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Texas Register

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

Governor—appointments, executive orders, and proclamations

Attorney General—summaries of requests for opinions, opinions, and open records decisions

Emergency Sections—sections adopted by state agencies on an emergency basis

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections—sections 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 explanation of the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes 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 "13 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 13 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 using *Texas Register* indexes, the *Texas Administrative Code*, sections 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 section 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*;

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§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1, 15 represents the individual section within the chapter).

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Texas Department of Commerce

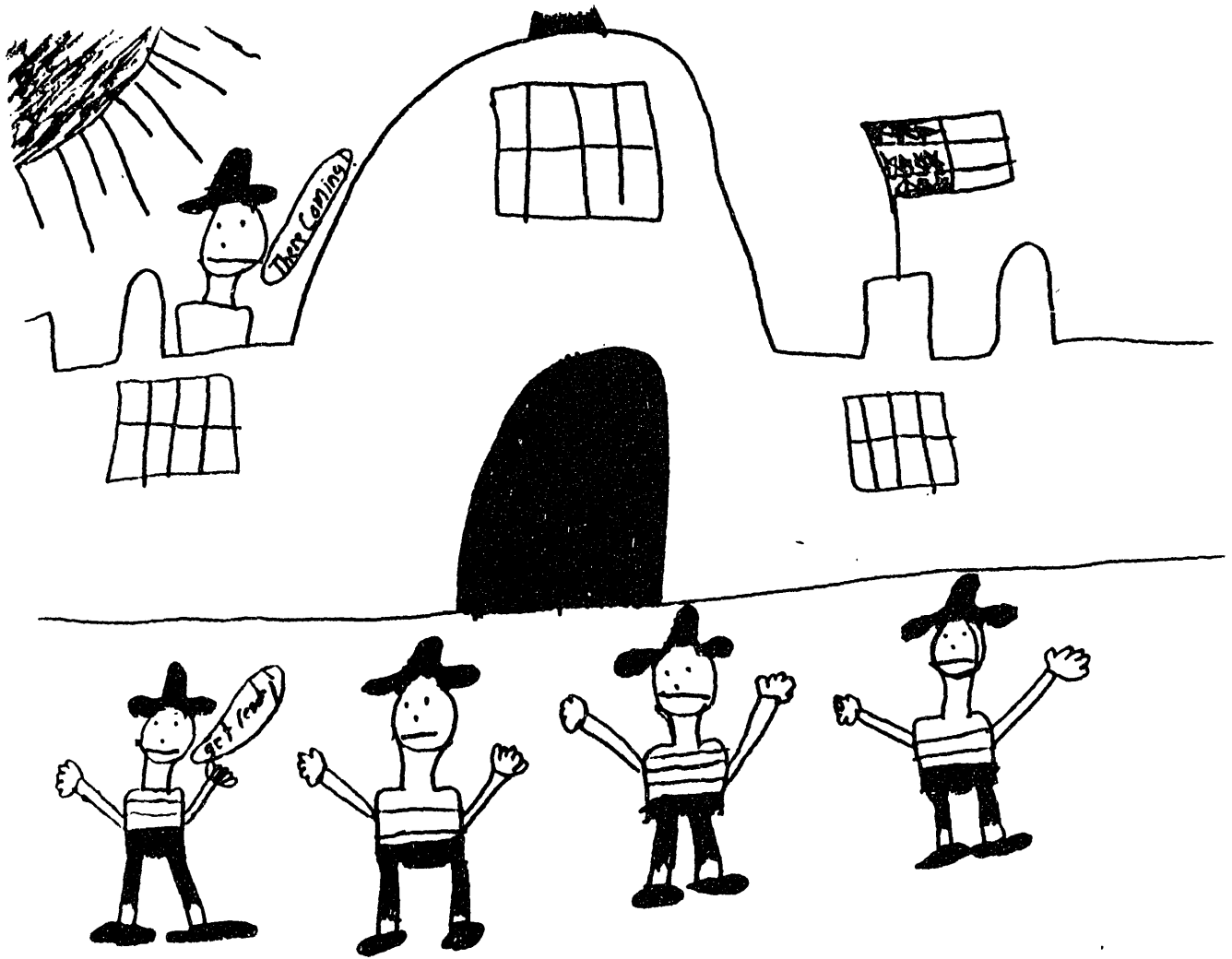
6171-Notice of Public Hearing

*Texas Higher Education Coordinating
Board*

6172-Consultant Proposal Request

Texas Water Commission

6172-Request for Proposals



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TAC Titles Affected

TAC Titles Affected—December

The following is a list of the administrative rules that have been published this month.

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

1 TAC §§3.401-3.433—6027

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §21.68—6055

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

7 TAC §107.2—6055

7 TAC §109.7—6055

7 TAC §115.3—6073

7 TAC §131.2—6075

7 TAC §137.2—6075

7 TAC §139.11—6075

7 TAC §§141.1-141.8—6056

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

10 TAC §9.41—6151

Part II. Texas Department of Commerce

10 TAC §§182.1-182.4—6013

Part IV. Texas Housing Agency

10 TAC §149.4—5949

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

16 TAC §23.27—6063

Part IV. Texas Department of Labor and Standards

16 TAC §§70.20-70.22—6157

TITLE 19. EDUCATION

Part II. Texas Education Agency

19 TAC §89.201—6028

19 TAC §§89.211, 89.213, 89.215, 89.216, 89.223, 89.224, 89.226, 89.227, 89.229, 89.231-89.233, 89.235, 89.236, 89.238, 89.240, 89.242-89.244—6028

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19 TAC §89.225—6032

19 TAC §§89.250, 89.256, 89.258—6032

19 TAC §89.251, §89.252—6033

19 TAC §§105.466-105.468—5963

19 TAC §105.469—5969

19 TAC §§157.1-157.16—5969

19 TAC §§157.1-157.22—5969

19 TAC §§157.41-157.63—5970

19 TAC §157.67—5970

19 TAC §§157.71-157.76—5971

TITLE 22. EXAMINING BOARDS

Part V. Texas State Board of Dental Examiners

22 TAC §109.173—6068

22 TAC §115.10—6075

Part XI. Board of Nurse Examiners

22 TAC §§211.1-211.16—6076

22 TAC §§211.1-211.10—6077

22 TAC §217.11—6073

Part XII. Board of Vocational Nurse Examiners

22 TAC §231.1—6151

22 TAC §231.11-§231.15—6068

22 TAC §233.1—6069

22 TAC §233.21—6069

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22 TAC §473.2—5953

Part XXII. Texas State Board of Public Accountancy

22 TAC §501.2—6069

22 TAC §501.32—6070

22 TAC §501.48—6070

22 TAC §505.10—6157

22 TAC §593.6, §593.22—5971

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25 TAC §31.1, §31.3—5972

Part VI. Statewide Health Coordinating Council

25 TAC §571.1—6077

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25 TAC §601.1—5953, 5961

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25 TAC §621.22, §621.23—5954

25 TAC §621.23—6021, 6033

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TITLE 28. INSURANCE

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28 TAC §1.303—5972

28 TAC §7.1006—6033

28 TAC §27.14—5949

28 TAC §27.209—5949

28 TAC §27.413—6159

28 TAC §§27.801-27.809—5950

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31 TAC §3.10—6079

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31 TAC §57.601—6080

Part III. Texas Air Control Board

31 TAC §101.1—6081

31 TAC §115.111, §115.113—6082

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31 TAC §§115.141-115.144—6084

31 TAC §§115.162-115.164—6084

31 TAC §§115.171-115.176—6086

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31 TAC §115.221—6094

31 TAC §115.262—6094

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31 TAC §287.2—6160

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31 TAC §§287.43, 287.44, 287.46, 287.49, 287.50—6160

31 TAC §287.91—6161

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §81.1—5972

34 TAC §81.7—5973

34 TAC §3.640—5956

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34 TAC §155.15—6073, 6094

34 TAC §165.61—6023, 6025

34 TAC §165.81—6023

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37 TAC §1.32—6033

37 TAC §1.122—6034

37 TAC §§17.1-17.4, 17.7-17.10, 17.12, 17.14-17.18, 17.20-17.25, 17.28-17.30—6094

37 TAC §23.51, §23.52—6034

Part XI. Texas Juvenile Probation Commission

37 TAC §341.17—6024

37 TAC §341.19—6024

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §7.207, §7.208—5974

40 TAC §7.402, §7.404—5974

40 TAC §9.101—5974

40 TAC §§9.201-9.204—5974

40 TAC §§9.301-9.303—5974

40 TAC §§9.401-9.405—5974

40 TAC §9.501, §9.502—5974

40 TAC §49.315, §49.316—6071

40 TAC §49.345—6071

40 TAC §49.1301—6071

40 TAC §72.601—5975

Part II. Texas Rehabilitation Commission

40 TAC §115.4—6072

Part VI. Texas Commission on Human Rights

40 TAC §327.9—6153

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

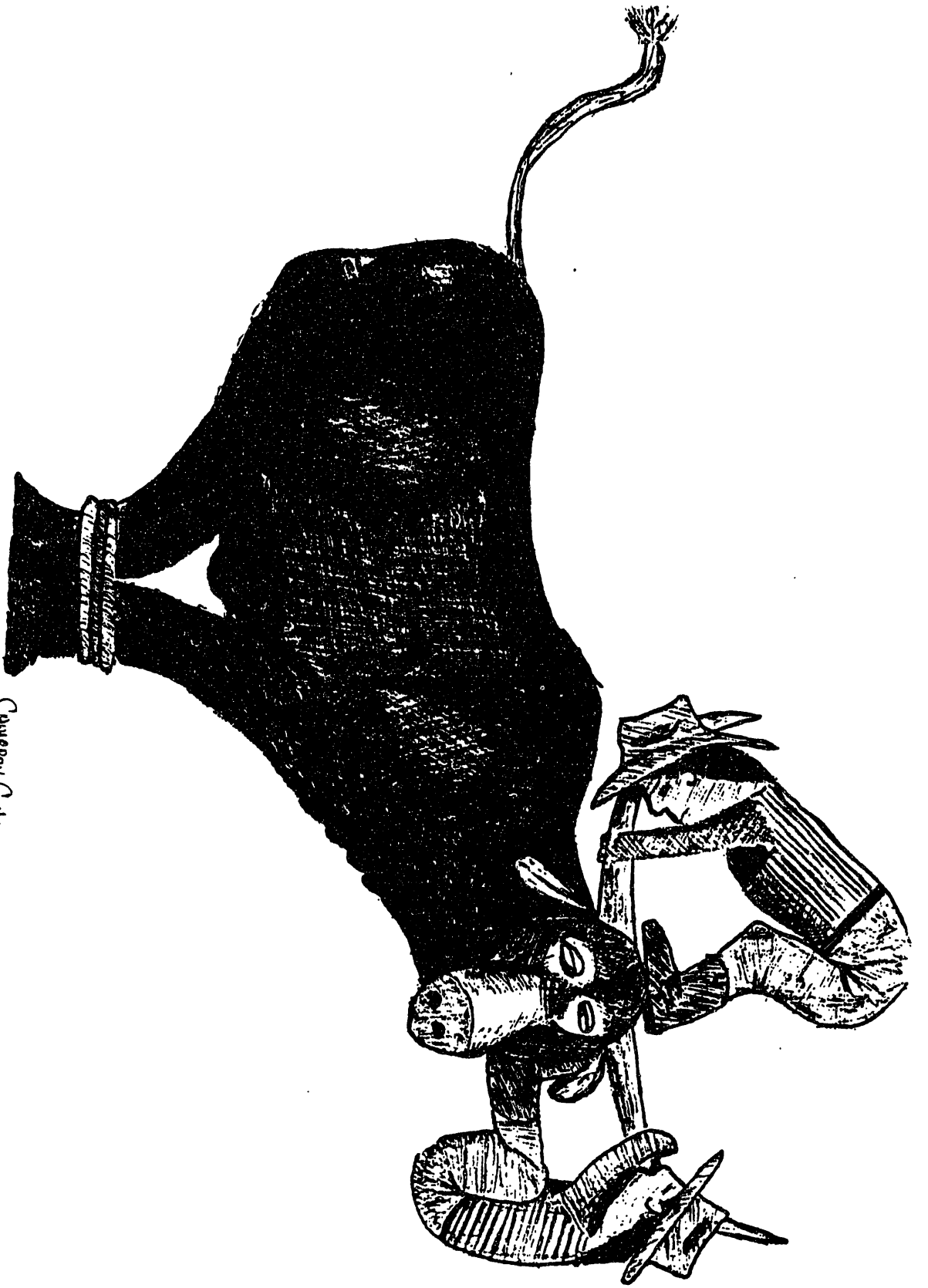
43 TAC §§21.31, 21.32, 21.35, 21.37-21.40, 21.42-21.46, 21.48-21.51, 21.53, 21.54—6139

43 TAC §21.33, §21.41—6149

43 TAC §§25.601-25.610—6034

43 TAC §§25.701-25.709—6034





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Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes, Article 4399, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

Requests for Opinions

JM-986 (RQ-1491). Request from Lloyd Criss, Chairman, Labor and Employment Relations Committee, Texas House of Representatives, Austin, Mark W. Stiles, Chairman, Committee on County Affairs, Texas House of Representatives, Austin, and Marcus D. Taylor, Criminal District Attorney, Quitman, concerning the duties of the county auditor and the county treasurer in less populated counties.

Summary of Opinion. In a county with a population under 500,000, the county treasurer not the county auditor, is the appropriate officer to prepare the county payroll and make deductions from the compensation of county employees. In a county with a population of 190,000 or less, the commissioners court is responsible for approving the

county payroll and issuing warrants in payment of salaries. These duties may not be delegated to either the county auditor or county treasurer. The ministerial task of preparing salary warrants in such a county may be delegated to the county treasurer. The commissioners court may not draw checks in payment of salaries. TRD-8812435

◆ ◆ ◆
JM-987 (RQ-1363 and RQ-1415). Request from Perry L. Adkisson, Chancellor, The Texas A&M University System, College Station, and Bob Bullock, Comptroller of Public Accounts, Austin, concerning the applicability of the limited sales and use tax to public entities.

Summary of Opinion. The Limited Sales and Use Tax Law, applies fully to the state,

including its agencies and political subdivisions, to municipalities, and to independent school districts entering into transactions which fit within the terms of the Tax Code. All entities subject to the provisions of the sales tax law are entitled to any benefits extended by the statute, including the provision which allows sellers and retailers who collect the tax to withhold a specified percentage of the taxes collected as reimbursement for the costs of collection. The State Funds Reform Act, of the Government Code, §§404.091-404.094, apply to the handling of sales tax receipts collected by the entities subject to the Act. Penalties and interest levied against public entities pursuant to the Tax Code may be paid by the entities only pursuant to law. TRD-8812434

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Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 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 sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 43.

TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 21. Right of Way Division

Utility Accommodation

- 43 TAC §§21.31, 21.32, 21.35, 21.37-21.40, 21.42-21.46, 21.48-21.51, 21.53, 21.54

The State Department of Highways and Public Transportation adopts on an emergency basis amendments to §§21.31, 21.32, 21.35, 21.37-21.40, 21.42-21.46, 21.48-21.51, 21.53 and 21.54, concerning utility accommodation. These sections are being amended to incorporate changes in methods and technology of the highway and utility systems. Section 21.31, concerning definitions, is amended to include definitions of new terms and to expand current definitions for certain terminology used in the amended sections. Section 21.32, concerning purpose, is amended to provide for the interests of safety and protection in the development of highways with consideration for utility installation. Section 21.35, concerning exceptions, is amended to allow persons other than the state engineer-director to approve exceptions. Section 21.37, concerning location, is amended to include new provisions for longitudinal utility installations. Section 21.38, concerning design, is amended to include new references and specifications. Section 21.39, concerning aesthetics, is amended to include more specific requirements for tree replacement and tree value. Section 21.40, concerning safety, is amended to provide for proper signs, markers, and barricades when utility construction is being accomplished in the highway right-of-way. Section 21.42, concerning pipelines-general, is amended to include new boring requirements. Section 21.43, concerning high pressure gas and liquid fuel lines, is amended to include center median width, depths of concrete slabs, longitudinal markers and to prohibit above ground appurtenances. Section 21.44, concerning low pressure gas lines, is amended to include longitudinal markers, to allow an increase in the size of plastic lines used in crossings, and to prohibit above ground appurtenances. Section 21.45, concerning water lines, is amended to include center median width. Section 21.46, concerning sanitary sewer lines, is amended to include the reference to "ductile iron" in lieu of "cast iron", to include protection of the integrity of the highway system, and to provide additional reference to

manhole specifications. Section 21.48, concerning traffic structures, is amended to renumber certain existing portions of this section and to add procedures for applications for attachment to structures. Section 21.49, concerning overhead power and communications lines, is amended to include minimum vertical clearances for cable television lines and to revise horizontal clearances for poles and guys. Section 21.50, concerning underground power lines, is amended to provide depths required by the National Electric Safety Code and expands provisions for markers. Section 21.51, concerning underground communication lines, is amended to include provisions for fiber optic cables, longitudinal markers, and large equipment housings. Section 21.53, concerning use and occupancy agreement forms, is amended to indicate the State Highway and Public Transportation Commission's authority for requiring provisions which protect the integrity of the highway system for its use by the traveling public. Section 21.54, concerning notice forms, is amended to indicate the State Highway and Public Transportation Commission's authority for requiring provisions which protect the integrity of the highway system and its use by the traveling public. This section is also amended to provide for approval authority by the department's district engineer except in limited situations.

The amended sections are adopted on an emergency basis in order to protect the safety of the traveling public, to avoid unreasonable delays in the adjustment and installation of public utilities, and to conform with the amendments to 23 Code of Federal Regulations, Part 645, Federal Highway Administration, Docket 86.15.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 6666, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation.

§21.31. Definitions. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

Administration—The state engineer-director for highways and public transportation, state deputy engineer-director and deputy directors of the State Department of Highways and Public Transportation.

American Association of State Highway and Transportation Officials (AASHTO)—An association of state highway and transportation officials.

Bridge engineer—The bridge engineer for the State Department of Highways and Public Transportation.

Chief engineer of highway design—The chief engineer of highway design for the State Department of Highways and Public Transportation.

Chief engineer of maintenance and operations—The chief engineer of maintenance and operations for the State Department of Highways and Public Transportation.

Common carrier—A person who owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or from the public for hire, or engages in the business of transporting crude petroleum by pipeline. A common carrier may transport oil, oil products, gas, salt brine, fuller's earth, sand, clay, liquefied minerals, or other mineral solutions.

Controlled access roadway—A highway on which owners or occupants of abutting lands and other persons are denied access to or from same except at such points only and in such manner as may be determined by the State Department of Highways and Public Transportation.

Department—The Texas State Department of Highways and Public Transportation (SDHPT).

Design Vehicle Load (HS-20)—A design load designation used for bridge design analysis representing a three-axle truck loaded with four tons on the front axle and 16 tons on each of the other two axles. The HS-20 designation is one of many established by the AASHTO for use in the structural design and analysis of bridges.

District engineer—The department is divided into districts with district offices throughout the State of Texas. The district engineer (DE) is the chief executive officer of a district of the SDHPT. The DE acts as the representative of the State Engineer-Director for the SDHPT at the district level [The district engineer of the department].

Frontage roads—A street or road auxiliary to, and located on the side of, an expressway or freeway that segregates local traffic from high-speed through

traffic and provides service to abutting property and control of access.

Low-volume highways and low-volume farm to market roads—Any roadways other than controlled access highways which carry a traffic volume of 750 vehicles per day or less and upon which projected traffic volume at the design year is not anticipated to exceed 1,500 [1,300] vehicles per day.

TMUTCD—The most recent edition of Texas Manual on *Uniform Traffic Control Devices for Streets and Highways*.

Noncontrolled access roadway—A highway on which owner or occupants of abutting lands or other persons have access to or from same.

Outer separation—The area between the traveled way of a roadway for through traffic and a frontage road or street.

Pavement structure—The combination of the surface, base course, subbase, and a minimum [up to] eight inches of stabilized subgrade material which supports the traffic load and distributes it to the roadbed. A minimum [maximum] of eight inches of subgrade stabilization is to be considered a part of the pavement structure.

Right of way engineer—The right of way engineer for the State Department of Highways and Public Transportation.

Utilities—All lines and/or their accessories within the highway rights-of-way except those for highway-oriented needs. Such utilities may involve underground, surface, or overhead facilities either singularly or in combination. Accessories are any attachments, appurtenances, or integral parts of the utility (i.e., fire hydrants, valves, gas regulators, etc.). The placing of accessories within the highway right-of-way will be determined by such factors as type, size, safety, availability of space, etc.

§21.32. *Purpose.* These sections prescribe the minimums relative to the accommodation, method, and location for the installation, adjustment, and maintenance of utility facilities, including privately owned, within the rights-of-way of highways on the state highway system. These sections are developed in the interests of safety and protection, utilization, and future development of highways with due consideration given to public service afforded by adequate and economical utility installations.

§21.35. *Exceptions.* Exceptions to any design, location, or methods of installation provisions contained in these sections may be authorized by the bridge engineer, chief engineer of highway design, or chief engineer of maintenance and operations, whichever is applicable. Exceptions for form and/or property rights may be au-

thorized by the right of way engineer and/or chief engineer of maintenance and operations. In addition, exceptions in unusual cases may require approval of the administration. [state engineer-director for highways and public transportation in any instance] Requests for exceptions will be considered only where it is shown that extreme hardship and/or unusual conditions provide justification and where alternate measures can be prescribed in keeping with the intent of these sections. All requests for such exceptions shall be fully documented with design data, cost comparisons, and other information that may be pertinent.

§21.37. *Location.*

(a) (No change.)

(b) On controlled access highways, the location shall permit maintenance of the utility by access from frontage roads where provided, nearby or adjacent roads and streets or trails along or near the highway right-of-way line, to the extent practicable, without access from the through traffic roadways or ramps.

(1) On designated controlled access highways where frontage roads are not provided and where it is necessary to accommodate a longitudinal trunk line or transmission type utility line within the right of way, a multiple use area may be established by an inward relocation of the control of access line to the extent necessary to permit installations of the utility facility outside the access control limits. The relocation of the control of access line is for utility installation and maintenance purposes only and does not alter the denial of access as regards property adjoining the right-of-way line.

(2) Aerial installation will be limited to self-supporting, single-pole construction and the multiple-use area will be serviced without access from the through traffic roadways or ramps as discussed in this section.]

(c) New utilities will not be permitted to be installed longitudinally within control of access lines of any freeway, except that in special cases such installations may be permitted under strictly controlled conditions. However, in each such case the utility owner must show that:

(1) the accommodation will not adversely affect the safety, design, construction, operation, maintenance, or stability of the freeway;

(2) the accommodation will not be constructed and/or serviced by direct access from the through traffic roadways or connecting ramps;

(3) the accommodation will not interfere with or impair the present use or future expansion of the freeway; and

(4) any alternative location would be contrary to the public interest. (This determination would include an evaluation of the direct and indirect environmental and economic effects that would result from the disapproval of the use of such right-of-way for the accommodation of such utility.)

(d) Where a utility already exists within the proposed right-of-way of a freeway and it can be serviced, maintained, and operated without access from the through traffic roadways or ramps, it may remain as long as it does not adversely affect the safety, design, construction, operation, maintenance, or stability of the freeway; otherwise, it must be relocated.

(e) The longitudinal installation of a utility between the right-of-way line and the frontage road will not violate control of access in those control areas near ramp terminals.

(f) When longitudinal installations are proposed within existing access control lines as special cases and meet the conditions under subsection (c) of this section, a utility strip shall be established by locating a utility access control line between the proposed utility facility and the through roadway and ramps. Existing fences should be retained and, except along sections of freeways having frontage roads, planned fences should be located at the freeway right-of-way line. Denial of access regarding property adjoining the right-of-way line will not be altered.

(g)[(c)] Longitudinal installations shall be located on uniform alignment as near as practicable to the right-of-way line to provide space for future highway construction and for possible future utility installations.

(h)[(d)] On highways with frontage roads, longitudinal utility installations will be located between the frontage roads and the right-of-way line. Utility lines shall not be placed or remain in the center median, or beneath through traffic roadways, ramps, or connecting roadways (including shoulders).

(i)[(e)] Utility lines crossing the highway should be located at approximate right angles to the highway to the extent feasible and practicable. Reasonable latitude may be exercised as regards the crossing angle of existing lines which are otherwise qualified to remain in place.

(j)[(f)] The horizontal and vertical location of utility lines should conform with the clear roadside practices of the department, consistent with the clearances applicable to all roadside obstacles.

(k)[(g)] In utility installations, consideration shall be given to state and local requirements. It shall be the utility company's responsibility to determine if other utility lines exist or are planned at the

proposed installation area. The utility company should insure that the proposed installation is compatible with existing or proposed utilities.

§21.38. Design.

(a) The design of any utility installation will be the responsibility of the utility company. An installation within the highway right-of-way must be reviewed and approved by the department with regard to the location and the manner of adjustment. This includes the measures to be taken to preserve the safety and free flow of traffic, structural integrity of the roadway or highway structure, ease of highway maintenance, appearance of the highway, and the integrity of the utility facility. Utility installations on, over, or under the right-of-way of the state highway system shall conform with requirements contained herein and/or, as a minimum, the appropriate requirements outlined in the following, whichever is greater:

(1) [Electric power and communication utility installations.

[(A) National Electric Safety Code.

[(B)] Safety Rules for the Installation [installations] and maintenance of electric supply and communication lines—National Electric Safety Code.

[(2) Water lines—American Water Works Association.]

[(2) [(3) Gas pipelines—] Title 49, Code of Federal Regulations, Part 192, Transportation of Natural and Other Gas by Pipeline: minimum federal safety standards and amendments.

[(3) [(4) Liquid petroleum pipelines—] Title 49, Code of Federal Regulations, Part 195, transportation of liquids by pipelines and amendments.

[(4) [(5) Latest American Society for Testing and Materials (ASTM) specifications.

(5) Most recent edition of the Texas Manual on *Uniform Traffic Control Devices*.

(6) Latest edition of the *Rules and Regulations for Public Water Systems*, published by the Texas Department of Health, Water Hygiene Division.

(7) Most recent edition of the AASHTO policy entitled *A Policy on the Accommodations of Utilities Within Free-way Right of Way*.

(b) (No change.)

(c) Special precautions should [Care shall] be taken during [in] utility installations to avoid disturbing existing drainage courses [facilities]. In addition, soil erosion should be held to a minimum

and sediment from the construction site should be kept away from the roadway and drain inlets.

(d) Underground utility installations should be backfilled with pervious material and outlets provided for entrapped water. Underdrains shall be provided where necessary. No jetting or puddling beneath the roadway will be permitted.

(e) Clearances between underground utilities and storm sewers shall be a minimum of 12 inches if the installation can take place without disturbing the storm sewer installation. Otherwise, the minimum clearance will be 24 inches.

(f) [(d)] On new installations or adjustment of existing utility lines provision for known or planned expansion of the utility facilities may be made, all at the sole expense of the utility firm. Any such expansion should be planned so as to minimize hazards and interference with highway traffic at a future date.

(g) [(e)] Manholes shall be limited to those necessary for installation and maintenance of underground lines. In no case shall they be placed or permitted to remain in the pavement or shoulders of high volume roadways except at those locations on noncontrolled access highways in urban areas where necessary for existing lines which may be permitted to remain in place under existing or proposed roadways. Manholes may remain in place or be installed under traffic lanes of low volume roadways in municipalities, provided measures are taken to minimize such installations and to avoid their locations at intersections insofar as possible. Manholes vary as to size and shape depending on the type of utility they serve. To conserve space their dimensions should be the minimum acceptable by good engineering and safety standards. [Where soil conditions require, outside forms shall be used.] In general, the only equipment to be installed in manholes located on highway right of way is that which is essential to the normal flow of the utility, such as circuit reclosers, cable splices, relays, valves, and regulators. Other equipment such as substation equipment, large transformers, pumps, etc., should be located outside the limits of the highway right-of-way. Straight line manholes are the only type normally permitted within the right-of-way. The width dimensions should be no larger than is necessary to hold equipment involved and for safety standards to be assured for maintenance personnel. Outside width should not exceed seven feet, with the length to be held to a reasonable minimum. The outside diameter of the manhole chimney at the ground level should not exceed 36 inches. Where proven necessary the outside diameter of the chimney may be up to 50 inches. The top of the roof of the manhole should be five feet below ground level. Where such depth factor is impracticable sufficient data should be submitted to the depart-

ment for handling as an exception. For width and depth requirements concerning sanitary sewer manholes refer to §21.46 of this title (relating to Sanitary Sewer Lines). All manhole covers shall be installed flush with the ground and/or pavement surface, whichever is applicable. In order to minimize vandalism, manhole covers placed anywhere within state right-of-way must weigh at least 175 pounds. All underground utilities within the highway right-of-way, including manhole rings and covers, must be designed for HS-20 loading. [Manhole covers shall have sufficient structural capacity to withstand vehicular loading.]

§21.39. Aesthetics.

(a) To preserve and protect trees, [and] shrubbery, and other aesthetic features on the highway right-of-way the department may [shall] specify the extent and methods of tree removal, [and] tree trimming, or their replacement, and replacement of other aesthetic features, including installation methods of the underground or overhead utility. The district engineer shall use due consideration in establishing the value of trees and other aesthetic features in the proximity of a proposed utility line and any special district requirements justified by the value of the trees and other aesthetic features [in making underground or overhead utility installations. Where justified by conditions, the department may permit removal of trees or shrubbery of value to the highway, contingent upon replacement in kind by the utility firm].

(b) (No change.)

[(c) There is no legal authority whereby the state may expend highway funds to relocate or adjust utilities for aesthetic purposes nor is there any legal authority to require utility owners to expend funds for such purpose. Nevertheless, consideration is to be given to the aesthetic features of new and relocated utility installations and utility owners may voluntarily elect and are encouraged to place their facilities in such a manner as to achieve an aesthetic environment.]

§21.40. Safety.

(a) Appropriate measures shall be required in the interests of safety, traffic convenience, and access to adjacent property. Appropriate signs, markings, and barricades shall be placed by the utility prior to the beginning of construction and shall be maintained to properly warn motorists. All traffic control devices shall conform to the TMUTCD. No traffic shall be blocked or stopped at any time without the presence of a vested flagperson to warn and control traffic. [Necessary signs, barricades, and protective devices shall be used, as required by the district engineer, in order to warn highway

users and to provide protection to workers and the traveling public.]

(b) Where the cost of installation is the responsibility of the utility firm, the department shall require reimbursement for its cost of measures that the department may take in the interests of traffic safety, or restoration and repairs to the highway, which are made necessary by the utility installation.

(c) It is the responsibility of the district engineer to provide inspection as needed to insure that installations are accomplished in a safe manner as approved by the department.

§21.42. Pipelines—General.

(a)-(c) (No change.)

(d) Methods of installation.

(1) Lines placed under any existing roadway shall be installed by boring or tunneling in accordance with appropriate specifications. Jacking may be used only when approved by the district engineer. When installed by jacking or boring, encasement of the line may be required. [Bore pits should be located at least 30 feet from the edge of the nearest through traffic lane and not less than 20 feet from the edge of pavement on ramps. On low traffic road ways and frontage roads, bore pits should not be less than 10 feet from the edge of pavement or five feet from face of curb. Adequate warning devices, barricades, and protective devices will be used to prevent creation of a traffic hazard. Where circumstances necessitate the excavation of a bore pit closer to the edge of pavement than set forth in this paragraph, guard fence or other approved protective devices will be installed for protection of the traveling public in accordance with current departmental standards. Bore pits shall be located and constructed in such a manner as not to interfere with highway structural footings, safe roadside clearance, or traffic operations. If necessary, shoring shall be utilized.]

(2) For rural (uncurbed) highway cross sections, all borings shall extend beneath all travel lanes plus:

(A) thirty feet from all freeway main lanes and other high-speed (exceeding 40 mph) highways except as indicated in subparagraph (B) of this paragraph;

(B) sixteen feet for high-speed highways with current average daily traffic volumes of 750 vehicles per day or less;

(C) sixteen feet for ramps;

and

(D) ten feet for low-speed (40 mph or less) highways.

(3) For urban (curbed) highway cross sections, all borings shall extend beneath travel and parking lanes and extend beyond the back of curb plus:

(A) thirty feet from high-speed (greater than 40 mph) facilities; and

(B) three feet from low-speed (40 mph or less) facilities, plus any additional width to clear an existing sidewalk.

(4) All traffic control devices (signs, markings, barricades, etc.) used to warn motorists of the construction activity must conform to the TMUTCD.

(5) Where circumstances necessitate the excavation of a bore pit closer to the edge of pavement than set forth in paragraph (1) of this paragraph, a guard fence or other approved protective devices will be installed for protection of the traveling public in accordance with current departmental standards. Bore pits shall be located and constructed in such a manner as not to interfere with highway structural footings, safe roadside clearance, or traffic operations. If necessary, shoring shall be utilized.

(6)[(2)] The use of explosives for any excavations on the right-of-way incident to utility line installation shall be permitted only when the department has adequate assurance that no damage or hazard will be caused thereby. Such assurance should normally include detailed plans and procedures approved by a person who is qualified and experienced in the use of demolitions.

(7)[(3)] Where longitudinal trenching on the right of way is permitted, backfill shall be compacted to densities equal to that of the surrounding soil. Trenching across jointed concrete pavement should not be permitted, and in no instance shall trenching across continuously reinforced concrete pavement be permitted. Exceptions may be made to permit trenching across low volume roadways or urban non-controlled access roadways where conditions justify. Where trenching across other type pavements is justified, the department shall specify detailed methods for removal and replacement of embankment, base, and surfacing.

(e) Unsuitable conditions. Conditions which are generally unsuitable or undesirable for pipeline crossings should be avoided. These include locations such as deep cuts; near footings or bridges and retaining walls; across intersections at-grade or ramp terminals; at cross drains where flow of water, drift, or stream bedload may be obstructed; within basins or an underpass

drained by a pump if pipeline carries a liquid or liquefied gas; and in wet or rocky terrain where minimum depth of cover would be difficult to attain.

(f)-(g) (No change.)

§21.43. High Pressure Gas and Liquid Petroleum Lines.

(a) Depth of cover.

(1) For encased high pressure gas or liquid petroleum lines the minimum total clear depth of cover for casing pipe shall be 30 inches. For that portion of the carrier line outside of the casing pipe, including longitudinal portions, the minimum depth of cover within the highway right-of-way shall be 36 inches. Exceptions may be authorized to permit existing lines to remain in place with a reduction of six inches in the above specified depths of cover. All lines normally shall be a minimum of 18 inches or 1/2 the diameter of the pipe, whichever is greater, beneath the bottom of the pavement structure. Where materials and other conditions justify, such as on existing lines with encasement which are to remain in place, a minimum depth under the pavement structure of 12 inches or 1/2 the diameter of the pipe, whichever is greater, may be permitted.

(2) (No change.)

(b) Crossings.

(1) Pipeline installations across highways may be encased or unencased. Where encasement is to be employed such encasement shall be provided under center medians and from top of backslope to top of backslope for cut sections (or five feet beyond the toe of slope for fill sections, or face of curb) of all roadways including side streets, and five feet beyond any overpass or other structure where the line passes under it. Encasement may be omitted under center medians where their width is appreciably greater than normal rural standards (76 feet).

(2)-(3) (No change.)

(4) Existing lines under low volume farm-to-market roads and low volume highways may be permitted to remain in place without encasement or extension of encasement if they are protected by a reinforced concrete slab or equivalent protection or if they are located at a depth of five [six] feet under the pavement surface and not less than four feet under the roadway ditch. If a reinforced concrete slab is to be used, it should meet the following standards:

(A)-(D) (No change.)

(c) (No change.)

(d) Markers: The utility company shall place a readily identifiable and suitable marker at each right-of-way line where

it is crossed by any high pressure gas or liquid petroleum line except where marked by a vent. Readily identifiable and suitable markers in sufficient number as determined by the DE shall be placed at the right-of-way line for lines installed longitudinally within the SDHPT right of way. The offset distance from the right-of-way line shall be indicated on the marker. A vent will suffice as a marker.

(e) Above-ground appurtenances. Above-ground appurtenances, except vents, for gas lines shall not be permitted within the highway right-of-way.

(f)(e) Exceptions to location requirements. In urban areas, existing longitudinal lines which are not under the pavement or shoulder of any roadway or in the center median of a controlled access highway, may be permitted to remain in place provided all other requirements are met.

§21.44. Low Pressure Gas Lines.

(a) Depth of cover. For low pressure gas lines the minimum depth of cover within the right-of-way and under highway ditches, but outside the pavement structure, including longitudinal portions, shall be 24 inches for either encased or unencased installations. Exceptions may be authorized to permit existing lines to remain in place with a reduction of six inches in the above specified depth. Low pressure gas lines shall be a minimum of 18 inches or 1/2 the diameter of the pipe, whichever is greater, beneath the bottom of the pavement structure. Where materials and other conditions justify, such as on existing lines to remain in place, a minimum depth under the pavement structure of 12 inches or 1/2 the diameter of the pipe, whichever is greater, may be permitted. As used herein, depth of lines is the depth to the top of carrier pipe or casing as applicable.

(b) Encasement. Low pressure gas lines shall be encased as required for high pressure gas and liquid petroleum lines or they may be placed without encasement if they are of welded steel construction and are protected from corrosion by adequate and approved cathodic protective measures [measure] with specific agreement that the pavement will not be cut for repairs to the pipeline at any time in the future.

(c) (No change.)

(d) Markers. The utility company shall place a readily identifiable and suitable marker at each right-of-way line where it is crossed by a low pressure gas line except where marked by a vent. Readily identifiable and suitable markers in sufficient number as determined by the DE shall also be placed at the right-of-way line for lines installed longitudinally within the SDHPT right-of-way. The offset distance from the right-of-way line shall be indicated on the marker. A vent

will suffice as a marker.

(e) Plastic lines. Plastic lines may be used provided the internal pressure will not exceed 60 pounds per square inch, they are encased right-of-way line to right-of-way line on crossings and have at least 30 inches of cover. The maximum size of plastic lines for crossings shall not exceed 24 [six] inches. The maximum size of plastic lines placed longitudinally shall not exceed six inches. Where plastic pipe is installed longitudinally a durable metal wire shall be concurrently installed or other means shall be provided for detection purposes.

(f) Above-ground appurtenances. Above-ground appurtenances, except vents, for gas lines shall not be permitted within the highway right-of-way.

(g)(f) Exception to location requirements. In urban areas, existing longitudinal lines which can be maintained without violating access control and which are not under the pavement or shoulder of any proposed roadway or existing roadway which is scheduled for a major improvement may remain in place provided all other requirements are met and provided further that measures are taken to minimize any future need for cutting pavement to make service connections on any high traffic roadway.

§21.45. Water Lines.

(a) (No change.)

(b) Encasement. Encasement shall be provided under normal width center medians and from center of ditch to center of ditch for cut sections (or five feet behind toe of slope for fill sections or face of curb) of all roadways. Encasement may be omitted under center medians where their width is appreciably greater than normal rural standards (76 feet). Encasement under side road entrances may be omitted in consideration of traffic volume, condition of roadway, maintenance responsibility and local practice. Encasement under low-traffic roadways may be omitted on existing water lines having an inside diameter of 24 inches or more and on new lines having an inside diameter of 30 inches or more, provided all other requirements are met.

(c)-(f) (No change.)

(g) Markers. The utility company shall place a readily identifiable and suitable marker at each right-of-way line where it is crossed by a water line.

(h)-(j) (No change.)

§21.46. Sanitary Sewer Lines.

(a)-(b) (No change.)

(c) Materials. New and relocated sewer lines crossing through traffic roadways, ramps, and connecting roadways, ramps and connecting roadways of controlled access highways, and any other

high-traffic roadways shall be ductile [cast] iron, with satisfactory joints, or materials and designs, which will provide equal or better protection of the integrity of the highway system [strength] and resistance to damage from sulfide gases and other corrosive elements to which they may be exposed. [Concrete pipe may be used in those areas where its use has been proven acceptable.] New and relocated longitudinal lines and those crossing low-traffic roadways may be of any material which has been proven to be of satisfactory strength and durability in local use, provided all other requirements are met.

(d) Nonmetallic pipe. Where non-metallic pipe is installed longitudinally a durable metal wire shall be concurrently installed or other means shall be provided for detection purposes.

(e) Manholes. Manholes serving sewer lines up to 12 inches shall have a maximum ID of 4 feet. For any increase in line size greater than 12 inches the manhole ID may be increased a like amount. Manholes for large interceptor sewers should be specially designed, keeping the overall dimensions to a minimum. The outside diameter of the manhole chimney at the ground level shall not exceed three feet. For additional requirements refer to §21.38 of this title (relating to Design).

(f) (No change.)

§21.48. Traffic Structures.

(a) (No change.)

(b) Where other arrangements for a utility line to span an obstruction are not feasible, the department may consider the attachment of such line to a bridge structure. Any exceptions which are permitted shall be handled in accordance with the conditions set forth in §21.47 of this title (relating to Utility Structures) and other pertinent requirements contained herein. Each such attachment will be considered on an individual basis and permission to attach will not be considered as establishing a precedent for granting of subsequent requests for attachment. The following guides are established for attachment of utilities to bridges.

(1)-(3) (No change.)

(4)(A) When a municipality or utility company requests permission to attach a pipeline to a proposed bridge prior to construction, and the added load is sufficient to require an increase in the strength of the structure, or use of more costly materials or type of construction, the utility owner is required to pay for the increase in cost.

(5)(B) When a utility company requests permission to attach a pipeline to an existing bridge, sufficient information should be furnished to allow a stress analysis to determine the effect of the added load

on the structure. Other details of the proposed attachment as they affect safety and maintenance should also be presented. If the bridge structure is not of adequate strength to carry the increased weight or forces with safety, permission will not be granted.

(6) All requests for attachments to bridges or structures should originate with the utility company by its making application to the appropriate district engineer.

(A) For attachments to structures within active projects, requests for attachment along with the district engineer's recommendation should be forwarded to the bridge engineer for review and concurrence. Adequate justification, including details and an estimate for an independent utility crossing, should accompany the submission. If the attachment is allowed, the bridge engineer will prepare a suitable agreement and forward it to the district for handling with the utility company for execution. Modification of the structural details to accommodate the utility and the responsibility of cost thereof will be developed by the bridge engineer. Where applicable, the bridge engineer will coordinate the submission with the right of way engineer. In addition, use and occupancy agreement forms shall be required as cited in §21.52 (relating to Forms-General) and §21.53 (relating to Use and Occupancy Agreement Forms).

(B) For attachments to structures not within active projects, requests for attachment along with the district engineer's recommendation should be forwarded to the chief engineer of maintenance and operations for review and concurrence. Adequate justification,

including details and an estimate for an independent utility crossing, should accompany the submission. The proposal will then be forwarded to the bridge engineer for review and determination of the effect of the proposed attachment on the existing structure. If the attachment is allowed, the bridge engineer will prepare a suitable agreement and forward it to the district for handling with the utility company for execution. In addition, notice forms shall be required as cited in §21.52 (relating to Forms-General) and §21.54 (relating to Notice Forms).

§21.49. Overhead Power and Communication Lines.

(a) (No change.)

(b) Vertical clearance. Except as stated herein, the minimum vertical clearance [for overhead communication and power lines] above the highway shall be not less than [18 feet and] 22 feet [, respectively, or] for power lines, and 18 feet for communication and cable television lines. These clearances may be greater, as required by the National Electric Safety Code and governing laws.

(c) Location.

(1) In rural areas and at uncurbed sections in urban areas, poles supporting longitudinal lines shall be located from one to three feet from the right-of-way edge, except that at the option of the department this distance may be varied at short breaks in the right-of-way line. Guy wires placed within the right-of-way shall be held to a minimum and should normally be in line with the pole line; however, other locations may be permitted, but in no case shall the guy wires or poles be located closer than the [a] minimum allowed for the spe-

cific design values for the highway class and volumes as shown in Appendix A of this section [30 feet from the edge of main lane or connecting roadway shoulders and 20 feet from the shoulder edge of ramps and frontage roads] . At curbed sections, in urban areas, poles shall be located as far as practical behind the outer curbs and preferably adjacent to the right-of-way line. Steel poles with bases greater than 36 inches shall not be placed within the right of way except in extreme hardship situations and if sufficient space remains for other utilities. Exceptions may be considered where ample right of way exists and the poles are to be placed outside of the clear zone or in accordance with the minimum allowed for the specific design value for the highway class and volume, whichever is greater.

(2) At crossings, no poles will be permitted in the center median of any highway. Poles will only be permitted in outer separations or more than three feet inside the right of way where the right of way is of such extreme width (over 300 feet) that the cost of spanning it is excessive and where poles can be located in accordance with the intent and provisions of paragraph (1) of this subsection [policy].

(3) As a general rule, overhead power, [and] communication and cable television line crossings, at bridges or grade separation structures should be avoided, if possible. If rerouting the line completely around the structure and approaches is not economically feasible, a minimum horizontal distance of 150 feet or a minimum vertical clearance of 30 feet should be provided to insure adequate safety for construction and maintenance operations.

(d) Horizontal Clearances. The following Appendix A indicates the design values for horizontal clearances.

APPENDIX A
HORIZONTAL CLEARANCES

Location	Functional Classification	Design Speed (mph)	Avg. Daily Traffic ¹	Clear Zone Width (ft.) ^{2,3,4}	
				Minimum	Desirable
Rural	Freeways	All	All	30 (16' for ramps)	
Rural	Arterial	All	0 - 750	10	16
			750 - 1500	16	30
			1500 or more	30	--
Rural	Collector	45 or more	All	Use above rural arterial criteria.	
		40 or less	All	10	--
Rural	Local	All	All	10	--
Urban	Freeways	All	All	30 (16' for ramps)	
Urban	All (curbed)	45 or less	All	1.5 from curb face	3'
Urban	All (uncurbed)	45 or more	All	Use above rural arterial criteria.	
Urban	All (uncurbed)	40 or less	All	10	--
Urban	All (curbed)	50 or more	All	Use above rural arterial criteria insofar as available border width permits.	

¹ Average ADT over project life, i.e., 0.5 (present ADT and future ADT). Use total ADT on two-way roadways, directional ADT on one-way roadways.

² W/O barrier or other safety treatment of appurtenances.

³ Measured from edge of travel lane for all cut sections and for all fill sections where side slopes are 6:1 or flatter. Where fill slopes are steeper than 6:1 it is desirable to provide a hazard-free area beyond the toe of slope.

⁴ Desirable, rather than minimum, values should be used where feasible.

§21.50. Underground Power Lines.

(a) **Longitudinal [Depth of cover].**
All underground power lines placed within SDHPT right-of-way may be directly buried at depths according to the voltages of power lines as follows:

VOLTAGE
22,000 or less
22,001 to 40,000
40,001 and greater

MINIMUM DEPTH OF BURY
30 inches
36 inches
42 inches

These depths are currently required by the National Electric Safety Code. Amendments to the code may require greater depths in the future. [The depth of cover for underground power lines should be the same as stipulated for encased high pressure gas and liquid petroleum lines in §21.43 of this title (relating to High Pressure Gas and Liquid Petroleum Lines).]

(b) **Crossings.** Power lines shall be encased (placed in conduit) and buried a minimum of 48 inches under roadway ditches, and 72 inches below the pavement surface.

(c)[(b)] **Encasement.** Encasement shall be provided under center medians and from top of backslope to top of backslope for cut sections (or five feet beyond the toe of slope for fill sections, or face of curb) of all roadways including side streets and beneath and five feet beyond any overpass or other structure where the line passes under it. Encasement may be omitted under center medians where their width is appreciably greater than normal rural standards (76 feet). Existing lines under low volume farm-to-market roads and low volume highways may be permitted to remain in place without encasement or extension of encasement if they are protected by a reinforced concrete slab or equivalent protection or if they are located at a depth of six feet under the pavement surface and not less than four feet under the roadway ditch. If a reinforced concrete slab is to be used, it should meet the following standards:

- (1) width—five foot minimum;
- (2) thickness—six inch minimum;
- (3) reinforcement—#4 bars at 12 inch centers each way or equivalent wire mesh;
- (4) cover—the cushion between the bottom of slab and top of cable shall be not less than six inches.

(d)[(c)] **Markers.** Readily identifiable and suitable markers in sufficient number as determined by the DE shall be placed at the right-of-way line for lines installed longitudinally within the SDHPT right-of-way. The off-set distance from the right-of-way line shall be indicated on the marker. Where an underground power line crosses, a marker shall be placed at each right-of-way line. [The utility company shall place a readily identifiable and suitable marker at each right-of-way line where it is crossed by an underground power line.]

(e)[(d)] **Location.** Longitudinal underground power lines may be placed by plowing or open trench method and shall be located as set forth in §21.37 of this title [relating to Location].

(f)[(e)] **Aboveground appurtenances.** Aboveground utility appurtenances

installed as a part of an underground power line shall be located at or near the right-of-way line, well outside the highway maintenance operation area.

(g)[(f)] **Manholes. Requirements for manholes shall be the same as cited in §21.38 of this title (relating to Design).** [Straight line manholes are the only type normally permitted within the right-of-way. Overall width dimensions should be no larger than necessary to hold the equipment involved and for safety standards to be assured for maintenance personnel. Outside width should not exceed seven feet, length should be held to be reasonable minimum and the top of the roof should be five feet below ground level. The outside diameter of the manhole chimney at the ground level should not exceed 36 inches.]

§21.51. *Underground Communication Lines.*

(a) **Longitudinal.** The minimum depth of cover for cable television and copper cable communications lines shall be 24 inches. The minimum depth of cover for a fiber optic facility shall be 42 inches. [Depth of cover. The minimum depth of cover for underground communication lines along and/or across the rights of way including highway ditches, but outside the pavement structure, shall be 24 inches for either encased or unencased installations. Under the pavement structure a minimum depth of 18 inches shall be maintained. Where materials and other conditions justify, exceptions may be authorized to permit existing lines to remain in place with a reduction of six inches in the above specified depths.]

(b) **Crossings.** Lines should be located at approximate right angles to the highway to the extent feasible and practicable. Reasonable latitude may be exercised as regards the crossing angle of existing lines which are otherwise qualified to remain in place.

(1) The minimum depth of cover for cable television and copper cable communication lines shall be 24 inches under ditches or 18 inches beneath the bottom of the pavement structure, whichever is greater.

(2) The top of a fiber optic facility shall be placed a minimum of 42 inches below the ditch grade or 60 inches below the top of the pavement structure, whichever is greater.

(3)[(1)] Lines crossing highways do not require encasement except where in the judgment of the district engineer such encasement is necessary for the protection of the highway facility. Consideration should be given to encasement or other suitable protection for any communication facilities:

(A) with less than minimum bury;

(B) near footings of bridges or other highway structures; or

(C) near other locations where there may be hazards.

(4)[(2)] When the installation of the line is to be accomplished by boring a hole the same or about the same diameter as the line and pulling it through, then encasement is not necessary. Where such conditions cannot be met, encasement should be provided. The annular void between the drilled hole and the line or casing should be filled with a satisfactory material to prevent settlement of any part of the highway facility over the line or casing.

(5)[(3)] Encasement may be of metallic or nonmetallic material. Such encasement material shall be designed to support the load of the highway and superimposed loads thereon, including that of construction machinery. The strength of the encasement material shall equal or exceed structural requirements for drainage culverts and it shall be composed of materials of satisfactory durability under conditions to which it may be subjected. The length of any encasement shall be provided under center medians and from top of backslope to top of backslope for cut sections (or five feet beyond the toe of slope for fill sections, or face of curb) of all roadways including side streets. Encasement may be omitted under center medians where their width is appreciably greater than normal rural standards (76 feet). Where encasement is not installed, specific agreement should be reached with the utility company that the pavement will not be cut for repairs any time in the future.

(c) **Markers.** The utility company shall place a readily identifiable and suitable marker at each right-of-way line where it is crossed by an underground communication line. Readily identifiable and suitable markers in sufficient number as determined by the DE shall be placed at the right-of-way line for lines installed longitudinally within the SDHPT right-of-way. The off-set distance from the right-of-way line shall be indicated on the marker. Where fiber optic lines are installed without metal casing, a durable metal wire shall be concurrently installed or other means shall be provided for detection purposes.

(d) **Placement** [Longitudinal]. Lines may be placed by plowing or open trench method and shall be located on uniform alignment as near as practical to the right-of-way line to provide space for possible future highway construction and for possible future utility installations. Distance from the right-of-way line will depend upon the terrain involved and obstructions such

as trees and other existing underground utility lines. On highways with frontage roads, such installation will be located between the frontage roads and the right-of-way line. Unless authorized by the bridge engineer, chief engineer of highway design, or chief engineer of maintenance and operations, [state engineer-director] lines shall not be placed or remain in the center median, or beneath through-traffic roadways or connecting roadways (including shoulders).

(e) (No change.)

(f) **Manholes.** Requirements for manholes shall be the same as cited in §21.38 of this title (relating to Design). [Manholes shall be limited to those necessary for installation and maintenance of underground lines. Straight line manholes are the only type normally permitted within the right of way. In no case shall they be placed or permitted to remain in the pavement of shoulders of high volume roadways except at those locations on noncontrolled access highways in urban areas where necessary for existing lines which may be permitted to remain in place under existing or proposed roadways. Manholes may remain in place or be installed under traffic lanes of low volume roadways in municipalities provided measures are taken to minimize such installations and to avoid their locations at intersections insofar as possible. To conserve space within the right of way for highway and other utility services, manhole dimensions should be the minimum acceptable for good engineering and safety standards. The width dimensions should be no larger than is necessary to hold equipment involved and for safety standards to be assured for maintenance personnel. Outside width should not exceed seven feet, with the length to be held to a reasonable minimum. The outside diameter of the manhole chimney at the ground level should not exceed 36 inches. Where proven necessary the outside diameter of the chimney may be up to 50 inches. Manhole covers shall be installed approximately flush with the ground. The top of the roof of the manhole should be five feet below ground level. Where such depth factor is impracticable sufficient data should be submitted to the department for administrative handling.]

(g) **Large equipment housings.** Structures that are significantly larger in plan view than single poles may be placed on highway right-of-way with the following stipulations.

(1) The installation will not significantly hinder highway maintenance operations. This will include consideration of the height of the supporting slab above groundline.

(2) The housing will be placed at or near the right-of-way line.

(3) The installation will not reduce visibility and sight distance of the traveling public to the extent of creating an unsafe condition. This will be a partic-

ular item of consideration where such housings are proposed for placement at or near highway intersections.

(4) Assurance will be made that the dimensions of the housing are minimized, particularly where the need to allow space for highway improvement and accommodation of other utility lines are apparent. Outside depth, length, and height dimensions of the aboveground portion of the housing should not exceed 36 inches, 60 inches, and 48 inches respectively. The supporting slab should not project more than three inches above groundline.

(5) The installation shall be compatible with adjacent land uses.

§21.53. Use and [of] Occupancy Agreement Forms.

(a) **Use and occupancy agreement** [These] forms are to be used when in connection with "active" highway projects an adjusted or relocated utility facility occupies part of the highway right-of-way or when a utility facility is retained within the highway right-of-way without adjustment unless the utility has a previously approved department use and occupancy agreement or approved notice form covering the right-of-way limits and which includes provisions for control of access when applicable. Such forms are used also when a utility has a prior property interest which is being retained within the highway right-of-way.

(b) These forms shall include such terms and conditions as may be prescribed by the right of way engineer to convey necessary information in order to protect and preserve the state highway system and the safety, health, and welfare of its use by the travelling public.

§21.54. Notice Forms.

(a) **Notice** [These] forms are provided for use for new utility installations after highway construction is completed. They are also provided for new utility installation placed before or during highway construction except:

(1) where the utility has a compensable property interest; or

(2) the state is participating in the adjustment or relocation cost of the utility installation.

(b) These forms shall include such terms, conditions, and utility location plans, as may be prescribed by the chief engineer of maintenance and operations to convey necessary information and to protect and preserve the state highway system and the safety, health, and welfare, of its use by the traveling public. Utility location plans shall be in accordance with the requirements contained in this undesignated head concern-

ing utility accommodation.

(c) In addition to the requirements in subsection (b) of this section, the district engineer may prescribe special district requirements which will be justified based on the specific soil, terrain, weather, vegetation, trees, traffic characteristics, type of utility line, or other factors unique to the area.

(d) The district engineer is authorized to approve all notice forms except those on utility bridges, attachments to highway structures, or those which include exceptions as cited in §21.35 of this title (relating to Exceptions).

Issued in Austin, Texas, on December 2, 1988.

TRD-8812405

Diane L. Northam
Administrative Procedures
Technician
State Department of
Highways and Public
Transportation

Effective date: December 5, 1988

Expiration date: April 4, 1989

For further information, please call: (512) 463-8630

• 43 TAC §21.33, §21.41

The State Department of Highways and Public Transportation adopts on an emergency basis the repeal of §21.33, concerning application and §21.41, concerning miscellaneous. Repeal of these sections is necessary because of the contemporaneous adoption of new §21.33 and §21.41, which incorporate certain repealed provisions in an amended form and certain additional requirements.

The repealed sections are adopted on an emergency basis in order to protect the safety of the traveling public, to avoid unreasonable delays in the adjustment and installation of public utilities, and to conform with the amendments to 23 Code of Federal Regulations, Part 645, Federal Highway Administration Docket 86-15.

The repealed sections are adopted on an emergency basis under Texas Civil Statutes, Article 6666, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation.

Issued in Austin, Texas, on December 2, 1988.

TRD-8812406

Diane L. Northam
Administrative Procedures
Technician
State Department of
Highways and Public
Transportation

Effective date: December 5, 1988

Expiration date: April 4, 1989

For further information, please call: (512) 463-8630

The State Department of Highways and Public Transportation adopts on an emergency basis new §21.33, concerning application and new §21.41, concerning site clean-up. These new sections replace existing §21.33, concerning application and §21.41, concerning miscellaneous which are being contemporaneously repealed. New §21.33 applies to new utility installations, additions to existing installations, adjustments or relocations of utilities incident to highway construction, and existing utility installations retained within highway right-of-way and where applicable waivers may be authorized. New §21.41 requires the highway right-of-way to be restored to the original condition or better after utility installation is complete.

The new sections are adopted on an emergency basis in order to protect the safety of the traveling public, to avoid unreasonable delays in the adjustment and installation of public utilities, and to conform with the amendments to 23 Code of Federal Regulations, Part 645, Federal Highway Administration Docket Number 86-15.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 6666, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation.

§21.33. Application.

(a) For highways under the jurisdiction of the department, the provisions of this undesignated head, concerning utility

accommodation, shall apply to:

- (1) new utility installations;
- (2) additions to existing utility installations;
- (3) adjustments or relocations of utilities incident to highway construction; and
- (4) existing utility installations retained within the right-of-way.

(b) For highways, streets, and roads within the limits of a city, the provisions of this undesignated head, concerning utility accommodation, may be waived and the city's utility accommodation policy and/or customary practice may be applied. Waivers may be authorized by the bridge engineer, chief engineer of highway design, or chief engineer of maintenance and operations, whichever is applicable. When the city does not have a utility accommodation policy and/or customary practice, the provisions of this undesignated head, concerning utility accommodation, should be used as a guide.

(c) The provisions of this undesignated head, concerning utility accommodation, will not be applied to utility facilities presently located within the right-of-way of completed highways for which agreements with the department were entered into prior to December 31, 1988.

(d) Various types of utility lines not specifically covered herein shall be considered within the provisions of this

undesignated head, concerning utility accommodation, in accordance with the nature of the line. It shall be a general practice to consider all lines carrying caustic, flammable, or explosive materials under the provisions for highpressure gas and liquid fuel lines.

§21.41. Site Clean-Up. Roadways adjacent to utility construction sites shall be kept free from debris, roadway construction material, and mud. At the end of every construction day, construction equipment and materials shall be removed as far from the roadway edges as feasible. When utility installation is complete, the right-of-way shall be reshaped to its original condition or better and the area reseeded or resodded to reduce erosion. Should settlement or erosion occur within six months after utility installation, the utility shall reshape, reseed, or resod the area.

Issued in Austin, Texas, on December 2, 1988.

TRD-8812407

Diane L. Northam
Administrative Procedures
Technician
State Department of
Highways and Public
Transportation

Effective date: December 5, 1988

Expiration date: April 4, 1989

For further information, please call: (512) 463-8630



Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

Chapter 9. Texas Community Development Program

Subchapter B. Contract Administration

• 10 TAC §9.41

(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 Department of Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Community Affairs (TDCA) proposes the repeal of §9.41, concerning variances under the uniform grant and contract management standards for the Texas Community Development Program. In accordance with Texas Civil Statutes, Article 4413(301), TDCA's authority to administer the Texas Community Development Program was transferred to the Texas Department of Commerce.

Roger Coffield, general counsel, has determined that for the first five-year period the proposed section is 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.

Mr. Coffield 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 the deletion of an obsolete section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Roger Coffield, General Counsel, TDCA, P.O. Box 13166, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 4413(201), which provide TDCA with the authority to promulgate and adopt such rules and regulations as may be necessary and proper to carry out its programs and responsibilities.

§9.41. Uniform Administrative Requirements.

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 December 2, 1988.

TRD-8812402

Roger Coffield
General Counsel
Texas Department of
Community Affairs

Earliest possible date of adoption: January 13, 1989

For further information, please call: (512) 834-6010

TITLE 22. EXAMINING BOARDS

Part XII. Board of Vocational Nurse Examiners

Chapter 231. Administration

Definitions

• 22 TAC §231.1

The Board of Vocational Nurse Examiners proposes an amendment to §231.1, concerning definitions. The definition for directory of vocational nurses is being deleted, since a computer generated list is more current and does not require large printings of directories. Furthermore, the Vocational Nurse Act requires only that the board keep a register of the names of all nurses licensed under the law.

Joyce Fleming, acting executive director, has determined that for the first five-year period the proposed section is 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. Fleming also has determined that for each year of the first five years the section is in effect, there is 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 section as proposed.

Comments on the proposal may be submitted to Joyce Fleming, Acting Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§231.1. Definitions. The following words and terms, when used in this chapter, shall

have the following meanings, unless the content clearly indicates otherwise.

[Directory of Licensed Vocational Nurses—A roster, published annually, with the names and addresses of currently licensed vocational nurses.]

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 December 5, 1988.

TRD-8812449

Joyce Fleming
Acting Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: January 13, 1989

For further information, please call: (512) 835-2071

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IV. School Land Board

Chapter 155. Land Resources

Coastal Public Lands

• 31 TAC §155.4

(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 School Land Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The School Land Board proposes the repeal of §155.4, concerning structure permits. The repeal is proposed so that a new section may be substituted clarifying the requirements for obtaining and maintaining permits to cabins and other structures located on coastal public lands.

Sally Davenport, director of the coastal section of the land management division of the General Land Office, has determined that for the first five-year period the proposed section is 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. Davenport 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 that the

general public will be enabled to more clearly understand the official rules and regulations of the agency. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dan Miller, Assistant General Counsel, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The repeal is proposed under the Natural Resources Code, §33.064, which provides the School Land Board with the authority to adopt procedural and substantive rules for the implementation of the Coastal Public Lands Management Act.

§155.4. Permits.

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 December 6, 1988.

TRD-8812473 Garry Mauro
Chairman
School Land Board

Earliest possible date of adoption: January 13, 1989

For further information, please call: (512) 463-5009



The School Land Board proposes new §155.4, concerning structure permits. The new section clarifies the requirements for obtaining and maintaining permits to cabins and other structures located on coastal public lands and aligns the rules with current requirements of the program.

Sally Davenport, director of the coastal section of the land management division of the General Land Office, has determined that for the first five-year period the proposed section is 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. Davenport also has determined that the public benefit for each year of the first five years that the new section is in effect will be more efficiency and comprehensiveness and will insure more effective administration of the structure permit program. The anticipated economic cost to individuals who are required to comply with the proposed section will be an increase of approximately \$200 should the individual accept a transfer of a structure permit contract, and approximately \$7,500 should relocation of a structure be required under the new section.

Comments on the proposal may be submitted to Dan Miller, Assistant General Counsel, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The new section is proposed under the Natural Resources Code, §33.064, which provides the School Land Board with the authority to adopt procedural and substantive rules for the implementation of the Coastal Public Lands Management Act.

§155.4. Permits.

(a) Issuance. The board may issue permits authorizing limited continued use of previously unauthorized structures, as defined in subsection (b) following, on coastal public lands, where such use is sought by one claiming an interest in any such structure but is not incident to the ownership of littoral property.

(b) Definition. A structure under this section shall be defined as any housing, capable of residential use or which otherwise would typically be considered an improvement on real property, which is in any manner attached or affixed to coastal public land and is unassociated with the ownership of littoral property.

(c) Criteria. Permits granted pursuant to this section shall be subject to the following policies, provisions, and conditions, in addition to those generally applicable in the Act.

(1) The board may not:

(A) grant any permit authorizing the continued use of any structure located within 1,000 feet of:

(i) privately owned littoral property, without the written consent of the littoral owner;

(ii) any federal or state wildlife sanctuary or refuge;

(iii) any federal, state, county, or city park bordering on coastal public lands;

(B) grant any permit which would be in violation of the public policy of this state as expressed in these rules and regulations;

(C) grant any permit for any structure not in existence on August 27, 1973; or

(D) grant more than one permit per person, immediate family, organization, company, or group.

(2) A permit authorizing continued use of a previously unauthorized structure on coastal public lands shall be deemed automatically revoked and terminated if the coastal public land where the structure is located is subsequently leased for public purposes or exchanged for littoral property, or if such land is conveyed to a navigation district as provided by law.

(3) Every permit shall provide that in the event the terms of the permit are broken, the permit may, at the option of the board, be terminated.

(4) Permitted structures may be used only for noncommercial recreational purposes. Acceptance of payment for use of

a permitted structure, or for services connected with use of the structure, is expressly prohibited.

(d) Nuisance. All structures now existing or which shall be built, for which a permit is required pursuant to this section, have been declared by law to be the property of the state, and any construction, maintenance, or use of such structure except as authorized in this section is declared a nuisance per se and is expressly prohibited.

(e) Interest claim. Any person seeking to obtain an interest in a structure shall apply to the board for a permit. The application shall be accompanied by the appropriate fees, as set forth in §55.10 of this title (relating to Coastal Public Land Fees), and any documentation requested by the board.

(f) Board approval. The board may approve, deny, or approve with qualifications an application for a permit. If an application is approved by the board, the appropriate contract forms and related materials shall be forwarded to the applicant for completion. The board may include in its approval any provisions deemed necessary to protect the state's interest in coastal public lands and the public welfare.

(g) Term. The board shall set the term of the permit, which shall not exceed five years. The term of a permit shall begin on the date of execution by the Commissioner of the General Land Office, and no construction or other activities may commence at the site prior to such date.

(h) Renewal. The board may, at its discretion, renew a permit upon receipt of a renewal request and the required fees from the current permit holder if all previous contractual conditions have been met.

(i) Relocation. The board may require relocation of any structure permitted under this section if it is determined to be in the best interest of the state for environmental or land management reasons. The permit holder shall be provided written notice of the need for relocation. This written notice shall specify the reasons for relocation and a date by which relocation shall be accomplished. Failure to comply with terms of a relocation notice may be considered grounds for termination of a permit.

(j) Transfer of interest. Board approval is required for the transfer of any interest in a permit from a current permit holder to another person. To transfer a permit, the current permit holder shall notify the board in writing of intent to terminate the existing contract, and shall provide the name of a person who seeks to assume responsibility for that site. The prospective permittee shall be forwarded the appropriate forms, and shall submit a completed permit application request and required fees to the board. To accomplish the transfer of interest, the board shall then terminate the original permit and, during the same meeting, issue a new permit for the same site to the

person specified by the original permit holder, providing all original contract requirements have been complied with and all fees have been paid.

(k) Major repairs. Any action which alters the square footage of an existing permitted structure shall be considered a major repair and shall require prior approval from the board. The board may approve, deny, or approve with qualifications a request for major repairs to, or for the rebuilding of, a permitted structure. Examples of major repairs include, but are not limited to:

(1) modification or renovation work which alters the dimensions of structures currently in existence;

(2) the addition of any structure to an existing permitted facility;

(3) the relocation of any structure or facility from its permitted location; or

(4) any activity requiring dredging or filling.

(l) Minor repairs. Minor repairs may be made to a permitted structure without prior approval of the board. Minor repairs shall include routine repairs to existing docks, piers, and the structure, and other normal maintenance required to maintain a structure in a safe and secure manner but which does not alter the authorized dimensions. Examples of minor repairs include, but are not limited to:

(1) replacement of tin or shingles on roofs, boards on floors, walls, walkways, or decks when the structural dimensions are not increased;

(2) replacement of pilings or other structural members that does not require dredging or filling;

(3) painting and maintenance activities; and

(4) addition of windows, doors, or rails to an existing structure.

(m) Abandoned structures. Structures determined by the board to be abandoned may be removed from coastal public lands, renovated for the use of the general public, or permitted to an interested party. Structures may be considered abandoned if:

(1) no response is received to a notice posted on the structure citing the act which requires board authorization for the structure, and containing a request that the interest holder contact the General Land Office within a specified period of time;

(2) the interest holder in an unpermitted structure fails to complete the permit application process within 60 days once contact with the General Land Office has been made; or

(3) all reasonable attempts to contact a permit holder at the last known address have failed.

(n) Termination. Failure to comply with these rules and regulations shall be justification for termination of the permit by the board. A permit holder shall have 60 days from the date of termination by the board to remove all personal property from the structure provided all required fees have been paid. The board shall have discretionary authority to revise this time limit, to require permittee to remove any or all structures and man made improvements, or to assess the costs for repair of any damage to state lands and/or for any necessary removal of debris at the permit site. Any personal property remaining at the site after the 60 days, or the prescribed period set by the board, shall become property of the state and may be disposed of at the board's discretion.

(o) General provisions. Each permit issued by the board shall be subject to the following general provisions.

(1) The cabin permit number must be displayed on the structure in block numerals no less than 10 inches high. The numerals must be readily visible from the normal route of access and should be of a color that contrasts with the color of the structure. Decals, paint, or metal numerals may be used.

(2) All structures on coastal public lands shall be subject to inspection at any time by the board or its authorized representatives without prior notice to the permit holder.

(3) All structures shall be maintained in good repair and safe condition, and shall be kept in a clean and sanitary condition acceptable to the state.

(4) No domesticated or wild animals of any type shall be permanently released upon state-owned islands. Domestic pets shall be prevented from disturbing nesting birds on these islands.

(5) An applicant, by accepting a permit for a structure on coastal public land, agrees and consents to the following:

(A) to comply with all regulations which the board determines to be necessary and proper for the protection, conservation, and orderly development of coastal public lands;

(B) to indemnify the State of Texas against any and all liability for damage to life, person, or property arising from the permittee's occupation and use of the area covered by the interest granted; and

(C) to keep the commissioner of the General Land Office informed at all times of his or her current mailing address and telephone number.

(6) The approval of a cabin permit by the board grants exclusive rights to the permit holder for the permitted structure

only, and does not prevent the board from issuing other grants of interest for the same area or implementing specific land management practices at its discretion.

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 December 6, 1988.

TRD-8812474

Garry Mauro
Chairman
School Land Board

Earliest possible date of adoption: January 13, 1989

For further information, please call: (512) 463-5009

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VI. Texas Commission on Human Rights

Chapter 327. Administrative Review

• 40 TAC §327.9

The Texas Commission on Human Rights proposes an amendment to §327.9, concerning a procedure for reasonable access to a case file pursuant to the Texas Commission on Human Rights Act, 5221(k), Texas Civil Statutes. The section provides a procedure for reasonable access to a case file upon written request following dismissal of a complaint or prior to dismissal when civil action has been filed in federal court alleging a violation of federal law. The commission proposes this section to clarify and establish uniformity for access to case files by complainants and employers following conclusion of the administrative process of complaints filed with the commission or deferred to the commission by the United States Equal Employment Opportunity Commission.

William M. Hale, executive director, has determined that for the first five-year period the proposed section is 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.

Mr. Hale 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. However, there are benefits to complainants and respondents in having ready access to case files at the conclusion of the administrative process when litigation is anticipated under the Texas Commission on Human Rights Act or when litigation has been initiated under comparable federal statutes. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William M. Hale, Texas Commission on Human Rights, P.O. Box 13493, Austin,

Texas 78711.

The amendment is proposed under the Texas Commission on Human Rights Act, 5221(k), Texas Civil Statutes, Article 3, §3.02(10), which provides the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.9. Confidentiality.

(a)-(b) (No change.)

(c) Consistent with the Act, Article 8, §8.02(a), the executive director shall allow the complainant and respondent reasonable access to a case file upon written request following the dismissal of a complaint by the commission or prior to dismissal of a complaint pending before the commission when a civil action has been filed in federal court alleging a violation of federal 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 December 2, 1988.

TRD-8812360

William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: January 9, 1989

For further information, please call: (512) 837-8534

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Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section 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 *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IV. School Land Board

Chapter 155. Land Resources

Coastal Public Lands

• 31 TAC §155.4

The School Land Board has withdrawn from consideration for permanent adoption the pro-

posed repeal of §155.4 which appeared in the June 28, 1988, issue of the *Texas Register* (13 TexReg 3277). The effective date of this withdrawal is December 7, 1988.

Issued in Austin, Texas, on January 1, 1988.

TRD-8812475 Jim Phillips
General Counsel
School Land Board

Effective date: December 7, 1988

For further information, please call: (512)
463-5009

◆ ◆ ◆
The School Land Board has withdrawn from

consideration for permanent adoption proposed new §155.4 which appeared in the June 28, 1988, issue of the *Texas Register* (13 TexReg 3277). The effective date of this withdrawal is December 7, 1988.

Issued in Austin, Texas, on January 1, 1988.

TRD-8812478 Jim Phillips
General Counsel
School Land Board

Effective date: December 7, 1988

For further information, please call: (512)
463-5009

◆ ◆ ◆



Name: Ramona Yerena

Grade: 5

School: F. P. Caillet Elementary, Dallas

Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section 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 section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 70. Industrialized Housing and Buildings

Subchapter C. Standards and Codes

• 16 TAC §§70.20-70.22

The Texas Department of Labor and Standards adopts amendments to §§70.20-70.22, without changes to the proposed text as published in the October 28, 1988, issue of the *Texas Register* (13 TexReg 5459).

The amendments update the mandatory building codes from the 1985 Edition of Uniform Mechanical Code, Uniform Building Code, and Uniform Plumbing Code and Standard Building Code, Standard Plumbing Code, Standard Mechanical Code, and Standard Gas Code to 1988 Edition. The Texas Industrialized Building Code Council determined that the adoption of the new edition was in the public interest and consistent with the purpose of Texas Civil Statutes, Article 5221f-1, concerning Industrialized Housing and Buildings.

The amendments update the manufacturers building code to meet the current requirements.

A witness testified for the adoption of the 1988 edition of the codes.

Commenting on the adoption was the International Conference of Building Officials.

The amendments are adopted under Texas Civil Statutes, Article 5221f-1, which provide the commissioner with the authority to propose rules and regulations, and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide uniform enforcement.

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 December 6, 1988.

TRD-8812481

Joe Huertas
Program Manager
Texas Department of Labor
and Standards

Effective date: December 27, 1988

Proposal publication date: October 28, 1988

For further information, please call: (512) 463-2906

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 505. The Board

The Board

• 22 TAC §505.10

The Texas State Board of Public Accountancy adopts the repeal of §505.10, without changes to the proposed text as published in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5161).

The repeal is required to provide for the adoption of a new section with guidelines for committee establishment and operation required to perform the business of the board involving newly assigned programs.

The repeal will allow for the adoption of a new section that will provide guidelines for the establishment and operation of new board committees required to perform board business.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding board committees.

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 November 30, 1988.

TRD-8812409

Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: December 26, 1988

Proposal publication date: October 14, 1988

For further information, please call: (512) 450-7066

The Texas State Board of Public Accountancy adopts new §505.10, with changes to the proposed text as published in the October 7, 1988, issue of the *Texas Register* (13 TexReg 4952-4954).

The new section is required to provide for the establishment and operation of new committees of the board.

The new section will define the responsibilities and composition of new committees re-

quired to perform the business of the board.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding board committees.

§505.10. Board Committees.

(a) Committee appointments. Appointments to standing committees and ad hoc committees shall be made annually by the board chairman to assist in carrying out the functions of the board under the provisions of the Public Accountancy Act of 1979, as amended (the Act). The board chairman shall be an ex officio member of each standing committee and ad hoc committee and chairman of the Executive Committee.

(b) Committee actions. The actions of the committees are recommendations only and are not binding until ratification by the board at a regularly scheduled meeting.

(c) Committee meetings.

(1) Committee meetings shall be held at the call of the committee chairman, and a report to the board at its next regularly scheduled meeting shall be made by such chairman or, in the absence of the chairman, by another board member serving on the committee.

(2) Committee meetings shall be open to the public in accordance with the Texas Open Meetings Act, Texas Civil Statutes, Article 6251-17, unless the chairman adjourns into executive session for purposes prescribed in the Open Meetings Act.

(d) Vacancies. If for any reason a vacancy occurs on a committee, the board chairman shall appoint a replacement in accordance with subsection (a) of this section.

(e) Standing committee structure and charge to committees. The standing committees shall consist of the following individuals and shall be charged with the following responsibilities.

(1) The Executive Committee shall comprise the board chairman, vice-chairman, secretary, and treasurer, and also may include, as an ex officio member, any other board member appointed by the board

chairman. The functions of the Executive Committee shall be to advise, consult with, and make recommendations to the board concerning matters requested by the board chairman, litigation, and/or proposed changes in the board Rules of Professional Conduct (the rules).

(2) The Licensee Education Committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by at least two nonboard members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding:

(A) the Mandatory Education Program as it relates to reporting and attendance requirements, disciplinary actions, reporting forms, office procedures; and

(B) proposed changes in board rules, opinions, and policies related to the Mandatory Education Program as it relates to licensees.

(3) The Sponsor Compliance Committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by any number of nonboard members who shall serve in an advisory capacity. The committee shall:

(A) investigate sponsor compliance with the terms of the sponsor agreements, including the related record-keeping requirements;

(B) monitor continuing education courses for the purpose of evaluating the facilities, course content as presented, and the adequacy of the course presenter(s);

(C) make recommendations to the board concerning any significant deficiencies observed in carrying out Subparagraphs (A) and (B) of this paragraph; and

(D) make recommendations to the board with regard to proposed changes in board rules, opinions, and policies relating to relations with sponsors.

(4) The Examination Committee shall comprise at least two board members, one of whom shall serve as chairman. The committee shall make recommendations to the board regarding:

(A) administration, security, discipline, and other aspects of the conduct of the Uniform Certified Public Account Examination in Texas; and

(B) proposed changes in board rules, opinions, and policies relating to the examination process.

(5) The Licensing Committee

shall comprise at least two board members, one of whom shall serve as chairman. The committee shall make recommendations to the board regarding:

(A) applications for certification or registration under the Act, §§10, 12, 13 or 14;

(B) applications for licensure under the Act, §9;

(C) requests or applications for reinstatement of any certificate, registration, or license which the board previously has revoked, suspended, or refused to renew under the Act, §21 the Act; and

(D) proposed changes in board rules, opinions, and policies as they relate to the licensing process.

(6) The Behavioral Enforcement Committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by at least two nonboard members who shall serve in an advisory capacity. The committee shall:

(A) study complaints from any source involving possible violations of the Act by certificate or registration holders and others;

(B) study possible violations by certificate or registration holders of the behavioral standards within the rules;

(C) make recommendations to the board concerning the disposition of such possible violations; and

(D) make recommendation to the board concerning proposed changes in board rules, opinions and policies related to the behavioral restraints of the rules and the Act.

(7) The Constructive Enforcement Committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by any number of nonboard members who shall serve in an advisory capacity. The committee shall:

(A) investigate complaints forwarded from the Technical Standards Review Committee, the Licensee Education Committee, or the Behavioral Enforcement Committee;

(B) prepare recommendations, as requested, concerning each matter referred to the committee;

(C) inform the appropriate committee when possible violations of the

Act or the rules are observed;

(D) follow up on board orders to insure that certificate or registration holders and others adhere to sanctions prescribed by or agreements with the board; and

(E) make recommendations to the board concerning proposed changes in board rules, opinions, and policies relating to the constructive enforcement program.

(8) The Technical Standards Review Committee shall comprise at least two board members, one of whom shall serve as chairman, and at least three nonboard members with recognized experience in industry, government, and education. The committee shall study complaints from any source involving suspected violations of the technical standards included in the rules and shall make recommendations to the board as appropriate.

(9) The Report Review Committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by any number of nonboard members who shall serve in an advisory capacity. The committee shall:

(A) conduct a periodic review and evaluation of reports publicly filed with the State of Texas (or any board, commission, or agency thereof) and of each of the various types of reports, as defined by board rule, of each practice unit, as defined by board rule, which is engaged in the practice of public accountancy in the State of Texas;

(B) refer to the Technical Standards Review Committee egregious substandard reports issued by practice units for which educational rehabilitation has not been effective; and

(C) make recommendations to the board with regard to proposed changes in board rules, opinions, and policies relating to the Report Review Program.

(10) The Long-range Planning Committee shall comprise the board's vice-chairman, who is to serve as chairman, at least one additional board member, assisted by at least three nonboard members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding:

(A) amendments to the Act;

(B) responses/positions relating to papers, reports, and other submissions from national associations or boards; and

(C) special issues.

(11) The Committee on Relations with the National Association of State Boards of Accountancy (NASBA) shall comprise current and former board members who presently serve on NASBA committees or who are officers or directors of NASBA. The committee shall serve in a liaison capacity between the board and NASBA and its member boards.

(f) Ad hoc advisory committees. Ad hoc advisory committees may be established by the board chairman and members and advisory members appointed as appropriate.

(g) Definition of Terms. As used in this section, the terms "chairman" and "chairmen" are used for convenience and are intended to include persons of either sex.

(h) Policy Guidelines. All advisory committee members performing any duties utilizing board facilities and/or who have access to board records, shall conform and adhere to the standards, substantive rules, and personnel policies of the board as described in its administrative guidelines and to the laws of the State of Texas governing state employees.

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 November 30, 1988.

TRD-8812410
Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: December 25, 1988

Proposal publication date: October 7, 1988

For further information, please call: (512) 450-7066

◆ ◆ ◆
TITLE 28. INSURANCE
Part I. State Board of Insurance

Chapter 27. State Fire Marshal
Subchapter D. Storage and Sale of Fireworks

• 28 TAC §27.413

The State Board of Insurance adopts an amendment to §27.413, without changes to the proposed text as published in the October 28, 1988, issue of the *Texas Register* (13 TexReg 5459).

Section 27.413 concerns applications for license or permit for public display of fireworks. The amendment of §27.413(c)(8) is necessary to provide for coverage of fireworks displays through surplus lines insurance. The insurance coverage is necessary to provide for protection of the public as contemplated under the Insurance Code, Article

5.43-4, §15 and §16. The State Board of Insurance has determined that, due to market conditions, the liability insurance coverage required by the Insurance Code, Article 5.43-4, §15, is unavailable to applicants for, and holders of, public display licenses or permits.

The amendment provides authorization for the acceptance until January 2, 1989, of surplus lines insurance coverage for fireworks displays.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 5.43-4, §16, which authorizes the State Board of Insurance to adopt rules necessary for the protection, safety, and preservation of life and property by licensing and regulating public fireworks display and other matters and activities concerning fireworks, and to accept surplus lines coverage for public liability insurance concerning fireworks.

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 December 6, 1988.

TRD-8812443
Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: December 27, 1988

Proposal publication date: October 28, 1988

For further information, please call: (512) 463-6327

◆ ◆ ◆
TITLE 31. NATIONAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 287. Water Well Drillers

The Texas Water Commission (TWC) adopts amendments to §§287.2, 287.31, 287.43, 287.44, 287.46, 287.49, 287.50, and 287.91. Section 287.43, and §287.44 are adopted with changes to the proposed text as published in the June 24, 1988, issue of the *Texas Register* (13 TexReg 3215). Sections 287.2, 287.31, 287.46, 287.49, 287.50, and 287.91 are adopted without changes and will not be republished.

The justification for the amendments is to bring the sections into compliance with House Bill 1347, 70th Legislation, 1987. The amendment to §287.31 provides for the reporting of well logs.

In regard to monitoring wells, and dewatering wells and changes the filing deadline from 30 to 60 days after the well is completed. Subsection (b) also requires the filing of the original well log with the TWC.

Section 287.2 adds the definitions for abandoned well, capped well, monitoring well driller, dewatering well driller, deteriorated well, dewatering well, driller, monitoring well, annu-

lar space, and well; amends the definitions of the terms well log, water well, water well driller, and licensed well driller; and deletes the definition of abandonment.

Section 287.43, concerning the location of wells, is amended to add the terms dewatering and monitoring wells and to explain that monitoring wells may be located in areas that are exceptions to the general location rules.

In §287.44, concerning standards of completion for domestic, industrial, injection, and irrigation wells, the terms dewatering and monitoring wells are added. Section 287.44(3) provides for a steel sleeve as an alternative to a well slab and §287.44(2)(C) requires a waterproof vault for monitoring wells.

Amendments to §287.46 prohibit the flow of undesirable fluids onto land surface.

Amendments to §287.49 and §287.50, concerning standards for plugging wells, clarify what an abandoned well is and define the term heavy mud.

Section 287.91 is broadened to include monitoring and dewatering wells.

Comments were received in regard to §287.2 concerning definitions of terms, specifically being the definitions of dewatering well driller, licensed well driller, monitoring well driller, and water well driller. The definitions contained in the proposed rules tracks the verbiage contained in House Bill 1347, 70th Legislation, 1987. It appears best to have no difference in verbiage between the definition of a word contained both in the statute and rules.

Comments were received in regard to §287.43(a) and (b). The section requires that a well be located a minimum horizontal distance of 50 feet from any watertight sewage and liquid waste collection facility, except in the case of monitoring wells which may be located where necessity dictates. It was suggested that dewatering wells be located where necessity dictates. This appears to be a good suggestion and the staff of the executive director concurs.

Comments were received on §287.44 concerning standards of completion for the dewatering, monitoring, domestic, industrial, injection, and irrigation wells. Under requirement (1) the annular space is required to be filled to a depth not less than 10 feet below land surface with a cement slurry. In those cases where the groundwater to be monitored, dewatered, or used is shallower than 10 feet, a 10 feet cement requirement can interfere with the purpose of the well. This is a valid observation. The amended sections so reflect for monitoring and dewatering wells.

A comment was received that all wells less than 30 feet be exempt from the regulations. The Well Drillers Act, Texas Civil Statutes, Article 7621(e), does not allow such an exemption. In addition, the current sections alleviate this concern by stating that in areas of shallow, unconfined groundwater aquifers, the cement slurry need not be placed below the static water level and in areas of shallow, confined groundwaters having artesian head, the cement slurry need not be placed below the top of the water-bearing strata.

A comment was received that the sections,

concerning monitoring and dewatering wells, will increase construction cost. The sections, concerning monitoring and dewatering wells, are mandated by House Bill 1347, 70th Legislature, 1987 and therefore, regulations must be promulgated irrespective of cost.

A comment was received that temporary dewatering wells should be exempt. The Well Drillers Act does not provide for such an exemption and the issue would become: What is temporary? It is very possible that temporary could become quite extended in practice.

Comments were received from the Texas Chemical Council, Amaco Oil Company, and Mitchell Energy Corporation.

General Provisions

• 31 TAC §287.2

The amendment is adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state. The amendment is also adopted under the Water Well Drillers Act, Texas Civil Statutes, Article 7621e, which authorizes the commission to adopt rules concerning matters addressed by the Act.

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 December 7, 1988.

TRD-8812484 Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 28, 1988

Proposal publication date: June 24, 1988

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

Well Logs and Reporting Undesirable Water

• 31 TAC §287.31

The amendment is adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state. The amendment is also adopted under the Water Well Drillers Act, Texas Civil Statutes, Article 7621e, which authorizes the commission to adopt rules concerning matters addressed by the Act.

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 December 7, 1988.

TRD-8812485 Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 28, 1988

Proposal publication date: June 24, 1988

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

Well Drilling, Completion, Capping and Plugging

• 31 TAC §§287.43, 287.44, 287.46, 287.49, 287.50

The amendments are adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state. The amendments are also adopted under the Water Well Drillers Act, Texas Civil Statutes, Article 7621e, which authorizes the commission to adopt rules concerning matters addressed by the Act.

§287.43. Location of Dewatering, Monitoring, Domestic, Industrial, Injection, and Irrigation Wells.

(a) A well shall be located a minimum horizontal distance of 50 feet from any water-tight sewage and liquid-waste collection facility, except in the case of monitoring wells and dewatering wells which may be located where necessity dictates.

(b) Except as noted in §287.44(b) of this title (relating to Standards of Completion for Dewatering, Monitoring, Domestic, Industrial, Injection, and Irrigation Wells), a well shall be located a minimum horizontal distance of 150 feet from any concentrated sources of contamination, such as existing or proposed livestock or poultry yards, privies, and septic system absorption fields, except in the case of monitoring wells and dewatering wells which may be located where necessity dictates.

(c) (No change.)

§287.44. Standards of Completion For Dewatering, Monitoring, Domestic, Industrial, Injection, and Irrigation Wells. Dewatering, monitoring, domestic, industrial, injection, and irrigation wells shall be completed in accordance with the following specifications and in compliance with local county or incorporated city ordinances.

(1) The annular space shall be filled from ground level to a depth of not less than 10 feet below the land surface or well head with cement slurry except in the case of monitoring and dewatering wells when the water to be monitored or dewatered is located at a more shallow depth. In that situation the cement slurry shall only extend down to the level immediately above the monitoring or dewatering level. The distances given in §287.43(b) of this title (re-

lating to Location of Dewatering, Monitoring, Domestic, Industrial, Injection, and Irrigation Wells) may be decreased provided the total depth of cement slurry is increased by twice the horizontal reduction. In no case, with the exception of monitoring wells and dewatering wells, shall the distances established in §287.43 (relating to Location of Dewatering, Monitoring, Domestic, Industrial, Injection, and Irrigation Wells) be less than 50 feet. In areas of shallow, unconfined groundwater aquifers, the cement need not be placed below the static water level. In areas of shallow, confined groundwater aquifers having artesian head, the cement need not be placed below the top of the water-bearing strata.

(2) In all wells where plastic casing is used, except when a steel sleeve or pitless adapter as described in paragraph (3) of this section is used, a concrete slab or sealing block shall be placed above the cement slurry around the well at the ground surface.

(A) The slab or block shall extend at least two feet from the well in all directions and have a minimum thickness of four inches and should be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing.

(B) (No change.)

(C) The top of the casing shall extend a minimum of one foot above the top of the slab except in the case of monitoring wells when it is impractical or unreasonable to extend the casing above the ground. Monitoring wells shall be placed in a waterproof vault the rim of which extends two inches above the ground surface, and a sloping cement slurry shall be placed around and two feet below the base of the vault between the casing and the wall of the borehole so as to prevent surface pollutants from entering the monitoring well. The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well. The annular space of the monitoring well shall be sealed with an impervious bentonite or similar material from the top of the interval to be tested to the cement slurry below the vault of the monitoring well.

(3) In wells where a steel sleeve is used.

(A) The steel sleeve shall be a minimum of 3/16 inches in thickness and 18 inches in length, and shall extend six inches into the cement, except when steel casing or a pitless adapter as described in paragraph (2) of this section is used. The casing shall extend a minimum of one foot above the original ground surface, and the steel sleeve shall be two inches larger in diameter than the plastic casing being used.

(B) A slab or block as described in paragraph (2)(A) of this section is required above the cement slurry except when a pitless adapter may be used. Pitless adapters may be used in such wells provided that:

(i)-(ii) (No change.)

(4)-(5) (No change.)

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 December 7, 1988.

TRD-8812486

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 28, 1988

Proposal publication date: June 24, 1988

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

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Licensing Procedures

• **31 TAC §287.91**

The amendment is adopted under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state. The amendment is also adopted under the Water Well Drillers Act, Texas Civil Statutes, Article 7621e, which authorizes the commission to adopt rules concerning matters addressed by the Act.

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 December 7, 1988.

TRD-8812483

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 28, 1988

Proposal publication date: June 24, 1988

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

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Name John Butler

Grade. 7

School. Metropolitan Alternative School, Dallas

JOHN S BUTLER

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 detailed agenda than what is published in the *Texas Register*.

Texas Department of Agriculture

Monday, December 19, 1988, 10 a.m. The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will review alleged violation of the Texas Agriculture Code, §103.001, by Magnolia Fruit and Produce Company, Inc., Daniel J. Faour, Anthony J. Faour, Kenneth A. Faour, and Gary K. Faour, as petitioned by Griffin and Brand of McAllen.

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

Filed: December 7, 1988, 8:58 a.m.

TRD-8812490

Monday, December 19, 1988, 1 p.m. The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will review alleged violation of the Texas Agriculture Code, §103.001, by Magnolia Fruit and Produce Company, Inc., Daniel J. Faour, Anthony J. Faour, Kenneth A. Faour, and Gary K. Faour, as petitioned by Healds Valley Farms, Inc.

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

Filed: December 7, 1988, 8:58 a.m.

TRD-8812488

Tuesday, December 20, 1988, 10 a.m. The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will review alleged violation of the Texas Agriculture Code, §103.001, by Magnolia Fruit and Produce Company, Inc., Daniel J. Faour, Anthony J. Faour, Kenneth A. Faour, and Gary K. Faour, as petitioned by Hinojosa Brothers Produce.

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

Filed: December 7, 1988, 8:58 a.m.

TRD-8812489

Texas Commission on Alcohol and Drug Abuse

Thursday, December 15, 1988, 1:30 p.m. The Board of Commissioners for the Texas Commission on Alcohol and Drug Abuse will meet in Room 104, John H. Reagan Building, Austin. According to the agenda summary, the board will approve minutes of the October 25, 1988, meeting; hear public comment; act on advisory council appointments and report; act on rules and policies (approval to submit Rule 141.7, "Committees of the Commission," to the Texas Register/adopt proposed DWI rules/consider proposed new policy, "Drug-free Workplace"); consider legislative priorities for the 71st legislature; report on registration of counselors; report on reorganization of program services division; appoint commissioner members of fiscal year 1989, grant and review committee; federal funds (funding update/action on proposed use of federal funds/grant and contract review process, fiscal year 1989 and 1990); and hear chairman and executive director reports.

Contact: Becky Davis or Larry Goodman, 1705 Guadalupe, Austin, Texas 78701, (512) 463-5510.

Filed: December 7, 1988, 9:46 a.m.

TRD-8812487

State Bar of Texas

Thursday, December 15, 1988, 9 a.m. The Executive Committee of the State Bar of Texas will meet in the Texas Law Center, Room 206-207, 1414 Colorado Street, Austin. According to the agenda summary, the committee will hear reports of President James B. Sales, executive director, general counsel, president-elect, immediate past president, immediate past chairman of the board, TYLA president, and supreme court liaison.

Contact: Paula Welch, 1414 Colorado

Street, Austin, Texas 78701, (512) 463-1451.

Filed: December 7, 1988, 3:37 p.m.

TRD-8812509

Texas Bond Review Board

Friday, December 9, 1988, 10 a.m. The Texas Bond Review Board met in emergency session in the Senate Reception Room, State Capitol, Austin. According to the agenda, the board approved minutes of the previous meeting; and considered proposed issue concerning Texas Rehabilitation Commission and other business. The emergency status was necessary to allow timely consideration of proposed issue prior to regular monthly meeting of the board by the board's staff.

Contact: Tom K. Pollard, Room 700, Sam Houston Building, Austin, Texas, (512) 463-1741.

Filed: December 7, 1988, 11:02 a.m.

TRD-8812494

Tuesday, December 20, 1988, 10 a.m. The Texas Bond Review Board will meet in the Senate Chamber, State Capitol, Austin. According to the agenda, the board will approve minutes of the previous meeting; and consider proposed issue concerning Texas Rehabilitation Commission and other business.

Contact: Tom K. Pollard, Room 700, Sam Houston Building, Austin, Texas, (512) 463-1741.

Filed: December 7, 1988, 11:02 a.m.

TRD-8812493

Texas Department of Commerce

Thursday, December 8, 1988, 4 p.m. The South Texas Private Industry Council, Inc. of the Texas Department of Commerce met in emergency session at Highway 83 and 10th Street, Zapata. The emergency status was necessary because council needed ap-

proval on contracts.

Contact: Ruben M. Garcia, P.O. Box 1757, Laredo, Texas 78044-1757.

Filed: December 6, 1988, 4:06 p.m.

TRD-8812497

Thursday, December 15, 1988, 11:15 a.m. The Strategic Economic Policy Commission of the Texas Department of Commerce will meet in the Speaker's Committee Room, Austin. According to the agenda, the commission will discuss the final report of the commission and hold a press conference on the report.

Contact: Bob Farley, (512) 320-9667.

Filed: December 7, 1988, 4:07 p.m.

TRD-8812510

Monday, December 19, 1988, 10 a.m. The Texas Literacy Council of the Texas Department of Commerce will meet in the John H. Reagan Building, Austin. According to the agenda, the council will approve minutes of the November 21, 1988, meeting; hear public comment and update on report to legislature; approve final draft of report to legislature; and set date for next meeting.

Contact: Martha Alworth, 8317 North Cross Drive, Austin, Texas 78754.

Filed: December 8, 1988, 8:41 a.m.

TRD-8812520

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**Texas Department of
Commerce-Tourist Division**

Thursday, December 15, 1988, 10 a.m. The Tourism Advisory Committee for the Texas Department of Commerce-Tourism Division will meet in the Third Floor Conference Room, Republic Bank Building, 900 Congress Avenue, Austin. According to the agenda, the committee will consider strategic tourism plan; hospitality training program update; presentation of new toll-free TV spot; hear report on occupancy tax; research project update; unified regionalization of Texas regions; and hear world travel market report.

Contact: Margaret Younger, Suite 1190, First City Centre, Austin, Texas, (512) 320-1043.

Filed: December 6, 1988, 3:27 p.m.

TRD-881244

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**Texas Employment
Commission**

Wednesday, December 14, 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 consider prior meeting notes; internal proce-

dures on commission appeals; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on commission docket 50; and set date of the next meeting.

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

Filed: December 6, 1988, 3:37 p.m.

TRD-8812448

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Office of the Governor

Monday, January 9, 1989, 10 a.m. The Career Ladder/Teacher Appraisal System Task Force will meet in Room 103, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the task force will act of level of teacher career ladder supplement funding; delay of Level IV of the teacher career ladder; use of current year vs. prior year performance appraisals for career ladder placements; use of stricter performance criteria for maintenance on the teacher career ladder; use of student achievement data for career ladder decisions; and discuss higher order thinking skills and differentiated scoring standards.

Contact: Betsy Bishop, Room 103, Capitol Building, Austin, Texas, (512) 463-1830.

Filed: December 7, 1988, 2:08 p.m.

TRD-8812500

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Texas Historical Commission

Wednesday, December 14, 1988, 9:30 a.m. The Permanent Advisory Committee of the State Preservation Board for the Texas Historical Commission will meet in Room 103, John H. Reagan Building, Austin. According to the agenda, the board will introduce visitors and guests; approve minutes; and discuss communications, old and unfinished business, and new business.

Contact: Curtis Tunnell, P.O. Box 12276, Austin, Texas 78701, (512) 463-6100.

Filed: December 6, 1988, 3:41 p.m.

TRD-8812450

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**Texas Hospital Equipment
Financing Council**

Friday, December 16, 1988, 10 a.m. The Texas Hospital Equipment Financing Council will meet in Room 101, John H. Reagan Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the council will approve minutes of the previous meeting; discuss and approve payment of fees and expenses incurred in connection with the extension of the stated maturity of the council's series 1985 bonds,

including expenses for printing the bonds and official statement; fees for tax counsel, underwriters counsel, letter of credit bank counsel, and rating agencies; discuss and approve of payment of fees and expenses incurred by the state auditor in connection with the annual audit; discussion regarding the continuing role of the current program administrator and possible action in connection therewith, including consideration, if necessary, of a new program administrator; discuss and possibly hire an accountant to prepare financial statements in accordance with statutory requirements; discuss continuing role of the current remarketing agent for the council's series 1985 bonds and possible action in connection therewith, including consideration, if necessary of a new remarketing agent and the procedures and guidelines for such appointment; discuss and possibly act on future direction and additional programs of the council; discuss and possibly act on legislation to be presented to the 71st Legislature; and discuss need for future meetings of the council and set the time and date for such meeting.

Contact: C.D. Polumbo, 210 Barton Springs Road, Austin, Texas 78704, (512) 463-2018.

Filed: December 7, 1988, 1:19 p.m.

TRD-8812496

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Texas Housing Agency

Wednesday, December 14, 1988, 1:30 p.m. The Ad Hoc Committee for the Texas Housing Agency will meet at the Hyatt Regency Riverwalk, 123 Losoya Street, San Antonio. According to the agenda, the committee will consider and possibly act on testimony from Jack Mullins of Victoria; testimony from Dorothy Jordan of the Ron Brown Company, Victoria; testimony from relevant parties at Crossroads Abstract and Title Company, Inc.; and meet in executive session.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas, (512) 474-2974.

Filed: December 6, 1988, 4:50 p.m.

TRD-8812478

Thursday, December 15, 1988, 10 a.m. The Texas Housing Agency will hold a Personnel and Planning meeting in the Conference Room, Suite 300, 811 Barton Springs, Austin. According to the agenda summary, the agency will consider procedures and techniques for agency planning over the next two years; consider planning goals for the agency in the 90, 180, and 360-day time frame; hear report received from Rice Center; consider agency personnel manual; and hear presentation of information from Merrill Lynch and other financial managers.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas (512) 474-2974.

Filed: December 7, 1988, 4:25 p.m.

TRD-8812513

State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin, Texas, times, rooms, and agendas follow.

Wednesday, December 14, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10136-Whether disciplinary action should be taken against Jesse Michael Parrish, Tyler, who holds a group I, legal reserve life insurance agent's license and a health and accident insurance agent's license issued by the board.

Contact: Wendy Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:40 p.m.

TRD-8812465

Wednesday, December 14, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 443, to consider Docket 10190-Proposed plan of merger of Conseco Life Insurance Company, Louisville, Kentucky, into Bankers National Life Insurance Company, Austin.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:42 p.m.

TRD-8812464

Wednesday, December 14, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10180-Application of Alpha Dental Programs, Inc., Dallas, for a certificate of authority to operate a health maintenance organization offering a single health care service plan.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:42 p.m.

TRD-8812463

Wednesday, December 14, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 443, to consider Docket 10187-Application of Financial Holding Corporation to acquire control of Omaha Financial Insurance Company, Minneapolis, Minnesota.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:42 p.m.

TRD-8812462

Thursday, December 15, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 443 will consider the application for amendment to the Articles of Incorporation of Mid-Century Insurance Company, Austin, changing the authorized capital.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:43 p.m.

TRD-8812457

Friday, December 16, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 443 to consider the application for original charter of Gipson Life Insurance Company, Lufkin.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:43 p.m.

TRD-8812454

Friday, December 16, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342 to consider whether disciplinary action should be taken against Richard Edward Griffin, San Antonio, who holds a local recording agent's license issued by the board.

Contact: ~Wendy Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:43 p.m.

TRD-8812455

Friday, December 16, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353 to consider the application of Jorge Robledo Echeverria, Del Rio, for a Group I, legal reserve life insurance agent's license to be issued by the board.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:43 p.m.

TRD-8812456

Friday, December 16, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 443 to consider the application of Mid-America Indemnity Insurance Company, Cayman Islands, to acquire control of Dallas Fire Insurance Company, Dallas.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:43 p.m.

TRD-8812451

Friday, December 16, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353 to consider the application for amendment to the Articles of Incorporation of Commodore Insurance Company, Dallas, changing the number of directors.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:43 p.m.

TRD-8812452

Friday, December 16, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342 to consider the application of Ronnie Micheal Collins, Bedford, for a Group II, health and accident insurance agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:43 p.m.

TRD-8812453

Monday, December 19, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 443, to consider Docket 10195-Application of Southwest Service Life Insurance Company, North Richland Hills, a stipulated premium company (Texas Insurance Code, Chapter 22) for a charter amendment to increase authorized shares, restate the Articles of Incorporation and pertaining to director liability.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:39 p.m.

TRD-8812471

Monday, December 19, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10154-Whether disciplinary action should be taken against Armando Martinez doing business as Armando Martinez Insurance Agency, Laredo, who holds a group I, legal reserve life insurance agent's license, a local recording agent's license and a variable contract agent's license.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:39 p.m.

TRD-8812470

Monday, December 19, 1988, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10168-Application for amendment to the Articles of Incorporation and the application for amendment for amended certificate of authority of American First Life Insurance Company, Dallas.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:39 p.m.

TRD-8812469

Monday, December 19, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 443, to consider Docket 10179-Proposed plan of merger of Associated Bankers Life Insurance Company, Denton, into Hill Country Life Insurance Company, Austin.

Contact: Earl Corbitt, 1110 San Jacinto

Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:40 p.m.

TRD-8812466

Monday, December 19, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10167-Application for amendment to the Articles of Incorporation of American Exchange Life Insurance Company, Dallas, regarding director's liability.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:40 p.m.

TRD-8812467

Monday, December 19, 1988, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10173-Issuance of a certificate of authority for C.C. Young Memorial Home under the Texas Continuing Care Facility Disclosure and Rehabilitation Act, §4(g).

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 6, 1988, 3:40 p.m.

TRD-8812468

Legislative Budget Board

Friday, December 16, 1988, 11 a.m. The Legislative Budget Board will meet in Room 310, State Capitol, Austin. According to the agenda, the board will consider appropriation requirements for the 1990-1991 biennium and any other business that might come before the board.

Contact: Jim Oliver, State Capitol, Room 207-A, Austin, Texas 78711, (512) 463-1166.

Filed: December 7, 1988, 4:28 p.m.

TRD-8812516

Texas Parks and Wildlife Department

Wednesday, December 14, 1988, 11 a.m. The Texas Parks and Wildlife Commission for the Texas Parks and Wildlife Department will meet in Complex Building B, Texas Parks and Wildlife Headquarters, 4200 Smith School Road, Austin. According to the agenda, the commission will consider proposal for decision-Menhaden Fish Plant license application; and hear report on Menhaden Fishery.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: December 6, 1988, 2:40 p.m.

TRD-8812436-8812437

State Preservation Board

Friday, December 16, 1988, 9:30 a.m. The State Preservation Board will meet in The Lieutenant Governor's Committee Room, #220, State Capitol, Austin. According to the agenda, the board will approve minutes of the previous meeting; consider communications, old or unfinished business, status of emergency repair items, collections policy and manual, giftshop, capitol fire marshal, new business, listing of change requests, grounds policy, A/E selection-G.L.O.B. A/E selection-capitol, and 1989-1991 budget.

Contact: Michael Schneider, P.O. Box 13286, Austin, Texas 78711, (512) 463-5495.

Filed: December 8, 1988, 8:26 a.m.

TRD-8812519

Texas Department of Public Safety

Monday, December 19, 1988, 10 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet in the Commission Room, DPS Headquarters, 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will approve minutes of the previous meeting; consider budget matters, personnel matters, real estate matters, pending and contemplated litigation, miscellaneous and other unfinished business, and proposed rule changes for vehicle inspection.

Contact: Joe E. Milner, 5805 North Lamar Boulevard, Austin, Texas (512) 465-2000, ext. 3700.

Filed: December 7, 1988, 10:02 a.m.

TRD-8812491

Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Thursday, December 8, 1988, 9 a.m. The Hearings Division submitted an emergency revised agenda to consider Southwestern Bell's appeal of examiner's order 3 in Docket 8336-Application of Southwestern Bell Telephone Company for approval of amendment of universal emergency number service (911) tariff. The emergency status was necessary because prompt commission action is necessary to preserve jurisdiction over subject matter.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 6, 1988, 2:52 p.m.

TRD-8812441

Wednesday, December 14, 1988, 9 a.m. The Administrative Division will approve minutes of the previous meeting; hear reports, discuss, and act on budget and fiscal matters; hear report on agency matters relating to the 71st legislative session; consider selection of consulting firm to perform comprehensive management audit of the PUC-presentation by finalists; approve Texas Exchange Carrier Association expenses related to administering the universal service fund; consider adoption of the staff's long-term electric peak demand and capacity resource forecast for Texas 1988; and set time and place for next meeting. The division will also meet in executive session to consider personnel and litigation matters.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 6, 1988, 4:27 p.m.

TRD-8812458

Thursday, December 15, 1988, 1 p.m. The Hearings Division will consider Docket 8267-Application of Jasper-Newton Electric Cooperative, Inc. for approval of contract load growth for economic development service.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 7, 1988, 1:44 p.m.

TRD-8812499

Friday, December 16, 1988, 1:30 p.m. The Hearings Division will consider Docket 8422-Petition of Rita Blanca Electric Cooperative, Inc. to implement large power development rate.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 6, 1988, 2:53 p.m.

TRD-8812439

Monday, December 19, 1988, 2 p.m. The Hearings Division will consider Docket 8424-Complaint of Automated Long Distance Services, Inc., doing business as Dash Long Distance against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 6, 1988, 2:53 p.m.

TRD-8812440

Tuesday, December 20, 1988, 10 a.m. The Hearings Division will consider Docket 8336-Application of Southwestern Bell Telephone Company for approval of amendment of universal emergency number service (911) tariff.

Contact: Phillip A. Holder, 7800 Shoal

Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 6, 1988, 2:53 p.m.

TRD-8812438

Thursday, December 22, 1988, 10 a.m. The Hearings Division will consider Docket 8395-Petition for declaratory judgment and relief of AT&T Communications of the Southwest, Inc. against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 7, 1988, 1:44 p.m.

TRD-8812498

Texas Racing Commission

Monday, December 19, 1988, 1:30 p.m. The Texas Racing Commission will meet in the Third Floor Auditorium, First State Bank Building, 400 West 15th Street, Austin. According to the agenda summary; the commission will roll call; approve minutes; discuss Texas A&M University's resources to the racing industry and appropriateness for receiving benefits from charity days; discuss and vote to recognize the official breed registry for Arabian horses; presentation on behalf of Horseman's Benevolent and Protective Association; discuss and vote on resolution regarding the enforcement of regulations at nonpari-mutuel race-tracks; discuss resolution delegating certain ministerial duties to the executive secretary; discuss proposal for legislative changes; discuss staff review procedure for racetrack applications; discuss legislative budget request; discuss and act on §§305.34, 305.44, 305.47, 309.102(b), 309.65, 303.41, 305.68, and 305.69; and discuss and act on Chapters 307, 311, 323, Subchapters D, E, and F of Chapter 303.

Contact: Paula Cochran Carter, 400 West 15th Street, Austin, Texas 78701, (512) 476-7223.

Filed: December 6, 1988, 10:07 a.m.

TRD-8812432

Special Task Force on Rural Health Care Delivery

Monday, December 12, 1988, 10 a.m. The OB/Liability Subcommittee of the Special Task Force on Rural Health Care Delivery met in emergency session in the Senate Reception Room, State Capitol Building, Austin. According to the agenda, the subcommittee discussed final recommendations to the full task force. The emergency status was necessary to meet legislative deadline for the completion of the final report.

Contact: Sam Gorena, P.O. Box 13206, Austin, Texas (512) 463-0809.

Filed: December 7, 1988, 8:51 a.m.;

TRD-8812479

Monday, December 19, 1988, 1 p.m. The Special Task Force on Rural Health Care Delivery will meet in Room 310, Old Supreme Courtroom, State Capitol Building, Austin. According to the agenda, the task force will consider and adopt recommendations to be included in the final report to the 71st Legislature.

Contact: Sam Gorena, P.O. Box 13206, Austin, Texas 78711, (512) 463-0809.

Filed: December 7, 1988, 8:51 a.m.

TRD-8812480

The University of Texas at Austin

Thursday, December 15, 1988, 3 p.m. The Intercollegiate Athletics for Women at the University of Texas at Austin will meet in the Conference Room, 606 Bellmont Hall, U.T. Campus, 21st and San Jacinto Streets, Austin. According to the agenda summary, the university will approve minutes of the November 14, 1988, meeting; hear announcements, information, and reports; and consider old and new business.

Contact: Dr. Donna Lopiano, BEL 606, University of Texas Campus, (512) 471-7693.

Filed: December 7, 1988, 3:15 p.m.

TRD-8812504

Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, and agendas follow.

Tuesday, December 13, 1988, 9 a.m. The commission met in emergency session to consider all motions for rehearing on an application by GWR Operating Company, Docket RE-9253. The emergency status was necessary to act on the motion for rehearing before it dies by operation of law.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: December 6, 1988, 3:26 p.m.

TRD-8812446

Monday, February 13, 1989, 10 a.m. The commission will consider application by Fort Bend Flood Control Water Supply Corporation, App. 5199, for a permit to divert all of the flow of Flat Bank Creek, tributary of Steep Bank Creek, tributary of the Brazos River through a proposed earthen diversion channel to Steep Bank Creek, Brazos River Basin, for flood pro-

tection, approximately 13 miles southeast of Richmond, Fort Bend County.

Contact: Brenda W. Foster, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 6, 1988, 3:29 p.m.

TRD-8812445

/Monday, February 13, 1989, 10 a.m. The commission will consider application by Gordon Country Club, app. 5200, for a permit to authorize the maintenance of a dam on Cottonwood Branch, tributary of Auds Creek, tributary of the North Sulphur River, tributary of the Sulphur River, Sulphur River Basin, creating 394 acre-foot capacity reservoir approximately three miles southwest of the Lamar County Courthouse in Paris, Lamar County for recreational purposes.

Contact: Brenda W. Foster, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 6, 1988, 3:29 p.m.

TRD-8812447

Texas Water Development Board

Thursday, December 15, 1988, 9:30 a.m. The Texas Water Development Board will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve minutes of the November 17, 1988, meeting; honor Herbert W. Grubb; hear DFM report; consider adopted resolutions regarding portfolio sale and servicing agreement and escrow agreement; consider select escrow agent; consider extension of loan commitments for Lawrence WSC, Hungerford. MUD 1, Fort Bend FCWSC and cities of Robinson, Mission, Johnson City, and Woodville; consider replacement bond res.; consider requests for financial assistance from cities of Covington, China, Justin, Dayton, El Paso, Brazos R.A., and High Plains UWCD 1; consider changed loan commitment for City of Kountze; hear equipment purchases program report; consider priority locations for flood protection and regular water supply and wastewater planning for 1989, Harris-Galveston Coastal Subsidence District grant, EPA approval to use fiscal year 1989 federal funds, and fiscal year 1989 intended use plan and funding line. The board will also meet in executive session and necessary action to appoint planning director.

Contact: M. Reginald Arnold II, P.O. Box 13231, Austin, Texas (512) 463-7847.

Filed: December 7, 1988, 4:26 p.m.

TRD-8812517

Texas Water Resources Finance Authority

Thursday, December 15, 1988, 9:30 a.m.

The Texas Water Resources Finance Authority will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the finance authority will approve minutes of the July 21, 1988, meeting; consider resolutions approving portfolio sale and servicing agreement with board, approving funds management agreement with Texas Treasury Safekeeping Trust Company, authorizing issuance and sale of Revenue Bonds Series 1988, approving official statement, approving paying agent/registrars, and authorizing E.A. to execute and administer agreement with treasurer.

Contact: M. Reginald Arnold II, P.O. Box 13231, Austin, Texas (512) 463-7847.

Filed: December 7, 1988, 4:26 p.m.

TRD-8812514

Regional Meetings

Meetings Filed December 6,
1988

The Bexar-Medina-Atascosa Counties Water Control Improvement District Number 1, Board of Directors, met in the District Office, Highway 81, Natalia, on December 12, 1988, at 8 a.m. Information may be obtained from C.A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet at 304 South 22nd Street, Temple, on December 15, 1988, 7:45 p.m. Information may be obtained from Michael K. Muegge, 304 South 22nd Street, Temple, Texas.

The Dewitt County Appraisal District, Appraisal Review Board, will meet at the Appraisal District Office, 103 Bailey Street, Cuero, on December 14, 1988, at 9 a.m. Information may be obtained from Wayne K. Woolsey, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The East Texas Council of Governments, Executive Committee, met at the ETCOG Offices, Kilgore, on December 8, 1988, 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Education Service Center, Region XII, Administrative Board, will meet at 401 IH 35, Waco, on December 14, 1988, 7:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1249, Waco, Texas 76703-1249, (817) 756-7494.

The Education Service Center, Region XIII, Board of Directors, will meet in Room 205, ESC, Region XIII, 5701 Spring-

dale Road, Austin, on December 14, 1988, at 1 p.m. Information may be obtained from Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300.

The Gillespie Central Appraisal District, Board of Directors, will meet in the Assembly Room, City Hall, Fredericksburg, on December 15, 1988, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807.

The Heart of Texas Council of Governments, Executive Committee, will meet in HOTCOG Conference Room, 320 Franklin Avenue, Waco, on December 15, 1988, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The High Plains Underground Water Conservation District Number 1, Board of Directors, will meet in the Conference Room, 2930 Avenue Q, Lubbock, on December 13, 1988, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

TRD-8812433

Meetings Filed December 7,
1988

The Austin Transportation Study, Policy Advisory Committee, will meet in Room 3.102, Joe C. Thompson Conference Center, Austin, on December 13, 1988, at 6 p.m. Information may be obtained from Joseph P. Gieselman, P.O. Box 1748, Austin, Texas 78767, (512) 472-7483.

The Brazos River Authority, Lake Management Committee, will meet at the Lake Supervisor's Office, Possum Kingdom Lake, on January 4, 1989, at 10 a.m. The Audit Committee, Administrative Policy Committee, and Water Quality Committee, will meet at 4400 Cobbs Drive, Waco, on January 6, 1989, at 10 a.m., 11 a.m., and 1 p.m., respectively. The Water Resource Development Committee and Water Utilization Committee will meet at the same location on January 9, 1989, at 10 a.m. and 1 p.m., respectively. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Cass County Appraisal District, Board of Directors, met at the Appraisal District, 400 North Main Street, Linden, on December 12, 1988, at 7 p.m. Information may be obtained from Janelle Clements, Box 1150, Linden, Texas 75563, (214) 756-7545.

The Denton Central Appraisal District, Board of Directors, will meet at 3911 Morse, Denton, on December 15, 1988, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904.

The East Texas Council of Governments, JTPA Board of Directors, met in the Ramada Inn Conference Room, Kilgore, on December 8, 1988, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Education Service Center, Region V, Board of Directors, will meet in the Boardroom, 2295 Delaware Street, Delaware, on December 15, 1988, at 1:15 p.m. Information may be obtained from Fred J. Waddell, (409) 835-5212.

The Guadalupe-Blanco River Authority, Industrial Development Corporation and the Board of Directors, will meet at the Authority's Offices, 933 East Court Street, Sequin, on December 15, 1988, at 9:30 a.m. and 10 a.m., respectively. Information may be obtained from John H. Specht, P.O. Box 271, Sequin, Texas 78156-0271, (512) 379-5822.

The Heart of Texas Region Mental Health and Mental Retardation, Board of Trustees, will meet at 110 South 12th Street, Waco, on December 13, 1988, at 11:45 a.m. Information may be obtained from Helen Jasso, 110 South 12th Street, Waco, Texas 76701, (817) 752-3451.

The Hood County Appraisal District, Board of Directors, will meet in the District Office, 1902 West Pearl, Granbury, on December 20, 1988, at 7:30 p.m. Information may be obtained from Harold Chestnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471.

The Nolan County Central Appraisal District, Board of Directors, will meet in Suite 317A, Nolan County Courthouse, Sweetwater, on December 13, 1988, at 7 a.m. Information may be obtained from Patricia Davis, Sweetwater Texas 79556, (915) 235-8421.

The North Texas Municipal Water District, Board of Directors, will meet in Administrative Offices, 505 East Brown Street, Wylie, on December 22, 1988, at 4 p.m. Information may be obtained from Carl W. Riehn, (214) 442-5405.

The Panhandle Regional Planning Commission, Board of Directors, met in the Conference Room, 2736 West 10th Street, Amarillo, on December 8, 1988, at 1:30 p.m. Information may be obtained from Pamela Nielsen, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381.

TRD-8812477

Meetings Filed December 8,
1988

The Education Service Center, Region XVIII, Board of Directors, will meet at 2811 LaForce Boulevard, Midland, on December 15, 1988, at 7:30 p.m. Information may be obtained from Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380.

The North Central Texas Council of Governments, Executive Board, will meet on Second Floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on December 15, 1988, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

TRD-8812518





Name: Chris Lockhart

Grade: 10

School: A & M Consolidated High, College Station

In Addition

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

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

Texas Commission for the Blind Requests for Proposals

Pat D. Westbrook, executive director of the Texas Commission for the Blind (TCB), has announced the availability of Title VII, Part A funds to contract for independent living skills training for legally and totally blind individuals.

Funding Areas. Applications will be considered for facilities eligible under 34 Federal Regulations, §361.63 for independent living skills training.

Objectives. The primary objective of the Independent Living Rehabilitation (ILR) Program is to enable legally and totally blind persons without vocational potential to live independently with their families and/or in their communities and to avoid institutionalization. This is achieved via the provision of independent living skills training, adaptive aids, and assistance in providing physical restoration. The Commission for the Blind intends to enter into contracts with facilities to provide various independent living skills training programs on a fee for services basis to clients determined eligible by the commission. Funds available for this purpose will range from \$20,000-\$25,000.

Examples of training include: peer counseling groups; recreation groups; braille instruction groups; and other individual or group training which will benefit blind persons with a wide range of disabilities in terms of independence.

Targeted Population. Individuals served under these contracts are persons who are legally or totally blind and who have met the basic requirements for receiving ILR services which are: (1) There is a presence of a severe physical or mental disability, which for the purposes of this contract, is or includes legal or total blindness; (2) The presence of a severe limitation in ability to function independently in the family or the community or to engage work or continue employment; and (3) A reasonable expectation that independent living rehabilitation services will significantly assist the individual to improve his/her ability to function independently in the family or community or to engage or continue in employment. All clients served under these contracts must be determined to be eligible by the local Texas Commission for the Blind caseworker.

Who Is Eligible to Apply. Local public agencies and private non-profit organizations who provide independent living skills training are eligible to apply for contracts. The Federal Regulations, §365.12, states: "Any agency, organization, or facility awarded a grant by the state unit must assure that severely handicapped individuals are fully involved in policy and program development activities affecting the provision of independent living rehabilitation services." Contracts will be awarded only in those cities or regions where the commission presently has an ILR caseload. The cities or regions are as follows: Houston, Corpus Christi, Tyler, Harlingen, San Antonio, and Odessa.

Application Procedures. Submit to Mr. Robert Packard, Director of Special Services, Texas Commission for the Blind, P.O. Box 12866, Austin, Texas 78711, a narrative no longer than five typed pages which describes: your organization; individuals you now serve; the quality and extent of services to be provided; how proposed services would augment those presently available; and cost per person per hour for proposed training. Also include: qualifications of key personnel; a letter from the executive director or chairman of the board of your organization supporting your request and your proposed plan; and you may, as an appendix, supply additional information about your organization and past achievements in serving the disabled in general and the blind in particular.

All applications must be postmarked no later than January 20, 1989. Interested parties are urged to contact the Texas Commission for the Blind with related questions prior to drafting proposals to facilitate the request for proposals (RFP) process. For additional information, contact Robert Packard, Director of Special Services, Texas Commission for the Blind at (512) 459-2589 or (512) 459-2587 (TDD).

Method of Payment. Facility will be reimbursed monthly via monthly submission of voucher with detail listing of services provided and TCB review and approval of submitted material.

Non-Duplication of Services. Fees for services will not be paid to reimburse services provided by staff currently funded through existing grants.

Review Criteria. The criteria used by reviewers to evaluate proposals are as follows: the proposal address the explicit purpose of the RFP and has specific, measurable goals; the applicant provides evidence of their professional and organizational familiarity and expertise with the RFP subject matter and their capacity to achieve the objectives of the contract in a timely manner; the facility states that they are free of architectural and communication barriers; the facility agrees to provide services to clients in locations accessible to clients, including residences, if required; the facility's services provide alternatives to institutionalization; the applicant indicates that individuals with severe handicaps are involved in policy and program development decisions.

Issued in Austin, Texas on December 2, 1988.

TRD-8812420 Pat D. Westbrook
Executive Director
Texas Commission for the Blind

Filed: December 5, 1988

For further information, please call (512) 459-2601

Texas Department of Commerce Notice of Public Hearing

The Texas Department of Commerce will conduct a public hearing at 1:30 p.m., December 19, 1988, Room 106, John H. Reagan Building, 105 West 15th Street, Austin, in

order to receive comments concerning the comprehensive application procedure, House Bill 4, §6.004(h), 70th Legislature, 1987. The agency will hear comments from the public regarding proposed rules to administer the comprehensive application request procedure. Copies of the proposed rules will be available at the hearing.

Public comments may be presented at the hearing, or may be submitted in writing to the Texas Department of Commerce, Small Business Division, P.O. Box 12728, Austin, Texas 78711. For information regarding this hearing, contact Suzanne Eells Sanders at (512) 320-0110.

Issued in Austin, Texas on December 6, 1988.

TRD-8812423 J. W. Lauderback
Executive Director
Texas Department of Commerce

Filed: December 5, 1988

For further information, please call (512) 320-9528

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Texas Higher Education Coordinating Board

Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Higher Education Coordinating Board invites proposals from qualified consultants to conduct an evaluation of the Texas Higher Education Group Health Insurance Program to determine how it should be restructured to obtain the optimum actuarial benefits to higher education employees.

This is a continuation of a service previously performed, and the Coordinating Board intends to award the contract for consulting services to the private consultant that previously performed the services unless a better offer is submitted.

In 1977, the Texas State College and University Employees Uniform Insurance Benefits Act established a system for the provision of basic group life, accident, and health insurance coverages for public higher education employees. This system was intended to help standardize the 65 health insurance plans existing at the time of its establishment.

Higher education institutions are required by this law to offer health benefits comparable to those provided for regular state employees. Sixty-five different health plans still exist and each community college, senior college, and technical institute generally must develop in-house expertise to manage their benefit plans. Over 100,000 employees or retirees are covered under the higher education insurance system.

An administrative council oversees the operation of the plans by setting basic coverage standards for the program and reviewing the individual plan to ensure compliance with the standards.

The Higher Education Health Insurance Program differs from the health insurance program for regular state employees, known as the Uniform Group Insurance Program (UGIP). The UGIP, centrally administered by the Employees Retirement System, covers the employees and retirees of all state agencies under one health insurance program. The Higher Education Health Insurance Program, on the other hand, is a decentralized operation in which each institution or university system negotiates and enters into its own insurance contract. Other than setting the basic standards for the insurance plans, the administrative council's authority is focused more on reviewing plans once the

contract is executed.

The need for a study of the Health Insurance Program for Higher Education Employees is based on the following factors: the costs of insurance premiums have risen dramatically in the past decade and premium costs continue to escalate each year; insurance is based on the general principle that the more participants included in an insurance plan, the more the risk is spread and reduced. Because greater economies of scale and reduced risk occur in larger plans, premium rates tend to be lower in these plans; costs of medical coverage to employees and institutions vary considerably by institution. For example, 17 (26%) of the plans cost more per employee in 1988 than the amount the state contributed per employee for health insurance premiums; in 1988, nearly 4,700 (5.0%) of all public higher education employees or retirees were covered by health insurance programs which did not meet the required basic standards.

The contractor will be required to perform all tasks necessary to identify data sources, gather information, design and implement a review methodology to analyze the Texas Higher Education Group Health Insurance Program, and formulate recommendations for restructuring the program to obtain the optimum actuarial benefits to higher education employees.

Project deliverable shall include 25 copies of a final report to be submitted upon completion of the project. A formal oral presentation of findings and recommendations will also be scheduled.

Selection will be based on factors including, but not limited to, the following: the contractor should have demonstrated experience in conducting similar reviews; should have a working knowledge of higher education governance and management; provide previous project experience that would benefit this project; and demonstrate organizational and staff capability for successful project completion.

Funding for this project shall not exceed \$75,000 and the contract period shall be for no more than six months. The Texas Higher Education Coordinating Board reserves the right to accept or reject any or all proposals submitted under this consultant proposal request and to negotiate modifications to improve the quality of cost effectiveness of any proposal.

Proposals must be postmarked no later than the close of business (5 p.m.) on January 6, 1989. Three copies of the final proposal are required and may be mailed to: Texas Higher Education Coordinating Board, Attention: James McWhorter, P.O. Box 12788, Austin, Texas 78711; or hand delivered to Room 152, Bevington Reed Building, 200 East Riverside Drive, Austin, by 5 p.m. on January 6, 1989.

For additional information regarding this consultant proposal request, please consult James McWhorter at (512) 462-6420.

Issued in Austin, Texas on December 5, 1988.

TRD-8812482 Kenneth H. Ashworth
Commissioner of Higher Education
Texas Higher Education Coordinating Board

Filed: December 7, 1988

For further information, please call (512) 462-6420

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Texas Water Commission

Request for Proposals

The Texas Water Commission (TWC) announces its intent

to procure a remedial action contractor for the Sikes Disposal Pits Superfund site via two-step formal advertising. As Step 1 of this process TWC is requesting proposals to perform the work as detailed in the request for proposals (RFP).

Specific work shall consist of excavation, handling, incineration, and ash handling for 368,435 tons of waste and contaminated soil, mobilization, demobilization, tree and brush removal, fence and gate construction, ground water monitoring well decommissioning, ground water monitoring, well protection, ground water monitoring well installation, trash and debris removal and disposal, water treatment system, water treatment system operation, flood protection structures, backfilling structural fill, backfilling regular fill, health and safety plan and implementation, contractor's quality control plan and implementation, drainage improvements, final grading and site restoration, site security, temporary utilities, temporary facilities, incinerator, waste stockpile, and ash stockpile construction, testing and laboratory services, and including all labor, materials, supplies, and supervision as shown and specified on the project plans and specifications and in accordance with the technical proposal for the Sikes Disposal Pits Superfund site. The site is located at 801 Highway 90, Harris County.

Each offeror may submit one or more proposals. The proposals shall conform to the instructions contained in the RFP and shall supply sufficient data to enable TWC to evaluate each proposal for conformance with the design and performance criteria for the project.

Proposals will be received and evaluated solely on the basis of the criteria in the request for proposals, without any consideration of price or pricing information. If pricing information is submitted, it will be removed and returned to the offer prior to evaluation. Offerors are advised to submit proposals which are fully and clearly acceptable without additional explanation or information.

If a sufficient number of acceptable proposals are received, a formal invitation for bids will be issued which will result in a fixed price contract for the remedial construction and will include the forms and clauses required by the TWC, federal law, executive orders, procurement regulations and directives, and certain other clauses not related to the technical performance. Invitations will be issued only to those short-listed whose proposal(s) have been categorized as "acceptable" under Step 1. The invitation for bid requires each bidder to submit his price for the services he described in the "acceptable" proposal(s) which he has submitted, including any modifications or clarifications which may have been added during the evaluation thereof submitted by him under Step 1. Bids from offerors considered "not acceptable" under Step 1 will not be considered for award. Should an award be made, it will be made to the lowest responsive, responsible bidder.

The request for proposal may be examined without charge at the Texas Water Commission, Room 513, Employees Retirement System Building, 18th and Brazos Streets, Austin. Copies will be available on or after December 12, 1988, for the non-refundable purchase price of \$300 for the first copy of the RFP, \$70 for each additional copy of the RFP, and \$30 for each full size set of plans with a reproducible site map at the following location: Lockwood, Andrews and Newnam, Inc., 1500 City West Boulevard, Houston, Texas 77042, (713) 266-6900.

Cashiers checks and money orders should be made payable to Lockwood, Andrews and Newnam, Inc. Company and personal checks are not acceptable. Prospective offerors must attend a conducted tour of the construction

site on January 11, 1989, at 9 a.m. local time. Offerors will not be given individual access to the construction site. Offerors who take the tour shall bring proof of compliance with 29 Code of Federal Regulations 1910.120(c), and shall provide their own protective clothing which is Level D, including the following disposable items: coveralls, boots and gloves. Provision will be made for the disposal of protective clothing at the construction site. The offerors shall also sign a form releasing the TWC from liability for possible accidental injury and exposure to hazardous substances at this site. Collection of samples will not be allowed. A pre-proposal conference will be held the next day, January 12, 1989, 9 a.m. local time, at the Intercontinental Hotel located at 5150 Westheimer Boulevard, Houston. Technical and administrative personnel will be on hand to discuss requirements and answer questions. In order to expedite the discussion, offerors are requested to submit written questions to the TWC Project Manager in order that they will be received at least five days prior to the date of the conference, specifying the area (division and part) of the RFP in which clarification is desired. A maximum of four representatives from each purchaser of a RFP will be allowed to attend.

The right is reserved, as the interest of the TWC may require, to revise or amend or rescind this request for proposal in its entirety or any part thereof, at any time. Such revisions or amendments, if any, will be furnished by an amendment or amendments to this request for proposal. Copies of such amendments will be furnished to all prospective offerors. Prospective offerors are required to acknowledge receipt of all amendments to this request for proposal, giving the number and date of each. Oral explanations or instructions given before the opening of proposals will not be binding. The right is also reserved to discontinue the two-step advertising method of procurement at any time if such discontinuance is determined to be in the best interest of the TWC.

All data and information submitted in response to this RFP shall be public data and information except to the extent such data or information is exempted from public access by the terms of Texas Civil Statutes, Article 6252-17a, or by other applicable federal laws or regulations. The use and disclosure of any such data or information may be considered eligible for such an exemption from public disclosure provided the offeror clearly identifies those pages of the proposal which are to be held confidential and provides justification therefore.

Written inquiries concerning this request for proposals should be addressed to James A. Feeley, Project Manager, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087. Telephone inquiries should also be directed to Mr. Feeley at (512) 463-8186. Collect calls will not be accepted.

Fifteen copies of each proposal must be received before 4 p.m. local time on February 21, 1989. Proposal packages must be sealed, marked and addressed as follows: Robert I. Chapin, Chief, Superfund Section Hazardous and Solid Waste Division, Texas Water Commission, Employee Retirement System Building, 18th and Brazos Streets, Austin, Texas 78711

Issued in Austin, Texas on December 6, 1988.

TRD-8812442 James Francis Haley
Director, Legal Division
Texas Water Commission

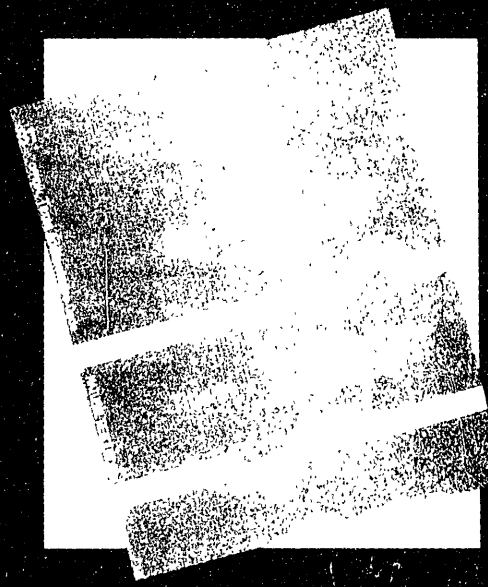
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For further information, please call (512) 463-8069



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