3) one color photograph affixed on the application that shows a facial likeness with employee's name legibly printed on the back. The employer shall retain one color photograph, one inch by one inch and affix to the pocket card when received from the board; and
(4) a copy of the certificate of completion awarded to the employee from a board approved security officer training school.

§433.5. Issuance of a Security Officer Commission by the Board. The board may issue a regular commission to an applicant, which shall be valid until its expiration date provided:
(1) the applicant and employer are in compliance with all requirements of the Act and board sections;
(2) the applicant has not been terminated from employment;
(3) concurrence has been received from the Texas Department of Public Safety;
(4) no objection has been received from a law enforcement agency; and
(5) no information has been received by the board that the application may contain a material misstatement or misrepresentation of qualifications.

§433.6. Verification of Information Received. Prior to or after issuance of any security officer commission, the board may require documented evidence from any appropriate person subject to the Act or board sections verifying the applicant meets all security officer commission requirements. Failure to provide such evidence required by the board shall be sufficient cause for the board to deny, revoke, suspend, or demand the surrender of any security officer commission, license, authority number, or letter of approval.

§433.7. Violations of the Act by Commissioned Security Officers. The following shall be considered a violation of the Act if a commissioned security officer:
(1) does not perform private security officer duty for the employer as indicated in the board records;
(2) performs commissioned security officer duties for any person(s) other than the employer as indicated in the board records;
(3) does not affix his signature and photograph to the commission card issued by the board;
(4) does not timely surrender his commission card upon written notice served by the board;
(5) fails to timely surrender his commission upon conviction of any felony or crime of moral turpitude, or upon written notice from the board;
(6) possesses or uses any security officer commission which has been altered;
(7) defaces or allows improper use of his security officer commission.

§433.8. Employers Records Required on Commissioned Security Officers. The employers of a commissioned security officer shall maintain for board inspection current records on all persons issued a commission. The records shall contain:
(1) current residence of security officer;
(2) current duty assignment and location of assignment; and
(3) documented information on training required and provided.

§433.9. Carrying of a Security Officer Commission. A private security officer who has been issued a security officer commission by the board shall carry it on or about his person while on duty and going to and from his place of assignment, and shall present same upon request, if he is carrying a firearm.

§433.10. Uniform Requirements.
(a) Each commissioned security officer shall wear:
(1) a shoulder patch on his or her outermost garment which shows the name of the company under whom the security officer is employed; and
(2) an identification nameplate which contains at least the last name of the security officer.
(b) Each commissioned security officer shall display on his or her outermost garment the word "security" in one of the following places:
(1) the company shoulder patch;
(2) the nameplate; or
(3) the badge.
(c) No licensee, owner, officer, partner, shareholder, or employee shall have a badge, shoulder patch, or any identification which contains the words "law enforcement" and/or similar word(s).

§433.11. Commissioned Security Officer Scope of Authorization. In view of the fact
that a Class B or Class C license or letter of authority are authorized to engage in license activity in all 254 Texas counties, it is in the public interest that commissioned security officers employed by a Class B or Class C license or a letter of authority be authorized to carry out duties in all counties.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800451

Clema D. Sanders
Executive Director
Texas Board of Private Investigators and Private Security Agencies

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-5545.

Chapter 435: Training Programs

⋆ 22 TAC §§435.12-435.15

The Texas Board of Private Investigators and Private Security Agencies proposes new §§435.12-435.15, concerning firearm courses, shotgun training, training school and instructor approval, and the security officer training manual, examination, and grade, respectively. The board has determined that the new sections are in the public interest and are necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §20, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987. The bill provides for a two-year transferable card to be issued to commissioned security officers.

Clema D Sanders, executive director, has determined that for the first five-year period the sections are in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government is an estimated loss in revenue of $75,000 for each year from 1988-1992. There will be no fiscal implications for local government or small business.

Ms. Sanders also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Clema D. Sanders, Executive Director, P.O. Box 13509, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§435.12. Firearm Courses. In addition to the firearm qualification requirements set forth in the Act, a firearm instructor may qualify a student by using:
1. The Texas Department of Public Safety practical combat pistol course; or
2. The Federal Law Enforcement Training Center practical pistol course.

§435.13. Shotgun Training. Competency with a shotgun shall be determined by the firearms training instructor after instructing the student in the operation of a shotgun and after the student has fired a minimum of five shots at a standard target.

§435.14. Training School and Instructor Approval. For the purpose of the Act, approval as a security officer training school and/or instructor shall be conditioned on possession of a license with respect to suspension, revocation, or denial.

§435.15. Security Officer Training Manual, Examination, and Grade.
(a) The board's official commissioned security officer training manual shall be used by all board approved security officer training schools, beginning September 1, 1984.
(b) All students of a commissioned security officer training school basic program shall be tested with an examination prepared by and obtained from the board, beginning September 1, 1984.
(c) The passing grade of the commissioned security officer examination shall be a minimum of 70% correct answers.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800453

Clema D. Sanders
Executive Director
Texas Board of Private Investigators and Private Security Agencies

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-5545.

⋆ 22 TAC §§435.12-435.16

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Board of Private Investigators and Private Security Agencies proposes the repeal of §§435.12-435.16, concerning firearm qualifications; firearm courses; shotgun training; training school and instructor approval; and the security officer training manual, examination, and grade. The sections set out firearm qualification courses, and training for commissioned security officers, and training school and instructor approval. The board has determined that repeal of the sections is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §20, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed repeals will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Ms. Sanders also has determined that for each year of the first five years the repeals are in effect there will be no public benefit anticipated as a result of enforcing the repeals. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Clema D. Sanders, Executive Director, P.O. Box 13509, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§435.12. Firearm Qualification.
§435.13. Firearm Courses.
§435.15. Training School and Instructor Approval.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800452

Clema D. Sanders
Executive Director
Texas Board of Private Investigators and Private Security Agencies

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-5545.
Chapter 451. Registration of Employers or Private Investigators

**22 TAC §451.7, §451.8**

The Texas Board of Private Investigators and Private Security Agencies proposes new §451.7 and §451.8, concerning licensees responsible for the registration of employees, and registration deadline. The board has determined that adoption of the new sections as proposed is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §32, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Sanders also has determined that for each year of the first five years the sections are in effect there will be no public benefit anticipated as a result of enforcing the sections. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Clema D. Sanders, Executive Director, P.O. Box 13509, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

**§451.7. Licensee Responsible for the Registration of Employees.** It shall be the responsibility of the licensee to register with the board all employees required to register under the Act, §32.

**§451.8. Registration Deadline.** Any person required to be registered with the board must have their application on file with the board within 14 days after they commence employment in a position that requires registration.

The board, in adopting the new sections as proposed, has determined that adoption of the new sections is not expected to have a fiscal impact on the public or private sector.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800454 Clema D. Sanders Executive Director Texas Board of Private Investigators and Private Security Agencies

**Earliest possible date of adoption:** February 22, 1988

For further information, please call (512) 463-5545.

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Chapter 455. Fees

**22 TAC §455.1**

(EDITOR'S NOTE: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Board of Private Investigators and Private Security Agencies proposes the repeal of §455.1, concerning fees. The section establishes fees for the administration of the Private Investigators and Private Security Agencies Act, Texas Civil Statutes, Article 4413 (29bb). The board has determined that the repeal is in the public interest and is necessary to comply with the Act, §17(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

Clema D. Sanders, executive director, has determined that the first five-year period the proposed repeal will be in effect there will be no public benefit anticipated as a result of enforcing or administering the repeal.

Ms. Sanders also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing or administering the repeal. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Clema D. Sanders, Executive Director, P.O. Box 13509, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

**§455.1. Fees.**

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800455 Clema D. Sanders Executive Director Texas Board of Private Investigators and Private Security Agencies

Earliest possible date of adoption: February 22, 1988

For further information, please call (512) 463-5545.

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**Proposed Rules** January 22, 1988 13 TexReg 391
The Texas Board of Private Investigators and Private Security Agencies proposes new §465.1, concerning fees. The new section establishes fees for the administration of the Private Investigators and Private Security Agencies Act, Texas Civil Statutes, Article 4413 (29bb).

Clema D. Sanders, executive director, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an estimated loss in revenue of $397,558 for each year from 1988-1992. There will be no fiscal implications for local government. The cost of compliance with the section for small businesses will be reduced by 1/2 for purposes of registration. The cost of compliance for small businesses as compared with the cost of compliance for large businesses will be the same, based on cost per employee.

Ms. Sanders also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. The anticipated economic cost to individuals who are required to comply with the section as proposed will be reduced by 1/2 for purposes of registration.

Comments on the proposal may be submitted to Clema D. Sanders, PO. Box 13509, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§460.1. Procedure for Application for a License. The processing of applications for a license to engage in business is governed by House Bill 5, 70th Legislature, 1987, according to the following procedure.

1. Upon receipt of an application for a license to engage in business, the board shall issue the license or notify the applicant of any problem with the application within 120 days after receipt of the application.

2. If the license is not issued and the applicant has not been notified of any problem with the application within 120 days after receipt of the application by the board, the applicant may request a refund of the filing fee.

3. Any request for a refund shall be filed with the executive director and the director shall examine the files of the agency to determine if the fee should be refunded.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

Chapter 460. Application Processing and Refunds

22 TAC §460.1

The Texas Board of Private Investigators and Private Security Agencies proposes new §460.1, concerning application processing and refunds. The new section sets out the time limitation of the board in issuing a license after application and the procedures to be followed by applicants for receiving a refund of the filing fee. The board has determined that the new section is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §15, which was revised September 1, 1987, by House Bill 5, 70th Legislature, 1987.

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-5545

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Sanders also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Clema D. Sanders, PO. Box 13509, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§460.1. Procedure for Application for a License. The processing of applications for a license to engage in business is governed by House Bill 5, 70th Legislature, 1987, according to the following procedure.

1. Upon receipt of an application for a license to engage in business, the board shall issue the license or notify the applicant of any problem with the application within 120 days after receipt of the application.

2. If the license is not issued and the applicant has not been notified of any problem with the application within 120 days after receipt of the application by the board, the applicant may request a refund of the filing fee.

3. Any request for a refund shall be filed with the executive director and the director shall examine the files of the agency to determine if the fee should be refunded.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-5545.

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Sanders also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Clema D. Sanders, PO. Box 13509, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§460.1. Procedure for Application for a License. The processing of applications for a license to engage in business is governed by House Bill 5, 70th Legislature, 1987, according to the following procedure.

1. Upon receipt of an application for a license to engage in business, the board shall issue the license or notify the applicant of any problem with the application within 120 days after receipt of the application.

2. If the license is not issued and the applicant has not been notified of any problem with the application within 120 days after receipt of the application by the board, the applicant may request a refund of the filing fee.

3. Any request for a refund shall be filed with the executive director and the director shall examine the files of the agency to determine if the fee should be refunded.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-5545.

Clema D. Sanders, executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Sanders also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Clema D. Sanders, PO. Box 13509, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

§460.1. Procedure for Application for a License. The processing of applications for a license to engage in business is governed by House Bill 5, 70th Legislature, 1987, according to the following procedure.

1. Upon receipt of an application for a license to engage in business, the board shall issue the license or notify the applicant of any problem with the application within 120 days after receipt of the application.

2. If the license is not issued and the applicant has not been notified of any problem with the application within 120 days after receipt of the application by the board, the applicant may request a refund of the filing fee.

3. Any request for a refund shall be filed with the executive director and the director shall examine the files of the agency to determine if the fee should be refunded.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 15, 1988.

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-5545.
TITLE 31. NATURAL RESOURCES AND CONSERVATION
Part IX. Texas Water Commission
Chapter 309. Effluent Standards

The Texas Water Commission proposes the repeal of §§309.1-309.4 and new §§309.1-309.4, concerning effluent standards for domestic wastewater treatment plants. The purpose is to accurately reflect requirements for different types of effluent disposal. Major changes to the sections proposed for repeal include adding a minimum two milligrams per liter (mg/l) dissolved oxygen requirement to the definition of secondary treatment; allowing, in some cases, requiring permittees to monitor carbonaceous biological oxygen demand (CBOD) with ammonia-nitrogen reporting; clarifying requirements for discharges from oxidation ponds; addressing specifically requirements for land disposal and evaporation of effluent; and placing a four mg/l chlorine residual maximum on effluent discharges. Additionally, the title of this chapter is changed, because Chapters 333 and 307 may require a permittee to meet more stringent discharge limits than expressed in these sections.

New §309.1(a) is a recodification of existing §309.1(a). In §309.1(b), two mg/l dissolved oxygen is added to the definition of secondary treatment. New subsection (c) modifies existing permits which contain nitrogen limits to monitor CBOD, instead of BOD₅ effective April 1988. Subsection (d) is added to allow any permittee wishing to monitor and report CBOD, to begin January 1988, as long as ammonia-nitrogen is monitored and reported at the same frequency. New subsection (e) is current subsection (c) reworded, discussing state water quality management.

New §309.2(a) is substantially reworded to say §309.4 represents effluent limits normally required and subsection (b) is substantially reworded, stating uniform sets of effluent limitations may be modified. Section 309.3 is revised to add a definition of effluent limited segment and to reword current subsection (b)(1), dealing with new or increased discharges into an effluent limited segment, making it new subsection (a)(2). New subsection (b) adds the definition of water quality limited segment and rewords current subsection (b)(2). Subsection (c) is basically the same as current subsection (d), concerning discharges to certain reservoirs. Subsection (d) is current subsection (e) reworded to add wording regarding this discharge and corresponding effluent set with the secondary treatment definition. New subsection (e) relates to evaporation ponds, and defines primary treatment and establishes an effluent set. Repealed subsection (f) is subdivided in new subsection (f) to address irrigation, overload flow, evapotranspiration beds, and subsurface drainfields, with requirements for primary treatment, pH range of 6.0-9.0, and a specific effluent set. New subsection (g)(1) is reworded current subsection (c)(1) and (3), requiring the disinfection of effluent. Subsection (g)(2) includes current subsection (c)(2) and adds a maximum of four mg/l chlorine residual in an effluent. Subsection (g)(3) provides that the requirement for disinfection of effluent used for land treatment and evaporation be reviewed on a case-by-case basis, and retains the requirement of disinfection for all effluent discharged to land with public access. New paragraph (4) rewords a portion of current subsection (e), exempting oxidation pond effluent from disinfection if total retention time is at least 21 days. New subsection (h) is the same as repealed subsection (g), relating to more stringent requirements. In §309.4, the table is retitled and revised to reflect the context of the new sections.

William Monroe, chief fiscal officer, has determined that for the first five-year period the proposed repeals and sections will be in effect there will be fiscal implications as a result of enforcing or administering the repeals and sections. The effect on local government for the first five-year period these repeals and sections will be in effect is an estimated additional cost of $138,000 annually for 1988-1992. The cost of compliance with the repeals and sections for small businesses will be $54,000 annually for 1988-1992. In comparison, the cost for large businesses will be $160,000 annually, based on cost per facility (proportional to size and amount of discharge). The usual comparison based on cost per employee, cost per hour of labor, or cost per $100 of sales is inapplicable.

Mr. Monroe also has determined that for each year of the first five years the repeals and sections are in effect the public benefit anticipated as a result of enforcing the repeals and sections will be improved water quality. Implementation is linked to permitting renewals, and costs will be spread over one to eight years. The anticipated economic cost to individuals who privately own facilities and are required to comply with the repeals and sections will be an annual $150,000 for 1988-1992.

Comments on the proposal may be submitted to Kevin McCullar, Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, within 30 days following the date of this publication.

★ 31 TAC §§309.1-309.4

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Water Commission, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The repeals are proposed under the Texas Water Code, §§5.103 and §5.105, which provides the commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Code and other laws of this state and to establish and approve all general policy of the commission.

§309.1. Purpose.

§309.2. Rationale for Effluent Sets.

§309.3. Application of Effluent Sets.

§309.4. Table 1, Effluent Standards for Domestic Wastewater Treatment Plants.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 14, 1988.

TRD-8800396 J. D. Head General Counsel Texas Water Commission


For further information, please call (512) 463-8087.

These new sections are proposed under the Texas Water Code, §§5.103 and §5.105, which provides the commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Code and other laws of this state and to establish and approve all general policy of the commission.

§309.1. Purpose.

(a) The purpose of these sections is to promulgate a set of effluent quality limitations for treated domestic sewage which will be required of permittees as appropriate to maintain water quality in accordance with the commission's surface water quality standards.

(b) Secondary treatment, with exceptions applicable to certain oxidation pond systems, is defined as a reduction of pollutants to the following quality:
Biological Oxygen Demand (BOD), 5-Day
(milligram per liter, mg/l)

30-Day Average 20
7-Day Average 30
Daily Maximum 45
Single Grab 65

Total Suspended Solids (TSS)
(mg/l)

30-Day Average 20
7-Day Average 30
Daily Maximum 45
Single Grab 65

Dissolved Oxygen (DO)
(mg/l)

Single Grab 2
(Standard Units)

Within limits of 6.0 - 9.0

(c) Effective April, 1988, all permits containing a nitrogen effluent limit are hereby modified to change BOD₅ to carbonaceous biological oxygen demand (CBOD₅).

(d) Effective January 1, 1988, any permit containing a BOD₅ effluent limitation may be monitored and reported as CBOD₅, as long as nitrogen is monitored and reported as ammonia-nitrogen at the same sampling frequency. If the permit authorizes a discharge to land or an evaporation pond only, ammonia-nitrogen monitoring and reporting are not required to change to CBOD₅.

(e) The State of Texas has established a State Water Quality Management Program and a continuing planning process which sets forth the strategy and procedures for accomplishing the management program's objectives. Essential elements of the program include updates of basin plans and wastewater evaluations by basin segments. In order to achieve compliance with water quality standards within certain segments, more stringent effluent quality limitations other than basic secondary treatment may be required to protect water quality.

§309.2. Rationale for Effluent Sets.
(a) The effluent sets in §309.4 of this title (relating to Table I, Effluent Limitations for Domestic Wastewater Treatment Plants) are intended to represent standard levels of treatment normally required for domestic wastewater treatment plants.
(b) Modifications to the uniform sets of effluent criteria listed in §309.4 of this title (relating to Table I, Effluent Limitations for Domestic Wastewater Treatment Plants) may be considered by the commission when effluent limits more stringent than secondary treatment are required in order to maintain desired water quality levels.

§309.3. Application of Effluent Sets.
(a) Discharges into effluent limited segments.
(1) All discharges into effluent limited segments shall, at a minimum, achieve secondary treatment. An effluent limited segment is any segment which is presently meeting or will meet applicable water quality criteria following incorporation of secondary treatment for domestic sewage treatment plants and/or best practicable treatment for industries.
(2) New or increased discharges into effluent limited segments shall achieve that level of treatment deemed necessary by the commission, based on the assimilative capacity and uses of the receiving stream.
(b) Discharges into water quality limited segments.
(1) All discharges into water quality limited segments for which wastewater evaluations have been developed shall, at a minimum, achieve the treatment level specified in the recommendations of the wastewater evaluation for that discharge. In the event that analyses indicate that different treatment levels are required due to changed conditions or other factors, the commission may consider alternate treatment levels on a case-by-case basis. A water quality limited segment is a surface water segment classified by the commission as water quality limited where conventional treatment of waste discharged to the segment is not stringent enough for the segment to meet applicable water quality standards; monitoring data have shown significant violations of water quality standards; advanced waste treatment for point sources is required to protect existing exceptional water quality; or the segment is a domestic water supply reservoir.
(2) Discharges into water quality limited segments for which wastewater evaluations have not been performed shall, at a minimum, achieve secondary treatment.
(c) Discharges into certain reservoirs. Any discharge made within five miles upstream of a reservoir or lake which is subject to onsite/private sewage facility regulation adopted pursuant to the Texas Water Code, Chapter 26, or which may be used as a source for public drinking water supply shall achieve, at a minimum, Effluent Set 2 in §309.4 of this title (relating to Table I, Effluent Limitations for Domestic Wastewater Treatment Plants). Five miles shall be measured in stream miles from the normal conservation pool elevation. The commission may grant exceptions to this requirement where it can be demonstrated that the exception would not adversely impact water quality.
(d) Discharges from oxidation ponds. Effluent Set 3 shall apply to oxidation pond facilities in which oxidation ponds are the primary process used for secondary treatment and in which the ponds have been designed and constructed in accordance with applicable design criteria. Effluent Set 3 is considered equivalent to secondary treatment for oxidation pond systems.
(e) Discharge to an evaporation pond. Effluent discharged to evaporation ponds must receive, at a minimum, primary treatment, be within the pH limits of 6.0-9.0 standard units, and have a 30-day average BOD₃ of 100 mg/l or less. For the purpose of this subsection, primary treatment means solids separation which is typically accomplished by primary clarifiers, Imhoff tanks, facultative lagoons, and other such units.

(f) Land disposal of treated effluent. The commission may authorize land disposal of treated effluent when the applicant demonstrates that the groundwater or surface waters in the state will not be adversely affected. Each project must be consistent with laws relating to water rights. The primary purpose of such a project must be to dispose of treated effluent and/or to further enhance the quality of effluent prior to discharge.

(1) When irrigation systems will ultimately dispose of effluent on land to which the public has access, Effluent Set 6, at a minimum, shall apply. The pH shall be within the limits of 6.0-9.0 standard units unless a specific variance is provided in the permit based upon site specific conditions. When lands to which the public does not have access are to be used for ultimate disposal of effluent, the effluent must, at a minimum, receive primary treatment. Effluent Set 7 shall apply and the pH shall be within the limits of 6.0-9.0 standard units unless a specific variance is provided in the permit based upon site specific conditions. For irrigation systems, primary treatment is the same as described in subsection (e) of this section. Effluent may be used for irrigation only when consistent with environmental safeguards and the protection of ground and surface waters.

(2) When overland flow systems are utilized for effluent treatment, the public shall not have access to the treatment area. Primary treated effluent meeting Effluent Set 8 within the pH limits of 6.0-9.0 standard units may be used consistent with environmental safeguards and protection of ground and surface waters. For overland flow systems, primary treatment is the same as described in subsection (e) of this section. At a minimum, Effluent Set 1 shall apply to discharges from overland flow facilities except where more stringent treatment levels are required to meet water quality standards.

(3) When evapotranspiration beds and subsurface drain fields are utilized for land disposal systems, the effluent shall, at a minimum, receive primary treatment and meet Effluent Set 9. Use of evapotranspiration beds and subsurface drain fields shall be consistent with environmental safeguards and the protection of ground and surface waters. For evapotranspiration beds and subsurface drain fields, primary treatment is the same as described in subsection (e) of this section.

(g) Disinfection.

(1) Except as provided in this subsection, disinfection in a manner conducive to the protection of both public health and aquatic life shall be achieved on all domestic wastewaters which discharge into waters in the state. Any appropriate process may be considered and approved on a case-by-case basis.

(2) Where chlorination is utilized, any combination of detention time and chlorine residual where the product of chlorine (C₁, mg/l) X Time (T minutes) equals or exceeds 20 is satisfactory, provided that the minimum detention time is at least 20 minutes and the minimum residual is at least 0.5 mg/l. The maximum chlorine residual in any discharge shall in no event be greater than four mg/l, or that necessary to protect aquatic life.

(3) Except as provided herein, disinfection of domestic wastewaters which are discharged by means of land disposal or evaporation pond shall be reviewed on a case-by-case basis to determine the need for disinfection. All effluent discharged to land to which the public has access must be disinfected.

(4) Unless otherwise specified in a permit, chemical disinfection is not required for oxidation ponds when the total retention time in the wastewater treatment system (based on design flow) is at least 21 days.

(h) More stringent requirements. The commission may impose, in permits, more stringent requirements that those specified in subsections (a)-(g) of this section, on a case-by-case basis, where appropriate to maintain desired water quality levels.
Table 1. Effluent Limitations for Domestic Wastewater Treatment Plants. This table contains the sets of criteria for waste discharge permits.

### Table 1

**Effluent Limitations for Domestic Treatment Plants**

<table>
<thead>
<tr>
<th></th>
<th>30-Day Average</th>
<th>7-Day Average</th>
<th>Daily Maximum</th>
<th>Single Grab</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BOD&lt;sub&gt;5&lt;/sub&gt;</td>
<td>TSS</td>
<td>BOD&lt;sub&gt;5&lt;/sub&gt;</td>
<td>TSS</td>
</tr>
<tr>
<td><strong>Direct Discharge</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Secondary treatment</td>
<td>20</td>
<td>20</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Improved secondary treatment</td>
<td>10</td>
<td>15</td>
<td>15</td>
<td>25</td>
</tr>
<tr>
<td>Sedimentation ponds</td>
<td>30</td>
<td>90</td>
<td>45</td>
<td>--</td>
</tr>
<tr>
<td><strong>Indirect Treatment/Disposal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Irrigation (public exposure)</td>
<td>20</td>
<td>--</td>
<td>30</td>
<td>--</td>
</tr>
<tr>
<td>Using oxidation pond</td>
<td>30</td>
<td>--</td>
<td>45</td>
<td>--</td>
</tr>
<tr>
<td>Irrigation (no public exposure)</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Overland flow (applied effluent)</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Transpiration beds and subsurface drain fields</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>30-Day Average</th>
<th>7-Day Average</th>
<th>Daily Maximum</th>
<th>Single Grab</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CBOD&lt;sub&gt;5&lt;/sub&gt;</td>
<td>TSS</td>
<td>NH&lt;sub&gt;3&lt;/sub&gt;-N</td>
<td>CBOD&lt;sub&gt;5&lt;/sub&gt;</td>
</tr>
<tr>
<td>Improved Secondary with nitrification</td>
<td>10</td>
<td>15</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>10</td>
<td>15</td>
<td>2</td>
<td>15</td>
</tr>
</tbody>
</table>
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 14, 1988.

TRD-8800395 J. D. Head General Counsel Texas Water Commission

Earliest possible date of adoption: February 22, 1988

For further information, please call (512) 463-8087.

Chapter 319. General Regulations Incorporated into Permits

The Texas Water Commission proposes the repeal of §§319.1-319.11 and new §§319.1-319.12, concerning monitoring and reporting requirements, exclusions, prior permit reporting requirements, parameters to be monitored, required sampling location and frequency of analysis or measurement, quality assurance, documentation of effluent reports, required signatures, self-monitoring schedules, fecal coliform requirements, sampling and laboratory testing methods, and alternate sampling and laboratory testing methods. These changes clarify the permittee's requirements related to sampling, analyses, record keeping, and reporting.

Sections 319.1, 319.3, and 319.4 are a recodification of the repealed sections. Section 319.2 is revised to more clearly state who is excluded from the reporting procedure.

Section 319.5 is divided into subsections (a) and (b). No substantial changes are included. Subsection (c) is a new provision that extends from subsection (b). Subsection (d) is a new provision specifically addressing monitoring requirements for no-discharge facilities. Part of subsection (e) is taken from current §319.6 (d) and is slightly reworded. An added part requires permittees to include data, obtained in addition to required monitoring, in the monthly effluent report if it indicates permit noncompliance and allows reporting extra data that indicates permit compliance.

New §319.6 relates to quality assurance. Section 319.7 is currently found in §319.6. Subsection (a)(3) now includes identification of the laboratory performing the required analyses. Subsections (b) and (c) are currently §319.8(a) and (b) and remain unchanged. Subsection (d) is a new requirement that monthly effluent reports are to be submitted each month by the 20th day of the following month for each discharge which is described in the permit unless otherwise specified in the permit. Subsection (e) is currently §319.6(e) and remains unchanged. Section 319.8 related to required signatures for effluent reports and is the same as current §319.7. Section 319.9, Table 1, is basically the same as currently found in §319.8(a). The column entitled "Collecting of Samples and Taking Measurements," is changed to specify that pH and chloride residual tests are performed on grab samples or in situ for plants of all sizes. Under the column labeled "Flow," the rule is clarified to say that flow is determined by actual measurement of effluent flow or determined by calculation based upon influent measurement unless effluent flow is specified in the permit. Table 2 (currently found in §319.8(b)) remains unchanged. Subsection (c) is new and Table 3 within the new section sets forth the quality assurance requirements for wastewater analyses.

Section 319.10 is basically the same as current §319.9. Section 319.11 is basically the same as current §319.10. Sample containers, holding times, and preservation methods are included in the scope of the section under subsection (b). Section 319.12 is currently found at §319.11 and remains unchanged

William Monroe, chief fiscal officer, has determined that for each year of the first five years the propagates and sections are in effect the public benefit anticipated as a result of enacting the regulations and sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals and sections.

Mr. Monroe also has determined that for each year of the first five years the repeals and sections are in effect the public benefit anticipated as a result of enacting the regulations and sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals and sections.

Comments on the proposal may be submitted to Kevin McCall, Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, within 30 days following the date of this publication.

Subchapter A. Monitoring and Reporting Requirements

31 TAC §§319.1-319.12

(EDITOR'S NOTE: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Water Commission, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 502F, Sam Houston Building, 201 East 14th Street, Austin.)

The repeals are proposed under the Texas Water Code, §§5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

319.1. Monitoring and Reporting Requirements. All holders of waste discharge permits are required to periodically report the status of their compliance with the terms and conditions of their permits and with other relevant statutes in a manner approved by the executive director. The report shall contain results of all flow measurements and results of all analysis of waste water or equivalent information determined by methods approved by the executive director. The status of all requirements of the permit shall be reported. The report may contain such other information concerning the
discharges covered by the permit as the executive director may reasonably prescribe in order to establish a system for monitoring the quantity and quality of waste discharged into or adjacent to any water in the state and for monitoring the quality of any water in the state.

§319.2. Exclusions. Unless otherwise specified in the permit or otherwise ordered by the commission, no-discharge facilities shall be excluded from the reporting procedure. The commission may exempt other permittees from reporting requirements on a case-by-case basis, provided that the permitted facility shall not directly or indirectly affect the quality of water in the state. Such exclusion shall be set forth in the permit. An exclusion from the reporting procedure, however, does not relieve a permittee from monitoring and record keeping requirements.

§319.3. Prior Permit Reporting Requirements. The holders of permits issued prior to December 19, 1969, which require or establish a specific reporting procedure, shall continue to report in accordance with that procedure until receipt of reporting forms developed by the executive director or until otherwise notified by the executive director.

§319.4. Parameters To Be Monitored. Each permittee will be required to monitor, on a regular basis, each parameter included in its permit which is also included on its commission monthly effluent report form. Each permittee may also be required to monitor any other parameter(s) the executive director may reasonably deem necessary to adequately monitor the quality or quantity of any discharge. If the analysis of additional parameters is required, the permittee shall be provided written notification prior to the initiation of the requirement.

§319.5. Required Sampling Location and Frequency of Analysis or Measurement.
(a) Required samples and measurements shall be taken of the effluent from the sampling point described in the Permit. Should the permit not specify a sampling point, samples shall be collected immediately following the last treatment unit. These procedures shall be followed unless an alternate sampling and/or measuring point is approved in advance by the executive director or his designee.
(b) Samples shall be taken and measurements shall be made at the minimum frequencies specified in the permit for each parameter. If a permit does not specify a sampling frequency, the permittee shall follow the frequencies set forth in Tables 1 and 2 in §319.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules), basing the frequency of analysis on the currently applicable permitted average daily flow. Table 1 shall be applicable to treated domestic sewage effluent, while Table 2 shall be applicable to all other wastewater effluents. If a parameter included in a permit is not listed in the applicable table, the permittee will be instructed by the executive director in writing as to what frequency of analysis shall be followed.

(c) The permit may specify different sampling and/or measurement frequencies as described in Table 1 or Table 2 of §319.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules) on a case-by-case basis, and in such cases the permit controls.
(d) For no-discharge facilities, the monitoring requirements shall be specified in the permit. For no-discharge facilities, the permittee shall monitor flow at a land treatment site on a daily basis and an evaporation system on a weekly basis when utilized. The specific plot or site used for land treatment shall be specified in the permit by name or description.
(e) The monitoring requirements set out in this subchapter are minimum requirements unless the permit specifies a lesser frequency. Additional measurements, samples, analyses, and recordation are encouraged in order to facilitate more effective management and control of facility operations. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified in §319.11 of this title (relating to Sampling and Laboratory Testing Methods), at minimum, the results of such monitoring that indicate permit noncompliance shall be included in the calculation and reporting of the value submitted on the required monthly effluent report. The permittee may report results of such monitoring that indicate permit compliance. Increased frequency of sampling shall be indicated on the report.

§319.6. Quality Assurance. The permittee shall assure the quality of all measurements through the use of blanks, standards, duplicate analyses, and spikes. At a minimum, the quality assurance requirements specified in Table 3 in §319.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules) shall be utilized.

§319.7. Documentation of Monitoring Activities.
(a) For each measurement or sample taken pursuant to the monitoring requirements of this chapter, the permittee shall maintain records of the following information:
1. the exact place, date, and time of sample collection or measurement;
2. the date the analyses were performed;
3. the identity of person(s) who collected the samples or made the measurements and the identity of person(s) and laboratory who performed the analyses;
4. the results of all required analyses or measurements; and
5. the technique or method of analysis, including the results of adequate verifications of analytical precision and accuracy by means of the recommended guidelines in the Environmental Protection Agency manual entitled Handbook for Analytical Quality Control in Water and Wastewater Laboratories, which are to be determined on the day the analyses are performed. The permittee shall meet the quality control requirements specified in Table 3.
(b) The permittee shall be subject to routine inspection of its compliance with subsection (a) of this section.
(c) All records and information resulting from the required monitoring activities, including, but not limited to, all records concerning measurements and analyses performed and concerning calibration and maintenance of flow measurement and other instrumentation, shall be retained for a minimum of three years, or for a longer period if requested by the executive director or his designee.
(d) Unless otherwise specified in the permit, a monthly effluent report must be submitted each month by the 20th day of the following month for each discharge which is described in the permit whether or not a discharge is made for that month.
(e) Knowingly making any false statement on any report may result in the imposition of criminal and/or civil penalties as provided by state law.

§319.8. Required Signatures for Effluent Reports. Each effluent report shall contain two signatures. One signature must be that of the superintendent of the wastewater treatment facility or other person occupying a similar position associated with the operation of the treatment facility. The other signature shall be one from the following:
1. If submitted by a public entity, a state or federal agency, or a corporation, the report should be signed by a principal executive officer, ranking elected official, commanding officer, or other employee duly authorized by the principal executive officer.
2. If submitted by a partnership, the report should be signed by a general partner.
3. If submitted by a sole proprietor, the report should be signed by the proprietor.

(a) The following table sets forth the self-monitoring schedules applicable to treated domestic sewage effluent.
<table>
<thead>
<tr>
<th>Design Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>MGD</td>
</tr>
<tr>
<td>Flow</td>
</tr>
<tr>
<td>POD&lt;sub&gt;5&lt;/sub&gt; Suspended Solids</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>0 to less than 0.10</td>
</tr>
<tr>
<td>0.10 to less than 0.50</td>
</tr>
<tr>
<td>0.50 to less than 1.00</td>
</tr>
<tr>
<td>1.00 to less than 5.00</td>
</tr>
<tr>
<td>5.00 to less than 10.00</td>
</tr>
<tr>
<td>10.00 or greater</td>
</tr>
</tbody>
</table>

(a) Weekday - Monday thru Friday.
(b) Where a totalizing meter is provided, the actual volume of water which has been processed each day should be determined and reported.
(c) Working Day - A day when the plant is visited for routine work.
(d) Peak loading period - That time during the calendar day when the maximum flow rate is experienced within the facility.
(e) Flow - Determined by actual measurement of effluent flow or determined by calculation based upon influent measurement unless effluent flow is specified in the permit.

NOTE: See 31 TAC §319.5(e) concerning additional measurements and documentation.
<table>
<thead>
<tr>
<th>Parameter</th>
<th>0 to less than 0.05</th>
<th>0.05 to less than 0.50</th>
<th>0.50 to less than 2.00</th>
<th>2.00 to less than 10.00</th>
<th>10.00 or greater</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flow</td>
<td>One instantaneous measurement per operating day except on sample days when 3 instantaneous measurements made concurrently with the collection of sample portions are required.</td>
<td>One instantaneous measurement per operating shift - on sample days concurrent with the collection of a sample portion.</td>
<td>One instantaneous measurement per operating shift - on sample days concurrent with the collection of a sample portion.</td>
<td>Six instantaneous measurements per day spaced at equal intervals during the operating period or the reading from a totalizing flow meter.</td>
<td>Instantaneous measurements made each operating hour or the reading from a totalizing flow meter.</td>
</tr>
<tr>
<td>pH (a)</td>
<td>1 per day</td>
<td>1 per day</td>
<td>1 per day</td>
<td>1 per day</td>
<td>1 per day</td>
</tr>
<tr>
<td>Temperature (b)</td>
<td>1 per day</td>
<td>3 per day</td>
<td>1 per day</td>
<td>6 per day</td>
<td>12 per day</td>
</tr>
<tr>
<td>BOD</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>COD</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>TOC</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Oil &amp; Grease (c)</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Ammonia Nitrogen</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Arsenic</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Barium</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Boron</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Cadmium</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Chromium</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Copper</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Lead</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Manganese</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Mercury</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Nickel</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Selenium</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Silver</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Zinc</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>TDS</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Chloride</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Sulphate</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Nitrate Nitrogen</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Sulfide (c)</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
<tr>
<td>Phenol (c)</td>
<td>1 per week</td>
<td>2 each week</td>
<td>2 each week</td>
<td>3 each week</td>
<td>3 each week</td>
</tr>
</tbody>
</table>

(a) The required laboratory tests shall be made on grab samples and analyzed immediately after collection or analyzed in situ at the permit sampling point.
(b) The temperature shall be measured in situ on the water at the permit sampling point.
(c) The required laboratory tests shall be made on grab samples.
(c) The following table sets forth the quality assurance requirements for wastewater analyses.

Table 3
Required Quality Control Analyses

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Blank</th>
<th>Standard</th>
<th>Duplicate</th>
<th>Spike</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bacterial</td>
<td>A</td>
<td></td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>Alkalinity</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>Ammonia Nitrogen</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>BOD</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>BOD-carbonaceous</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>COD</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>Chloride</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>Chlorine-Total or Free</td>
<td>A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cyanide-Total or Amenable to</td>
<td>Chlorination</td>
<td>A</td>
<td>A</td>
<td>B</td>
</tr>
<tr>
<td>Fluoride</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>pH</td>
<td>C</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kjeldahl Nitrogen</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>Metals (all)</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>Nitrate Nitrogen</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>Nitrite Nitrogen</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>Oil &amp; Grease</td>
<td>A</td>
<td>D</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orthophosphate</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>Oxygen (dissolved)</td>
<td>A</td>
<td></td>
<td></td>
<td>B</td>
</tr>
<tr>
<td>Phenols</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>Phosphorus-Total</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>Specific Conductance</td>
<td>A</td>
<td>A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sulfate</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>Sulfide</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>Sulfite</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>TOC</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>TSS</td>
<td>A</td>
<td></td>
<td></td>
<td>B</td>
</tr>
<tr>
<td>TDS</td>
<td>A</td>
<td>A</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>Organics by GC or GC/MS</td>
<td>A</td>
<td>A</td>
<td>E</td>
<td>E</td>
</tr>
</tbody>
</table>

A - Wherever specified, at least one blank and one standard shall be performed each day that samples are analyzed.

B - Wherever specified, duplicate and spike analyses shall be performed on a 10% basis each day that samples are analyzed. If one to 10 samples are analyzed on a particular day, then one duplicate and one spike analyses shall be performed.

C - For pH analysis, the meter shall be calibrated each day that samples are analyzed using a minimum of two standards which bracket the pH value(s) of the sample(s).

D - For the oil and grease analysis, standards shall be analyzed on a 10% basis. If one to 10 samples are analyzed on a particular day, then one standard shall be analyzed. Duplicates may be analyzed in lieu of standards for the oil and grease analysis.

E - For GC and GC/MS analyses, duplicate and spike analyses shall be performed on a 10% basis. If one to 10 samples are analyzed in a month, then one duplicate and one spike analyses per month shall be performed.
§319.10. Fecal Coliform Requirements. The commission may impose disinfection in accordance with §309.3(g) of this title (relating to Application of Effluent Sets), fecal coliform concentration, or total coliform concentration requirements for domestic wastewater discharges on a case-by-case basis in order to maintain and enhance water quality and associated public health needs.

§319.11. Sampling and Laboratory Testing Methods.

(a) All sample collection shall be conducted according to recommendations found in the latest edition of Standard Methods for the Examination of Water and Wastewater, (prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation), or the Environmental Protection Agency manual entitled Methods for Chemical Analysis of Water and Wastes (1979), or the Environmental Protection Agency manual entitled Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents (1973).

(b) Sample containers, holding times, preservation methods, and the physical, chemical, and microbiological analyses of effluents shall meet the requirements specified in regulations published in the 40 Code of Federal Regulations Part 136 pursuant to the Federal Water Pollution Control Act, §304(g).

(c) Flow measurements, equipment, installation, and procedures shall conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director.

(d) Laboratories shall routinely use and document intralaboratory quality control practices as recommended in the latest edition of the Environmental Protection Agency manual entitled Handbook for Analytical Quality Control in Water and Wastewater Laboratories. These practices will include the use of internal quality control check samples.

(e) The sampling and laboratory facilities, data, and records of quality control are subject to periodic inspection by commission personnel. Should the procedures specified in this section not be suitable to any particular situation, nonstandard sampling and testing techniques may be employed in accordance with the procedures outlined in §319.12 of this title (relating to Alternate Sampling and Laboratory Testing Methods).


(a) Should a permitee determine that the required standard sampling and testing techniques are not suited to its particular situation, the permitee shall make a written request for authorization to use alternate test procedures.

(1) Applications for alternate testing procedures will be made to the executive director.

(2) Items that shall be included with an application for alternate testing procedures are:

(A) name and address of the firm making the discharge;

(B) Tex. Water Commission permit number;

(C) list of parameters for which alternate procedures are being requested;

(D) copy of the method of the alternate procedures; and

(E) the justification for the alternate test procedures.

(3) Additional information such as the comparability of data may also be requested by the executive director or his designee.

(b) In no instance shall a permitee use procedures not included in the references cited in §319.11 of this title (relating to Sampling and Laboratory Testing Methods) until written approval to do so has been received from the executive director or his designee.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s authority to adopt.

Issued in Austin, Texas, on January 14, 1988
TRD-8800397
J D Head
General Counsel
Texas Water Commission

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 463-8067.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance

Subchapter E. Household Determination

☆ 40 TAC §3.501

The Texas Department of Human Services (DHS) proposes an amendment to §3.501, concerning food stamp household composition, in its income assistance chapter. The department is proposing to simplify the section by citing the relevant federal regulation rather than revising the policy and procedures.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the section.

Mr. Packard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a simpler and clearer statement of household composition requirements. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-627, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the Texas Register.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§3.501. AFDC and Food Stamp Household Determination.

(a)-b) (No change.)

(c) Food stamps. DHS includes or excludes people from the food stamp household according to 7 Code of Federal Regulations §273.1. [Persons included in a food stamp household are identified in 7 Code of Federal Regulations §273.1(a)(1) and §273.1(a)(2).] (No change.)

(e) Food stamps. Persons who are not included in a food stamp household are identified in the Code of Federal Regulations, Title 7, in the following sections:

(i) roomers, §273.1(b)(1);

(ii) live-in attendants, §273.1(b)(1);

(iii) ineligible aliens, §273.1(b)(2);

(iv) disqualified individuals, §273.1(b)(2);

(vi) other individuals, §273.1(b)(1)

(v) boarders, §273.1(c)(1); and

(vi) residents of institutions, §273.1(e).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s authority to adopt.

Issued in Austin, Texas, on January 18, 1988.
TRD-8800509
Marlin W. Johnston
Commissioner
Texas Department of Human Services

Proposed date of adoption: April 1, 1988
For further information, please call (512) 450-3765.
Part IX. Texas Department on Aging
Chapter 255. State Delivery Systems
Area Agency Designation

40 TAC §255.35

The Texas Department on Aging proposes an amendment to §255.35, concerning staffing of area agencies on aging. The amendment requires that each individual performing the duties of the full time director be identified as either director, area agency on aging, or manager, area agency on aging.

Charles Hubbard, director, Fiscal Department, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Alex Guerra, director of program, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the individual selected to perform the duties of the full time director will be known under the same title throughout the state. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Edwin R. Floyd, Program Liaison, Texas Department on Aging, PO Box 12786, Austin, Texas 78711.

The amendment is proposed under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§255.35. Staffing of Area Agencies on Aging.
(a) Type of staff. The area agency must be a single identifiable organizational unit, either standing alone or within an umbrella agency, and must have a qualified staff. Each AAA must have a full time director able to perform the functions as prescribed in the Older Americans Act of 1965, §306(a), as amended. Each individual selected to perform the duties of the full time director will be identified on the staffing pattern and in job descriptions as either director, area agency on aging, or as manager, area agency on aging.
(b) (d) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 13, 1988.
TRD-880326 O. P. (Bob) Bobbitt Executive Director Texas Department on Aging

Earliest possible date of adoption: February 22, 1988
For further information, please call (512) 444-2727.
Withdrawn

Rules
An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the Texas Register. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the Register, it will automatically be withdrawn by the Texas Register office and a notice of withdrawal will appear in the Register.

TITLE 19. EDUCATION
Part II. Texas Education Agency
Chapter 69. Proprietary Schools and Veterans Education
Subchapter E. Guidelines and Minimum Standards for Operation of Texas Proprietary Schools

★19 TAC §69.126
The Texas Education Agency has withdrawn the emergency effectiveness of new §69.126, concerning the guidelines and minimum standards for operation of Texas proprietary schools. The text of the emergency new section appeared in the December 11, 1987, issue of the Texas Register (12 TexReg 4615). The effective date of this withdrawal is February 4, 1988.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800491 Beverly J. Bardsley Director for Policy Development Texas Education Agency

Filed: January 15, 1988
For further information, please call (512) 463-9212.

Chapter 75. Curriculum
Subchapter D. Essential Elements—Grades Nine-12

★ 19 TAC §75.81
The Texas Education Agency has withdrawn from consideration for permanent adoption new §75.81, concerning the essential elements—grades nine-12. The text of the emergency new section appeared in the September 29, 1987, issue of the Texas Register (12 TexReg 3414). The effective date of this withdrawal is February 4, 1988.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800480 Beverly J. Bardsley Director for Policy Development Texas Education Agency

Filed: January 15, 1988
For further information, please call (512) 463-9212.

Chapter 129. Student Attendance
Subchapter D. Student Attendance Accounting

★ 19 TAC §129.61
The Texas Education Agency has withdrawn the emergency effectiveness of the amendment to §129.61, concerning the student attendance accounting. The text of the emergency amendment appeared in the November 27, 1987, issue of the Texas Register (12 TexReg 4443). The effective date of this withdrawal is February 4, 1988.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800485 Beverly J. Bardsley Director for Policy Development Texas Education Agency

 Filed: January 15, 1988
For further information, please call (512) 463-9212.

TITLE 22. EXAMINING BOARDS
Part IV. Texas Cosmetology Commission
Chapter 89. General Provisions

★ 22 TAC §§89.28, 89.30, and 89.31
Pursuant to Texas Education Code, §§89.28, 89.30, and 89.31, submitted by the Texas Board of Cosmetology, the amendment to §89.28, which increases the fees charged by the Texas Board of Cosmetology, has been automatically withdrawn, effective January 14, 1988. The amendment as proposed appeared in the June 19, 1987, issue of the Texas Register (12 TexReg 1966).

TRD-8800389
Filed: January 14, 1988
Adopted
Rules
An agency may take final action on a rule 30 days after a proposal has been published in the Register.
The rule becomes effective 20 days after the agency files the correct document with the Texas
Register, unless a later date is specified or unless a federal statute or regulation requires implementation of the
action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and state-
ment of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the pro-
posal will be republished with the changes.

TITLE 16. ECONOMIC
REGULATION
Part I. Railroad
Commission of Texas
Chapter 5. Transportation
Subchapter U. General and
Special Rules of Practice and
Procedure
16 TAC §5.462

The Railroad Commission of Texas adopts new §5.462, with changes to the proposed text published in the October 6, 1987, is-
issue of the Texas Register (12 TexReg 3591).

The new section encourages more equita-
ble participation in the for-hire motor car-
er and motor bus industries by disad-
vantaged and minority-owned applicants.
The commission will, through this sec-
tion, use economic development factors
as a basis for consideration of applica-
tions for new and amended authority that
are filed by bona fide MBE's.

Eight comments were filed in support of the
section. The Honorable Andres Ramos, Jr., county judge, Webb County, strongly supports the section as signifi-
cant and positive program for South Texas
and Webb County. Norberto Salinas
strongly recommends the section as a
measure that will encourage credible
minority participation in the motor carrier
and bus industries. Gabriel Rivas, presi-
dent, League of United Latin Cit-
izens, urges adoption of the section as
an encouragement to equitable participa-
tion in the for-hire motor carrier and motor
bus industries. Joaquin L. Rodriguez, at-
torney at law, endorses the adoption of
the section because he believes it will
give minorities access to the transporta-
tion industry. Victor M. Gonzalez, Jr., dis-
trict director, District XI, League of United
Latin American Citizens, supports the
section. Richard W. May, commenting on
behalf of J & W Trucking Company, be-
lieves that the section as proposed will
not be detrimental to minority carriers.
Further, he feels that having a small
number of minority certificate carriers is
not only detrimental to minority carriers,
but also to shippers who would be eligible
to receive federal, state, or municipal con-
tacts. Finally, he contends that minority
carrier applications should be handled
through a modified procedure similar to
that used by the Interstate Commerce
Commission, in lieu of costly oral hear-
ings, until there are more certificate
minority carriers. Joe P. Cain, Sr., transpor-
tation consultant, recommends adoption of the
section with amendments that will
add white males to the list of disadvan-
taged applicants. He contends that small
companies with limited capital resources
that are operated by white males are just
as disadvantaged as the minority groups
identified in the section. He further com-
ments that small applicants without vast
financial resources have been relatively
unsuccessful in obtaining authority from the
commission and cites language in past
commission orders.

There was one set of comments filed in
opposition to the section. These com-
mments in opposition to the section were
filed on behalf of P & L Transportation
Company, Inc., Knox Truck Lines, Inc.,
Llano Trucking, Inc., and Industrial Bus
Lines, Inc. These comments oppose any
lessening of the burden of proof for
minority applicants. They contend that
there is no factual foundation for treating
minority applicants differently with re-
spect to the type of service that they pro-
vide. Commenters also maintain that there
is no statutory basis for limiting the sale
of a certificate held by a minority busi-
ness. They are further concerned about
the possibility of sham minority busi-
nesses, and see no reason why minority
applicants should be mentioned in the
section if they must comply with all terms
of the statute with which nonminority ap-
plicants must comply.

In response to the comments, the com-
mision finds that the legitimate public
purposes of the section is that it will
enable the shipping public to comply with
any regulatory directives present in
governmental grant agreements that re-
quire the utilization of minority contrac-
tors. The section therefore increases the
chances that communities in Texas will
receive such governmental grants. The
commission declines to include white
males within its listing of disadvantaged
minorities because white males are not
generally considered to be minorities or
disadvantaged in governmental
regulations.

The commission further responds that
there is statutory discretion in the Motor
Carrier Act to limit the transfer of a certi-
ficate or permit issued under this section.
Transfers of certificates are governed by
the Act, §5, and require the commission
to determine whether the transferee will
continue to satisfy the public conveni-
ence and necessity as the transferor had.
For transfers or permits, §6(e) allows the
commission to take into consideration all
of the requirements and qualifications of a
regular applicant. If the commission
grants a certificate or permit to an MBE
applicant under the provisions of this sec-
tion, then the commission would neces-
sarily have found that there was a public
need for an MBE carrier. To maintain the
satisfaction of such a need, a transferee
would have to be an MBE carrier.

The commission further responds to the
commenters' request for a modification
procedure for applications considered
under this section that the Administrative
Procedure and Texas Register Act pro-
cides the commission action in a pro-
tested contested case that is violative of
the procedural rights or any party. Protes-
tants, therefore, have a statutory right to
notice, hearing, and participation in the
proposal for decision circulation process.
Finally, because the commission is also
concerned about the possibility of sham
minority applicants, it placed safeguards
against such within subsection (f) and
added a new subsection (g) that requires
MBE certificate holders to maintain their
status as MBEs to retain their authority
granted under this section.

The new section is adopted under Texas
Civil Statutes, Article 911a and Article
911b, which empower the commission to
promulgate rules to meet special circum-
stances and that pertain to the relation-
ship between the motor carriers and the
shipping public.

§5.462. Certification of Minority-Owned
Applicants.
(a) Policy. It shall be the policy of the
Railroad Commission of Texas to encour-
age, within the limits of its discretion and
statutory authority, more equitable partici-
pation in the for-hire motor carrier and
motor bus industries by disadvantaged and
minority-owned businesses.

(b) Definitions. The following words and
terms, when used in this section, shall
have the following meanings, unless the con-
text clearly indicates otherwise.
Bona fide MBE applicant—Any indi-
vidual applicant for new or amended truck

Adopted Rules January 22, 1988 13 TexReg 405
or motor bus authority that is a woman, or is black, Hispanic, Oriental, American Indian, or Eskimo, and who is also a citizen of the United States. In the case of a corporate applicant for new or amended truck or motor bus authority, it shall mean any corporation, the controlling interest of which is held by a woman or an individual that is black, Hispanic, Oriental, American Indian, or American Eskimo, and who is also a citizen of the United States. In the case of an applicant company that is owned by a partnership, the controlling interest in the partnership must be specifically affirmed in writing as being held by a woman, black, Hispanic, Oriental, American Indian, or American Eskimo, and who is also a citizen of the United States.

Bona fide MBE certificate holder—Any individual who holds motor truck or motor bus authority issued by the commission, who is a woman, black, Hispanic, Oriental, American Indian, or American Eskimo, and who is also a citizen of the United States. In the case of a corporate certificate holder, it shall mean any corporation, the controlling interest in which is held by a woman, or an individual that is black, Hispanic, Oriental, American Indian, or American Eskimo, and who is also a citizen of the United States.

Bona fide MBE transportation contractor—Any owner-operator and/or a multi-truck lessor leased to a for-hire motor carrier or motor bus company who is a woman or is black, Hispanic, Oriental, American Indian, or American Eskimo, and who is also a citizen of the United States.

(c) Liaison officer. The director of the Transportation Division shall designate a bona fide MBE applicant liaison officer within the Transportation Division who shall have the responsibility of advising bona fide MBE applicants as to the manner of initiating the certificate, permit, and rate processes and to the manner of compliance by successful bona fide MBE applicants with Transportation Division rules, regulations, and procedures. The field auditors of the Transportation Division, operating under the supervision of the assistant director-enforcement of the Transportation Division, shall have the responsibility of advising prospective bona fide MBE applicants of the assistance available from the Transportation Division bona fide MBE applicant liaison officer.

(d) Burden of proof. In order to obtain a for-hire motor carrier or motor bus certificate or permit, a bona fide MBE applicant shall be required to meet the burden of proof imposed by law on regular applicants. In multiple applicant proceedings where the demonstrated public need will support a grant of some, but not all, of the applicants, and the evidence establishes a need for the availability of bona fide MBE applicant transportation not being met by existing bona fide MBE certificate holders and/or other existing carriers through the use of bona fide MBE transportation contractors, the commission may consider an applicant's status as a bona fide MBE applicant as a factor, along with all other relevant factors, in determining which of the applications should be approved.

(e) Public necessity. The availability of existing bona fide MBE certificate holders may be considered as a factor in determining adequacy of existing carrier service where a bona fide MBE applicant demonstrates, through public witness evidence, a public necessity for use of the services of a bona fide MBE certificate holder as a primary means of meeting requirements of state or federal law, and local ordinances for use of contractors qualifying as a bona fide MBE certificate holder and/or bona fide MBE transportation contractor under these regulations, and where existing carriers opposing the application fail to establish that they are capable of adequately meeting the demonstrated need for the availability of bona fide MBE certificate holders and/or bona fide MBE transportation carriers.

(f) Scope of authority. The commodity and territorial scope of grants for-hire motor carrier and motor bus certificates and permits to bona fide MBE applicants shall be determined as in the case of a regular applicant. In determining the entitlement of an applicant to the benefit of this section, the commission may consider the de facto management control of the applicant as well as incidents of ownership. Evidence that any applicant or any of its owners, officers, employees, agents, or representatives has employed any device whatsoever as a sham or subterfuge for the purpose of attempting to gain the benefit of this section shall be considered as evidence of the lack of applicant's fitness to receive a grant of a certificate or permit. That a particular certificate or permit has been granted to meet the objectives of this section may be considered as a factor bearing on the issue of whether the sale, transfer, or lease of such a certificate or permit to purchaser, transferee, or lessee not qualifying as a person or organization within the definition of a bona fide MBE certificate holder would be best for public interest.

(g) Maintenance of status. MBE certificate holders must continue to comply with the terms of subsection (b) of this section. All certificates or permits granted under this section shall be subject to revocation for failure of MBE certificate holders to comply with subsection (b) of this section. The commission reserves the right, upon application and hearing and to meet proper circumstances, to exercise discretion to revoke authority granted under this section for failure to comply with subsection (b) of this section.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 13, 1988.
Chapter 75. Curriculum

The following adoptions submitted by the Texas Education Agency will be serialized beginning in the January 26, 1988, issue of the Texas Register. The effective date of the adoptions is February 5, 1988.

Subchapter C. Essential Element—Grades Seven-Eight

§75.49 (amendment)
§75.50 (repeal)
§75.50 (new)

Subchapter D. Essential Elements—Grades Nine-12

§75.81-75.91 (repeal)
§75.82-75.88 (new)

Chapter 85. Student Services
Subchapter B. Guidance Services

★ 19 TAC §85.22

The Texas Education Agency adopts an amendment to §85.22, without changes to the proposed text published in the September 29, 1987, issue of the Texas Register (12 TexReg 3458).

The amendment implements the General Appropriations Act, Article III, §1, Rider Number 13 (70th Legislature, 1987), which changed the criteria for establishing school-community guidance centers by deleting the requirement that such centers be established in urban areas. Such centers may now be established by school districts or cooperatives with at least 6,000 average daily attendance. The centers must function in accordance with law and State Board of Education rules.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §21.601, which authorizes the establishment of school-community guidance centers.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 12, 1988.
TRD-8800411 W. N. Kirby Commissioner of Education

Effective date: February 5, 1988
Proposal publication date: September 29, 1987
For further information, please call (512) 463-9212.

Chapter 125. Central Education Agency Fund Allocations, Contracts, and Agreements

The Texas Education Agency adopts amendments to §§125.1-125.3, 125.21-125.23, 125.41, 125.42, 125.81, and 125.82.

Section 125.81 is adopted with changes to the proposed text published in the September 25, 1987, issue of the Texas Register (12 TexReg 3350). Sections 125.1-125.3, 125.21-125.23, 125.41, 125.42, and 125.82, are adopted without changes and will not be republished. The only change in §125.81 consists of a redesignation of paragraph (4) to correct an error that appeared in the proposal as it was originally published.

The chapter concerns Central Education Agency fund allocations, contracts, and agreements. The amended sections raise the contract amount for interagency contracts and direct service contracts for which State Board of Education approval is required from $100,000 to $150,000. The board is informed of all contracts between $25,000 and $149,999. The commissioner of education is authorized to apply for federal funds without prior board approval in those cases where an application for funds is due during a time when the board is not scheduled to meet. The board will be asked to approve such applications at its next meeting.

No comments were received regarding adoption of the amendments.

Subchapter A. Interagency Contracts

★ 19 TAC §§125.1-125.3

The amendments are adopted under the Texas Education Code, §11.30, which authorizes the Texas Education Agency to enter into contracts for grants and §11.24, which authorizes the board to make rules for carrying out the duties placed on it by the legislature.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 12, 1988.

TRD-8800412 W. N. Kirby Commissioner of Education

Effective date: February 5, 1988
Proposal publication date: September 29, 1987
For further information, please call (512) 463-9212.

Subchapter B. Contracts for Direct Services to the Central Education Agency

★ 19 TAC §§125.21-125.23

The amendments are adopted under the Texas Education Code, §11.30, which authorizes the Texas Education Agency to enter into contracts for grants and §11.24, which authorizes the board to make rules for carrying out the duties placed on it by the legislature.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 12, 1988.

TRD-8800410 W. N. Kirby Commissioner of Education

Effective date: February 5, 1988
Proposal publication date: September 25, 1987
For further information, please call (512) 463-9212.

Subchapter C. Funds Subcontracted for Public Education

★ 19 TAC §125.41, §125.42

The amendments are adopted under the Texas Education Code, §11.30, which authorizes the Texas Education Agency to enter into contracts for grants and §11.24, which authorizes the board to make rules for carrying out the duties placed on it by the legislature.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 12, 1988.

TRD-8800411 W. N. Kirby Commissioner of Education

Effective date: February 5, 1988
Proposal publication date: September 25, 1987
For further information, please call (512) 463-9212

Subchapter E. State Board of Education Responsibility for Review and Approval of Fund Allocations

★ 19 TAC §125.81, §125.82

The amendments are adopted under the Texas Education Code, §11.30, which authorizes the Texas Education Agency to enter into contracts for grants and §11.24, which authorizes the board to make rules for carrying out the duties placed on it by the legislature.

§125.81. Funds Allocated by the Agency of a Formula Basis. For all federal, state, or other funds which are allocated by the Central Education Agency on a formula basis, the following procedures shall apply:
(1)-(2) (No change.)
(3) Should funds for a new program become available during the year, before or after program budgets have been approved, the commissioner of education shall request board approval to allocate such funds, including board approval of the formula for allocation where the formula is not established by law or regulation. If the request for funding is due to the granting agen-
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 79. Legal Services

Subchapter E. Advisory Committees

§ 40 TAC §§79.401-79.406

The Texas Department of Human Services adopts new §§79.401-79.406. New §79.403 is adopted with changes to the proposed text published in the November 17, 1987, issue of the Texas Register (12 TexReg 4293). New §§79.401, 79.402, and 79.404-79.406 are adopted without changes and will not be republished. Section 79.403 includes minor editorial changes and changes to the legal bases for the Medical Care Advisory Committee and the Council for Social Work Certification.

The new sections are justified because Sunset legislation (passed in the 70th Legislature, 1987) directs the department to establish rules governing advisory committees.

The new sections will function by providing formal structures for advisory committees and establishing responsibilities, membership, and membership terms of advisory committees. Committees with more than 15 members will adjust their memberships at the end of this fiscal year.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22, 32, 50, 42, and 74, which provides the department with the authority to administer public and medical assistance programs.

§ 79.403. Mandated Advisory Committees.

(a) State Advisory Committee on Child Care Administrators and Facilities.

(1) Legal base. The committee's legal base is Human Resources Code (HRC), §42.022.

(2) Responsibilities. The committee:

(A) reviews state agency rules and minimum standards governing child-care administrators, child-care facilities, and child-placing agencies;

(B) advises the department, the Licensing Division, and other state agencies about problems related to child-care administrators, child-care facilities, and child-placing agencies; and

(C) reviews the Licensing Division's annual report.

(3) Structure.

(A) The committee has 15 members, with a representative balance of parents, guardians, or custodians of children affected by child-care facility standards; child advocacy groups; facility operators; experts in professions relevant to child care and child development; and the general public.

(B) Committee members serve two-year, rotating terms, with approximately half the committee membership rotating off service each year.

(C) The committee includes an advisory subcommittee on child-care administration, with subcommittee members appointed by the board at the recommendation of the commissioner. This subcommittee, which meets at the same time as its parent advisory committee, advises the board about the licensing of child-care administrators and about the content of the examination administered to applicants for licenses.

(b) Medical Care Advisory Committee.

(1) Legal base. The committee's legal base is HRC, §32.022.

(2) Responsibilities. The committee:

(A) advises the board and the department about developing and maintaining the Medical Assistance Program; and

(B) works with the board and the department to develop immediate and long-range plans for providing comprehensive medical and health-care services to needy Texans.

(3) Structure.

(A) The committee has 15 members, with a representative balance of service providers, consumers, concerned state agencies, and other groups with knowledge of or interest in the Medical Assistance Program or other aspects of health care for needy Texans.

(B) The medical director of the department's purchased health services contractor serves as an ex officio member of the committee.

(C) Appointments are made by the board, in compliance with the requirements of the federal agency administering medical assistance.

(D) Members serve three-year rotating terms, with one-third of the committee membership rotating off service each year. Ex officio members serve as long as the board directs them to do so.

(E) At the commissioner's recommendation, the board may appoint regional and local medical care advisory committees and other advisory committees as necessary.

(c) Council for Social Work Certification.

(1) Legal base. The council's legal base is HRC, §50.004.

(2) Responsibilities. The council:

(A) advises the board and the department about issues related to the practice of social work;

(B) reviews rules and minimum standards for social work certification; and

(C) recommends action on rules, standards, and social work certification.

(3) Structure.
State Board of Insurance Exempt Filings

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 15, 1988.
TRD-8800402 Marlin W. Johnston Commissioner
Texas Department of Human Services

Effective date. February 15, 1988
Proposal publication date. November 17, 1987
For further information, please call (512) 450-3765.

State Board of Insurance
Notifications Pursuant to the
Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has adopted a filing by the Surety Association of America of five new riders intended for use with the financial institution bond, Form 24.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the office of the chief clerk of the State Board of Insurance. The proposed filing has been available for public inspection for 15 days, and a public hearing was not requested by any party.

This association has submitted two conversion riders which can be attached to the Form 24. By attaching the Rider SR 6171, the Form 24 can be used to provide coverage to a savings bank. Attaching Rider SR 6157 to the Form 24 allows fidelity coverage to be provided to savings and loan associations.

The Form 24 contains an aggregate liability clause and can be written for a definite term; therefore, the coverage provided to savings banks and savings and loan associations by use of the conversion riders differs substantially from the coverage currently available under the savings bank blanket bond, Form 5, and the savings and loan blanket bond, Form 22.

Of the remaining riders, SR 5922b and SR 5976c are similar to riders currently available for use with the Forms 5 and 22. These riders are included in this filing to permit such coverage to be provided when using the Form 24. Rider SR 6172 is used to amend the declarations page when coverage is provided under the Form 24 on a loss sustained basis. There are no rate consequences resulting from this submission.

The board finds that a clear and compelling necessity requires this adoption to be effective on January 15, 1988, as an emergency action under the Insurance Code, Article 5.97, §(j), to enable savings banks and savings and loan associations to obtain fidelity coverage.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 14, 1988.
TRD-8800399 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date. February 15, 1988
For further information, please call (512) 463-6327.

Adopted Rules January 22, 1988 13 TexReg 409
Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the Texas Register.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detail than what is published in the Texas Register.

Texas Department of Agriculture

The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Morningstar Road, San Juan, unless otherwise noted. According to the agenda, the department will consider alleged violations of Texas Agriculture Code §103.001. Dates, times, and agendas follow.

Wednesday, January 27, 1988, 2:30 p.m. The department will consider violations by Gary K. Faour, Kenneth A. Faour, Anthony J. Faour, Daniel J. Faour, and Magnolia Fruit and Produce Company, Inc. as petitioned by Sun Valley Produce, Inc.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 465-7583.

Filed: January 18, 1988, 11:12 a.m.

TRD-8800520

Thursday, January 28, 1988, 8 a.m. The department will consider violations by Bob G. Ledford doing business as Fresno Produce Company as petitioned by Sun Valley Produce.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: January 18, 1988, 11:12 a.m.

TRD-8800518

Thursday, January 28, 1988, 9 a.m. The department will consider violations by Edna and Joseph Thompson doing business as Fort Bend County Market as petitioned by Golden Valley Distributors, Inc.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583

Filed: January 18, 1988, 11:12 a.m.

TRD-8800519

Friday, January 29, 1988, 10 a.m. The department will meet in the District Office, 2935 Westhollow Drive, Houston. According to the agenda, the department will consider alleged violations by Noe Ochoa Muniz doing business as Del Valle Fruit and Vegetables as petitioned by Vasquez Produce Corporation.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: January 18, 1988, 11:12 a.m.

TRD-8800521

Texas Commission on the Arts

Saturday, January 30, 1988, 1 p.m. The Community Arts Public Hearing of the Texas Commission on the Arts will meet in the Lobby Boardroom, Waller Creek Plaza Hotel, 500 North IH-35, Austin. According to the agenda, the commission will take recommendations from a discipline perspective on modifications to the existing state plan. Any interested parties may attend and will be given five minutes to present their concerns to the commission. While the purpose is primarily to take testimony on local arts agencies modifications, anyone may comment on any portion of the state arts plan. Copies of the state arts plan are available through the commission offices and will be available at the public hearing.

Contact: Betty J. Brown, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: January 18, 1988, 4:21 p.m.

TRD-8800540

Automated Information and Telecommunications Council

Friday, January 22, 1988, 10 a.m. The Automated Information and Telecommunications Council submitted a revised agenda for a meeting held in Room 106, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the council will approve minutes of the previous meeting; consider procurement proposal of the Texas Higher Education Coordinating board (THECB)-computer system upgrade: $5.2 million (a pending $750 thousand Industrial Accident Board procurement indirectly relates to the THECB procurement); hear statewide telecommunications systems status report, local measured service draft report, and criminal justice information systems evaluation report; and consider 1988 AITC open meeting schedule and future business.

Contact: Tina J. Turner, 510 South Congress Avenue, Suite 216, Austin, Texas 78701, (512) 463-5530.

Filed: January 14, 1988, 1:06 p.m.

TRD-8800377

State Bar of Texas

The State Bar of Texas made emergency revised agendas for meetings in the Texas Law Center, 1414 Colorado Street, Austin. Dates, times, rooms, and agendas follow.

Thursday, January 21, 1988, 9 a.m. The Executive Committee met in Room 206-207, to consider amendment to 1987-1988 budget. The emergency status was necessary because the committee was unaware of the necessity to bring this before the board.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: January 14, 1988, 2:12 p.m.

TRD-8800379

Friday-Saturday, January 22-23, 1988, 9 a.m., daily. The Board of Directors will meet in Room 104 to consider amendment to 1987-1988 budget. The emergency status is necessary because the board is unaware of the necessity to bring this before the board.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.
Filed: January 14, 1988, 2:12 p.m.  
TRD-8800378

State Board of Barber Examiners

Tuesday, February 2, 1988, 8 a.m. The State Board of Barber Examiners will meet in Suite C-275, 1300 East Anderson Lane, Austin. According to the agenda, the board will approve minutes of the previous meeting; interview out-of-state applicants; adopt §51.86, concerning time limits for processing licenses and permits; and consider letters and reports to board by executive director. The board will also meet in executive session.

Contact: Jo King McCrorey, 1300 East Anderson Lane, Suite C-275, Austin, Texas 78752, (512) 835-2040.

Filed: January 19, 1988, 9:32 a.m.  
TRD-88005514

Battleship Texas Advisory Board

Saturday, January 30, 1988, 10 a.m. The Battleship Texas Advisory Board will meet on board the Battleship Texas, 3527 Battleground Road, LaPorte. According to the agenda, the board will approve minutes of the previous meeting; hear report from Brochures Committee and from TPWD on ships procedure to drydock; and discuss fund raising and planning. The board will also meet in executive session to discuss spending litigation with Attorney General’s office.

Contact: Denny G. Hair, 1003 Eastlake, Houston, Texas 77034, (713) 947-8089.

Filed: January 18, 1988, 9:40 a.m.  
TRD-8800512

Texas Bond Review Board

Tuesday, January 19, 1988, 10 a.m. The Texas Bond Review Board met in emergency session in the Senate Chamber, State Capitol, Austin. According to the agenda, the board approved minutes of the previous meeting; considered proposed bond issues concerning Texas Public Finance Authority and other business. The emergency status was necessary because the Industrial Accident Board and the Coordinating Board have been deleted from the agenda because AITC approval has not been granted for proposed computer installment/purchase agreements.

Contact: Tom K. Pollard, Sam Houston Building, Austin, Texas 78701, (512) 463-1741.

Filed: January 15, 1988, 4:32 p.m.  
TRD-880463

Texas State Board of Dental Examiners

Thursday-Saturday, January 28-30, 1988, 8 a.m. daily. The Texas State Board of Dental Examiners will meet in the Saphire Room, Loews Analoke Hotel, 2201 Stemmons Freeway, Dallas. According to the agenda summary, the board will approve anesthesia applications; discuss examination information concerning examiner’s manual; consider Dr. J.F. Stubblefield’s request for reinstatement; discuss proposed rules by Dental Laboratory Certification Council; consider dental assistant educators on duties of dental assistants, requests for exemptions to rule on direct supervision, and motion for rehearing in docked complaint 1987-42; discuss proposed rule amendments to 109.2, 109.107, and 109.6; consider adoption of emergency rules to comply with Senate Bill 1439, Medical Radiologic Technologist Certification Act, and hear request of Dr. George Collins to announce in dual specialties; and request of Dr. Frank Duhphorne for removal of suspension. If all agenda items are not completed on Saturday the board will meet on Sunday, January 31, 1988.

Contact: William S. Nall, 8317 Cross Park Drive, Suite 400, Austin, Texas 78754, (512) 834-6021.

Filed: January 18, 1988, 11:13 a.m.  
TRD-8800517

Texas Education Agency

Monday, January 25, 1988, 10:30 p.m. The Accountable Costs Advisory Committee of the Texas Education Agency will meet in Room 1-109, W.B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will discuss Coopers and Lybrand consultants progress report and hear report on long-range plan.

Contact: Joe Winski, 1701 North Congress Avenue, Room 3-101, Austin, Texas 78701, (512) 463-9704.

Filed: January 15, 1988, 4:03 p.m.  
TRD-8800462

Advisory Commission on State Emergency Communications

Wednesday, January 27, 1988, 10 a.m. The Administration Committee of the Advisory Commission on State Emergency Communications will meet in Room 407, 201 East 14th Street, Austin. According to the agenda summary, the committee will consider time table associated with statewide implementation, participation of counties and cities under 120,000 population and related resolutions, open meeting policies for commission and committees, 9-1-1 funds management, and internal procedures.

Contact: Mary A. Boyd, P.O. Box 00541, Austin, Texas 78701, (512) 463-1812.

Filed: January 18, 1988, 4:57 p.m.  
TRD-8800541

Wednesday, January 27, 1988, 1 p.m. The Regional Plan Committee of the Advisory Commission on State Emergency Communications will meet in Room 2300, One Bell Plaza, Dallas, on January 27, 1988, at 1 p.m. According to the agenda, the committee will discuss the addition of committee members, establish future meeting schedule, review samples of 9-1-1 plans from other states and conduct general discussion on methods to be used to approve interim and final plans for regional 9-1-1.

Contact: Mary A. Boyd, P.O. Box 13206, Austin, Texas 78701, (512) 463-1812.

Filed: January 18, 1988, 4:57 p.m.  
TRD-8800542

Employees Retirement System of Texas

Tuesday, January 26, 1988, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet in the ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will approve minutes of the previous meeting; consider/act on recommended security sale; present redesign feasibility report and issuance of request for proposal for data processing consultant services; hear progress report on implementation of flexible benefits program; consider/act on final adoption of proposed amendment to trustee rules; hear reports by actuary on actuarial valuations; consider appeal of contested
case; hear status report on state auditor’s management letters and executive director’s report. The board will also meet in executive session.

Contact: James T. Herod, 16th and Brazos Streets, Austin, Texas 78701, (512) 476-6431, ext. 178.

Filed: January 15, 1988, 9:09 a.m.

TRD-8800404

Texas Employment Commission

Wednesday, January 27, 1988, 8:30 a.m.
The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will approve minutes of the previous meeting; consider internal procedures of commission appeals, higher level appeals in unemployment compensation cases on docket four, and set date of next meeting.

Contact: Courntay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: January 18, 1988, 2:42 p.m.

TRD-8800533

Finance Commission

Friday, January 22, 1988, 10:30 a.m.
The Banking Section of the Finance Commission will meet at 2601 North Lamar Boulevard, Austin. According to the agenda, the section will approve minutes of the December 11, 1987, meeting; consider examination fees relating to foreign bank agencies; consider rules relating to enforcement of final judgments, HB 5 relating to timetables for processing applications, and establishment of acquisition of bank subsidiaries; review departmental operations concerning personnel staffing report and revenue and expenditure summaries; consider legislative discussions and updates; and approve date of next meeting. The section will also meet in executive session to discuss pending litigation and personnel matters.

Contact: Jorge A. Gutierrez, 2601 North Lamar Boulevard, Austin, Texas 78705-4294, (512) 479-1200.

Filed: January 14, 1988, 2:36 p.m.

TRD-8800387

Texas Department of Health

Friday, January 22, 1988.
The Texas Board of Health of the Texas Department of Health will meet in Room 8-120, 1100 West 49th Street, Austin, at 8:00 a.m. to conduct regular business.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 15, 1988, 3:33 p.m.

TRD-8800469

8:30 a.m. The Legislative Committee will meet in Room G-107, to consider proposed rule concerning changes to organize and clarify requirements for issuance of license and license renewal, and to include inactive status of a license for speech-language pathologists and audiologists; final adoption of the rules concerning fees for speech-language pathologists and audiologists; and final adoption of the rule concerning, fees for massage therapy registration.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 15, 1988, 3:35 p.m.

TRD-8800464

8:30 a.m. The Disease Control Committee will meet in Room 644, TEC Building, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: January 18, 1988, 2:42 p.m.

TRD-8800533

3 p.m. The Environmental Health Committee will consider proposed rule to incorporate a hierarchy of waste management methods in regional and local planning guidelines, proposed new rules concerning time period for processing and issuing permits for asbestos contractors; final adoption of rules concerning asbestos abatement in public buildings; final adoption of rules concerning waste entering type IV municipal waste landfills in closed containers or vehicles; final adoption of rules for specifying time periods for steps in the processing of a permit for a municipal solid waste facility, and amending the definition of solid waste; and discussion of infectious waste disposal rules.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 14, 1988, 10:54 a.m.

TRD-8800371

4:30 p.m. The Disease Control Committee will consider final adoption of the rules concerning AIDS and HIV exposure and testing.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 14, 1988, 10:53 a.m.

TRD-8800372

6 p.m. The Emergency and Disaster Committee will consider extension of or final adoption of emergency medical services rules concerning the training, course curricula, and certification of individuals utilizing automatic external defibrillators extension of or final adoption of emergency medical services rules concerning personnel certification of peace officers and firefighters.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 14, 1988, 10:52 a.m.

TRD-8800373

The Texas Board of Health of the Texas Department of Health will meet at 1100 West 49th Street, Austin. Times, rooms, and agendas follow.

7:30 a.m. The Executive Committee will meet in Room G-103 to consider items of procedure for upcoming board of health meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 15, 1988, 3:33 p.m.

TRD-8800470

9 a.m. The Chronically Ill and Disabled Children’s Services and Maternal and Child Health Committee will meet in Room G-107, to consider update on items potentially affecting the chronically ill and disabled children’s services/maternal and child health programs; final adoption of rules for the chronically ill and disabled children’s services program.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 15, 1988, 3:33 p.m.

TRD-8800470

10 a.m. The Legislative Committee will meet in Room G-107, to consider report on proposed legislation for the associatship for environmental and consumer health pro-
tection and report on proposed legislation for the associatiesship for personal health services.

Contact: Kris Lloyd, 1100 West 49th street, Austin, Texas 78756, (512) 458-7484.
Filed: January 15, 1988, 3:34 p.m.
TRD-8800416

11:30 a.m. The Personnel Committee will meet in Room T-604, to consider appointment to the Advisory Council on Massage Therapy, appointment to the Medical Radiologic Technologists Advisory Board, and to the Tuberculosis Advisory Committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: January 15, 1988, 3:32 p.m.
TRD-8800471

Texas Historical Commission

Thursday, January 28, 1988, 2 p.m. The Executive Committee and Legislative Liaison Committee of the Texas Historical Commission will meet in the Carrington-Covert Library, 1511 Colorado, Austin. According to the agenda, the committee will consider commission appointments and committee, federal grant allocations, budget schedule, Texas award for historic preservation, and legislation.

Contact: Cindy Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.
Filed: January 18, 1988, 12:01 p.m.
TRD-8800525

Thursday, January 28, 1988, 2 p.m. The CHC and Museum Services Committee will meet at the Carrington-Covert House, 1511 Colorado, Austin. According to the agenda, the committee will consider museum grant proposals for 1988.

Contact: Cindy Sherrell-Leo, 1511 Colorado, Austin, Texas 78701, (512) 463-6100.
Filed: January 18, 1988, 12:01 p.m.
TRD-8800528

Thursday, January 28, 1988, 3 p.m. The State Marker Committee of the Texas Historical Commission will meet in the Downstairs Conference Room, El Rose Building, 105 West 16th Street, Austin. According to the agenda, the committee will review proposed rules revisions; consider termination of inactive files concerning Missouri Avenue Methodist Church in Tarrant County, Engleman-Muench House in Bexar County, and Thiele Cottage in Bexar County; and consider update on activities.

Contact: Frances Rickard, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.
Filed: January 18, 1988, 12:01 p.m.
TRD-8800528

Friday, January 29, 1988, 7:30 a.m. The National Register Program Committee of the Texas Historical Commission will meet on the Second Floor, 108 West 16th Street, Austin. According to the agenda, the committee will consider status of historic preservation fund grants relating to survey and planning component, certified local governments program in Abilene, Dallas, Lubbock, and Nacogdoches; consider changes in department rules for 13 TAC Chapter 15; consider announcements of the quarterly state board of review meeting; and hear quarterly report of activities.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78701, (512) 463-6094.
Filed: January 15, 1988, 10:40 a.m.
TRD-8800416

Friday, January 29, 1988, 8 a.m. The Main Street Committee of the Texas Historical Commission will meet in the Gethsemane Church, 1510 Congress Avenue, Austin. According to the agenda, the committee will consider 1989-1990 budget submission, future of urban main street programs, and 1988 main street program of work.

Contact: Anice Reed, P.O. Box 12276, Austin, Texas 78711, (512) 463-6092.
Filed: January 18, 1988, 12:02 p.m.
TRD-8800527

Friday, January 29, 1988, 8 a.m. The Division of Architecture of the Texas Historical Commission will meet in the Carrington-Covert House Library, 1511 Colorado Street, Austin. According to the agenda summary, the division will hold its quarterly meeting.

Contact: Curtis Turnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.
Filed: January 19, 1988, 9:50 a.m.
TRD-8800555

Friday, January 29, 1988, 9:30 a.m. The Quarterly Commission meeting of the Texas Historical Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hear reports from chairman, State Marker Committee, Field and Museum Committee, Architecture Committee, Review and Compliance Committee, Nominations, Surveys and Certified Local Governments Committee, Archaeology Committee, Publications Committee, and Main Street Committee.

Contact: Cindy Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.
Filed: January 18, 1988, 12:01 p.m.
TRD-8800524

Texas Department of Human Services

Tuesday, January 26, 1988, 9:30 a.m. The Church Relations Advisory Group of the Department of Human Services will meet in Classroom Two, Second Floor West Tower, 701 West 51st Street, Austin. According to the agenda, the group will consider opportunity to comment on proposed budget alternatives, update on federal food programs, income assistance client services project, client services video, income assistance applications forms, family violence brochure for clergy, and services available to persons with AIDS.

Contact: Lucy Todd, P.O. Box 2960, Austin, Texas 78769, (512) 450-3129.

Filed: January 18, 1988, 9:42 a.m.
TRD-8800513

Texas Industrial Accident Board

Monday, January 18, 1988, 9:30 a.m. The Texas Industrial Accident Board will meet in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board will approve minutes of the previous meeting; discuss and adopt medical examination order rules published in the December 4, 1987, issue of the Texas Register, (12 TexReg 4519), Chapter 69; discuss and consider board procedures for responding to application for suspension of benefits for failure to comply with medical examination order; and review and discussion of board activities. The board will also meet in executive session to review board files.

Contact: Inez "Tippy" Foster, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7960.

Filed: January 14, 1988, 3:48 p.m.

State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

Monday, January 25, 1988, 10 a.m. The board will meet in Room 414, to consider final action on 28 TAC §5.9201, board orders on several different matters; consider personnel matters concerning Fire Marshal, Statistical and Rate Development, Research and Information Services, and Commissioner; and consider litigation matters concerning Fire Marshal and Commissioner.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 15, 1988, 2:45 p.m.
TRD-880496

Tuesday, January 26, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9765-whether disciplinary action should be taken against Roland Lynn Cowperthwaite, Edmond, Oklahoma, who holds a group I, legal reserve life insurance agent's license issued by the board.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 18, 1988, 8:23 a.m.
TRD-8800501

Tuesday, January 26, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9799-appraisal of articles of agreement of Ameisure Lloyds, Dallas.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 18, 1988, 8:23 a.m.
TRD-8800502

Friday, January 29, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9805-whether disciplinary action should be taken against Janice Kaufman of Dallas, who holds a group I, legal reserve life insurance agent's license issued by the board.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 18, 1988, 8:23 a.m.
TRD-8800503

Friday, January 29, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9743-whether disciplinary action should be taken against Billy Joe Tallant, who holds a group I, legal reserve life insurance agent's license issued by the board.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 18, 1988, 8:22 a.m.
TRD-8800505

Monday, February 1, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9760-whether disciplinary action should be taken against Charles Leonil Gilchrist of Houston, who holds a group II, health and accident insurance agent's license issued by the board.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 18, 1988, 8:22 a.m.
TRD-8800504

Monday, February 1, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9763-whether disciplinary action should be taken against Keith Dennis, Irving/Denton, who holds a resident insurance adjuster's license issued by the board.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 18, 1988, 8:23 a.m.
TRD-8800506

Monday, February 1, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9779-application of Dennis Michale McChure of Dallas for a group I, legal reserve life insurance agent's license.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

Filed: January 18, 1988, 8:25 a.m.
TRD-8800498
Advisory Commission on
Intergovernmental
Relations

Friday, January 22, 1988, 10 a.m. The Advisory Commission on State Emergency Communications of the Finance Commission will meet in Suite 1500, 919 Congress Avenue, Austin. According to the agenda, the commission will begin to plan and develop 9-1-1 funding recommendations, to include rates and costs; develop fee implementation procedures; and develop guidelines for council of governments planning fund reimbursement.

Contact: Mary Boyd, P.O. Box 13206, Austin, Texas 78701, (512) 463-1812.

Filed: January 14, 1988, 11:32 a.m.

TRD-8800375

Texas Department of Labor
and Standards

Wednesday, February 17, 1988, 9 a.m.
The Air Conditioning and Refrigeration Contractors Advisory Board of the Texas Department of Labor and Standards will meet in Room 103, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the board will review House Bill 1961 concerning board's responsibility and authority, House bill 5, House bill 75, Attorney General's opinion JM-295 concerning plumbers, Attorney General's opinion JM-693 concerning professional engineers, insurance requirements, commercial refrigeration and process cooling and heating exams and fees, investigation and enforcement, administrative matters, and sunset review.

Contact: Steven M. Mathews, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: January 18, 1988, 3:18 p.m.

TRD-8800535

Texas Commission on Law
Enforcement Officer
Standards and Education

Wednesday-Thursday, January 27-28, 1988, 7 p.m. and 9 a.m., respectively. The Law Enforcement Management Institute of the Texas Commission on Law Enforcement Officer Standards and Education will meet in the Stufflebee Hotel, 9721 Arbor etreeum Boulevard, Austin. According to the agenda, the institute will introduce board members; recognize guests and staff; consider election of officers, adoption of procedures for future meetings, and strategic plan for adoption; and hear staff activity report.

Contact: Jack Ryle, 1606 Headway Circle, Suite 100, Austin, Texas 78754, (512) 834-9222.

Filed: January 18, 1988, 11:29 a.m.

TRD-8800523

Board for Lease of State-Owned Lands

Thursday, January 21, 1988, 1:30 p.m.
The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands made an emergency revised agenda to a meeting held in Room 833, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board considered corrected pooling application. The emergency status was necessary to receive delay in receiving royalties due the state.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: January 18, 1988, 2:14 p.m.

TRD-8800331

Texas Manufactured
Homeowners Recovery Fund

Tuesday, January 26, 1988, 10 a.m.
The Board of Trustees of the Texas Manufactured Homeowners Recovery Fund will meet in Room 105, E.O. Thompson Building, 920 Colorado, Austin. According to the agenda, the board will consider rule making authority, selection of chairman and secretary of the board, frequency of meetings, statutory authority, investment policy of Employee Retirement System, status of the fund, claims pending, and time of next meeting.

Contact: Jennifer Mellet, 920 Colorado, Austin, Texas 78701, (512) 463-7352

Filed: January 15, 1988, 2:30 p.m.

TRD-8800438

Texas State Board of
Medical Examiners

Thursday, January 28, 1988. The Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. Times and agendas follow.

8 a.m. The board will consider orientation for new members. The board will also meet in executive session to under authority of Texas Civil Statutes, Article 6252-17, as related to Articles 4495b, 207, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion 1974, H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: January 18, 15, 1988, 4:33 p.m.

TRD-8800543

11 a.m., and Friday-Saturday, January 29-30, 1988, 8 a.m. daily. The board will consider officer elections; consider committee appointments of Reciprocity, Examination, Disciplinary Process Review, and Computer Committees; hear committee reports; consider resolutions, proposals for decisions, licensure status requests and appearances; hear reports from executive director; consider computer study, hearing examiner appointments, and minutes; hear administrative sanction report; consider rules-administrative sanction, medical radiologic technologists, general provisions, and reporting form. The board will also meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, 207, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion 1974, H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: January 18, 1988, 4:33 p.m.

TRD-8800544

Texas Mohair Producers
Board

Wednesday, January 27, 1988, 2 p.m. The Texas Mohair Producers Board of the Texas Department of Agriculture will meet in the Stephen F. Austin South Room, Holiday Inn, 441 Rio Concho Drive, San Angelo. According to the agenda, the board will approve minutes of the previous meeting; hear financial reports; consider 1988/1989 proposed budget, biennial election, new business, and date and place of next meeting.

Contact: Brian J. May, P.O. Box 5337, San Angelo, Texas 76902, (915) 655-3161.

Filed: January 18, 1988, 3:02 p.m.

TRD-8800534

Board of Pardons and
Paroles

January 25-29, 1988, 1:30 p.m. daily, except 11 a.m. on Friday, January 28, 1988. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.
Tuesday, January 26, 1988, 1:30 p.m. The board will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions (other than out of country conditional pardons) including full pardons/restorations of civil rights of citizenship, emergency medical releases, commutations of sentence; and other reprieves, remissions, and executive clemency acts.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: January 15, 1988, 10:38 a.m.
TRD-8800415

Texas State Board of Physical Therapy Examiners

Friday, January 22, 1988, 10 a.m. The Texas State Board of Physical Therapy Examiners will meet in Suite 113, 313 East Rundberg Lane, Austin. According to the agenda, the board will hold orientation for newly appointed board members; consider recent rule adoptions; hear appropriate committee reports; and consider miscellaneous board business.

Contact: Lois M. Smith, 313 East Rundberg Lane, Suite 113, Austin, Texas, 78753, (512) 835-1846.

Filed: January 14, 1988, 2:18 p.m.
TRD-8800380

Texas Department of Public Safety

Thursday, January 28, 1988, 9 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will approve minutes of the previous meeting and consider personnel matters and pending litigation.

Contact: Leo E. Gossett, 5805 North Lamar Boulevard, Austin, Texas 78701, (512) 465-2000, ex7300.

Filed: January 18, 1988, 8:29 a.m.
TRD-880499

Railroad Commission of Texas

Monday, January 25, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget, procedure, and personnel matters, including but not limited to discussion, and/or action on the following: management study, oil and gas general counsel, oil field investigator personnel and their operations, the creation and designation of an executive director with related positions and matters, and personnel matters relating to the office of general counsel and special counsel.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7527.

Filed: January 15, 1988, 10:22 a.m.
The Automatic Data Processing Division will consider and act on the division director’s report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.
Filed: January 15, 1988, 10:22 p.m.

The Flight Division will consider and act on the division director’s report on division administration, budget, procedures and personnel matters.

Contact: Ken Fessler, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6787.
Filed: January 15, 1988, 10:22 p.m.

The Gas Utilities Division will consider various matters within the regulatory jurisdiction of the Railroad Commission of Texas. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to a date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Shelley A. Dreiling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7009.
Filed: January 15, 1988, 10:22 p.m.

The Office of General Counsel will consider and act on the general counsel’s report on division administration, budget, procedures, and personnel matters; including but not limited to discussion and/or action on the following: Hufo Oils, et al, v. Railroad Commission C-5937 in the Supreme Court of Texas, Walker Operating, et al, v. Federal Energy Regulatory Commission, U.S. Court of Appeals for the 10th Circuit, 85-2683 and 86-2598 et al in relation of Oil and Gas Docket 10-87,017.

Contact: Gail Watkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.
Filed: January 15, 1988, 10:22 p.m.

The Office of Information Services will consider and act on the Division Director’s report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78704, (512) 463-710.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800433
LP-Gas Division will consider and act on division director’s report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6931.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800425
The Oil and Gas Division will investigate cementing practices of Western Company of North America.

Contact: Tim Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800421
The Oil and Gas Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Tim Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7325.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800428
The Oil and Gas Division will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800431
The Personnel Division will consider and act on the division director’s report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800420
The Office of Research and Statistical Analysis will consider and act on the division director’s report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: January 15, 1988, 10:22 p.m.

TRD-8800432
The Office of Special Counsel will consider and act on division director’s report relating to state and federal legislation, budget, administrative and personnel matters, and proposed and pending litigation.

Contact: Walter E. Lalie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800423
The Surface Mining Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Jerry Hill, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6900.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800426
The Transportation Division will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: C. Tom Clowe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.
Filed: January 15, 1988, 10:22 p.m.

TRD-8800429

Texas Real Estate Commission

Monday, January 18, 1988, 2 p.m. The Texas Real Estate Commission made an emergency revised agenda for a meeting held in the Auditorium, First Floor, 6330 Highway, 290 East, Austin. According to the agenda summary, the commission received comments on proposed new 22 TAC §513.162, concerning mandatory disclosure of agency by licensees. The emergency status was necessary because the public hearing, originally agendized to be held at TREC headquarters office, must be moved to a larger facility to accommodate unexpected number of attendees.

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Texas Rehabilitation Commission

Thursday, January 26, 1988, 7:30 p.m. The Recognition and Awards Subcommittee and the Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission met in emergency session in the Embassay Suites, 300 South Congress Avenue, Austin. According to the agenda summary, the committee held employment awards conference, national journalism contest, and pilot club international convention representative selection. The emergency status was necessary because the agenda could not be completed due to circumstances beyond the control of the Governor's Committee for Disabled Persons (GCDDP) and reasonably unforeseen situations which require immediate action by the GCDDP.

Contact: Virginia Roberts, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: January 18, 1988, 2:26 p.m.

TRD-8800532

Texas Savings and Loan Department

The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. Dates, times, and agendas follow.

Wednesday, January 27, 1988, 9 a.m. The department will accumulate a record of evidence in regard to the application of United Savings Association of Texas, Houston, Harris County, for a branch officer to be located at 1033 Harwin, Houston, Harris County, from which the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: January 15, 1988, 9:49 a.m.

TRD-8800407

Thursday, January 28, 1988, 9 a.m. The department will accumulate a record of evidence in regard to the application of Allegiance Savings and Loan Association, Carrollton, Dallas County, to change its name to Beal Savings Bank, a savings association, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: January 15, 1988, 9:49 a.m.

TRD-8800408

State Securities Board

The Securities Commission of the State Securities Board will meet at 1800 San Jacinto, Austin, Dates, times, and agendas follow.

Wednesday, February 10, 1988, 10 a.m. The commissioner will determine whether a cease and desist order should be issued prohibiting the sale of unregistered securities, offered for sale and sold in conjunction with a subscription to the Low Price Stocks Newsletter (LPN), published by BFG Publishers, Inc., a subsidiary of the Bartel Financial Group, Inc. and James Bartel and further prohibiting BFG Publishers, Inc., the Bartel Financial Group, Inc., and James Bartel from acting as d eachers in violation of the Securities Act (Texas Civil Statutes, Article 581-1, et seq.)

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78711, (512) 474-2233.

Filed: January 14, 1988, 4:49 p.m.

TRD-8800401

Thursday, February 11, 1988, 10 a.m. The commissioner will determine whether the registration of Bentley Capital Group, Inc. as a securities dealer and the registration of Robert Christopher Wood as its registered principal in Texas should be revoked or suspended, and whether a cease and desist order should be issued prohibiting the sale of securities issued by Bentley Petroleum Company, Inc., a wholly owned subsidiary of Bentley Holding Company, Inc. and Robert Christopher Wood and offered for sale and sold by Bentley Capital Group, Inc., Robert Christopher Wood, and Charles Edward Fath.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: January 15, 1988, 1:57 p.m.

TRD-8800437

Secretary of State

Tuesday, January 19, 1988, 10 a.m. The State Board of Canvassers of the Secretary of State met in emergency session in Room 127, State Capitol, Austin. According to the agenda, the board considered returns of special election held on January 16, 1988 in state representative District 92. The emergency status was necessary because of conflict in scheduling.

Contact: Randall H. Erben, P.O. Box 12060, Austin, Texas, 78711, (512) 463-5650.

Filed: January 14, 1988, 3 p.m.

TRD-8800388

Transportation Audit Committee

Thursday, January 28, 1988, 9:30 a.m. The Transportation Audit Committee created by House Bill 89, 68th Legislature, Second Called Session, will meet in Room 101-A, First Floor, Dewitt C. Greer Highway Building, 11th and Brazos, Street, Austin. According to the agenda summary, the committee will consider presentation by the State Department of Highways and Public Transportation (SDHPT) of an updated progress report and adoption of the department's implementation progress report of January 1988 in response to the management audit of department operations as directed by House Bill 89 and conducted by Price Waterhouse.

Contact: Vic Holubec, 11th and Brazos Streets, Austin, Texas 78701, (512) 463-8622.

Filed: January 18, 1988, 3:33 p.m.

TRD-8800536

University Interscholastic League

Thursday, January 21, 1988, 10 a.m. The State Executive Committee of the University Interscholastic League met in Room 3102, Thompson Conference Center, Austin. According to the agenda summary, the committee heard allegations of league violations by public schools and sponsors.

Contact: Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5833.
Monday, January 25, 1988, 12:30 p.m.
The Waiver Review Board will meet in Room 1.122, Thompson Conference Center, Austin. According to the agenda summary, the board will consider appeal of waiver decision to determine student eligibility.

Contact: Bob Young, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

Filed: January 15, 1988, 4:24 p.m.
TRD-8800472

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The University of Texas at Austin

Friday, January 29, 1988, 2 p.m. The Intercollegiate Athletics Council for Men of the University of Texas at Austin, will meet in Bellmont Hall 240, 23rd and San Jacinto, Austin. According to the agenda summary, the council approve minutes of the October 26, 1987, meeting; approve schedules and schedule changes; consider academics, awards and award policies, budget and budget changes, new business, construction, development, and old business. The council will also meet in executive session.

Contact: Haila Kaufman, P.O. Box 7399, Austin, Texas 78713, (512) 471-4439.

Filed: January 18, 1988, 3:48 p.m.
TRD-8800539

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University of Texas System

Sunday-Monday, January 24-25, 1988, 2 p.m., and 8 a.m., respectively. The Board of Regents of the University of Texas System will meet in Conference Room Eight, Four Seasons Hotel and Resort, 4150 North MacArthur Boulevard, Irving. According to the agenda, the board will meet in executive session to consider personnel matters related to the possible election and employment of a chief administrative officer for the University of Texas at El Paso pursuant to Texas Civil Statutes, Article 6252-17, §2(g). This meeting will be to interview prospective candidates and no formal action on an appointment will be taken.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7326, (512) 499-4402.

Filed: January 18, 1988, 10:44 a.m.
TRD-8800516

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Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

Wednesday, January 20, 1988, 10 a.m.
The commission made an emergency revised agenda to a meeting held in Room 118, to consider a motion for rehearing regarding the creation of Senna Hills Municipal Utility District of Travis County. The emergency status was necessary because the original application of creation of Senna Hills MUD was denied due to lack of funding. There has been an unexpected change in circumstances in that a financing agreement has been reached and the commission must hear the matter prior to January 22, 1988, after which time the motion for rehearing would be overruled by operation of law.

Contact: Peggy O. Maxwell, P.O. Box 13087, Austin, Texas 78771, (512) 463-7899.

Filed: January 18, 1988, 4:11 p.m.
TRD-8800545

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Regional Meetings

Meetings Filed January 14, 1988

The Austin-Travis County MHMR Center, Operation and Planning Committee, will meet in Room 107, 611 South Congress Avenue, Austin, on January 22, 1988, at 7:30 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78701, (512) 477-4141.

The Capital Area Rural Transportation System (CARTS), Board of Directors, met in the Conference Room, 5021 East First Street, Austin, on January 21, 1988, at 10 a.m. Information may be obtained from Edna M. Burroughs, 5021 East First Street, Austin, Texas 78702, (512) 478-7433.

The Central Texas Council of Governments, Central Texas Private Industry Council, will meet at 302 East Central, Belton, on January 28, 1988, at 10 a.m. Information may be obtained from A.C. Johnson, 302 East Central, Belton, Texas 76513.

The Coastal Bend Council of Governments, will meet in the Commissioner's Courtroom, Nueces County Courthouse, 901 Leopard, Corpus Christi, on January 22, 1988, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 99091, Corpus Christi, Texas 78408, (512) 883-5743.

The Gulf Bend MHMR Center, Board of Trustees, met at 1404 Village Drive, Victoria, on January 21, 1988, at noon. Information may be obtained from Bill Dillard, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

The Hunt County Tax Appraisal District, Appraisal Review Board, will meet in the Boardroom, 4801 King Street, Greenville, on January 26, 1988, at 9 a.m. Information...
may be obtained from Joe Pat Davis or Jeanette Jordan, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Mills County Appraisal District, met in the Jury Room, Goldthwaite, on January 21, 1988, at 6:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The Tyler County Appraisal District, Appraisal Review Board, will meet at 103 Pecan, Woodville, on January 25, 1988, at 9 a.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wood County Appraisal District, Board of Directors, met in the Conference Room, 217 North Main, Quitman, on January 21, 1988, at 1:30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783.

TRD-8800374

 Meetings Filed January 15, 1988

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson Avenue, Jourdanton, on January 21, 1988, at 1:30 p.m. Information may be obtained from Vern Warren, 1010 Zanderson Avenue, Jourdanton. Texas 78026, (512) 769-2730.

The Barton Springs-Edwards Aquifer Conservation District, met in Suite F, 909 North Loop 4, Buda, on January 18, 1988, at 6 p.m. Information may be obtained from Larry G. Hada, 909 North Loop 4, Suite F, Buda, Texas 78610, (512) 282-8441.

The Bexar Appraisal District, Board of Directors, met at 535 South Main, San Antonio, on January 20, at 4 p.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Dallas Area Rapid Transit, Art Committee, Mobility Impaired Committee, Minority Affairs Sub-committee, and Budget and Finance Committee, met at 601 Pacific Avenue, Dallas, on January 19, 1988, at noon, 2 p.m., 3 p.m., and 4 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Grand Parkway Association, met at 5757 Woodway, 140 East Wing, Houston, on January 20, 1988, at 8:30 a.m. Information may be obtained from Larry W. Nettes, 2823 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 654-4586.

The Harris County Appraisal District, Board of Directors, will meet on the Eighth Floor, 2800 North Loop West, Houston, on January 28, 1988, at 1:30 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Lower Colorado River Authority, Planning and Public Policy Committee, Finance and Administration Committee, Audit and Budget Committee, Energy Operations Committee, and Natural Resources Committee, met at 3700 Lake Austin Boulevard, Austin, on January 20, 1988, at 9 a.m. The Board of Directors met at the same location on January 21, 1988, at 9 a.m. Information may be obtained from John E. Baglay Jr., 3700 Lake Austin Boulevard, Austin, Texas, (512) 473-5200.

The Red River Authority of Texas, Board of Directors, met in Room 214, Wichita Falls Activity Center, 1001 Indiana, Wichita Falls, on January 21, 1988, 9:30 a.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, Wichita Falls, Texas 76301, (817) 723-8697.

TRD-8800403

 Meetings Filed January 18, 1988

The Erath County Appraisal District, Appraisal Review Board, met in the Boardroom, 1390 Harbin Drive, Stephenville, on January 21, 1988, at 9 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-7301.

The Central Texas Council of Governments, Transportation Planning Committee will meet at 302 East Central, Belton, on January 27, 1988, at 9 a.m. Information may be obtained from Gerald B. Bunker, P.O. Box 729, Belton, Texas 76513, (817) 939-1801.

The Heart of Texas Private Industry Council, met at 320 Franklin Avenue, Waco, on January 21, 1988, at 5:30 p.m. Information may be obtained from Arlene D. Schmitt, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

The Heart of Texas Region MHMR, Board of Trustees, will meet at 110 South 12th Street, Waco, on January 28, 1988, at 11:45 a.m. Information may be obtained from Helen Shedfield, 110 South 12th Street, Waco, Texas 76701, (817) 752-3451, ext. 290.

The Jack County Appraisal District, Board of Directors, met at the Los Creek Office Building, 216-D South Main, Jacksboro, on January 19, 1988, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Middle Rio Grande Development Council, Texas Review and Comment System Committee, will meet in the Civic Center Reading Room, 300 East Main, Uvalde, on January 28, 1988, at 10:30 a.m. Information may be obtained from Ramon Johnson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Palo Pinto Appraisal District, Appraisal Review Board, will meet in the Palo Pinto Courthouse, Palo Pinto, on January 28, 1988, at 1:30 p.m. Information may be obtained from Jack Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-3651, ext. 234.

The Parmer County Appraisal District, Board of Directors, will meet at 305 Third Street, Bovina, on February 4, 1988, at 7 p.m. Information may be obtained from Ronald E. Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

The Permian Basin Regional Planning Commission, General Membership and Board of Directors, will meet at the Pecos Valley Country Club, Pecos, on January 27, 1988, at 11:30 a.m. and 1:30 p.m., respectively. Information may be obtained from Terri Moore, P.O. Box 6391, Midland, Texas 79711.

The Sabine Valley Center, Board of Trustees, will meet in Suite B-1, Developmental Disabilities Services Division, 450 East Loop 281, Longview, on February 1, 1988, 7 p.m. Information may be obtained from Ron Cookson, P.O. Box 6800, Longview, Texas 75608, (214) 758-2471.

The West Central Texas Municipal Water District, will meet in Suite 300, 401 Cypress Street, First National West Building, Abilene, on January 27, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-8800530

The Texas Municipal League (Risk and Management Services), Board of Trustees and Insurance Trust Fund, will meet at the San Antonio Marriott Riverwalk Hotel, San Antonio, on January 22, 1988, at 10 a.m. Information may be obtained from Allen F. Hyman, 1020 Southwest Tower, Austin, Texas 78701, (512) 478-6601.

TRD-8800511

 Meetings Filed January 19, 1988

The Central Plains MHMR Center, Board of Trustees, met in the Haven Center, 715 Houston, Plainview, on January 21,
1988, at 7 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636

The Kendall County Appraisal District, Appraisal Review Board, will meet at 207 East San Antonio Street, Boerne, on January 26, 1988, at 8:30 a.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

TRD-8800553
In

Addition

The Register is required by statute to publish certain documents, including applications for purchase 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
Contested Case Hearing

Pursuant to the Texas Clean Air Act, §§3.15, 3.16, and 3.17, Texas Civil Statutes, Article 4477-5, ('the Act'), and §§103.11(3), 103.31, and 103.41 of the procedural rules of the Texas Air Control Board (TACB), an examiner for the TACB will conduct a contested case hearing to consider whether a special permit should be issued to Blentech Corporation (hereinafter referred to as the applicant) for the construction of a facility for drum filling and blending of chemicals at 1305 Rye Street, Houston, Texas 77029.

The applicant is directed to appear at the time and place shown following and demonstrate by a preponderance of evidence that the proposed facility will have emissions of less than 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant, and that the emissions from the proposed facility will not cause or contribute to a condition of air pollution. The applicant must also demonstrate that the proposed facility will operate in compliance with all rules and regulations of the TACB and will utilize the best available control technology (with consideration given to the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility), and that the proposed facility will comply with any applicable federal regulations.

The record of this hearing will be used by the TACB in determining whether to issue a special permit to construct the proposed facility.

Information regarding this application and copies of the TACB's rules and regulations are available at the regional office of this agency, 5555 West Loop, Suite 300, Bellaire, Texas 77401, the central office of this agency, 6330 Highway 290 East, Austin, Texas 78723, and at the office of the Houston Bureau of Air Quality Control, 7411 Park Place, Houston, Texas 77087.

The examiner has set the hearing to begin at 7 p.m., February 22, 1988, Auditorium, Holland Middle School, 1600 Gelhorn, Houston, Texas 77029. Prospective parties to the hearing will be the TACB staff and the applicant. Any other persons desiring to be made a party must specifically apply in writing for party status to Examiner John Worley, TACB, 6330 Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties unless the request is actually received at this address by 5 p.m., January 25, 1988. Previous correspondence with the TACB is not effective for this purpose. A final determination regarding party status will be made at the prehearing conference on the date set out following. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to give testimony at the hearing, but who does not desire to be a party, may call the Legal Division of the TACB at (512) 451-5711, Extension 350, to determine the names and addresses of all admitted parties. These parties may then be contacted about the possibility of presenting testimony.

Pursuant to §103.46 of the procedural rules of the TACB, the examiner has scheduled a prehearing conference on February 1, 1988, 7 p.m., Auditorium, Holland Middle School, 1600 Gelhorn, Houston, Texas 77029. All persons wishing to be admitted as parties must attend this conference. Proposed written disputes for consideration at the hearing on the merits and written requests for official notice should be made at the prehearing conference. Motions for continuance will only be granted upon proof of good cause. At this conference, a specific date prior to the hearing on the merits will be established for the exchange of witness lists, short summaries of their prospective testimony, and copies of written and documentary evidence pursuant to §103.46(2). Prehearing orders setting out discovery periods and other prehearing requirements may also be issued following this prehearing conference.

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the TACB in Austin at (512) 451-5711, Extension 350, a day or two prior to the hearing date in order to confirm the setting, since continuances are granted from time to time.

Issued in Austin, Texas, on January 13, 1988.

TRD-8800352
Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: January 14, 1988
For further information, please call (512) 451-5711, Ext. 354.

Texas Board of Architectural Examiners

Correction of Errors

The Texas Board of Architectural Examiners submitted proposed amendments which contained errors as published in the December 25, 1987, issue of the Texas Register (12 TexReg 4889).

The proposed repeal of §§1.102-1.107 are issued under Texas Civil Statutes, Article 279a.

In §3.16, the first sentence of paragraph (5) should read: "An individual file for each candidate for licensing, containing the original application, educational transcripts, and/or employer certification, evaluation data, records of examinations and scores, and date of original registration.

In §3.22, paragraph (a)(3) is not new language and should therefore not appear in bold face. In §3.28, paragraph (b)(3)(1) should read: (1) certification by individual state boards[.]"
which candidate holds current registration) that the applicant has qualified for [passed] the CI ARB-U'NE either as a result of approved education in landscape architecture, or having had seven years professional experience under a registered landscape architect, supported with references and has passed the examination [examples of work accomplished].

In §3.103, the beginning of subsection (f) should read: "Subject to subsection (e) of this section..."
Office of the Governor
Contract Award

In compliance with Texas Civil Statutes, Article 6252-11c, the Governor's Office of Budget and Planning furnishes this notice of consultant contract award. The consultant proposal request appeared in the November 10, 1987, issue of the Texas Register (12 TexReg 4214). The project requires the contractor to provide technical reviews of energy engineering studies submitted to the Institutional Conservation Program (ICP) in support of retrofit applications for the current cycle of the program.

The contractor selected to perform this service is Kinsman and Associates, 1701 North Greenville Avenue, Suite 600, Richardson, Texas 75081. Total value of the contract is $24,512. The contract period extends from January 15, 1988-May 30, 1988.

A final report highlighting the review process and findings will be submitted by the contractor by the end of the contract period.

Texas Department of Health
Correction of Error

The Texas Department of Health submitted an adopted section which contained an error as submitted in the December 15, 1987 issue of the Texas Register (12 TexReg 4697).

The effective date for §205.51 should read: "March 4, 1988."

State Department of Highways and
Public Transportation
Public Hearing

This notice is published as a public interest item for the citizens of the State of Texas. The State Department of Highways and Public Transportation, together with the Texas Good Roads/Transportation Association, Highway Users Federation, and other public and private groups in cooperation with the Advisory Committee on the Transportation 2020 Consensus Program, is sponsoring a series of public forums on the future of transportation into the 21st century as a part of the Transportation 2020 project. Transportation 2020 is a national multi-year, multi-faceted effort to develop a transportation plan that will meet the nation's mobility needs well into the 21st century. Its aims are to assess America's surface transportation requirements through the year 2020, to develop alternative proposals for meeting those requirements at the federal, state, and local levels, and to achieve a consensus on the best means of accomplishment.

A broad range of organizations and agencies have been invited to participate in the Transportation 2020 project. They represent every segment of society that uses and relies on our national transportation system for economic prosperity and social mobility. Included are state and local government officials, transportation users organizations, trade and industry associations, civic groups, and interested private citizens. An Advisory Committee on Highway Policy of more than 100 organizations has been created by the American Association of State Highway and Transportation Officials specifically to obtain the perspectives of these organizations, agencies, and individuals on the nation's transportation needs. The committee is chaired by Lester P. Lamm, president, Highway Users Federation, and former deputy administrator of the Federal Highway Administration.

The Transportation 2020 goal is to reach an agreement on the needs picture and the public and private sector roles in a national surface transportation plan for the 1990's and beyond, a consensus transportation program that will keep America moving well into the 21st century.

Transportation 2020 will entail the following four distinct phases over the next two years: information gathering to identify surface transportation needs; defining alternatives for meeting the needs; reaching agreement on the best plan; and securing enactment on the plan through state and federal legislation.

A key component of the Transportation 2020 program is obtaining, from users and managers of the highway system, perspectives on transportation needs in Texas and other states as well. The forums are meant to be open-ended on the subject of ground transportation. Topics might include: how traffic congestion impacts the delivery of materials to places of business; what can be done about the burden of long commuting times for some workers; adequate access to recreational areas; how to provide for better movement of emergency vehicles; what can be done about adequate planning for new communities or industrial areas; and how to deal with the impact of changing population patterns on transportation.

The Transportation 2020 forums are not intended to produce the answers to the transportation problems each state or the nation as a whole may face. Solutions and the subject of financing will come later in the project. But it is important that the concerns of responsible people in the states be known if there is to be a realistic, fully supported plan to truly meet America's future transportation needs.

The forums are scheduled as follows: February 2, 1988, La Mansion del Norte, San Antonio; February 4, 1988, Holiday Inn-Greenway Plaza, Hicustom, February 9, 1988, Sheraton Centre Park Hotel, Dallas-Fort Worth Metropolitan; February 11, 1988, Marriott Hotel, El Paso; February 17, 1988, Lubbock Plaza Hotel, Lubbock; and February 25, 1988, Dewitt C. Greer Highway Building, Austin. Testimony will be received from 8:30 a.m. until 11:30 a.m. and from 1:15 p.m. until 4:30 p.m. at each location. For further information, please contact Don Clark, Director,
Travel and Information Division, State Department of Highways and Public Transportation, 11th and Brazos, Austin, Texas 78701, (512) 463-8601.

Issued in Austin, Texas, on January 15, 1988.

TRD-8800459  Diane L. Northam
Administrative Technician
State Department of Highways and Public Transportation

Filed: January 15, 1988
For further information, please call (512) 463-8630.

State Board of Insurance
Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

(1) Application for admission to do business in Texas of Pacific Standard Life Insurance Company of California, a foreign life insurance company. The home office is in Davis, California.

(2) Application for admission to do business in Texas of The Virginia Insurance Reciprocal, a foreign casualty insurance company. The home office is in Glen Allen, Virginia.

(3) Application for a name change of California Mutual Insurance Company, a foreign casualty insurance company. The home office is in Monterey, California. The proposed new name is California Capital Insurance Company.

(4) Application for admission to do business in Texas of Mid America Security Life Insurance Company, a foreign life insurance company. The home office is in Oklahoma City, Oklahoma.

(5) Application for admission to do business in Texas of State Mutual Insurance Company, a foreign life insurance company. The home office is in Rome, Georgia.

(6) Application for incorporation of Southwest Business Corporation, a domestic third party administrator. The home office is in San Antonio.


(8) Application for admission to do business in Texas of Crown Insurance Services, a foreign third party administrator. The home office is in San Rafael, California.

(9) Application for admission to do business in Texas of Benefit Administration Services, Ltd., a foreign third party administrator. The home office is in Jackson, Mississippi.

(10) Application for admission to do business in Texas of Forrest T. Jones Consulting Company, a foreign third party administrator. The home office is in Kansas City, Missouri.

(11) Application for admission to do business in Texas of Forrest T. Jones and Company, Inc., a foreign third party administrator. The home office is in Kansas City, Missouri.

(12) Application for incorporation of Producers Exchange Life Insurance Agency, Inc., a domestic third party administrator. The home office is in Dallas.

(13) Application for incorporation of National Underwriting Services, Inc., a domestic third party administrator. The home office is in Houston.

(14) Application for incorporation of Erisa Administrative Services, Inc., a domestic third party administrator. The home office is in Austin.

(15) Application for incorporation of First City Bank of Dallas, a domestic third party administrator. The home office is in Dallas.

(16) Application for admission to do business in Texas of Arkansas Diversified Services, Inc., a foreign third party administrator. The home office is in Little Rock, Arkansas.

(17) Application for admission to do business in Texas of Oakmark of Tucson, a foreign third party administrator. The home office is in Tucson, Arizona.

(18) Application for admission to do business in Texas of Marketing Through Production, Inc., a foreign third party administrator. The home office is in Brentwood, Tennessee.

(19) Application for incorporation of Employers Claims Adjustment Services, Inc., a domestic third party administrator. The home office is in Dallas.

(20) Application for admission to do business in Texas of David Lloyd Jelinek, a foreign third party administrator. The home office is in Chicago, Illinois.

Issued in Austin, Texas, on January 14, 1988.

TRD-8800495  Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: January 15, 1988
For further information, please call (512) 463-6327.

Texas Department of Mental Health and Mental Retardation
Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Department of Mental Health and Mental Retardation (TDMHMR) is requesting offers from prospective consultants for the project described following.

The consultant will provide services to include a management and systems analysis which will include evaluation of and recommendations on department policies and procedures and policies and procedures of Austin, Denton, Fort Worth, and San Antonio State Schools, and other state schools, as determined necessary by the TDMHMR to determine compatibility with ACDD standards; on-site consultation at Austin, Denton, Fort Worth, San Antonio, and other state facilities, as determined necessary by TDMHMR to provide advice and recommendation concerning each facility's status of compliance with ACDD standards; Consultation by phone related to interpretation of ACDD standards and recommendations concerning ACDD standards or a facility's status of compliance with ACDD standards; surveys to determine ACDD accreditation; training related to ACDD standards as needed by each TDMHMR facility.

The TDMHMR intends to select the Accreditation Council for Developmental Disabilities (ACDD) to perform the services under this contract pursuant to the implementation agreement in the Lelsz v. Kavanagh litigation which requires the department to contract with ACDD for accreditation.

The closing date for receipt of offers is February 11, 1987. Prospective offerors should contact Nello Armstrong, Lelsz Coordinator, P.O. Box 12668, Austin, Texas 78711.

Issued in Austin, Texas, on January 14, 1988.
Railroad Commission of Texas

Extension of Comment Period

The Railroad Commission of Texas has proposed an amendment to 16 TAC § 17, concerning permit application decision periods.

The proposed amendment was published in the December 25, 1987, issue of the Texas Register (12 TexReg 4881). The comment period is being extended until 5 p.m., Friday, March 25, 1988.

Comments may be submitted to Ron Reeves, Assistant General Counsel for Surface Mining, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967.

Issued in Austin, Texas, on January 15, 1988
TRD-8800492  Walter Earl Lile
Special Counsel
Railroad Commission of Texas

Filed: January 15, 1988
For further information, please call (512) 465-7149.

Texas Water Commission

Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of January 4-8, 1988.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requestor or persons represented by the requestor would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 3708*, Austin, Texas 78711, (512) 463-7905.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of January 8, 1988

Dow Chemical Company—Texas Division, Carroll Test Pit, Fairfield; ignite test pit; east of a county road that is an extension of State 131 Road 1364, approximately two miles north of U.S. Highway 84 and approximately seven miles east of the City of Fairfield in Freestone County; 02578-6; renewal

Interstate Grain Corporation, Corpus Christi; sewage treatment plant; at River Road, approximately ½ mile north of the IH 37 between Corp Products Road and Lantana Road in Nueces County; 12985-01; renewal

Marvin Pope and Janice Cobb, Alba; sewage treatment plant; approximately 1,000 feet east of FM Road 17, 4.5 miles north of the intersection of State Highway 182 and FM Road 17 in the City of Alba, between Mustang Bay and Little Mustang Bay on Lake Fork Reservoir in Wood County; 13366-01; new

La Porte Chemical Corporation, Subsidiary of the BF Goodrich Company, La Porte; chemical plant; on the north side of Miller Creek; road, approximately 3,000 feet east of its intersection with State Highway 134 (Batteground Road) in the City of La Porte, Harris County; 02097; renewal

Freedom Financial Corporation, Dallas; wastewater treatment plant; approximately 1 mile northwest of the intersection of League Line Road and White Oak Drive on Lake Conroe in Montgomery County; 13417-01; new

The Atherton, Lopaca, and Santa Fe Railway Company, Silsbee; Terminal Station, Silsbee; railroad shop and fueling station; approximately ½ mile south of the intersection of 10th Street and Avenue E in the City of Silsbee, Hardin County; 000745; renewal

West Texas Utilities Company, Giddings; steam electric station; adjacent to the Pecos River in Crockett County (Section 11, Block 31, H&TC RR Survey) and about ½ mile north of U.S. Highway 67, northeast of the Town of Giddings, Pecos County; 00961; renewal

Brownsville Public Utility Board, Brownsville; sewage treatment plant; north of the 2800 block of East Avenue, approximately ½ mile west of East 30th Street in southeast Brownsville, Cameron County; 10397-03; renewal

City of Houston, Houston; wastewater treatment plant; at 5565 Kirkpatrick in the City of Houston, Harris County; 10495-23; renewal

Conroe Independent School District, Conroe; sewage treatment plant; approximately 1,000 feet north of FM Road 3083 and 2200 feet south of FM Road 2090 in Montgomery County; 12607-01; renewal

Pineywoods Baptist Encampment, Groveton; wastewater treatment plant; approximately six miles east of the City of Groveton, approximately 2,000 feet south of U.S. Highway 287 at woodlake in Trinity County; 11775-01; renewal

City of New Deal, New Deal; treatment plant; one mile east of the City of New Deal on County Road 57 on the northwest corner of the intersection of County Roads 57 and 25 in Lubbock County; 12740-01; renewal

Union Carbide Corporation-Seadrift Plant, Seadrift; hazardous/industrial solid waste storage, processing, and disposal facility; on a 2,600-acre tract of land in Calhoun County along both sides of State Highway 185 approximately one mile south of Highway 35 and six miles north of the town of Seadrift; HW-50190-000; new
Nalco Chemical Company, Sugar Land; hazardous/industrial solid waste storage and processing facility; on a 30.116-acre tract of land owned by Nalco Chemical Company, just north of U.S. Highway 90-A in the City of Sugar Land, Fort Bend County; HW 50120-001; amendment

The Lubrizol Corporation, Hayward Plant, Pasadena; plant manufacturing and/or distributing lubricants, greases, and fuels, in the Hayward Industrial Complex, approximately one mile south of the intersection of Fairmont Parkway and Bay Area Boulevard, Harris County; 01/09/90; renewal

Gifford-Hill and Company, Inc, Scale Plant Number 16, College Station; sand and gravel mine; immediately west of the Museum Park rail line, about 2,000 feet northeast of the corner of the Old San Antonio Road and 2.5 miles northwest of the City of College Station, Brazos County; 03/28/89; renewal

Aircor Carbon, a Division of the Boc Group, Inc., Seadrift; coke calcining facility; between State Highway 185 and the Victoria Bayou Canal, south of the intersection of State Highway 185 and 35; near the City of Seadrift, Calhoun County; 02/28/89; renewal

Johann Halffmeister, Inc., Channelview, plant recovering saleable products in off-specified petroleum products; at 16716 Loop 1604 Boulevard in the Community of Channelview, Harris County; 02/28/89; renewal

National Distillers and Chemical Corporation, USI Chemical Company, Dry Fork Plant, Deer Park; facility producing synthetic gas and methanol; at 16603 Longroyd Road between Milam Cutoff Road and Sens Road, Harris County; 02/28/89; renewal

Trinity River Authority, Arlington; wastewater treatment plant, approximately nine miles due west of downtown Dallas and north of the Dallas-Fort Worth Turnpike at the confluence of the West Fork Trinity River and Mountain Creek in Dallas County; 10/03/90; amendment

Issued in Austin, Texas, on January 12, 1988
TRD-8600347 Karen A. Phillips Chief Clerk Texas Water Commission

Filed: January 13, 1988
For further information, please call (512) 471-7131.

Public Notice

The Texas Water Commission is required under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-j, §13, (a) (a), to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or to the environment. The first registry of such sites was published in the Texas Register on January 30, 1987 (12 TexReg 205). The Act, §13(3)(a) and (c), requires the commission to reassess the relative priority of the need for action at each site listed on the registry to remedy environmental and health problems resulting from the presence of hazardous waste at the site. The commission is also required to periodically update the registry to add new sites, to delete sites that have been cleaned up or delisted, or to modify any other information regarding the site.

Three sites, Butler Ranch, Lindsey Post Company, and Sonics International, were proposed for inclusion on the registry on January 16, 1987 (12 TexReg 205). Fifteen sites were proposed for inclusion on the registry on October 16, 1987 (12 TexReg 3858).

The following list constitutes the 1988 registry. The sites are listed in relative priority of the need for action at each site to remedy environmental and health problems resulting from the presence of hazardous waste at the sites. Also included are recommendations for actions which may be pursued to achieve effective, efficient, and timely cleanup or other resolution of the problems identified for each facility. The recommendations do not constitute the remedial investigation/feasibility study for the sites. Cleanup at each site may be achieved by one or more of the recommended remedial alternatives, and is not limited to the alternatives listed.

1988 Registry

1. Houston Lead, Houston, Harris County. Recommended cleanup by on-site transport and disposal and/or treatment, on-site treatment and surface cap, off-site reclamation, and groundwater recovery and treatment.

2. Houston Scrap, Houston, Harris County. Recommended cleanup by off-site transport and disposal and/or treatment, off-site treatment or off-site reclamation.

3. Rio Grande Refineries I, Sour Lake, Hardin County. Site of former refinery. Recommended cleanup by biological treatment, excavation, off-site transport and disposal, or surface cap.

4. Rio Grande Refineries II, Sour Lake, Hardin County. Site of former storage facility for refined fuels. Recommended cleanup by biological treatment, excavation, off-site transport and disposal, or surface cap.


6. Precision Machine, Odessa, Ector County. Recommended cleanup by off-site transport and disposal and groundwater recovery and treatment.


8. Maintech International, Port Arthur, Jefferson County. Recommended cleanup by off-site transport and disposal, or surface cap, or on-site landfill.

9. Arec Mercury, Alvin, Brazoria County. Recommended cleanup by off-site transport and disposal, run-on run-off control, or surface cap.

10. Gulf Metals, Houston, Harris County. Recommended cleanup by off-site excavation and disposal, run-on run-off control, surface cap, or on-site biological treatment.

11. Wortham Lead Salvage, Eustace, Henderson County. Recommended cleanup by excavation, off-site transport and disposal, run-on run-off control, or surface cap.

12. Texas American Oil, Midlothian, Ellis County. Recommended cleanup by off-site transport and disposal, or on-site biological treatment, or surface cap.

13. Niagara Chemical, Harlingen, Cameron County. Recommended cleanup by surface cap, off-site transport and disposal, incineration, or biological treatment.

14. McBay Oil and Gas, Grapeeland, Houston County. Recommended cleanup by biological treatment,

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excavation, off-site transport and disposal, and run-on/run-off control.

(15) Solvent Recovery Services, Arcola, Fort Bend County. Recommended cleanup by off-site transport and disposal or treatment, and run-on/run-off control.

(16) Harris Sand Pits, Von Ormy, Bexar County. Recommended cleanup by off-site disposal or treatment, run-on/run-off control, and surface cap.

(17) Butler Ranch, Karnes County. Recommended cleanup by excavation, off-site disposal and treatment, and surface cap.

(18) Pip Mineral, Liberty, Liberty County. Recommended cleanup by off-site disposal or treatment, surface cap, and run-on/run-off control.

(19) Hayes-Sammons Warehouse, Mission, Hidalgo County. Recommended cleanup by surface cap, off-site transport and disposal, or biological treatment.

(20) Baldwin Waste Oil, Robstown, Nueces County. Recommended cleanup by off-site transport and disposal or treatment, and run-on/run-off control.

(21) Waste Oil Tank, Houston, Harris County. Recommended cleanup by off-site transport and disposal or treatment.

(22) Hall Street, Dickinson, Galveston County. Recommended cleanup by surface cap, excavation, or off-site transport and disposal.

(23) Unnamed Plating Site, El Paso, El Paso County. Recommended cleanup by off-site transport and disposal, run-on/run-off control, or surface cap.

(24) La Pata Oil, Houston, Harris County. Recommended cleanup by off-site transport and disposal.


(26) South Texas Solvents, Banquete, Nueces County. Recommended cleanup by off-site transport and disposal or treatment, and excavation.

(27) Besiplate, Hutchins, Dallas County. Recommended cleanup by off-site transport and disposal, and run-off/run-on control.

At the request of one of the responsible parties and upon review and approval of the request by the executive director of the Texas Water Commission, the registry listing for Rio Grande Refinery (Number 3) has been modified to sever the site into two separate sites known as Rio Grande Refinery I (site of former refinery), and Rio Grande Refinery II (site of former storage facility for refined fuels).

The Lindsay Post Company Site, located in Alto, Cherokee County, was proposed for inclusion on the registry on January 16, 1987 (12 TexReg 205). The site is not presently included on the 1988 registry because the violations will be addressed through the commission's solid waste enforcement authorities.

Issued in Austin, Texas, on January 13, 1988.

TRD-8800510 J D Head
General Counsel
Texas Water Commission

Filed: January 18, 1988
For further information, please call (512) 463-8069.