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# TEXAS REGISTER

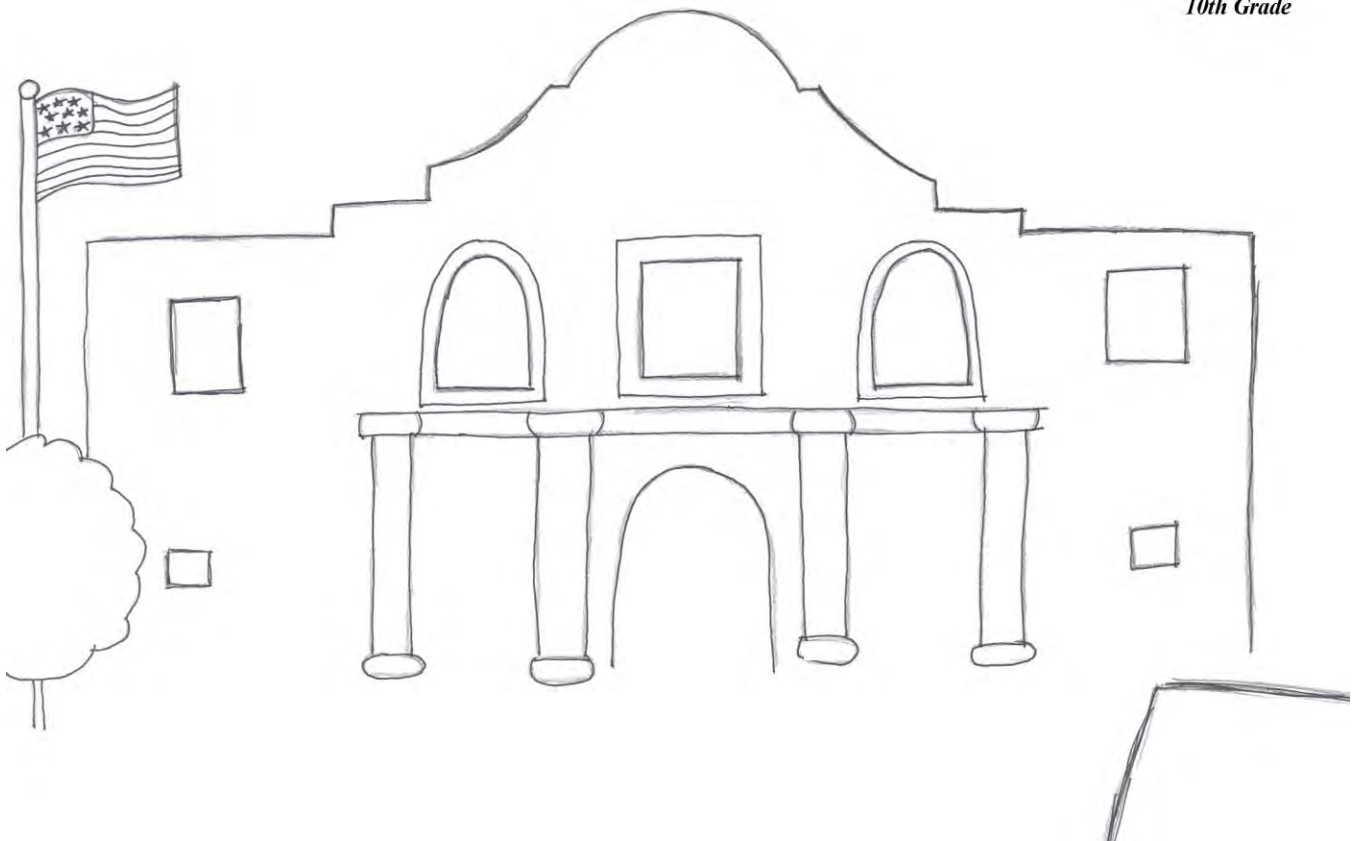
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*Amber Uballe  
10th Grade*



School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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# TEXAS REGISTER

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P.O. Box 12887  
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(512) 463-5561  
FAX (512) 463-5569

<http://www.sos.state.tx.us>  
[register@sos.state.tx.us](mailto:register@sos.state.tx.us)

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# Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:  
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: [register@sos.state.tx.us](mailto:register@sos.state.tx.us)

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://www.oag.state.tx.us/open/index.shtml>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:  
<http://www.texas.gov>

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**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

# THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following:  
Requests for Opinions, Opinions, Open Records Decisions.

An index to the full text of these documents is available from  
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Requests for Opinions

**RQ-0972-GA**

**Requestor:**

The Honorable Charlie Geren

Chair, Committee on House Administration

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether a city that has adopted civil service rules for its police officers under chapter 143, Local Government Code, may authorize a reserve police force (RQ-0972-GA)

**Briefs requested by June 24, 2011**

**RQ-0973-GA**

**Requestor:**

The Honorable Jack Roady

Galveston County Criminal District Attorney

600 Fifty Ninth Street, Suite 1001

Galveston, Texas 77551-4137

Re: Compensation of statutory county court judges in Galveston County (RQ-0973-GA)

**Briefs requested by June 27, 2011**

**RQ-0974-GA**

**Requestor:**

C. Dan Smith, Chairman

Board of Regents

University of North Texas System

1901 Main Street

Dallas, Texas 75201

Re: Whether the Board of Regents of the University of North Texas System may invest funds under its control that are held and managed by its component institutions (RQ-0974-GA)

**Briefs requested by June 30, 2011**

For further information, please access the website at [www.oag.state.tx.us](http://www.oag.state.tx.us) or call the Opinion Committee at (512) 463-2110.

TRD-201101952

Jay Dyer

Deputy Attorney General

Office of the Attorney General

Filed: June 1, 2011

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Opinions

**Opinion No. GA-0861**

The Honorable Jeff Wentworth

Chair, Select Committee on Open Government

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Requirements for real property to qualify as an "ecological laboratory" under section 23.51, Tax Code (RQ-0934-GA)

**S U M M A R Y**

Nothing in the Tax Code suggests that a chief appraiser is required to rely upon a university ecological laboratory research plan and related annual report to qualify land as an ecological laboratory under Tax Code section 23.51. However, nothing in the Tax Code prohibits the chief appraiser from relying on these materials to make his determination. The chief appraiser must evaluate the claimant's application and any additional relevant information to determine whether the designation will apply in a specific instance.

For further information, please access the website at [www.oag.state.tx.us](http://www.oag.state.tx.us) or call the Opinion Committee at (512) 463-2110.

TRD-201101953

Jay Dyer

Deputy Attorney General

Office of the Attorney General

Filed: June 1, 2011

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# EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

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## TITLE 16. ECONOMIC REGULATION

### PART 1. RAILROAD COMMISSION OF TEXAS

#### CHAPTER 3. OIL AND GAS DIVISION

##### 16 TAC §3.15

The Railroad Commission of Texas is renewing the effectiveness of the emergency adoption of amended §3.15, for a 60-day period. The text of the amended section was originally published in the February 25, 2011, issue of the *Texas Register* (36 TexReg 1203).

Filed with the Office of the Secretary of State on May 24, 2011.

TRD-201101860

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Original Effective Date: February 8, 2011

Expiration Date: August 6, 2011

For further information, please call: (512) 475-1295





# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 4. AGRICULTURE

### PART 1. TEXAS DEPARTMENT OF AGRICULTURE

#### CHAPTER 29. ECONOMIC DEVELOPMENT SUBCHAPTER B. GO TEXAN RURAL COMMUNITY PROGRAM RULES

##### 4 TAC §§29.20, 29.25, 29.28, 29.29, 29.31, 29.32

The Texas Department of Agriculture (the department) proposes amendments to Chapter 29, Subchapter B, §§29.20, 29.25, 29.28, 29.29, 29.31, and 29.32, concerning the department's GO TEXAN rural community program (program). These amendments are necessary to comply with changes made to the program by the 82nd Legislature. The Legislature has required that all of the costs of administering this program be entirely offset by revenue generated for the program and has authorized the agency to collect fees accordingly. In order to continue providing services under this program to eligible rural communities, a registration fee is proposed for participation in the program. The amendments to §29.20 and §29.25 are made for purposes of clarification. The proposed amendment to §29.28 adds a registration fee for GO TEXAN Rural Community program members so that the program may continue, under the cost recovery requirement imposed by the 82nd Legislature. The proposed amendment also changes the renewal period from three years to two years. Clarification and guidance are also provided for the renewal process in this amendment. The proposed amendment to §29.29 clarifies the role of the department and the approved use of the GO TEXAN Mark by Licensees. The proposed amendment to §29.31 clarifies member benefits available with paid membership in the Program. The amendment to §29.32 is proposed to adjust the expiration date of the membership in the Program.

Rick Rhodes, assistant commissioner for rural economic development, has determined that for the first five years the proposed amendments are in effect, there will be fiscal implications for state government as a result of enforcing or administering the proposed rule amendments. There will be an increase in state revenue due to the collection of a \$150 registration fee from rural communities and entities supporting rural communities wishing to participate in the program. The charging of a fee is necessary to enable the continued operation of the program due to a new Legislative requirement that this program generate revenue to completely offset its costs. Program services will have to be eliminated if the department does not assess a fee for participation in the program. The amount of fees that will be collected is not determinable at this time, because the program is voluntary. There will be fiscal implications for local government as a

result of enforcing or administering the proposed amendments. Program members include non-metropolitan counties and cities, that will be charged a \$150 registration fee.

Mr. Rhodes also has determined that for each year of the first five years the proposed amendments are in effect the public benefit anticipated as a result of the proposed amendments will be to provide an incentive to GO TEXAN Rural Community members of additional program benefits to promote their communities. There will be an economic cost for communities and associate members that voluntarily choose to participate in the program. A registration fee of \$150 will be required of each participant. However, payment of the registration fee will entitle the members to additional membership benefits that will help promote their communities both statewide and beyond.

Written comments on the proposal may be submitted to Elizabeth Hadley, Assistant Commissioner for Marketing and Promotion, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Written comments must be received no later than 30 days from the date of publication of the proposed amendment in the *Texas Register*.

The amendments to Chapter 29, Subchapter B are proposed under the Texas Agriculture Code (the Code), §12.016, which authorizes the department to adopt rules to administer its duties under the Code; and §12.027, as amended by Senate Bill 1086, 82nd Regular Session, 2011, which authorizes the department to establish and maintain an economic development program and to set a fee for program participation.

Texas Agriculture Code, Chapter 12, is affected by the proposal.

##### §29.20. *Statement of Purpose.*

The GO TEXAN Rural Community program is a voluntary certification program designed to promote ~~[support]~~ and increase economic activity and businesses in rural Texas communities.

##### §29.25. *Application Submission and Review.*

(a) Applications for "GO TEXAN Rural Community" certified or associate membership shall be made in writing on a form prescribed by the department. Program guidelines and application forms may be obtained from ~~[via]~~ the department's website ~~[Web site]~~ at www.Texas-Agriculture.gov, ~~[www.tda.state.tx.us]~~ or by contacting the Texas Department of Agriculture at P.O. Box 12847, Austin, Texas 78711.

(b) - (c) (No change.)

(d) The Commissioner or his designee may deny an application for GO TEXAN Rural Community certification or associate membership if:

(1) the application is not made in compliance with these rules;

(2) the applicant does not meet the eligibility requirements set forth in these rules; [ø]

(3) the registration fee is not included; or

(4) ~~[(3)]~~ for any other reason.

§29.28. *Registration of Those Entitled to Use the Mark.*

(a) Registration fee. A registration fee of \$150 for certification in the GO TEXAN Rural Community program shall be paid to the department every two years. [The Commissioner shall maintain a list of the names of all certified members and associate members granted permission under these sections to use the mark. The list shall be available upon request for public inspection during normal business hours in the offices of the Texas Department of Agriculture, 1700 North Congress Avenue, in Austin, Texas.]

(b) Procedure for renewal ~~[of licensees authorized to use the mark, which shall be made every three years].~~

(1) Licenses for authorization to use the Mark must be renewed every two years.

(2) ~~[(4)]~~ Thirty (30) [Forty-five] days before the expiration date of the registration, the department shall mail to each Licensee [Licensee] a renewal application and statement setting forth the amount due as a registration fee.

(3) ~~[(2)]~~ All payments are due by the expiration date of the registration. Within 30 days of receipt by the department of the renewal application, and registration fee, the department will mail to the Licensee [Licensee] a renewal license agreement.

(4) ~~[(3)]~~ Failure to remit the renewal application and registration fee by the due date shall result in the licensee being designated as inactive. Failure to remit renewal application within 366 days of the due date shall result in the expiration of the license and a new application for certified membership or associate membership will be required for re-instatement to the program.

§29.29. *Use of the Mark.*

~~[A licensee's use of the mark shall comply with the following.]~~

(a) ~~[(4)]~~ Approval of application. Upon approval of an application, the department shall mail to the licensee a license agreement, which is valid for two [three] years and shall expire on the last day of the month corresponding to the license anniversary date. The department shall also provide electronic copies of the Mark [mark], suitable for reproduction.

~~[(2)] Other than the use of the mark, no licensee shall use any statement of affiliation or endorsement by the State of Texas or the department in the advertising, marketing or other commercial use of the certification mark.]~~

~~[(3)] Licensees shall indemnify and hold harmless the commissioner, the State of Texas, and the department for any claims, losses, or damages arising out of or in connection with the person's/communities advertising, marketing or other commercial use of the mark.]~~

(b) Requirements for use. A licensee's use of the Mark is subject to the following requirements:

(1) ~~[(4)]~~ Any permission under the license agreement granted to a licensee to use the Mark [mark] shall be nonexclusive and nontransferable by the licensee listed in the application.

(2) ~~[(5)]~~ Licenses shall do nothing inconsistent with the ownership of the Mark [mark] in the department, and all use of the Mark [mark] by any licensee shall inure to the benefit of and be on behalf of the department. [Further, the]

(3) The licensees shall not have any right, title, or interest in the Mark [mark], other than the right to use the Mark [mark] in accordance with the license agreement. Licensees must agree not to attack

the title of the department to the Mark [mark], or attack the validity of the license agreement or the permission granted by the department.

(4) ~~[(6)]~~ The nature of the rural communities that will be advertised or marketed by licensees in connection with the Mark [mark] shall conform to any standards that may be set from time to time by the department. Licensees must submit examples of use of the Mark within ten days of department's request. [Licensees shall cooperate with the commissioner by supplying the commissioner with specimens of use of the mark upon request.]

(5) ~~[(7)]~~ Licenses shall comply with all applicable laws and regulations and obtain all appropriate governmental approval pertaining to the advertising, marketing or other commercial use of the Mark [mark].

(6) ~~[(8)]~~ Licenses [Licensee] shall use the Mark [mark] only in the form and manner, and with appropriate legends, as authorized [prescribed] from time to time by the department [commissioner]. At the direction of the department, Licensee shall affix on all items utilized in the licensed use, appropriate legal notices, as follows: "GO TEXAN and Design is a certification mark of, and is used under license from, the Texas Department of Agriculture".

~~[(9)] The department shall have the sole right and discretion to bring infringement or unfair competition proceedings involving the mark.]~~

~~[(10)] The department may consider in its evaluation of an applicant or licensee any information regarding an applicant or member that could impair the department's efforts to promote the development of rural communities.]~~

~~[(11)] The consideration of information as provided in paragraph (10) of this section may include consideration of any information that may not enhance the integrity and positive image of the program, including, but not limited to, a review of criminal information, as allowed by applicable laws and regulations.]~~

~~[(12)] A Licensee shall be prohibited from modifying the mark, as found in the license agreement, for use in any way.]~~

(c) Restrictions of use.

(1) Other than the use of the Mark, no Licensee shall use any statement of affiliation or endorsement by the State of Texas or the department in the advertising, marketing or other commercial use of the certification Mark.

(2) A Licensee shall be prohibited from modifying the Mark, as found in the license agreement, for use in any way.

(3) Licensee is prohibited from using the GO TEXAN Mark on merchandise or other products unrelated to the licensed community.

(4) Licensee shall not misuse the Mark in any way, including as defined in §29.30 of this chapter (relating to Termination of Registration and License to Use the Mark).

(d) Rights of Department.

(1) The department shall have the sole right and discretion to bring infringement or unfair competition proceedings involving the Mark.

(2) The department may consider in its evaluation of an applicant or licensee any information regarding an applicant that could impair the department's efforts to promote the development of rural communities.

(3) The consideration of information as provided in this paragraph may include consideration of any information that may not enhance the integrity and positive image of the program, including, but not limited to, a review of criminal information, as allowed by applicable laws and regulations.

§29.31. *Benefits of Membership.*

(a) GO TEXAN Rural Community Program certified members will receive the following benefits:

(1) Use of the Mark [mark on promotional materials] to indicate certification and participation in the GO TEXAN Rural Community Program campaign promoting rural Texas and to take advantage of the visibility of the GO TEXAN program. Member's use of the Mark is subject to all rules and restrictions set forth in §29.29 of this chapter (relating to Use of the Mark).

~~{(2) Receipt of the GO TEXAN Rural Community Program newsletter containing information and news of interest and use to rural communities.}~~

(2) ~~{(3) Emails containing [Regular e-mail updates with timely]~~ information on workshops, resources and agencies or organizations focused on rural development.

(3) ~~{(4) Inclusion in the GO TEXAN Rural Community Program database, including a link on the GO TEXAN Rural Community Program website and promotion through social media, as available.~~

~~{(5) A link on the GO TEXAN Rural Community Program web site.}~~

(4) ~~{(6) Eligibility to participate in the Hometown STARS and Bootstrap Bucks grant programs, subject to the availability of grant funds.~~

(5) ~~{(7) Eligibility for the Hardworking Rural Community award and recognition.~~

(b) GO TEXAN Rural Community Program associate members will receive the following benefits:

(1) Use of the Mark [mark on promotional materials] to indicate support of a rural community eligible to apply under §29.23 of this chapter ~~[title]~~ (relating to Eligibility for Certified Membership; Application) and participation in the GO TEXAN Rural Community Program campaign promoting rural Texas, and to take advantage of the visibility of the GO TEXAN program. Associate member's use of the Mark is subject to all rules and restrictions set forth in §29.29 of this chapter.

~~{(2) Receipt of the GO TEXAN Rural Community Program newsletter.}~~

(2) ~~{(3) Emails containing [Regular e-mail updates with timely]~~ information on workshops, resources and agencies or organizations focused on rural development.

(3) ~~{(4) Inclusion in the GO TEXAN Rural Community Program database.~~

§29.32. *Expiration and Renewal of Certified Membership.*

(a) A certified member's membership expires on the second ~~[third]~~ anniversary of the date the initial certified membership is issued.

(b) To be considered for renewal of certified membership by the department, an applicant must:

(1) complete and submit a renewal application; ~~[and]~~

(2) submit the registration fee; and

(3) ~~{(2)}~~ submit any information or documentation required by the department.

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

Filed with the Office of the Secretary of State on May 27, 2011.

TRD-201101920

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 463-4075

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**TITLE 16. ECONOMIC REGULATION**

**PART 1. RAILROAD COMMISSION OF TEXAS**

**CHAPTER 3. OIL AND GAS DIVISION**

**16 TAC §3.15**

The Railroad Commission of Texas proposes amendments to §3.15, relating to Surface Equipment Removal Requirements and Inactive Wells.

On February 8, 2011, the Commission adopted, on an emergency basis, amendments to subsection (l)(3). The emergency amendments became effective immediately upon filing with the Secretary of State on February 8, 2011, and will be in effect for 120 days, through June 7, 2011. The Commission has adopted a 60-day extension of these emergency amendments, to be effective through August 6, 2011. The Commission now proposes the same amendments as part of a regular rulemaking.

Currently §3.15(l)(3) requires either a successful fluid level test or a successful hydraulic pressure test (also known as a mechanical integrity test or "MIT") for all inactive wells that are more than 25 years old to demonstrate that an inactive well is not an immediate threat to water resources. All other factors being equal, the older a well is and the longer a well has been inactive, the more likely the well is to suffer a mechanical failure or otherwise become a potential threat to ground or surface water.

A successful fluid level test does not necessarily establish that a well could not be a conduit for fluids into usable quality zones, but it does demonstrate that, as of the time of the test, any fluids in the well are sufficiently separated from usable quality water zones that the well poses no immediate threat to usable quality water. A successful hydrostatic MIT test affirmatively demonstrates that a wellbore retains its mechanical integrity and cannot serve as a conduit for downhole fluids into usable quality water zones at the time of the test. Fluid level tests are significantly less expensive than mechanical integrity tests. In addition, the cost of a mechanical integrity test can vary significantly based on a number of factors, including whether the well has tubing in place, whether the operator owns its own rig, how the well is equipped at the surface, the condition of the well, and the depth of the well. Generally, a fluid level test costs less than \$500 while an MIT typically costs between \$1500 and \$10,000, and can cost much more depending on the well configuration and geology involved.

Texas Natural Resources Code, §89.023(a)(2), effective September 1, 2010, mandates that the Commission may not grant an inactive well a plugging extension unless it is in compliance with all Commission rules. Texas Natural Resources Code §89.022(c), also effective September 1, 2010, prohibits the Commission from renewing the P-5 organization report of an operator that has not obtained a plugging extension for each of its inactive wells. Texas Natural Resources Code §89.023(a)(4)(D), also effective September 1, 2010, allows the Commission to grant an extension to the plugging deadline for an inactive well if, *inter alia*, the operator files documentation of a fluid level or hydraulic pressure test of the inactive well.

Unlike a fluid level test, the MIT testing of many wells requires the services of a workover rig. There are approximately 111,000 inactive wells in Texas and 39,213 of these wells had been inactive for 10 years or more as of March 31, 2011. Although some of these 10 year inactive wells have been MIT tested within the last five years, the overwhelming majority have not. There is a shortage of sufficient workover rigs for all operators to conduct required MITs on their 10-year inactive wells during the one-year period after September 1, 2010. Further, requiring MIT testing of wells that are 25 years old and 10 years inactive may impact those wells that could be considered for future enhanced oil recovery (EOR) projects. Additionally, operators may be reticent to pursue EOR projects if inactive wells are plugged which could lead to waste of hydrocarbons and failure to protect the correlative rights of the interest owners.

The Commission proposes to amend subsection (l)(3) to allow operators of 25-year-old, 10-year inactive wells to perform either a fluid level test once every 12 months or a hydraulic pressure test once every five years, and to obtain the approval of the Commission or its delegate of the test results. The proposed amendments will give operators of these wells the option of conducting less expensive fluid level tests which do not depend on the availability of a workover rig. Moreover, this option is consistent with Texas Natural Resources Code §89.023.

Colin Lineberry, an attorney in the Office of General Counsel, estimates that enforcing or administering the rule will not have foreseeable implications relating to cost or revenues of state or local governments for each year of the first five years that the proposed amendments will be in effect.

Texas Government Code, §2006.002, relating to Adoption of Rules with Adverse Economic Effect, directs that, as part of the rulemaking process, a state agency prepare an economic impact statement that assesses the potential impact of a proposed rule on small businesses and micro-businesses, and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule if the proposed rule will have an adverse economic effect on small businesses or micro-businesses. The Commission estimates that the cost of compliance with the proposed amendments for operators that are individuals, small businesses, or micro-businesses will be minor; in fact, the proposed amendments in subsection (l)(3) allow a less expensive option than the currently required hydraulic pressure test.

Entities that perform activities under the jurisdiction of the Commission are not required to report to the Commission their number of employees or their annual gross receipts, which are elements of the definitions of "micro-business" and "small business" in Texas Government Code, §2006.001; therefore, the Commission has no factual bases for determining whether any entities holding 25-year-old, 10-year inactive wells will be classified as

small businesses or micro-businesses, as those terms are defined. Specifically, Texas Government Code, §2006.001(2), defines a "small business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has fewer than 100 employees or less than \$6 million in annual gross receipts. Texas Government Code, §2006.001(1), defines "micro-business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has not more than 20 employees.

Based on the information available to the Commission regarding oil and gas operators, Mr. Lineberry concludes that, of the businesses that could be affected by the proposed amendments, it is likely that many would be classified as a small business, and possible that some could be classified as micro-businesses, as those terms are defined in Texas Government Code, §2006.001. The North American Industrial Classification System (NAICS) sets forth categories of business types. Operators of oil and gas wells fall within the category for crude petroleum and natural gas extraction. This category is listed on the Texas Comptroller of Public Accounts website page entitled "HB 3430 Reporting Requirements-Determining Potential Effects on Small Businesses" as business type 2111 (Oil & Gas Extraction), for which there are listed 2,784 companies in Texas. This source further indicates that 2,582 companies (92.7%) are small businesses or micro-businesses as defined in Texas Government Code, §2006.001.

It is not possible to provide a general estimate of the cost of the proposed amendments because the cost will depend upon numerous variables that cannot be quantified, including the availability of a workover rig to perform the hydraulic pressure test. Nevertheless, while the Commission cannot provide a general estimate of the cost of compliance for any particular operator, the Commission can estimate the general range of the cost of compliance for those elements of the rule that could result in a cost to operators.

As of March 31, 2011, there were 39,213 wells in Texas that had been inactive for 10 years or more. The Commission estimates that 90%, or approximately 35,000, of these wells have not been MIT tested within the last five years. Assuming an average cost of \$300 for fluid level tests and \$7000 for an MIT test, an operator that elects to do annual fluid level tests rather than an MIT every five years will experience savings of \$5,500 over the next five years as a result of the proposed rule change.

The economic impact of the proposed amendments will be the same for small businesses and micro-businesses as for larger businesses. Every operator, whether or not it is a small business or micro-business, must test inactive wells that are more than 25 years old to demonstrate that the wells do not pose a threat to water resources. Because the proposed amendments in subsection (l)(3) allow operators to use the less expensive and easier to complete fluid level test as an alternative to the hydraulic pressure test, which often requires a workover rig, the Commission has determined that the proposed amendments will not have an adverse economic impact on operators that are individuals, small businesses, or micro-businesses engaged in renewing their Forms P-5. The Commission also has determined that a regulatory flexibility analysis is not required because the proposed amendments will not have an adverse economic impact and may have a positive economic impact on both small businesses and micro-businesses.

The Commission finds that the proposed amendments likely would not affect a local economy. Therefore, the Commission has not prepared a local employment impact statement pursuant to Texas Government Code, §2002.022.

The Commission has determined that the proposed amendments are not major environmental rules as defined in Texas Government Code, §2001.0225(a).

The Commission has determined that for each year of the first five years that the proposed amendments will be in effect, the public benefit will be to allow operators a less expensive testing alternative for long-inactive wells, while still protecting water resources.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at [www.rrc.state.tx.us/rules/commentform.php](http://www.rrc.state.tx.us/rules/commentform.php); or by electronic mail to [rulescoordinator@rrc.state.tx.us](mailto:rulescoordinator@rrc.state.tx.us). Comments should refer to O&G Docket No. 20-0270619, and will be accepted until 12:00 p.m. (noon) on Monday, July 11, 2011, which is 31 days after publication in the *Texas Register*. The Commission finds that this comment period is reasonable because the proposed rule is identical to the emergency rule that is currently in effect and because the proposal and an online comment form will be available on the Commission's website no later than the day after the open meeting at which the Commission approves publication of the proposal, giving interested persons more than two additional weeks to review and analyze the proposal and to draft and submit comments. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Mr. Lineberry at (512) 463-7051. The status of Commission rulemakings in progress is available at [www.rrc.state.tx.us/rules/proposed.php](http://www.rrc.state.tx.us/rules/proposed.php).

The Commission proposes the amendments pursuant to Texas Natural Resources Code, §81.051 and §81.052, which give the Commission jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission; Texas Natural Resources Code, Chapter 89, Subchapter B-1, as enacted by HB 2259, relating to Plugging of Certain Inactive Wells; and Texas Natural Resources Code, §91.101, which gives the Railroad Commission authority to adopt rules and orders governing the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the Commission.

Cross reference to statute: Texas Natural Resources Code, Chapters 81, 89, and 91.

Cross reference to sections affected: Texas Natural Resources Code, §§81.051, 81.052, 89.022, and 91.101.

Issued in Austin, Texas on May 24, 2011.

§3.15. *Surface Equipment Removal Requirements and Inactive Wells.*

(a) - (k) (No change.)

(1) Fluid level or hydraulic pressure test for inactive wells more than 25 years old.

(1) - (2) (No change.)

(3) For each inactive well that is more than 25 years old and that has been inactive more than 10 years, the operator must perform either a fluid level test once every 12 months or [have performed] a

hydraulic pressure test once every five years and obtain [and obtained] the approval of the Commission or its delegate of the results of said tests [once every five years].

(4) - (7) (No change.)

(m) - (p) (No change.)

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

Filed with the Office of the Secretary of State on May 24, 2011.

TRD-201101863

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 475-1295



**16 TAC §3.80**

The Railroad Commission of Texas (Commission) proposes to amend §3.80, relating to Commission Oil and Gas Forms, Applications, and Filing Requirements, to revise three existing forms, delete five existing forms, and adopt five new forms.

The Commission proposes to revise three existing forms: Form H-10, Annual Disposal/Injection Well Monitoring Report; Form P-3, Authority to Transport Recovered Load or Frac Oil; and Form P-5, Organization Report.

The Commission proposes to adopt five new forms: Form PSA-12, Production Sharing Agreement Code Sheet; Form P-5A, Organization Report Non-Employee Agent Listing; Form P-5O, Organization Report Officer Listing; Form W-3C, Certification of Surface Equipment Removal for an Inactive Well; and Form W-3X, Application for an Extension of Deadline for Plugging an Inactive Well.

The Commission proposes to delete five existing forms: Form OW-1, Application for Authority to Conduct a Surface Inspection of Orphaned Oil or Gas Well; Form OW-2, Application for Certificate of Designation as the Operator of Orphaned Oil or Gas Well; Form P-5IWB, Individual Well Bond; Form P-5IWLC, Individual Well Irrevocable Documentary Letter of Credit; and Form P-5S, P-5 Supplemental Officer Listing.

*Amended Form H-10, Annual Disposal/Injection Well Monitoring Report*

The Commission proposes to amend Form H-10, Annual Disposal/Injection Well Monitoring Report, to implement a portion of Senate Bill (SB) 1387 (81st Legislature, Regular Session, 2009), relating to implementation of projects involving the capture, injection, sequestration, or geologic storage of anthropogenic carbon dioxide. SB 1387 provides the statutory basis for the regulation of geologic storage of anthropogenic carbon dioxide within the existing framework of the Texas Injection Well Act (Texas Water Code, Chapter 27). SB 1387 delegated to the Railroad Commission jurisdiction over the injection of anthropogenic carbon dioxide into a reservoir that is initially or may be productive of oil, gas, or geothermal resources, and saline formations directly above and below the productive formations, for the purpose of geological storage. Implementation of SB 1387 requires that the Commission adopt new procedures and rules, including modification of Form H-10. The Commission proposes to modify Form

H-10 to require that injected fluids be reported as a percentage of total liquid/gas injected during the cycle year. The percentage reported must be rounded off to whole numbers and all fluid injected must total to a combined 100%. The percentage of anthropogenic carbon dioxide will be a subset of the overall carbon dioxide volume.

In addition, the Commission proposes to amend the instructions on the back of Form H-10 to provide the Internet address for filing Form H-10 electronically; to inform operators that the Commission ceased mailing pre-printed forms in April of 2011; and to provide the Internet address from which a blank Form H-10 may be printed for those persons preferring to file on paper. The Commission now mails a listing of Form H-10 filings that are due.

#### *Amended Form P-3, Authority to Transport Recovered Load or Frac Oil*

The Commission proposes to amend Form P-3, Authority to Transport Recovered Load or Frac Oil, to add an advisory that the use of diesel fuel for hydraulic fracturing may be subject to the federal Safe Drinking Water Act since 2005, and that a permit for the hydraulic fracturing activity may be required under the underground injection control program. In Section 322 of the Energy Policy Act of 2005, Congress amended the Underground Injection Control (UIC) portion of the federal Safe Drinking Water Act (42 USC 300h(d)) to define "underground injection" to *exclude* ". . . the underground injection of fluids or propping agents (*other than diesel fuels*) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities" (emphasis added). Most operators in Texas do not use diesel fuel in hydraulic fracturing fluids. However, in light of reports that diesel fuel has been used in a few instances across the nation in the past few years, the Commission finds it prudent to issue this notice to Texas operators. Therefore, an operator must submit a written request to the Commission's Oil and Gas Division *if diesel fuel is used in hydraulic fracturing*.

#### *Amended Form P-5, Organization Report*

The Commission proposes to amend Form P-5, Organizational Report, to conform to changes in Commission rules that have occurred following the adoption of the current form in 1987. The revised form provides spaces for the operator to provide an emergency (after hours) phone number as required by §3.1 of this title (relating to Organization Report; Retention of Records; Notice Requirements), also called Statewide Rule 1. The revised form also provides for an organizational phone number separate from that of the person executing the form. The Commission has removed officer information from Form P-5 (and is proposing to relocate that information to proposed new Form P-5O as a required attachment) to clarify the requirement in Statewide Rule 1 that operators must list all controlling entities. Finally, the revised form includes a space for an optional email address for the person executing the form to aid in communication.

#### *New Form P-5A, Organization Report Non-Employee Agent Listing*

The Commission proposes new Form P-5A, Organization Report Non-Employee Agent Listing, as an optional attachment to Form P-5, Organization Report, or, alternatively, as a stand-alone filing. Statewide Rule 1 specifies that an organization must include with its Form P-5 filing, "the name of any non-employee agent that the organization authorizes to act for the organization in signing Oil and Gas Division certificates of compliance which initially designate the operator or change the designation of the

operator." Form P-5A provides organizations a vehicle for making that designation.

#### *New Form P-5O, Organization Report Officer Listing*

The Commission proposes new Form P-5O, Organization Report Officer Listing, as a required attachment to Form P-5. Form P-5O provides filers with blanks to provide information on the filing organization's controlling entities as required by Statewide Rule 1. This form will provide the three spaces that previously have been provided on Form P-5 (concurrently proposed for revision) and on Form P-5S, Supplemental Officer Listing (concurrently proposed to be deleted).

#### *New Form PSA-12, Production Sharing Agreement Code Sheet*

The Commission proposes new Form PSA-12, Production Sharing Agreement Code Sheet, on which an operator can provide data electronically or by hard copy in support of an application for a well on a tract covered by a production sharing agreement. The operator must provide the name and total acreage in each lease and pooled unit participating in the production sharing agreement; a list of all completed and permitted wells within each participating lease or unit; a list of all other PSA wells using any acreage from the lease/units contributing to the applied-for PSA well; and a list of the acreage assigned to each completed or permitted well using acreage from each of the component lease/units.

#### *New Forms W-3C, Certification of Surface Equipment Removal for an Inactive Well, and W-3X, Application for Extension of Deadline for Plugging an Inactive Well*

The Commission proposes two new forms: Form W-3C, Certification of Surface Equipment Removal for an Inactive Well, and Form W-3X, Application for Extension of Deadline for Plugging an Inactive Well. The Commission proposes these new forms to comply with the changes enacted in House Bill (HB) 2259 (81st Legislature, Regular Session, 2009), relating to the plugging of certain inactive oil or gas wells and to standards for electrical power lines serving certain oil and gas facilities.

HB 2259, effective September 1, 2010, established new requirements for oil and gas operators related to surface equipment removal and inactive wells by amending the Texas Natural Resources Code to address two issues related to inactive land wells: the dangers posed by live electrical lines connected to inactive wells and the increased costs to plug inactive wells. HB 2259 applies only to land wells, not to bay and offshore wells.

The Commission adopted amendments to §§3.1, 3.14, 3.21, and 3.78 of this title (relating to Organization Report; Retention of Records; Notice Requirements; Plugging; Fire Prevention and Swabbing; and Fees and Financial Security Requirements), also called Statewide Rules 1, 14, 21 and 78, to add the new statutory requirements, and adopted new §3.15 of this title (relating to Surface Equipment Removal Requirements and Inactive Wells), also called Statewide Rule 15, to add the surface equipment removal and inactive well requirements set out by HB 2259. (The previous version of §3.15 was repealed and its requirements relating to surface casing to be left in place were incorporated into §3.14.) The amendments and new rule became effective September 13, 2010. Under new Statewide Rule 15, each operator annually must address its complete inventory of inactive wells to obtain approval of its annual organization report (Form P-5). Statewide Rule 15 also provides for an exception to the surface cleanup requirements based on issues related to safety or required maintenance of the wellsite.

Proposed new Form W-3C, Certification of Surface Equipment Removal for an Inactive Well, includes the option of requesting an exception based on issues related to safety or required maintenance of the wellsite, to be supported by a written affirmation of the facts of the situation and a \$150 fee, pursuant to Texas Natural Resources Code, §81.0521. An operator may file a Form W-3C for a single well or for multiple wells. The form will be the certification by an operator that the specified wells have been placed into compliance with the surface equipment requirements of Statewide Rule 15.

Proposed new Form W-3X, Application for Extension of Deadline for Plugging an Inactive Well, also implements HB 2259. Statewide Rule 15 incorporates the surface equipment removal requirements from HB 2259, which are based on how long a well has been inactive. For all wells inactive 12 months or longer, the operator must disconnect electrical lines. If a well has been inactive for five years, the operator must purge all tanks, lines and vessels of fluids. Finally, if a well has been inactive for 10 years or longer, the operator must remove all surface equipment. The requirements to purge fluids and remove surface equipment apply unless the operator owns the surface or obtains a waiver from the Commission based on safety or maintenance of the well site.

For 10-year inactive wells in an operator's inventory as of September 1, 2010, the requirement to remove surface equipment is phased in over five years. This will require an operator to remove the surface equipment for at least 20% of its 10-year inactive wells as of September 1, 2010, each year until all of the 10-year inactive wells in an operator's inventory as of September 1, 2010, have been addressed. The population of all 10-year inactive wells in Texas as of September 1, 2010, has been identified by the Commission and is posted on the Commission's website. (See <http://www.rrc.state.tx.us/compliance/hb2259/wellsidentified.php>.)

Wells that become 10-year inactive wells after September 1, 2010, or that are acquired by a new operator after September 1, 2010, are not subject to the five-year phase-in period. An operator must bring those 10-year inactive wells into compliance within six months after the Commission recognizes the new operator of the well, or by the time the new operator's annual organization report is required to be filed, whichever is later.

Statewide Rule 15 also incorporates the statutory requirements regarding inactive well extensions, and provides operators with eight options for addressing their inactive wells. Three of these are blanket options that address an operator's complete inventory of inactive wells:

- (1) plug or restore to active status a number of wells equal to 10% of inactive wells;
- (2) if publicly traded, provided financial documents to the Commission that name the Commission as the secured creditor; or
- (3) post additional blanket financial security.

Of the five per-well options, two require additional fees for each inactive well:

- (1) filing an abeyance of plugging report with the Commission and paying a \$100 fee; and
- (2) if an operator is not otherwise required to test the well, filing a fluid level or pressure test and paying a \$50 fee.

Another two of the five per-well options allow an operator to file additional financial security based on estimated costs to plug an individual inactive wells in the form of:

- (1) a supplemental bond, letter of credit or cash deposit; or
- (2) an escrow account in which 10% of the estimated cost to plug the inactive well is deposited annually.

The fifth per-well option allows an operator to file a certification that the well is part of an approved enhanced recovery project.

If an operator acquires an inactive well from another operator, the rules give the new operator six months to bring the acquired well into compliance with both the surface equipment removal requirements and any of the eight inactive well options. If an operator fails to bring the acquired well into compliance, the rules provide for revocation of the operator's organization report after notice and opportunity for hearing.

Under the adopted rules for inactive wells, operators will be able to avoid any recurring cost of compliance for an individual inactive well by plugging the well or by restoring the well to active status. Operators with a significant inventory of inactive wells will be able to apply whichever options best suit their particular circumstances, either on a blanket basis or by selecting a mixture of options addressing each individual well.

In support of operator information needs regarding these new requirements, the Commission has created the Inactive Well Aging Report ("IWAR"). The IWAR is an online query containing information on inactive wells, including the time from which the Commission calculates the relevant time periods for compliance. Inactive well data can be downloaded on a per-operator basis, or via a complete file of all inactive well data for all operators statewide. The IWAR is available on the Commission's website at <http://webapps2.rrc.state.tx.us/EWA/ewaMain.do>.

*Deleted Forms OW-1, Application for Authority to Conduct a Surface Inspection of Orphaned Oil or Gas Well, and OW-2, Application for Certificate of Designation as the Operator of Orphaned Oil or Gas Well*

The Commission proposes to delete Form OW-1, Application for Authority to Conduct a Surface Inspection of Orphaned Oil or Gas Well; and Form OW-2, Application for Certificate of Designation as the Operator of Orphaned Oil or Gas Well. The Orphaned Well Reduction Program was established by HB 2161 (79th Legislature, Regular Session, 2005). The incentive was intended to encourage continued production of viable wells by responsible operators, and to reduce the population of orphaned wells for which the Oilfield Cleanup Fund would bear the cost of plugging. The incentive was enacted June 6, 2005, and was effective from January 1, 2006, through December 31, 2007. Therefore these forms are no longer necessary.

*Deleted Form P-5S, P-5 Supplemental Officer Listing*

The Commission proposes to delete Form P-5S, P-5 Supplemental Officer Listing. This form allowed organizations to identify more controlling entities than the three (for which spaces are available on Form P-5). In concurrent proposals to revise Form P-5 and to adopt new Form P-5O, all controlling entities required by Statewide Rule 1 to be identified will be identified on Form(s) P-5O attached to the organization's Form P-5 filing. Therefore Form P-5S is no longer necessary.

*Deleted Forms P-5IWB, Individual Well Bond, and P-5IWLC, Individual Well Irrevocable Documentary Letter of Credit*

The Commission proposes to delete Form P-5IWB, Individual Well Bond, and Form P-5IWLC, Individual Well Irrevocable Documentary Letter of Credit. The Commission initially created these forms in November 2000 for use in connection with

individual well bonding requirements for 36-month inactive wells operated by unbonded operators. The requirement was invalidated by court order in 2003, and subsequently rendered moot by statutory requirements that all operators provide organizational financial security beginning in September 2004. Therefore these forms are no longer necessary.

The proposed form modifications may be viewed online at [www.rrc.state.tx.us/rules/proposed.php](http://www.rrc.state.tx.us/rules/proposed.php) and will be published in the *Texas Register* concurrently with these proposed amendments to §3.80.

Leslie Savage, Chief Geologist, has determined that for each year of the first five years the proposed amendments would be in effect, there are no estimated additional costs or revenue losses or increases to the state as a result of enforcing or administering the rule. Ms. Savage estimates that for each year of the first five years the proposed amendments would be in effect, there will be reductions in costs to the state for paper, printing, and postage costs that will no longer be incurred, but there is no way to estimate those savings.

Ms. Savage has determined that enforcing or administering the proposed amendments does not have foreseeable implications relating to costs or revenues for local governments.

Ms. Savage also has determined that for each year of the first five years that the amendments to §3.80 related to Form H-10 will be in effect, there will be a public benefit in the form of the ability to collect, maintain, and access information filed with the Commission related to disposal and injection well monitoring reports, resulting in more efficient government.

For each year of the first five years that the amendments to §3.80 related to Form P-3 will be in effect, there will be a public benefit in the form of notice to operators relating to use of diesel fuel in hydraulic fracturing operations.

For each year of the first five years that the amendments to §3.80 related to Form P-5, there will be a public benefit in the form of the ability to collect, maintain, and access information filed with the Commission related to organizations that do business in the state under the jurisdiction of the Commission, resulting in more efficient government.

For each year of the first five years that the amendments to §3.80 related to Form PSA-12, there will be a public benefit in the form of consistent and easier accessibility to information related to production sharing agreements.

For each year of the first five years that the amendments to §3.80 related to Form W-3C and Form W-3X, there will be a public benefit in the form of the ability to collect, maintain, and access information filed with the Commission related to compliance with the requirements for extension of the deadline for plugging inactive wells, resulting in more efficient government.

The Commission has also developed an analysis of the probable economic cost to persons required to comply with the proposed new rule for each year of the first five years that it will be in effect, as well as the analysis required by Texas Government Code, §2006.002. That statute requires that, before adopting a rule that may have an adverse economic effect on small businesses or micro-businesses, a state agency prepare an economic impact statement and a regulatory flexibility analysis. The economic impact statement must estimate the number of small businesses or micro-businesses subject to the proposed rule, project the economic impact of the rule on small businesses and micro-businesses, and describe alternative methods of achieving

the purpose of the proposed rule. A regulatory flexibility analysis must include the agency's consideration of alternative methods of achieving the purpose of the proposed rule. The analysis must consider, if consistent with the health, safety, and environmental and economic welfare of the state, using regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses and micro-businesses. The state agency must include in the analysis several proposed methods of reducing the adverse impact of a proposed rule on a small business or a micro-business. The statute defines "small business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has fewer than 100 employees or less than \$6 million in annual gross receipts. A "micro-business" is defined as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has no more than 20 employees.

Because operators are not required to make filings with the Commission reporting number of employees, labor costs, amount of sales, or gross receipts, the Commission cannot determine whether a particular operator may be a small business or a micro-business. However, the Commission has determined that it is likely that some eligible operators would meet the definitions of these terms in Texas Government Code, §2006.001.

Ms. Savage has determined that there may be a cost of compliance for individuals, small businesses, or micro-businesses related to the addition of spaces on Form H-10 for reporting information relating to injection of anthropogenic carbon dioxide; however, the Commission estimates that the cost of including this information on the amended form will be negligible.

Ms. Savage has determined that there may be a cost of compliance for individuals, small businesses, or micro-businesses related to the elimination of Commission preparation and mailing of computer-generated Forms H-10. This estimate assumes that, during a given year, at least one operator filing Form H-10 is an individual, small business, or micro-business. There will be no mandatory cost associated with electronic filing because the Commission currently does not require electronic filing of any Oil and Gas Division documents or data, including the Form H-10. Where the Commission has provided for it, electronic filing currently is at the discretion of the operator. Should an operator opt to file Forms H-10 electronically, after completing the necessary requirements to enable the operator (or its agent) to file documents and data electronically with the Commission, the operator should save the money previously spent on printing and mailing the paper forms.

For those operators choosing not to file electronically, the Commission estimates that it would take one employee approximately 10 minutes for each well each year to transfer information from the list provided by the Commission to the Form H-10. Therefore, at an estimated salary of \$10.00 per hour for an employee to complete the Form H-10, Ms. Savage estimates that an operator would incur a cost of approximately \$1.67 per Form H-10 to comply with the Commission's new process, *i.e.*, transferring the information for the disposal/injection well from the list to the Form H-10. Ms. Savage further estimates that a disposal or injection well operator that is an individual would operate one disposal or injection well; a disposal or injection well operator that is a micro-business would operate three disposal or injection wells; and a disposal/injection well operator that is a small business would operate 10 disposal/injection



wells. Therefore the cost of compliance with the new process for filing Form H-10 would be \$1.67 for an individual operator, \$5.01 for a micro-business operator, and \$16.70 for a small business operator. The Commission concludes that the costs of complying with the proposed amendments to Form H-10 are not adverse.

Ms. Savage has determined that there will be no cost of compliance for individuals, small businesses, or micro-businesses related to the changes proposed for Form P-3 because the change involves adding a Commission notice to operators and does not require any action by an operator. Ms. Savage has determined that there will be no cost of compliance for operators that are individuals, small businesses, or micro-businesses related to Form OW-1 and Form OW-2 because the program has expired.

Ms. Savage has determined that, there will be no additional cost of compliance for operators that are individuals, small businesses, or micro-businesses related to Form W-3C and Form W-3X because those costs were considered with the amendments to Commission rules to implement the pertinent legislation. The current proposal to amend §3.80 simply brings that rule into conformance with other current Commission rules. Statewide Rule 15 also provides for an exception to the surface cleanup requirements based on issues related to safety or required maintenance of the wellsite. Proposed new Form W-3C includes the option of requesting an exception based on issues related to safety or required maintenance of the wellsite, to be supported by a written affirmation of the facts of the situation and a \$150 fee pursuant to Texas Natural Resources Code, §81.0521.

Ms. Savage has determined that there will be no cost of compliance for operators that are individuals, small businesses, or micro-businesses related to the changes proposed for Form P-5 because the changes are minor. Likewise, Ms. Savage has determined that there will be little to no cost of compliance for operators that are individuals, small businesses, or micro-businesses related to the changes proposed for new Form P-5A as an optional attachment to Form P-5, or, alternatively, as a stand-alone filing. Statewide Rule 1 specifies that each organization must include with its Form P-5 filing, "the name of any non-employee agent that the organization authorizes to act for the organization in signing Oil and Gas Division certificates of compliance which initially designate the operator or change the designation of the operator." Form P-5A provides organizations a vehicle for making that designation.

Ms. Savage has determined that there will be little to no cost of compliance for operators that are individuals, small businesses, or micro-businesses related to the changes proposed for new Form P-5O as a required attachment to Form P-5. Form P-5O provides filers with spaces to provide information on the filing company's controlling entities as required by Statewide Rule 1. This form will provide the three spaces that previously have been provided on Form P-5 (concurrently proposed for revision) and on Form P-5S, Supplemental Officer Listing (concurrently proposed to be deleted).

Finally, Ms. Savage has determined that there will be little to no cost for compliance for operators that are individuals, small businesses, or micro-businesses related to the changes proposed for new Form PSA-12 because the Commission modeled this form on a form currently used by operators for the same purpose.

Based on the analysis of the cost of compliance for operators that are individuals, small businesses, and micro-businesses, the Commission concludes that the proposed amendments to

§3.80 will not have an adverse economic effect on these entities and therefore the Commission is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to Texas Government Code, Chapter 2006.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at [www.rrc.state.tx.us/rules/commentform.php](http://www.rrc.state.tx.us/rules/commentform.php); or by electronic mail to [rulescoordinator@rrc.state.tx.us](mailto:rulescoordinator@rrc.state.tx.us). Comments should refer to O&G Docket No. 20-0270634, and will be accepted until 12:00 p.m. (noon) on Monday, July 11, 2011, which is 31 days after expected publication in the *Texas Register*. The Commission finds that this comment period is reasonable because the proposal and an online comment form will be available on the Commission's website no later than the day after the open meeting at which the Commission approves publication of the proposal, giving interested persons more than two additional weeks to review and analyze the proposal and to draft and submit comments. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Ms. Savage at (512) 463-7308. The status of Commission rulemakings in progress is available at [www.rrc.state.tx.us/rules/proposed.php](http://www.rrc.state.tx.us/rules/proposed.php).

The Commission proposes the amendments to §3.80 pursuant to Texas Natural Resources Code, §81.051 and §81.052, which provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells and persons owning or operating pipelines in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under Commission jurisdiction; Texas Natural Resources Code §§85.042, 85.202, 86.041, and 86.042, which require the Commission to adopt rules to control waste of oil and gas; Texas Natural Resources Code, Chapter 89, Subchapter B-1, as enacted by HB 2259, relating to Plugging of Certain Inactive Wells; Texas Natural Resources Code, §91.019, related to Standards for Construction, Operation, and Maintenance of Electrical Power Lines; Texas Natural Resources Code, Chapter 91, Subchapter R, as enacted by SB 1387, relating to authorization for multiple or alternative uses of wells; and Texas Water Code, Chapter 27, Subchapter C-1, as enacted by SB 1387, which gives the Commission jurisdiction over the geologic storage of CO<sub>2</sub> in, and the injection of CO<sub>2</sub> into, a reservoir that is initially or may be productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir.

Statutory authority: Texas Natural Resources Code, §§81.051, 81.052, 85.024, 85.202, 86.041, and 86.042; Texas Natural Resources Code, Chapters 89 and 91; and Texas Water Code, Chapter 27.

Cross-reference to statute: Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.202, 86.041, and 86.042; Texas Natural Resources Code, Chapters 89 and 91; and Texas Water Code, Chapter 27.

Issued in Austin, Texas on May 24, 2011.

*§3.80. Commission Oil and Gas Forms, Applications, and Filing Requirements.*

(a) Forms. Forms required to be filed at the Commission shall be those prescribed by the Commission as listed in Table 1 of this subsection. A complete set of all Commission forms listed on Table 1 required to be filed at the Commission shall be kept by the Commis-

sion secretary and posted on the Commission's web site. Notice of any new or amended forms shall be issued by the Commission. For any required or discretionary filing, an organization may either file the prescribed form on paper or use any electronic filing process in accordance with subsections (e) or (f) of this section, as applicable. The Commission may at its discretion accept an earlier version of a prescribed form, provided that it contains all required information and meets the requirements of subsection (e)(3) of this section.

Figure: 16 TAC §3.80(a)

(b) - (f) (No change.)

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

Filed with the Office of the Secretary of State on May 24, 2011.

TRD-201101862

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 475-1295



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

##### SUBCHAPTER EE. COMMISSIONER'S RULES CONCERNING THE COMMUNITIES IN SCHOOLS PROGRAM

The Texas Education Agency (TEA) proposes amendments to §§89.1501, 89.1503, 89.1507, 89.1509, and 89.1511; the repeal of §89.1502; and new §89.1504, concerning the Communities In Schools (CIS) program. The sections establish policies concerning the CIS program. The proposed rule actions would clarify the requirements of the Texas Education Code (TEC), §33.154, which requires the commissioner of education by rule to develop and implement policies concerning the program. In addition, the proposed rule actions would clarify requirements under the TEC, §33.155 and §33.156, relating to the effectiveness and funding of the program.

The CIS program is a statewide dropout prevention program that uses a case management model to serve students who are at risk of dropping out of school or engaging in delinquent conduct, including students who are in family conflict or emotional crisis. Through 19 TAC Chapter 89, Subchapter EE, the commissioner exercised rulemaking authority to establish definitions and an equitable funding formula for local CIS programs, in accordance with the TEC, §33.156.

Additionally, in accordance with the TEC, §33.154, the rules in 19 TAC Chapter 89, Subchapter EE, implement policies concerning the responsibility of the TEA in encouraging local businesses to participate in local CIS programs, the responsibility of the TEA in obtaining information from participating school districts, and the use of federal or state funds available to the TEA for programs of this nature. The rules also address provisions such as the

establishment of state performance goals, objectives, and measures; withholding of funding from programs that consistently fail to achieve performance goals, objectives, and measures; and requirement that the TEA and CIS, Inc., work together to maximize the effectiveness of the CIS program.

The proposed revisions to 19 TAC Chapter 89, Subchapter EE, would incorporate program changes identified during the statutorily required review of rules conducted in 2010, including updates to provisions relating to performance standards and revocation of grant awards. In addition, the proposed revisions would reflect updates to the funding formula. Specifically, the proposed revisions to 19 TAC Chapter 89, Subchapter EE, would update the CIS rules as follows.

Section 89.1501, Definitions, would be amended to clarify the definition for case-managed student in paragraph (1) and add the definition for Total Quality Systems (TQS) as new paragraph (10) to coincide with new policy proposed in §89.1511.

Section 89.1502, Funding Prior to School Year 2009-2010, would be repealed since there are no CIS programs funded under the process in place prior to school year 2009-2010.

Section 89.1503, Funding Beginning with School Year 2009-2010, would be amended by revising subsection (a) and adding new subsection (c)(1) to clarify that federal and state funds for the CIS program may be retained for administrative purposes as authorized by statute. In addition, up to 10% may be set aside by the TEA in accordance with the TEC, §33.154, for state-level activities, including database development and maintenance, competitive grant opportunities for special initiatives, and state leadership activities benefitting local CIS programs. A performance criterion would be added to the local CIS program allocation description as new subsection (c)(2)(C). Language would be added as new subsection (c)(5) and (6) to include an option that takes into consideration a potential decrease in CIS funding and outlines a funding redistribution plan in the event that a CIS program declines grant funds. A statement would also be added as new subsection (c)(7) to clarify that the TEA has authority to use unexpended CIS funds from the first year of the biennium during the second year of the biennium. Subsections (e)-(g) would be reorganized to address availability of additional funding opportunities. Language would be added in proposed subsection (e)(2) to clarify that the TEA may designate no more than 10% for competitive grant opportunities for special initiatives in accordance with language proposed in new subsection (c)(1)(B). Information regarding the funding plan in subsection (f), former subsection (h), would be modified for clarification. Minor corresponding technical changes would be made throughout the section, including corrections to formatting. In addition, the section name would be changed from "Funding Beginning with School Year 2009-2010" to "Funding."

New §89.1504, Demonstration of Community Participation, would be added to establish a requirement that each local CIS program must provide cash or in-kind contributions to operate the CIS program in an amount of at least 25% of its total funding allocated by the TEA to demonstrate evidence of community participation. The TEC, §33.156, requires the TEA to develop and implement an equitable formula, authorizes the TEA to reduce state funds annually contributed by the state to a local program, requires the TEA to consider the financial resources of individual communities, provides for the TEA to use savings to extend services to communities not currently served, and requires local programs to develop a funding plan. Proposed

new §89.1504 would reinforce the intent of the legislature that local communities develop a funding plan and contribute to the cost of operating CIS in local communities. In addition, the proposed new rule would specify that the TEA may choose not to award funding to a local CIS program if it determines that the program does not have sufficient funds to adequately serve the required number of case-managed students.

Section 89.1507, Case-Managed Students, would be amended to add new subsection (d) addressing the case management student allocation if there is a decrease in CIS funding. This policy is in alignment with Legislative Budget Board performance measures.

Section 89.1509, Other Provisions, would be amended to clarify the requirement in subsection (a) that the TEA develop a resource development plan in accordance with the TEC, §33.154, to be in alignment with TQS standards instituted through the CIS national office. Language in subsection (b) regarding the data that school districts provide to CIS programs would be clarified to coincide with language on the CIS Parent Consent/Release of Information form (approved annually by TEA legal counsel). In addition, language would be added as new subsection (c) to indicate that the TEA may contract with entities to assist in performing state leadership activities in accordance with proposed new §89.1503(c)(1)(C).

Section 89.1511, Performance Standards and Revocation of Grant Award, would be amended to clarify the stages of the performance standards in subsection (b) and revocation of grant award process in subsection (e), former subsection (d). Language would be added as new subsection (d) to include the TQS accreditation requirements from CIS, Inc., in accordance with the TEC, §33.155.

The proposed rules actions would have the following procedural and reporting implications. The proposed amendment to 19 TAC §89.1503 would specify the information that CIS programs must include in the funding plan. The proposed amendment to 19 TAC §89.1509 would clarify the information and data that school districts with CIS programs must provide for students whose parents or legal guardians have authorized education records to be shared with CIS programs and the TEA. The proposed amendment to 19 TAC §89.1511 would clarify specific requirements for a program that fails to meet performance standards in accordance with the grant application. The proposed amendment to 19 TAC §89.1511 would also incorporate the requirement for TQS accreditation. The proposed rule actions would have no new locally maintained paperwork requirements.

Jan Lindsey, senior director for dropout prevention and college and career readiness, has determined that for the first five-year period the rule actions are in effect there will be no additional costs for state government as a result of enforcing or administering the rule actions. There may be minor fiscal implications for school districts; however, the amount of potential costs or savings is unknown.

CIS is a dropout prevention program funded through state General Revenue and federal Temporary Assistance for Needy Families funding. Funding is provided directly to local CIS programs, 501(c)(3) nonprofit organizations, that partner with local school districts to provide services to students at risk of dropping out of school. The proposed rule actions regarding the means by which funding is allocated to local CIS programs is based on an overall decrease in funding for the CIS program statewide and may cause increases or decreases to individual CIS program fund-

ing. In addition, a requirement would be added that each local CIS program must provide for at least 25% of the program costs through local resources to demonstrate evidence of community participation.

Although funds are not provided to school districts directly, school districts benefit from the services provided by CIS programs. School districts that partner with CIS programs that lose a portion of funding may choose to provide additional funding to the program by either raising funds locally or redirecting school district budget funds. Alternatively, school districts that partner with CIS programs that gain additional funding may not have to provide as much supplemental funding to the program.

Ms. Lindsey has determined that for each year of the first five years the rule actions are in effect the public benefit anticipated as a result of enforcing the rule actions will be clarification of specific performance goals that will support student improvement in academics, attendance, behavior, and graduation to prepare students for post-secondary life in an effort to reduce the dropout rate. In addition, the proposed rule actions would address accountability in program performance and support actions that may be necessary to withhold funding from non-performing programs, which ensures the effective use of state funds. There is no anticipated economic cost to persons who are required to comply with the proposed rule actions.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The public comment period on the proposal begins June 10, 2011, and ends July 10, 2011. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to [rules@tea.state.tx.us](mailto:rules@tea.state.tx.us) or faxed to (512) 463-0028. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on June 10, 2011.

#### **19 TAC §§89.1501, 89.1503, 89.1504, 89.1507, 89.1509, 89.1511**

The amendments and new section are proposed under the Texas Education Code (TEC), §33.154, which requires the commissioner of education by rule to develop and implement policies concerning the Communities In Schools program, and TEC, §33.156, which authorizes the agency to develop and implement an equitable formula for the funding of local programs.

The amendments and new section implement the TEC, §§33.151, 33.152, and 33.154-33.159.

#### *§89.1501. Definitions.*

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

(1) Case-managed student--A student who is assessed to be in need of and receives Communities In Schools (CIS) services to address academic, attendance, behavior, retention, graduation, or social service needs related to improving student achievement according to the requirements in the grant application.

(2) Communities In Schools program--The statewide exemplary youth dropout prevention program authorized under the Texas Education Code (TEC), Chapter 33, Subchapter E (Communities In Schools Program).

(3) Developing program--An entity funded through the replication process for the purposes of establishing and implementing a local CIS program within a four-year period following the requirements in the grant application.

(4) Eligible student--A student at risk of dropping out of school as defined under the TEC, §33.151(4)(A)-(C), or a student who exhibits delinquent conduct as defined by the Texas Family Code, §51.03.

(5) Expansion--The process of a local CIS program establishing CIS services on a new school campus or in a new school district or expanding services to serve additional students on existing campuses, resulting in an increase of students served.

(6) Fiscal year--A one-year period beginning on September 1 of a calendar year and continuing through August 31 of the next calendar year.

(7) Local CIS program--A Communities In Schools 501(c)(3) non-profit organization established in accordance with the program model and state guidelines authorized by state law to operate for the purposes stated in paragraph (2) of this section and meeting all the requirements in the grant application for establishing a local CIS program.

(8) Replication--The process of establishing a new local CIS program in an area of the state designated by the Texas Education Agency to be an area of critical need for a local CIS program.

(9) Special initiative--The implementation of a specialized activity to address dropout prevention within the context of the CIS model.

(10) Total Quality Systems (TQS)--A comprehensive set of board, general organization and business, and site standards to reinforce CIS' commitment to evidence-based practice and accountability throughout the network. A local CIS program will undergo a TQS accreditation process from the CIS national office as required in the grant application.

§89.1503. *Funding [Beginning with School Year 2009-2010].*

(a) Equitable funding formula. As authorized by the Texas Education Code (TEC), §33.156, the Texas Education Agency (TEA) shall establish the funding of local Communities In Schools (CIS) programs in accordance with this section. State and federal funds remaining after allocations described in subsection (c)(1) of this section shall be allocated to local CIS programs. [The provisions of this section apply to funding of local CIS programs beginning with school year 2009-2010.]

(b) Developing programs.

(1) A developing program shall receive a funding amount each year for no more than four years, including the first-year start up funding.

(2) A developing program that has met all the requirements for establishing a local CIS program before the fourth year may request to be considered as a local CIS program for funding determined under subsection (c)(2) [(e)(1)-(3)] of this section if approved by the TEA.

(c) Allocation. ~~[Local CIS programs shall receive a funding amount each year to be allocated based on the following criteria:]~~

(1) Annually, after federal and state funds for the CIS program have been set aside for administration, no more than 10% may be allocated for the following:

(A) CIS database development and maintenance;

(B) competitive grant opportunities for special initiatives in accordance with subsection (e)(2) of this section; and

(C) state leadership activities benefitting local CIS programs in accordance with §89.1509(c) of this title (relating to Other Provisions).

(2) Local CIS programs shall receive a funding amount each year to be allocated based on the following criteria:

(A) [(1)] an equal base amount of funds, as determined by the TEA;

(B) [(2)] no less than 50% nor more than 80% of the specified funding amount based on the relative proportion of the number of case-managed students to be served by each local CIS program to the total number of case-managed students to be served by all local CIS programs; and

(C) no more than 25% of the specified funding amount based on performance benchmarks, as determined by the TEA; and

(D) [(3)] no less than 5.0% nor more than 15% of the specified funding amount based on the weighted financial resources of the individual communities and school districts, if less than the average financial resources of all school districts participating in the program.

(i) [(A)] Data elements used for calculation of the financial resources allocation. Weighted financial resources will be determined using the following data elements for the first year of the preceding biennium:

(I) [(i)] taxable property values determined in accordance with Government Code, Chapter 403, Subchapter M, for school districts listed in each program's current grant application;

(II) [(ii)] weighted average daily attendance (WADA), as reported by the school districts and verified by the TEA, in school districts listed in each program's current grant application; and

(III) [(iii)] the number of eligible students at the campus level, as reported by the school districts and verified by the TEA, in school districts listed in each program's current grant application.

(ii) [(B)] Method used for calculation of the weighted financial resources. Weighted financial resources of a local CIS program are calculated in the following way.

(I) [(i)] The weighted average taxable property value per WADA (wealth per WADA) for all local CIS programs is determined by first multiplying the wealth per WADA for each district within the CIS program by the district's WADA, summing the results for all districts, and then dividing the resulting sum by the total WADA in the CIS program.

(II) [(ii)] The average wealth per WADA for all CIS programs is then calculated.

(III) [(iii)] A local CIS program with a below-average wealth per WADA receives weighted financial resources. The weighted financial resources for a local CIS program with a below-average wealth per WADA are calculated as follows.

(-a-) [(4)] The weighted eligible students number is derived by dividing the eligible students number by the ratio

of the local CIS program's wealth per WADA to the average program wealth per WADA.

~~(-b-)~~ ~~[(H)]~~ The weighted eligible students numbers for all programs with a below-average wealth per WADA are summed.

~~(-c-)~~ ~~[(H)]~~ The ratio of each individual program's weighted eligible students to the total weighted eligible students is applied to the total amount allocated for the financial resources allocation. This amount forms the program's financial resources allocation.

~~(3)~~ ~~[(4)]~~ The TEA may choose, for the purpose of minimizing disruption in services as a result of changes in funding allocation, to limit the annual amount of changes in funding allocation from one biennium to the next. This may include limiting the increase or decrease from the prior-year funding to an amount no more than 25% of the change produced by the provisions of this subsection and/or by establishing minimum and maximum funding amounts.

~~(4)~~ ~~[(5)]~~ If there is no increase in the funds appropriated by the General Appropriations Act for the state CIS program, the TEA may choose to maintain CIS program funding allocations at the current level.

~~(5)~~ If there is a decrease in the funds appropriated by the General Appropriations Act for the state CIS program, each local CIS program's allocation may be reduced proportionally.

~~(6)~~ If a local CIS program declines to accept allocated grant funds, the TEA may competitively redistribute grant funding among participating local CIS programs.

~~(7)~~ The TEA may reallocate any funding not used in the first year of the biennium to the second year of the biennium.

(d) CIS program replication and expansion. Should the legislature authorize an increase in the funds appropriated for the state CIS program or should funds become available because of loss of program funding or grant revocation, the TEA may designate an amount of the increase to be reserved for replication and/or expansion.

(1) Replication. The TEA may determine and retain a funding amount for replication of the CIS program in areas of the state that are not served by a participating CIS program. Replication funds may be made available through a competitive request for application process or through any other process the TEA deems necessary. First-year replication funding may be a one-time planning grant for the development of a business plan. Any funds not used for replication may be used for expansion.

(2) Expansion. The TEA may determine and retain a funding amount for expansion of the CIS program using any one or a combination of the funding methods specified in subparagraphs (A)-(D) of this paragraph, in addition to allocation of funds in accordance with subsection (c)(2)(A), (C), and (D) ~~[subsections (e)(1) and (e)(3)]~~ of this section. Funds allocated for expansion will become part of the funding allocation.

(A) Proportion of eligible students. An amount determined by the TEA may be distributed to each local CIS program based on the relative proportion of the number of eligible students attending school districts served by the respective program to the number of eligible students in all districts served by the CIS program. Funds provided to local programs for expansion must be used to serve the district(s) for which the program received expansion funding.

(B) Proportion of total case-managed students. An amount determined by the TEA may be distributed to each local CIS program based on the relative proportion of the number of case-man-

aged students as identified in the current year's grant application for each local CIS program to the total number of case-managed students for all CIS programs.

(C) Program allocation. An amount determined by the TEA may be distributed to each local CIS program based on the ratio of the total amount of grant funding allocated to the local CIS program to the total amount of grant funding allocated to all local CIS programs.

(D) Competitive process. Funds may be distributed through a competitive request for application process.

(E) Decline of expansion funds. If a local CIS program declines to accept grant funds for the expansion of a program, the total amount of grant funding available for expansion will be redistributed in accordance with this paragraph among local CIS programs participating in expansion activities.

~~(e)~~ Availability of additional funding opportunities. ~~[Use of federal or state funds.]~~ Pursuant to the TEC, §33.154(a)(7)(C), the TEA will make available to local CIS programs and developing programs information regarding state and federal grant opportunities.

~~(1)~~ ~~[(F)]~~ Other funding. Should other funding sources become available for CIS, these funds may be made available for replication, expansion, and/or special initiatives and allocated through such processes as the TEA deems appropriate to include the funding methods in subsection (d) of this section.

~~(2)~~ ~~[(G)]~~ Special initiatives. If the TEA partners or contracts with other agencies or entities to implement special initiatives, activities, or programs that support dropout prevention efforts, local CIS programs will have the discretion of whether to participate in the special initiatives. Selection of local CIS programs for participation may be determined by the TEA and the partner, or contractor, depending on the variables of the initiative. Notwithstanding funds appropriated by the General Appropriations Act for the state CIS program, the TEA may designate no more than 10% for competitive grant opportunities for special initiatives in accordance with subsection (c)(1)(B) of this section.

~~(f)~~ ~~[(H)]~~ Funding plan. Each local CIS program shall develop a funding plan addressing the local, state, and federal resources available to ensure [that ensures] that the level of service is maintained and describing how those resources will be coordinated to continue delivery of CIS services in the region if state funding is reduced.

§89.1504. Demonstration of Community Participation.

~~(a)~~ Pursuant to the Texas Education Code, §33.156, each local Communities In Schools (CIS) program must provide cash or in-kind contributions to operate the CIS program in an amount equal to at least 25% of the total funding allocated to the local CIS program by the Texas Education Agency (TEA). The contribution may be met using private, local, state, or federal sources.

~~(b)~~ In-kind contributions may include the use of facilities, office space, and equipment and the provision of administrative services, program services, and supplies.

~~(c)~~ The TEA may choose not to award funding to a local CIS program if the TEA determines that the total estimated allocation by the TEA and the local CIS program's matching contribution of 25% is insufficient to adequately serve the required number of case-managed students as determined in §89.1507 of this title (relating to Case-Managed Students).

§89.1507. Case-Managed Students.

(a) Each local Communities In Schools (CIS) program is required to serve each year a specific number of case-managed students,

as defined in §89.1501(1) of this title (relating to Definitions). The specific number of case-managed students to be served will be identified in each annual grant application.

(b) Each local CIS program may be required to serve an increased number of case-managed students if the Texas Education Agency (TEA) receives an increase in the funds appropriated in the General Appropriations Act for the CIS program and/or if the performance measure related to the number of case-managed students served is increased.

(c) To determine an increase in the number of case-managed students to be served by each local CIS program, the TEA will use the number of case-managed students as determined in the current year's grant application and apply one of the following calculations:

(1) the relative proportion of the number of eligible students attending school districts served or to be served by the respective local CIS program to the number of eligible students in all districts served or to be served by all CIS programs; or

(2) the relative proportion of the specified number of case-managed students for the respective local CIS program as identified in the current year's grant application to the total number of case-managed students for all CIS programs.

(d) Each local CIS program may be allowed to serve a decreased number of case-managed students if the TEA receives a decrease in the funds appropriated in the General Appropriations Act for the CIS program. The specific number of case-managed students to be served if funding is decreased will be identified in each annual grant application.

§89.1509. *Other Provisions.*

(a) Pursuant to the Texas Education Code (TEC), §33.154(a)(7)(A), the Texas Education Agency (TEA) will develop a resource development ~~[an outreach]~~ plan in collaboration with the Communities In Schools (CIS) State Advisory Committee that includes development of statewide partnerships and outreach to local businesses.

(b) Pursuant to the TEC, §33.154(a)(7)(B), each school district that participates in a CIS program shall provide to the local CIS or developing program necessary student information and data for each student ~~[students]~~ whose parent or legal guardian has ~~[parents have]~~ authorized in writing that educational records be shared with the CIS program and the TEA. Such information and data may include records on a student's ~~[students']~~ academic achievement, promotion, attendance, disciplinary referrals, free/reduced-price lunch status, at-risk status, or health-related information in accordance with the written authorization obtained by the local CIS program from the student's parent or legal guardian ~~[and assessment]~~. A local CIS program or developing program may provide this information and data to the TEA in accordance with the grant application.

(c) Pursuant to the TEC, §33.154(a), the TEA may contract with entities, including nonprofit organizations, to assist in performing state leadership activities in accordance with §89.1503(c)(1)(C) of this title (relating to Funding). State leadership activities may include the following activities:

(1) coordinating the efforts of the CIS program with other social service organizations and agencies and with public school personnel to provide services to students who are at risk of dropping out of school or engaging in delinquent conduct, including students who are in family conflict or emotional crisis;

(2) promoting and marketing the program in communities in which the program is not established;

(3) helping communities that want to participate in the program establish a local funding base;

(4) providing training and technical assistance for participating communities and programs;

(5) encouraging local businesses to participate in the CIS program; and

(6) seeking additional resources from federal, state, local, and private sources to support local CIS programs.

§89.1511. *Performance Standards and Revocation of Grant Award.*

(a) Performance standards for a local Communities In Schools (CIS) program regarding the number of case-managed students served.

(1) A local CIS program that fails to serve the number of case-managed students indicated in its grant application by the end of the school year of any given year will receive grant funding based only on the number of case-managed students the program actually served in that given year.

(2) Following the end of a given school year (Year 1), a local CIS program that fails to serve the number of case-managed students identified in its grant application must submit to the Texas Education Agency (TEA) a letter of explanation detailing the reasons the local CIS program did not serve the number of case-managed students indicated in its grant application. Additionally, a Program Improvement Plan (PIP) detailing how the CIS program will reach the Year 1 target by the end of the second school year (Year 2) is required. The PIP must include the following:

(A) local program contact information;

(B) the number of case-managed students listed in the grant application;

(C) the actual number of case-managed students served;

(D) a list of the proposed strategies and initiatives that will be implemented to meet the case-managed student target;

(E) a list of the timelines for each proposed strategy and initiative; and

(F) a list of fiscal, logistical, and human resources to be used to meet the case-managed student target.

(3) A local CIS program that fails to meet the Year 1 target for case-managed students in Year 2 will:

(A) receive payment only for the number of case-managed students the program actually served;

(B) have its grant application modified to reflect a decreased number of case-managed students and decreased funding for Year 3; and

(C) be placed on probation for Year 3.

(4) A local CIS program placed on probation:

(A) must update its PIP to show how it will modify its program to meet the Year 3 case-managed student target; and

(B) will not qualify for any increases in grant awards. The commissioner may waive this requirement if the local CIS program fails to meet its case-managed student target as a result of circumstances, such as a natural disaster, beyond the program's control.

(5) A local CIS program that fails to meet its Year 3 case-managed student target by the end of Year 3 may have its grant award non-renewed or revoked.

(6) A local CIS program that successfully reaches its Year 3 case-managed student target at the end of Year 3 will be removed from probation.

(7) A local CIS program may have its grant award non-renewed or revoked if it fails to meet its case-managed student target as identified in the grant application for four years out of a five-year period.

(b) Performance standards for a local CIS program regarding state targets in academic achievement, attendance, behavior, dropout rates, graduation, and promotion/retention.

(1) In accordance with the Texas Education Code (TEC), §33.154(a)(2), performance standards are established for local CIS programs in the objective areas of academic achievement, attendance, behavior, dropout rates, graduation, and promotion/retention.

(2) Each local CIS program must meet the performance standards stated in its grant application each year.

(3) The TEA shall notify local CIS programs that did not meet performance standards in any objective area, within a 5.0% variance, following the end of each school year.

(4) A local CIS program that fails to meet performance standard(s) in any objective area within a 5.0% variance must submit to the TEA a letter of explanation detailing the reasons the program was unable to meet state established performance standard(s). Additionally, a PIP detailing how the CIS program will reach the performance standard by the end of the next grant year period is required. The PIP shall include the following:

(A) local program contact information;

(B) a list of the objective area(s) and the performance standard(s) as listed in the grant application;

(C) a list of the actual standard(s) met for each objective area(s);

(D) a list of the proposed strategies and initiatives that will be implemented to meet the performance standard(s) that were not met;

(E) a list of the timelines for each proposed strategy and initiative; and

(F) a list of fiscal, logistical, and human resources to be used to reach the performance standard(s).

(5) The TEA will review PIPs within 30 days of receipt.

(6) A local CIS program that fails to meet the performance standard in the same objective area for academic achievement, attendance, or behavior [standards] for Year 2 or two consecutive years must submit an updated PIP for approval by the TEA and may not be eligible for additional CIS funding opportunities outside of the CIS grant allocation described in §89.1503 of this title (relating to Funding). A local CIS program that fails to meet the performance standard in the same objective area for dropout, graduation, and promotion/retention for Year 2 or two consecutive years will be placed on probation for Year 3.

(7) A local CIS program placed on probation:

(A) must update its PIP to show how it will modify its program to meet the Year 3 performance standards; and

(B) will not qualify for any increases in grant awards. The commissioner may waive this requirement if the local CIS program fails to meet its performance standards as a result of circumstances, such as a natural disaster, beyond the program's control.

(8) A local CIS program that fails to meet the Year 3 performance standard in the same objective area for academic achievement, attendance, or behavior by the end of Year 3 must submit an updated PIP for approval by the TEA and may not be eligible for additional CIS funding opportunities outside of the CIS grant allocation described in §89.1503 of this title. A local CIS program that fails to meet the [its] Year 3 performance standard in the same objective area for dropout, graduation, and promotion/retention [standards] by the end of Year 3 may have its grant award non-renewed or revoked.

(9) A local CIS program may have its grant award non-renewed or revoked if it fails to meet the [its] performance standard in the same objective area for dropout, graduation, and promotion/retention [standards] as identified in the grant application for four years out of a five-year period.

(c) Performance standards for a developing program. A developing program that does not meet the requirements for establishing a local CIS program as specified in the request for application may have its grant funding non-renewed or revoked in accordance with subsection (e) [(d)] of this section.

(d) Total Quality Systems (TQS) accreditation.

(1) Each local CIS program must be TQS accredited by October 31, 2015, as required in the TEA grant application.

(2) A local CIS program that does not sustain TQS accreditation must develop and submit a TQS work plan for approval by the TEA which details the steps to correct identified TQS standards for the following two grant years. The TQS work plan shall be in a format determined by the TEA.

(3) A local CIS program that does not correct the identified TQS standards at the end of Year 2 must submit a revised work plan to the TEA for the following grant year.

(4) A local CIS program that does not correct the identified TQS standards at the end of Year 3 may have its grant award non-renewed or revoked for Year 4.

(e) [(d)] Revocation of grant award.

(1) The commissioner may deny renewal or revoke the grant award of a local CIS program based on any of the following:

(A) failure to serve the number of case-managed students identified in its grant application for three consecutive years;

(B) failure to meet the performance standard in the same objective area for dropout, graduation, and promotion/retention [standards] within a 5.0% variance as identified in the local CIS program's grant application for three consecutive years; [or]

(C) consistently failing to serve the target number of case-managed students and meet the performance standard in the same objective area for dropout, graduation, and promotion/retention [standards] within a 5.0% variance as identified in its grant application for four years out of a five-year period; or [-]

(D) failure to correct the identified TQS standards for three consecutive years.

(2) The commissioner may deny renewal or revoke the grant award of a developing program based on any of the following:

(A) non-compliance with application assurances;

(B) lack of program success as evidenced by progress reports and program data;

(C) failure to meet performance standards specified in the application; or

(D) failure to provide accurate, timely, and complete information as required by the TEA to evaluate the effectiveness of the developing program.

(3) A decision by the commissioner to deny renewal or revoke authorization of a grant award is final and may not be appealed.

(4) Revoked funds may be used for CIS program replication and/or expansion in accordance with §89.1503(d) of this title [~~relating to Funding Beginning with School Year 2009-2010~~].

(5) A program whose grant has been non-renewed or revoked is eligible to apply for replication funding in accordance with §89.1503(d) of this title after one year from the fiscal year the grant was non-renewed or revoked.

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

Filed with the Office of the Secretary of State on May 26, 2011.

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Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

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For further information, please call: (512) 475-1497



## 19 TAC §89.1502

*(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 Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)*

The repeal is proposed under the Texas Education Code (TEC), §33.154, which requires the commissioner of education by rule to develop and implement policies concerning the Communities In Schools program, and TEC, §33.156, which authorizes the agency to develop and implement an equitable formula for the funding of local programs.

The repeal implements the TEC, §§33.151, 33.152, and 33.154-33.159.

§89.1502. *Funding Prior to School Year 2009-2010.*

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

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Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

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For further information, please call: (512) 475-1497



## TITLE 22. EXAMINING BOARDS

### PART 14. TEXAS OPTOMETRY BOARD

#### CHAPTER 271. EXAMINATIONS

## 22 TAC §271.2

The Texas Optometry Board proposes amendments to §271.2, concerning Applications, to apply the language of Texas Occupations Code §53.021 such that the application requirement to report criminal convictions includes the reporting of deferred adjudications, community and mandatory supervision and revocations of parole, probation or supervision.

Chris Kloeris, Executive Director of the Texas Optometry Board, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implications for state and local government as a result of enforcing or administering the amendments.

Mr. Kloeris has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated is that the agency will be assured that conduct that may require disciplinary action is fully reported to the agency.

It is anticipated that there will be economic costs for those applicants for license who will be required to furnish documents concerning deferred adjudications, community and mandatory supervision and revocations of parole, probation or supervision. These costs are predicted to be less than \$50. Such information is essential to protect the public safety.

### ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

The agency licenses approximately 4,000 optometrists and therapeutic optometrists. A significant majority of licensees own or work in one or more of the 1,000 to 3,000 optometric practices which meet the definition of a small business. Some of these practices meet the definition of a micro business. The agency does not license these practices. The possible expense for persons required to comply is a requirement for individual applicants and not businesses that the agency does not regulate. No disparate effect is foreseen on small or micro-businesses.

### ENVIRONMENT AND TAKINGS IMPACT ASSESSMENT

The agency has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code §2001.0225. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. The agency has determined that the proposed rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore does not constitute a taking under Texas Government Code §2007.043.

Comments on the proposal may be submitted to Chris Kloeris, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under the Texas Optometry Act, Texas Occupations Code, §351.151 and §351.501; and Texas Occupations Code §53.021. The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The agency interprets §351.501 as authorizing the Board to deny, suspend or revoke a license because of criminal convictions, failure to provide accurate information, or failure to comply with Board rules; and §53.021 as defining "criminal conviction" and authorizing the agency to deny, suspend or revoke a license because of the conviction.



No other sections are affected by the amendments.

§271.2. *Applications.*

(a) (No change.)

(b) Such application shall contain references as to good moral character from at least two licensed optometrists in good standing in the state of licensure and who are actively engaged in the practice of optometry. In the event this is not possible, affidavits from two persons not related to the applicant or to each other, who have known the applicant for at least five years, attesting to the good moral character of the applicant, will be acceptable. The applicant shall report all felony and misdemeanor criminal convictions, including deferred adjudication or court ordered community or mandatory supervision, with or without an adjudication of guilt or revocation of parole, probation or court ordered supervision on the application. Failure of an applicant to report every criminal conviction is deceit, dishonesty and misrepresentation in seeking admission to practice and authorizes the board to take disciplinary action under §351.501 of the Act. An applicant is not required to report a Class C Misdemeanor traffic violation. The applicant shall furnish any document relating to the criminal conviction as requested by the Board. The applicant shall also submit completed Federal Bureau of Investigation (FBI) fingerprint cards provided by the Board so the Board may obtain a criminal history record.

(c) - (i) (No change.)

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

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Chris Kloeris

Executive Director

Texas Optometry Board

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For further information, please call: (512) 305-8502



## CHAPTER 273 GENERAL RULES

### 22 TAC §273.8

The Texas Optometry Board proposes amendments to §273.8, concerning Renewal of License, to apply the language of Texas Occupations Code §53.021 such that the criminal conviction reporting requirement for license renewal includes deferred adjudications, community and mandatory supervision and the reporting of revocations of parole, probation or supervision. The amendments delete the 30-day reporting requirement since amendments to §277.5 will include that requirement.

Chris Kloeris, Executive Director of the Texas Optometry Board, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implications for state and local government as a result of enforcing or administering the amendments.

Mr. Kloeris has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated is that the agency will be assured that conduct that may require disciplinary action is reported to the agency.

It is anticipated that there will be economic costs for those licensees who will be required to furnish documents concerning deferred adjudications, community and mandatory supervision

and revocations of parole, probation or supervision. These costs are predicted to be less than \$50. Such information is essential to protect the public safety.

### ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

The agency licenses approximately 4,000 optometrists and therapeutic optometrists. A significant majority of licensees own or work in one or more of the 1,000 to 3,000 optometric practices which meet the definition of a small business. Some of these practices meet the definition of a micro business. The agency does not license these practices. The possible expense for persons required to comply is a requirement for individual licensees and not businesses that the agency does not regulate. No disparate effect is foreseen on small or micro-businesses.

### ENVIRONMENT AND TAKINGS IMPACT ASSESSMENT

The agency has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code §2001.0225. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. The agency has determined that the proposed rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore does not constitute a taking under Texas Government Code §2007.043.

Comments on the proposal may be submitted to Chris Kloeris, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under the Texas Optometry Act, Texas Occupations Code, §351.151 and §351.501; and Texas Occupations Code §53.021. The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The agency interprets §351.501 as authorizing the Board to suspend or revoke a license because of criminal convictions, failure to provide accurate information, or failure to comply with Board rules; and §53.021 as defining "criminal conviction" and authorizing the agency to deny, suspend or revoke a license because of the conviction.

No other sections are affected by the amendments.

§273.8. *Renewal of License.*

(a) Expired license.

(1) - (6) (No change.)

(7) A licensee receiving a felony or misdemeanor criminal conviction, including deferred adjudication or court ordered community or mandatory supervision, with or without an adjudication of guilt, or revocation of parole, probation or court ordered supervision, other than a Class C Misdemeanor traffic violation, shall ~~report the conviction to the Board within thirty days of the date the conviction is entered by the court. A licensee receiving a conviction shall also~~ report the order of conviction, deferred adjudication or court ordered community or mandatory supervision, or revocation of parole, probation, or supervision on [fact that the licensee was convicted at] the next license renewal. This requirement is in addition to the 30 day reporting requirement in §277.5 of this title (relating to Convictions). This paragraph does not require the reporting of a Class C Misdemeanor traffic violation. The failure of a licensee to report a criminal conviction is deceit, dishonesty and misrepresentation in the practice of optometry

and authorizes the board to take disciplinary action under §351.501 of the Act. The licensee shall furnish any document relating to the criminal conviction as requested by the Board.

(b) (No change.)

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

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Chris Kloeris

Executive Director

Texas Optometry Board

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## CHAPTER 277. PRACTICE AND PROCEDURE

### 22 TAC §277.5

The Texas Optometry Board proposes amendments to §277.5, concerning Felony Convictions, applying the language of Texas Occupations Code §53.021 to include deferred adjudications, community and mandatory supervision and revocations of parole, probation or supervision within the definition of criminal conviction. The amendments also add the reporting requirement for criminal convictions formerly contained in §273.8 of this title. The amendments also clarify that licensees provide health services.

Chris Kloeris, Executive Director of the Texas Optometry Board, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implications for state and local government as a result of enforcing or administering the amendments.

Mr. Kloeris has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated is that the agency will be assured that conduct that may require disciplinary action is reported to the agency.

It is anticipated that there will be economic costs for those licensees who will be required to furnish documents concerning deferred adjudications, community and mandatory supervision and revocations of parole, probation or supervision. These costs are predicted to be less than \$50. Such information is essential to protect the public safety.

#### ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

The agency licenses approximately 4,000 optometrists and therapeutic optometrists. A significant majority of licensees own or work in one or more of the 1,000 to 3,000 optometric practices which meet the definition of a small business. Some of these practices meet the definition of a micro business. The agency does not license these practices. The possible expense for persons required to comply is a requirement for individual licensees and not businesses that the agency does not regulate. No disparate effect is foreseen on small or micro-businesses.

#### ENVIRONMENT AND TAKINGS IMPACT ASSESSMENT

The agency has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code §2001.0225. This proposal is not specifically intended to

protect the environment or reduce risks to human health from environmental exposure. The agency has determined that the proposed rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore does not constitute a taking under Texas Government Code §2007.043.

Comments on the proposal may be submitted to Chris Kloeris, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under the Texas Optometry Act, Texas Occupations Code, §351.151 and §351.501; and Texas Occupations Code §53.021. The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The agency interprets §351.501 as authorizing the Board to suspend or revoke a license because of criminal convictions, failure to provide accurate information, or failure to comply with Board rules, and §53.021 as defining "criminal conviction" and authorizing the agency to deny, suspend or revoke a license because of the conviction.

No other sections are affected by the amendments.

#### §277.5. ~~[Felony]~~ Convictions.

(a) The Act, ~~[Section]~~ §351.501(a)(3), and Texas Occupations Code Chapter 53, provide that the board may suspend or revoke an existing valid license, disqualify a person from receiving a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor, including being placed on deferred adjudication or court ordered community or mandatory supervision, with or without an adjudication of guilt, or revocation of parole, probation or court ordered supervision, if the crime directly relates to duties and responsibilities of a licensed optometrist or therapeutic optometrist.

(b) A licensee or applicant receiving a felony or misdemeanor criminal conviction, including deferred adjudication or court ordered community or mandatory supervision, with or without an adjudication of guilt, or revocation of parole, probation or court ordered supervision, shall report the order of conviction, deferred adjudication or court ordered community or mandatory supervision, or revocation of parole, probation, or supervision within 30 days of the date the court issued the order. This subsection does not require the reporting of a Class C Misdemeanor traffic violation. The failure of a licensee or applicant to report a conviction is deceit, dishonesty and misrepresentation in the practice of optometry and authorizes the board to take disciplinary action under §351.501 of the Act. The licensee shall furnish any document relating to the conviction as requested by the Board.

(c) The Texas Optometry Act authorizes licensees to provide health services.

(d) ~~[(b)]~~ A person currently incarcerated because of a felony conviction or revocation of parole, probation or court ordered supervision in a felony case may not sit for examination, obtain a license under this act, or renew a previously issued license to practice optometry or therapeutic optometry.

(e) ~~[(e)]~~ In considering whether a criminal conviction directly relates to the occupation of an optometrist or therapeutic optometrist, the Board shall consider the factors listed in Texas Occupations Code §53.022.

(f) ~~[(d)]~~ The practice of optometry and therapeutic optometry places the optometrist or therapeutic optometrist in a position of pub-

lic trust. A licensee practices in an autonomous role in treating patients young and old; in prescribing, administering and safely storing dangerous drugs including controlled substances; in preparing and safeguarding confidential records and information; and in accepting client funds. Therefore the crimes considered by the Board to relate to the practice of optometry and therapeutic optometry include, but are not limited to:

- (1) any felony or misdemeanor of which fraud, dishonesty or deceit is an essential element;
- (2) any criminal violation of the Optometry Act, or other statutes regulating or pertaining to the practice or profession of optometry and therapeutic optometry;
- (3) any criminal violation of statutes regulating other professions in the healing arts;
- (4) any crime involving moral turpitude;
- (5) murder;
- (6) burglary;
- (7) robbery;
- (8) theft;
- (9) sex offense;
- (10) perjury;
- (11) child molesting; and
- (12) substance abuse or substance diversion.

(g) ~~[(e)]~~ In determining the present fitness of a person who has been convicted of a crime, the Board shall consider the factors listed in Texas Occupations Code §53.023.

(h) ~~[(f)]~~ It shall be the responsibility of the applicant for license to secure and provide to the Board the recommendations of the prosecution, law enforcement, and correctional authorities regarding all offenses.

(i) ~~[(g)]~~ The applicant for license shall also furnish proof in such form as may be required by the Board, that the licensee maintained a record of steady employment and has supported licensee dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines and restitution as may have been ordered in all criminal cases in which the licensee has been convicted.

(j) ~~[(h)]~~ Upon suspension or revocation of a license, or denial of an application for license or examination because of the person's prior conviction of a crime and the relationship of the crime to the license, the Board shall notify the person in writing:

- (1) of the reasons for the suspension, revocation, denial, or disqualification;
- (2) of the review procedure provided by Texas Occupations Code §53.052; and
- (3) of the earliest date that the person may appeal.

(k) ~~[(i)]~~ The board, however, shall be under no duty to generate evidence with respect to the matters listed in Texas Occupations Code Chapter 53.

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

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Chris Kloeris

Executive Director

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## CHAPTER 280. THERAPEUTIC OPTOMETRY

### 22 TAC §280.8

The Texas Optometry Board proposes amendments to §280.8, concerning Optometric Glaucoma Specialist: Required Education, Examination and Clinical Skills Evaluation, relating to the method of presenting the review course required for the optometric glaucoma specialist application. The amendments recognize that technological advances now enable course providers to present a course at a remote location with the same content as a live course, including the same ability for attendees to ask questions and seek clarification, for example, through computer terminals. Technological advances also now allow the presenter to verify that each attendee is continually listening and participating in the course.

Allowing remote location courses should save licensees of the Board the significant expense of closing their professional practice, and the additional expense of traveling to a single location to take the required course. According to the major provider of the course, the number of attendees has not allowed the provider to schedule the course other than once per year, making some eligible applicants wait almost an entire year in order to apply for the license. Remote location courses would give potential applicants an alternative to the once per year opportunity.

Chris Kloeris, Executive Director of the Texas Optometry Board, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implications for state and local government as a result of enforcing or administering the amendments.

Mr. Kloeris has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be greater numbers of optometric glaucoma specialists licensed, because under the amendments applicants for the license will not be required to close a practice and pay travel expenses on dates set by the course provider. It is also anticipated that fewer therapeutic optometry practices will need to close for the period that attending the current course required.

It is anticipated that there will be no economic costs for those persons, therapeutic optometrists wishing to obtain an optometric glaucoma specialist license, required to comply with the amendments. As discussed above, most applicants would save substantial costs.

There are no anticipated economic costs for small or micro businesses.

#### ENVIRONMENT AND TAKINGS IMPACT ASSESSMENT

The board has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code §2001.0225. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure. The Board has determined that the proposed rule does not restrict or limit an owner's right to his

or her property that would otherwise exist in the absence of government action, and therefore does not constitute a taking under Texas Government Code §2007.043.

Comments on the proposal may be submitted to Chris Kloeris, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under the Texas Optometry Act, Texas Occupations Code, §351.151 and §351.3581. The Texas Optometry Board interprets §351.151 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. Section 351.3581 sets the requirements for optometric glaucoma specialist license.

No other sections are affected by the amendments.

§280.8. *Optometric Glaucoma Specialist: Required Education, Examination and Clinical Skills Evaluation.*

(a) Education Required.

(1) Successful completion of at least 30 verified instruction or classroom hours of board approved review course work in glaucoma diagnosis and treatment and pharmacology of approved oral and anti-glaucoma drugs is required for licensure as an optometric glaucoma specialist. The applicant must provide documentation of successful completion of course work.

(2) To be acceptable, courses of verified instruction or classroom hours must receive prior approval by the board. Approved courses may be given only by accredited colleges and schools of optometry or via other educational programs approved by the board. Successfully completed classroom hours may be used to satisfy the Continuing Education requirements for that year.

(b) Examination. Each applicant for licensure as an optometric glaucoma specialist shall have passed, with a grade of 75 or above, a Board approved examination covering the 30 verified instruction or classroom hours defined in this rule. The examination must have received prior approval by the board. The applicant must provide documentation of passing the examination. Examinations given by accredited schools of optometry or medicine covering the subjects described in the Board's Resolution dated April 14, 2000, are hereby approved.

(c) - (e) (No change.)

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

Filed with the Office of the Secretary of State on May 25, 2011.

TRD-201101884

Chris Kloeris

Executive Director

Texas Optometry Board

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 305-8502



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 11. TEXAS JUVENILE PROBATION COMMISSION

## CHAPTER 341. TEXAS JUVENILE PROBATION COMMISSION STANDARDS SUBCHAPTER F. REQUIREMENTS FOR JUVENILE PROBATION OFFICERS

### 37 TAC §341.28

The Texas Juvenile Probation Commission proposes amendments to §341.28, concerning certification of staff. These amendments are being proposed in an effort to clarify certification requirements and ensure consistency with other chapters of agency standards.

Lisa Capers, Deputy Executive Director and General Counsel, has determined that for the first five year period the amendments are in effect, there will no fiscal impact for state or local government as a result of enforcement and implementation. There will be no fiscal implications for small businesses or individuals as a result of enforcement or implementation.

Ms. Capers has also determined that for each year of the first five years the amendments are in effect, the public benefit expected as a result of enforcement or implementation will be consistent information and clear expectations with regard to certification of juvenile officers.

Public comments on the proposal may be submitted in writing to Kristy Almager at the Texas Juvenile Probation Commission, P.O. Box 13547, Austin, Texas 78711-3547. Comments may also be submitted electronically to *Kristy.Almager@tjpc.state.tx.us* or faxed to (512) 424-6718.

These amendments are proposed under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

§341.28. *Certification of Staff.*

(a) Individuals required to maintain an active certification as a condition of employment are:

(1) Chief administrative officers;

(2) Facility administrators;

(3) Supervisors in the direct chain of command over juvenile probation officers or juvenile supervision officers;

(4) [~~3~~] Juvenile probation officers; [~~and~~]

(5) [~~4~~] Juvenile supervision officers; [-]

(6) Youth activities supervisor; and

(7) Any staff, excluding certified physical education teachers, who participates in the administration of intensive physical activity in a Juvenile Justice Alternative Educational Program (JJAEP).

(b) Additional individuals who may maintain an active certification is limited to those whose primary responsibility and essential job function is:

{~~1~~} Supervisor of juvenile probation officers or juvenile supervision officers;

(1) [~~2~~] Quality assurance officer; [~~and~~]

(2) [~~3~~] Juvenile probation and supervision officer trainer; and [-]

(3) Staff member responsible for supervision of youth in a Juvenile Justice Alternative Educational Program (JJAEP).

(c) Juvenile Supervision officers and Juvenile Probation Officers may be dually certified as both Juvenile Supervision Officers and Juvenile Probation Officers if they meet all criteria required for certification and employment for both positions and their job description is consistent with either Juvenile Supervision Officer or Juvenile Probation Officer as defined in §344.100 of this title.

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

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101910

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 424-6710



## SUBCHAPTER I. ELECTRONIC DATA INTERCHANGE SPECIFICATIONS

### 37 TAC §341.60

The Texas Juvenile Probation Commission (Commission) proposes amendments to §341.60, concerning the Commission's electronic data interchange specifications. The amendments are being proposed in an effort to enable departments to continue entering data to track juveniles on the program table while allowing the Commission to isolate community versus non-community programs, programs from program components and juvenile participation from parent participation.

Lisa Capers, Deputy Executive Director and General Counsel, has determined that for the first five-year period the amendments are in effect, there will be minimal fiscal implications for state or local government. This fiscal impact will affect only four departments statewide, specifically only counties that do not operate caseworker as their means to collect and transmit data to the Commission. These four departments will have to create a new table structure in order to send data on a monthly basis to the Commission. There will be no fiscal implications for small businesses or individuals as a result of enforcement or implementation.

Ms. Capers has also determined that for each year of the first five years the amendments are in effect, the public benefit expected as a result of enforcement or implementation will be to eliminate the need for juvenile probation departments to report electronic data independent of the electronic data interchange specifications and for state and local government to have more accurate information on the effectiveness of programs operating in the juvenile probation system.

Public comments on the proposal may be submitted in writing to Kristy Almager at the Texas Juvenile Probation Commission, P.O. Box 13547, Austin, Texas 78711-3547. Comments may also be submitted electronically to [Kristy.Almager@tjpc.state.tx.us](mailto:Kristy.Almager@tjpc.state.tx.us) or faxed to (512) 424-6718.

These amendments are proposed under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

### §341.60. TJPC Monthly Folder Extract.

The TJPC Monthly Folder Extract data shall include all data fields required by TJPC Electronic Data Interchange Specifications found in the figures below.

Figure 1: 37 TAC §341.60

Figure 2: 37 TAC §341.60

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

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101911

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 424-6710



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 2. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

#### CHAPTER 101. ADMINISTRATIVE RULES AND PROCEDURES

##### SUBCHAPTER D. COUNCILS AND COMMITTEES

### 40 TAC §§101.601, 101.603, 101.605

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of Assistive and Rehabilitative Services (DARS), proposes amendments to Title 40, Part 2, Chapter 101, Administrative Rules and Procedures, Subchapter D, Councils and Committees.

Specifically, DARS is proposing amendments to Subchapter D, Councils and Committees, §101.601, Rehabilitation Council of Texas, §101.603, State Independent Living Council, and §101.605, Early Childhood Intervention Advisory Committee, to extend the duration of the council and committees to August 31, 2015.

The amendments are being proposed in accordance with the following statutes and regulations: The Rehabilitation Act of 1973, as amended, 29 U.S.C. §701 et seq., and specifically 29 U.S.C. §725 and §796d; 34 C.F.R. Part 303, Subpart G; Texas Human Resources Code, Chapters 73, 111, and 117; and Texas Government Code, Chapters 531, 551, and 2001.

Ellen Baker, Acting DARS Chief Financial Officer, estimates that for each year of the first five years that the proposed amendments are in effect, there will be no foreseeable fiscal implica-

tions for state or local governments' costs or revenues because of enforcing or administering the proposal.

Ms. Baker also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated because of enforcing the proposal will provide assurance to the public that the necessary rules are in place for the extension of the councils and committees of the Department of Assistive and Rehabilitative Services. Ms. Baker determined that there is no probable economic cost to persons who are required to comply with the proposal.

Additionally, in accordance with Texas Government Code §2001.022, Ms. Baker has determined that the proposed amendments will not affect a local economy, and, therefore, no local employment impact statement is required. Finally, Ms. Baker has determined that the proposal will have no adverse economic effect on small businesses or micro-businesses.

Written comments on the proposal may be submitted to Nancy Mikulencak, Rules Coordinator, Texas Department of Assistive and Rehabilitative Services; by mail at Mail Code 1413, 4800 North Lamar Boulevard, Suite 200, Austin, Texas 78756. Comments will be accepted for 30 days following publication of the proposal to the *Texas Register*.

These amendments are proposed pursuant to HHSC's statutory rulemaking authority under Texas Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of the Texas Health and Human Services Commission with the authority to promulgate rules for the operation and provision of health and human services by health and human services agencies.

No other statute, article, or code is affected by this proposal.

§101.601. *Rehabilitation Council of Texas.*

(a) - (e) (No change.)

(f) Duration of council. The council will be abolished on August 31, 2015 [~~2011~~].

§101.603. *State Independent Living Council.*

(a) - (d) (No change.)

(e) Duration of council. The council will be abolished on August 31, 2015 [~~2011~~].

§101.605. *Early Childhood Intervention Advisory Committee.*

(a) - (s) (No change.)

(t) Duration. The committee will be abolished on August 31, 2015 [~~2011~~].

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

Filed with the Office of the Secretary of State on May 27, 2011.

TRD-201101922

Sylvia F. Hardman

General Counsel

Department of Assistive and Rehabilitative Services

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 424-4050



## CHAPTER 106. DIVISION FOR BLIND SERVICES

### SUBCHAPTER C. VOCATIONAL REHABILITATION PROGRAM

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of Assistive and Rehabilitative Services (DARS), proposes to amend Title 40, Part 2, Chapter 106, Division for Blind Services, Subchapter C, Vocational Rehabilitation Program, Division 3, Vocational Rehabilitation Services, §106.551, Goods and Services, and Division 5, Consumer Participation in Cost of Services, §106.623, Scope of Division 5.

Specifically, DARS is proposing to amend §106.551, Goods and Services, to eliminate vocational and other training as an exemption from determination of comparable services and benefits; and to amend §106.623, Scope of Division 5, to eliminate tuition and fees, assistive technology devices and other necessary equipment, and training except for diabetes education training as exemptions from applying a financial needs test or requiring consumer financial participation.

The proposed amendments are authorized by the Rehabilitation Act of 1973, Title 1 (as amended), 34 C.F.R. §361.53(b), and Texas Human Resources Code Chapters 91 and 117.

Ellen Baker, DARS Acting Chief Financial Officer, estimates that for each year of the first five years that the proposed amendments are in effect, there will be no foreseeable fiscal implications for state or local governments' costs or revenues as a result of enforcing or administering the proposal. No fiscal impact can be determined at this time to persons who are required to comply with the proposed amendments.

Ms. Baker also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be a more consistent delivery of the agency's vocational rehabilitation program services in accordance with federal regulations.

Additionally, in accordance with Texas Government Code, §2001.022, Ms. Baker has determined that the proposed amendments will not affect a local economy, and, therefore, no local employment impact statement is required. Finally, Ms. Baker has determined that the proposed amendments will have no adverse economic effect on small businesses or micro-businesses.

Written comments on the proposal may be submitted within 30 days of publication of this proposal in the *Texas Register* to Nancy Mikulencak, Rules Coordinator, Texas Department of Assistive and Rehabilitative Services, 4800 North Lamar Boulevard, Suite 200, Austin, Texas 78756.

### DIVISION 3. VOCATIONAL REHABILITATION SERVICES

#### 40 TAC §106.551

These amendments are proposed pursuant to HHSC's statutory rulemaking authority under Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of HHSC with the authority to promulgate rules for the operation and provision of health and human services by health and human services agencies.

No other statute, article, or code is affected by this proposal.

§106.551. *Goods and Services.*

(a) Exempt services. The following ~~[The Division, as appropriate to the]~~ vocational rehabilitation services described in 34 C.F.R. §361.48(a) are exempt from a determination of the availability of comparable services and benefits as described in 34 C.F.R. §361.53(a) and are ~~[needs of each eligible person, provides goods and services necessary to render a consumer employable,]~~ subject to certain limitations prescribed in this subchapter and application of Division 4 of this subchapter (relating to Order of Selection for Services), and Division 5 of this subchapter (relating to Consumer Participation in Cost of Services).

(b) Services are provided only when planned in advance and contained in the consumer's IPE.

(c) Subject to the limitation prescribed in subsection (b) of this section, the following vocational rehabilitation services are available on an as-needed basis:

- (1) assessment to determine eligibility;
- (2) assessment to determine vocational rehabilitation needs;
- (3) vocational counseling and guidance;
- (4) physical and mental restoration services;
- (5) vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds received under the provisions of the Rehabilitation Act of 1973, as hereafter amended, ~~[Aet]~~ unless maximum efforts have been made by the Division and the individual to secure grant assistance in whole or in part from other sources to pay for that training;
- (6) maintenance as defined in §106.559 of this title (relating to Maintenance);
- (7) transportation as defined in §106.561 of this title (relating to Transportation);
- (8) vocational rehabilitation services to family members of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome;
- (9) interpreter services and note-taking services for persons who are deaf and tactile interpreting for persons who are deaf-blind;
- (10) reader services, rehabilitation teaching services, and orientation and mobility;
- (11) recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate public services employment;
- (12) job search, placement assistance, and job retention services;
- (13) personal assistance services as defined in §106.574 of this title (relating to Personal Assistance Services);
- (14) post-employment services as defined in §106.568 of this title (relating to Post-Employment Services);
- (15) occupational licenses, tools, equipment, and initial stocks and supplies;

(16) transition services as defined in §106.576 of this title (relating to Transition Services);

(17) referral services;

(18) supported employment services as defined in §106.578 of this title (relating to Supported Employment Services);

(19) rehabilitation technology services as defined in §106.580 of this title (relating to Rehabilitation Technology Services); and

(20) technical assistance and other consultation services.

(d) If comparable services or benefits exist under any other program and are available to the consumer at the time needed to achieve the rehabilitation objectives in the individual's IPE, the Division shall use those comparable services or benefits to meet, in whole or in part, the cost of vocational rehabilitation services.

(e) If comparable services or benefits exist under any other program, but are not available to the consumer at the time needed to satisfy the rehabilitation objectives in the individual's IPE, the Division shall provide vocational rehabilitation services until those comparable services and benefits become available.

(f) The following services are exempt from a determination of the availability of comparable services and benefits:

(1) Assessment for determining eligibility and priority for services.

(2) Assessment for determining vocational rehabilitation needs.

(3) Vocational rehabilitation counseling, guidance, and referral services.

~~[(4) Vocational and other training services, such as personal and vocational adjustment training, books (including alternative format books accessible by computer and taped books), tools, and other training materials in accordance with subsection (e)(5) of this section.]~~

~~(4)~~ [(5)] Placement services.

~~(5)~~ [(6)] Rehabilitation technology.

~~(6)~~ [(7)] Post-employment services consisting of the services listed under paragraphs (1) - (5) of this subsection ~~[subsection (b)(1) - (6) of this section]~~.

(g) The requirements of subsection (e) of this section also do not apply if:

(1) the determination of the availability of comparable services and benefits under any other program would delay the provision of vocational rehabilitation services to any consumer who is determined to be at extreme medical risk, based on medical evidence provided by an appropriate qualified medical professional; or

(2) an immediate job placement would be lost due to a delay in the provision of comparable services and benefits.

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

Filed with the Office of the Secretary of State on May 27, 2011.  
TRD-201101923

Sylvia F. Hardman  
General Counsel  
Department of Assistive and Rehabilitative Services  
Earliest possible date of adoption: July 10, 2011  
For further information, please call: (512) 424-4050



## DIVISION 5. CONSUMER PARTICIPATION IN COST OF SERVICES

### 40 TAC §106.623

These amendments are proposed pursuant to HHSC's statutory rulemaking authority under Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of HHSC with the authority to promulgate rules for the operation and provision of health and human services by health and human services agencies.

No other statute, article, or code is affected by this proposal.

§106.623. *Scope of Division 5.*

(a) The Division may not apply a financial needs test, or require the financial participation of the consumer as a condition for furnishing the following vocational rehabilitation services: [In addition to the exception noted in subsection (b) of this section, all vocational rehabilitation services are subject to this Division 5 except the following:]

- (1) assessment for determining eligibility and priority for services, except for vocational rehabilitation services other than those of a diagnostic nature provided under an extended evaluation;
- (2) assessment for determining vocational rehabilitation needs;
- (3) vocational rehabilitation counseling, guidance, and referral services by Division staff;
- (4) employment assistance services by Division staff;
- (5) diabetes education training;
- (6) vocational rehabilitation teacher services (including consumable supplies);
- (7) any auxiliary aid or service (e.g., interpreter services, reader services) that an individual with a disability needs in order to participate in the VR program; [ø]
- (8) orientation and mobility training [services];
- [(9) tuition and fees;]
- [(10) assistive technology devices and other necessary equipment to improve the functional capabilities of an individual with a disability;]
- (9) [(11)] personal assistance services; and
- (10) [(12)] services paid for or reimbursed by a source other than the Division.

(b) The provisions of this subsection do not apply to individuals [Individuals] receiving Social Security benefits under Titles II or XVI of the Social Security Act [are exempt from this subsection].

(c) A consumer's required participation in the cost of establishing a small business when the consumer's vocational goal is self-employment is contained in §106.582 of this title, pertaining to Establishing a Small Business as an Employment Outcome.

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

Filed with the Office of the Secretary of State on May 27, 2011.

TRD-201101924  
Sylvia F. Hardman  
General Counsel  
Department of Assistive and Rehabilitative Services  
Earliest possible date of adoption: July 10, 2011  
For further information, please call: (512) 424-4050



## TITLE 43. TRANSPORTATION

### PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

#### CHAPTER 25. TRAFFIC OPERATIONS SUBCHAPTER I. SAFE ROUTES TO SCHOOL PROGRAM

##### 43 TAC §25.501

The Texas Department of Transportation (department) proposes amendments to §25.501, concerning the definitions in the Safe Routes to School Program.

##### EXPLANATION OF PROPOSED AMENDMENTS

The department administers the federal Safe Routes to School Program to enhance safety in and around school areas through a comprehensive program designed to improve the bicycle and pedestrian safety of school age children.

The current definition of "political subdivision" as contained in §25.501 is limited to municipalities and counties. The department is aware that there are other types of political subdivisions in the state, such as municipal utility districts, that may wish to apply for and be awarded funding for Safe Routes to School projects within their jurisdictions.

The amendments to §25.501 delete the current definition for "political subdivision." The department will rely on common usage of the term and existing state law to determine those entities that qualify as political subdivisions and, as such, eligible to apply for and receive Safe Routes to School program funding.

##### FISCAL NOTE

James Bass, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the amendments.

Carol Rawson, P.E., Director, Traffic Operations Division, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the amendments.

##### PUBLIC BENEFIT AND COST

Ms. Rawson has also determined that for each year of the first five years in which the section is in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be a more inclusive and efficient Safe Routes to School Program. There are no anticipated economic costs for persons re-



quired to comply with the section as proposed. There will be no adverse economic effect on small businesses.

#### SUBMITTAL OF COMMENTS

Written comments on the proposed amendments to §25.501 may be submitted to Carol Rawson, P.E., Director, Traffic Operations Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of comments is 5:00 p.m. on July 11, 2011.

#### STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.614, which authorizes the commission to adopt rules to implement a Safe Routes to School program.

#### CROSS REFERENCE TO STATUTE

Transportation Code, §201.614.

#### §25.501. Definitions.

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

- (1) Commission--The Texas Transportation Commission.
- (2) Department--The Texas Department of Transportation.
- (3) District--One of 25 geographical areas, managed by a district engineer, in which the department conducts its primary work activities.
- (4) Division--An organizational unit in the department's Austin headquarters.
- (5) Eligible school--A public or private school that contains any of the grades from kindergarten to eighth grade.
- (6) Executive director--The executive director of the Texas Department of Transportation or his or her designee.
- (7) On-system road--A road or highway that is a portion of the designated state highway system.
- (8) Off-system road--A road or highway open to the public that is not part of the designated state highway system, such as a county road or city street.
- (9) Public property--Property owned by a state, city, county, other public entity, or school district.
- ~~(10) Political subdivision--A municipality or county within the State of Texas.~~
- (10) ~~(41)~~ Program--The Safe Routes to School Program.
- (11) ~~(42)~~ State highway system--The system of highways in the state included in a comprehensive plan prepared by the executive director with the approval of the commission, in accordance with Transportation Code, §201.103.

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

Filed with the Office of the Secretary of State on May 27, 2011.

TRD-201101917

Bob Jackson  
General Counsel  
Texas Department of Transportation  
Earliest possible date of adoption: July 10, 2011  
For further information, please call: (512) 463-8683

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## CHAPTER 27. TOLL PROJECTS

### SUBCHAPTER A. COMPREHENSIVE DEVELOPMENT AGREEMENTS

#### 43 TAC §27.8

The Texas Department of Transportation (department) proposes amendments to §27.8, concerning Conflict of Interest and Ethics Policies.

#### EXPLANATION OF PROPOSED AMENDMENTS

Under Transportation Code, §223.209, the Texas Transportation Commission (commission) is required to adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in projects, and promote confidence among those participants.

The commission previously adopted §27.8 to prescribe conflict of interest provisions and communications restrictions in order to provide a fair and unbiased comprehensive development agreement procurement process and to ensure high standards of ethics and fairness in the administration of the comprehensive development agreement program. Changes to §27.8 are necessary in order to reduce impacts on competition by ensuring there are a sufficient number of qualified firms available to participate as part of proposer teams, while protecting the integrity and fairness of the comprehensive development agreement program and all procurements carried out by the department as part of the program.

Amendments to §27.8(c)(2) clarify that all provisions in that subsection that apply to a consultant or subconsultant also apply to individual employees of a consultant or subconsultant who participated in the performance of services for the department.

Amendments to §27.8(c)(3) provide that if the executive director of the department determines that the performance of services by a consulting firm raises a conflict of interest, the resulting prohibition or restriction on that firm as provided in that subsection continues until the date the performance of services ends and all work product prepared by the entity and other information and data provided to the entity in the performance of services is publicly available.

The change in the period in which a conflict of interest applies is generally consistent with the circumstances in which the executive director of the department may determine a conflict of interest does not exist under §27.8(c)(9), relating to a consultant that has completed its services. The change would allow additional private entities, under the circumstances described in §27.8(c)(3), to participate in procurements as part of a proposer team. Individual employees of a consultant or subconsultant who performed the services that create a conflict of interest may continue to be subject to a restriction or prohibition.

#### FISCAL NOTE

James Bass, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the amendments.

Mark Tomlinson, Director, Texas Turnpike Authority Division, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the amendments.

#### PUBLIC BENEFIT AND COST

Mr. Tomlinson has also determined that for each year of the first five years in which the sections are in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be to reduce impacts on competition by ensuring there are a sufficient number of qualified firms available to participate as part of proposer teams, while protecting the integrity and fairness of the comprehensive development agreement program and all procurements carried out by the department as part of the program. There are no anticipated economic costs for persons required to comply with the sections as proposed. There will be no adverse economic effect on small businesses.

#### SUBMITTAL OF COMMENTS

Written comments on the proposed amendments to §27.8 may be submitted to Mark Tomlinson, Director, Texas Turnpike Authority Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of comments is 5:00 p.m. on July 11, 2011.

#### STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §223.209, which requires the commission to adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in projects, and promote confidence among those participants.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 223.

#### §27.8. *Conflict of Interest and Ethics Policies.*

- (a) - (b) (No change.)
- (c) Conflicts of interest.

(1) Purpose. This subsection prescribes department policy on conflicts of interest relating to consultants and subconsultants participating in the comprehensive development agreement program, and thereby:

(A) protects the integrity and fairness of the program and all procurements carried out by the department as part of the program;

(B) avoids circumstances where a consultant, proposer, or developer obtains, or appears to obtain, an unfair competitive advantage as a result of work performed by a consultant or subconsultant;

(C) provides guidance to private entities so they may assess, and make informed business decisions concerning their participation in the program; and

(D) protects the department's interests and confidential and sensitive project-specific and programmatic information.

(2) Applicability. This subsection applies to all comprehensive development agreement projects undertaken by the department. This subsection applies to consultants and subconsultants, and to individual employees of consultants and subconsultants who participated in the performance of services for the department. A reference in this subsection to a consultant or subconsultant also means individual employees of a consultant or subconsultant who participated in the performance of services for the department. To the extent that the department has previously consented in writing to a consultant's or subconsultant's performance of services that are in conflict with this subsection, participation on a proposer team as an equity owner or team member, acting as a consultant or subconsultant to a proposer, or having a financial interest in a proposer or an equity owner or team member of a proposer, this subsection does not modify or alter the prior consent. The foregoing does not prevent, however, the application of this subsection to the consultant or subconsultant for other projects, including taking into account the performance of services on the project for which consent was obtained. This subsection may by extension prohibit or restrict the ability of a proposer to have a consultant or subconsultant participate on the proposer team as an equity owner or team member, act as a consultant or subconsultant to the proposer, or have a financial interest in the proposer or an equity owner or team member of the proposer.

(3) Period in which a conflict of interest applies. If the executive director determines that the performance of services by a consultant or subconsultant raises a conflict of interest, the resulting prohibition or restriction provided in this subsection continues:

(A) for the private entity until ~~one year after~~ the date the performance of services ends and all work product prepared by the entity and other information and data provided to the entity in the performance of services is publicly available; and

(B) for an individual that is an employee of or was employed by the consultant or subconsultant and who participated in the performance of services for the department:

(i) until five years after the date the performance of services ends for those projects for which the individual was materially involved in providing services to the department; and

(ii) until one year from the date the performance of services ends for projects for which the individual was not materially involved in providing services to the department.

(4) Application to new firm. If a conflict of interest is determined to apply to an individual pursuant to paragraph (3)(B) of this subsection, the conflict of interest and prohibition with respect to the individual will not apply to the individual's new place of employment. If the new employer is otherwise eligible to perform consultant services, the new employer will remain eligible despite the employment of the individual. This paragraph does not apply to an individual employed by an affiliate of its previous employer, and the conflict of interest and prohibition with respect to the individual will apply to such affiliate.

(5) Federal requirements. For federal-aid projects, the department must comply with the Federal Highway Administration's organizational conflict of interest regulations (found in 23 CFR §636.116). The requirements of this subsection do not limit, modify, or otherwise alter the effect of those regulations, and will be applied consistent with those regulations.

(6) General conflict of interest standards. Except as provided in paragraph (7) of this subsection, no consultant providing consultant services to the department with respect to a comprehensive development agreement project may be a proposer or participate as an equity owner, team member, consultant, or subconsultant of or to a

proposer for that project, or have a financial interest in any of the foregoing entities with respect to that project. Except as provided in paragraphs (8) and (9) of this subsection, a consultant performing consultant services for a comprehensive development agreement project will not be prohibited from participating on a different comprehensive development agreement project as a proposer or participating as an equity owner, team member, consultant, or subconsultant of or to a proposer for the different project, or having a financial interest in any of the foregoing entities with respect to the different project.

(7) Providing services for the same project. A consultant that is actively providing preliminary engineering and architectural services to the department with respect to a comprehensive development agreement project, or that performed and completed environmental or traffic and revenue services for a comprehensive development agreement project, may be a proposer or participate as an equity owner, team member, consultant, or subconsultant of or to a proposer for the same project, or have a financial interest in any of the foregoing entities with respect to that project, provided the executive director issues a written determination under paragraph (10) of this subsection that:

(A) the consultant will not, or in the case of the previous performance of consultant services did not, have access to or obtain knowledge of confidential or sensitive information, procedures, policies and processes that could provide an unfair competitive advantage with respect to the procurement for that project;

(B) the data and information provided to the consultant in the performance of the consultant services is either irrelevant to the procurement for that project or is available on an equal and timely basis to all proposers;

(C) the work products from the consultant incorporated into or relevant to the procurement for that project are generally available on an equal and timely basis to all proposers;

(D) with respect to environmental services, a record of decision or finding of no significant impact has been issued for the project; and

(E) with respect to traffic and revenue services, there will be no impact on the project's plan of finance, including the ability to obtain and close funding and potential sources of funding.

(8) Procurement and financial services. A consultant actively engaged and performing procurement services or financial services with respect to a comprehensive development agreement project may not be a proposer or participate as an equity owner, team member, consultant, or subconsultant of or to a proposer for that project or any other comprehensive development agreement project, or have a financial interest in any of the foregoing entities with respect to any comprehensive development agreement project.

(9) Completed services. A consultant that performed consultant services for a comprehensive development agreement project and completed the services may be a proposer or participate as an equity owner, team member, subconsultant or consultant of or to a proposer on a different comprehensive development agreement project, or have a financial interest in any of the foregoing entities with respect to a different project, provided that the executive director issues a written determination under paragraph (10) of this subsection that the conditions in paragraph (7)(A) - (C) of this subsection have been met.

(10) Requests for determinations or exceptions. A consultant, proposer, or developer may submit a request to the executive director for a determination whether participation in a comprehensive development agreement project or the performance of particular services with respect to a comprehensive development agreement project would constitute a conflict of interest, or to request approval of an exception

to the applicability of this subsection to those services. A request for approval of an exception may be made if a consultant, proposer, or developer desires to appeal a previous determination by the executive director that a conflict of interest exists. The executive director will forward a request to the department's Office of General Counsel for analysis and recommendation prior to issuing a decision. In determining whether a conflict of interest exists, or whether to approve an exception, the executive director shall consider:

(A) the extent to which the firm or individual employee obtained access to or the ability to gain knowledge of confidential or sensitive information, procedures, policies, and processes concerning the comprehensive development agreement program or a particular project or procurement that could provide an unfair competitive advantage with respect to the procurement or project at issue;

(B) the type of consulting services at issue;

(C) the particular circumstances of each procurement;

(D) the specialized expertise needed by the department and proposers to implement the procurement;

(E) the past, current, or future working relationship between the consultant and the department;

(F) the period of time between the potential conflict situation and the project at issue; and

(G) the potential impact on the procurement and project at issue, including competition.

(11) Multiple services. If a consultant is providing more than one category of consultant services to the department and there are differences in the standards, restrictions, and limitations applicable to those categories, the standards, restrictions, and limitations applicable to a category that are more stringent will be applied.

(12) Participation on proposer or developer team. A consultant participating with respect to a comprehensive development agreement project as a proposer or developer, or as an equity owner, team member, consultant, or subconsultant of or to a proposer or developer, or having a financial interest in any of the foregoing entities, is eligible to provide consultant services (other than procurement services) to the department for another comprehensive development agreement project, provided that, once the consultant is retained to perform consultant services for the department, the restrictions in this subsection shall apply.

(13) Restriction of services and conditions to approvals and exceptions. In instances where the executive director has issued a written determination under paragraph (10) of this subsection that a conflict of interest does not exist (including, in particular, where the conditions prescribed in paragraphs (7) and (9) of this subsection have been met), or grants an exception to the application of this subsection under paragraph (10), the department may still, in its discretion:

(A) restrict the scope of services the consultant or subconsultant may be eligible to perform for the department in order to further the intent and goals of this subsection; and

(B) condition an approval, determination, or exception as the executive director determines appropriate to further the intent and goals of this subsection, including by requiring the consultant, subconsultant, proposer, or developer to execute confidentiality agreements, institute ethical walls, or segregate certain personnel from participation in a project or the performance of consultant services.

(14) Provisions are nonexclusive. The provisions in this subsection do not address every situation that may arise in the context of the department's comprehensive development agreement program

nor require a particular decision or determination by the executive director when faced with facts similar to those described in this subsection. The department retains the ultimate and sole discretion to determine on a case-by-case basis whether a conflict of interest exists and what actions may be appropriate to avoid, neutralize, or mitigate any actual or potential conflict, or the appearance of any conflict. The provisions of this subsection shall not be construed to preclude or condone any conduct with regard to projects other than projects under a comprehensive development agreement. The department will continue to evaluate other projects based on its traditional conflict of interest standards.

(d) - (e) (No change.)

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

Filed with the Office of the Secretary of State on May 27, 2011.

TRD-201101918

Bob Jackson

General Counsel

Texas Department of Transportation

Earliest possible date of adoption: July 10, 2011

For further information, please call: (512) 463-8683



# WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 11. TEXAS JUVENILE PROBATION COMMISSION

#### CHAPTER 355. NON-SECURE JUVENILE CORRECTIONAL FACILITIES

##### SUBCHAPTER A. GENERAL PROVISIONS

###### 37 TAC §§355.100, 355.102, 355.104, 355.106, 355.108, 355.110

The Texas Juvenile Probation Commission withdraws the proposed new §§355.100, 355.102, 355.104, 355.106, 355.108, and 355.110 which appeared in the April 8, 2011, issue of the *Texas Register* (36 TexReg 2224).

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101898

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Effective date: May 26, 2011

For further information, please call: (512) 424-6710



##### SUBCHAPTER B. PHYSICAL PLANT

###### 37 TAC §§355.200, 355.202, 355.204, 355.206, 355.208, 355.210, 355.212, 355.214, 355.216, 355.218, 355.220, 355.222, 355.224, 355.226, 355.228

The Texas Juvenile Probation Commission withdraws the proposed new §§355.200, 355.202, 355.204, 355.206, 355.208, 355.210, 355.212, 355.214, 355.216, 355.218, 355.220, 355.222, 355.224, 355.226, and 355.228 which appeared in the April 8, 2011, issue of the *Texas Register* (36 TexReg 2227).

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101899

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Effective date: May 26, 2011

For further information, please call: (512) 424-6710



##### SUBCHAPTER C. POLICIES AND PROCEDURES

###### 37 TAC §§355.300, 355.302, 355.304, 355.306, 355.308, 355.310, 355.312, 355.314, 355.316, 355.318, 355.320, 355.322, 355.324, 355.326, 355.328, 355.330, 355.332, 355.334, 355.336, 355.338, 355.340, 355.342, 355.344, 355.346, 355.348, 355.350, 355.352, 355.354, 355.356

The Texas Juvenile Probation Commission withdraws the proposed new §§355.300, 355.302, 355.304, 355.306, 355.308, 355.310, 355.312, 355.314, 355.316, 355.318, 355.320, 355.322, 355.324, 355.326, 355.328, 355.330, 355.332, 355.334, 355.336, 355.338, 355.340, 355.342, 355.344, 355.346, 355.348, 355.350, 355.352, 355.354, and 355.356 which appeared in the April 8, 2011, issue of the *Texas Register* (36 TexReg 2229).

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TRD-201101900

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

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For further information, please call: (512) 424-6710



##### SUBCHAPTER D. RESIDENT HEALTH AND SAFETY

###### 37 TAC §§355.400, 355.402, 355.404, 355.406, 355.408, 355.410, 355.412, 355.414, 355.416, 355.418

The Texas Juvenile Probation Commission withdraws the proposed new §§355.400, 355.402, 355.404, 355.406, 355.408, 355.410, 355.412, 355.414, 355.416, and 355.418 which appeared in the April 8, 2011, issue of the *Texas Register* (36 TexReg 2234).

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TRD-201101901

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Effective date: May 26, 2011

For further information, please call: (512) 424-6710



##### SUBCHAPTER E. RESIDENT RIGHTS AND PROGRAMMING

###### 37 TAC §§355.500, 355.502, 355.504, 355.506, 355.508, 355.510, 355.512, 355.514, 355.516, 355.518, 355.520, 355.522, 355.524, 355.526, 355.528, 355.530, 355.532,

**355.534, 355.536, 355.538, 355.540, 355.542, 355.544,  
355.546, 355.548, 355.550, 355.552, 355.554, 355.556,  
355.558, 355.560, 355.562, 355.564, 355.566, 355.568,  
355.570, 355.572, 355.574, 355.576, 355.578, 355.580**

The Texas Juvenile Probation Commission withdraws the proposed new §§355.500, 355.502, 355.504, 355.506, 355.508, 355.510, 355.512, 355.514, 355.516, 355.518, 355.520, 355.522, 355.524, 355.526, 355.528, 355.530, 355.532, 355.534, 355.536, 355.538, 355.540, 355.542, 355.544, 355.546, 355.548, 355.550, 355.552, 355.554, 355.556, 355.558, 355.560, 355.562, 355.564, 355.566, 355.568, 355.570, 355.572, 355.574, 355.576, 355.578, and 355.580

which appeared in the April 8, 2011, issue of the *Texas Register* (36 TexReg 2237).

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101902

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Effective date: May 26, 2011

For further information, please call: (512) 424-6710



# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 16 ECONOMIC REGULATION

### PART 8. TEXAS RACING COMMISSION

#### CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

##### SUBCHAPTER B. ENTRIES, SCRATCHES, AND ALLOWANCES

###### DIVISION 1. ENTRIES

###### 16 TAC §313.110

The Texas Racing Commission (Commission) adopts an amendment to §313.110, concerning the coupling of horses for wagering purposes when they have common interests through ownership, training, or lease. The amendment is adopted without changes to the proposed text as published in the March 18, 2011, issue of the *Texas Register* (36 TexReg 1792) and will not be republished.

The amendment will remove the requirement to couple a trainer's horses if the trainer owns an interest in either horse. This will increase the public's interest in certain races by increasing the number of available betting interests.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Revised Civil Statutes Annotated Article 179e, §3.02, which authorizes the Commission to make rules relating exclusively to horse and greyhound racing, and §11.01, which requires the Commission to make rules to regulate pari-mutuel wagering.

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

Filed with the Office of the Secretary of State on May 23, 2011.

TRD-201101853

Mark Fenner

General Counsel

Texas Racing Commission

Effective date: June 12, 2011

Proposal publication date: March 18, 2011

For further information, please call: (512) 833-6699



#### CHAPTER 319. VETERINARY PRACTICES AND DRUG TESTING

## SUBCHAPTER B. TREATMENT OF HORSES

### 16 TAC §319.111

The Texas Racing Commission (Commission) adopts an amendment to §319.111, concerning Bleeders and Furosemide Program, Exercise Induced Pulmonary Hemorrhage (EIPH) events and the administration of furosemide. The amendment is adopted without changes to the proposed text as published in the March 18, 2011, issue of the *Texas Register* (36 TexReg 1792) and will not be republished.

The pre-amendment rule provided that a horse that experienced its first EIPH event was ineligible to compete for 12 days, unless the horse competed on furosemide, in which case the horse was ineligible to compete for 30 days. The amended rule will make a horse that experiences its first EIPH event ineligible to compete for 12 days, regardless of whether the horse competed on furosemide. This change will standardize the regulation of EIPH events by bringing the Commission's rules into closer alignment with the national model rules.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Revised Civil Statutes Annotated Article 179e, §3.02, which authorizes the Commission to make rules relating exclusively to horse and greyhound racing.

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

Filed with the Office of the Secretary of State on May 23, 2011.

TRD-201101854

Mark Fenner

General Counsel

Texas Racing Commission

Effective date: June 12, 2011

Proposal publication date: March 18, 2011

For further information, please call: (512) 833-6699



## TITLE 22. EXAMINING BOARDS

### PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

#### CHAPTER 157. RULES RELATING TO PRACTICE AND PROCEDURE

## SUBCHAPTER B. CONTESTED CASE HEARINGS

### 22 TAC §157.9

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.9, Notice of Hearing, without changes to the proposed text as published in the March 11, 2011, issue of the *Texas Register* (36 TexReg 1640). The amendments clarify that respondents who are not licensees of the Board or current applicants at the time of the hearing must be served with notice of a hearing in accordance with the Administrative Procedure Act and rules of the State Office of Administrative Hearings. The amendments also delete the requirement that initial notices of complaints must be sent to respondents by certified mail.

The reasoned justification for these amendments is assurance of due process in enforcement actions as well as efficient use of agency resources.

No comments were received regarding the amendments as proposed.

The amendments are adopted under the Texas Occupations Code, §1103.151, Rules Relating to Certificates and Licenses.

The statute affected by this adoption is Texas Occupations Code, Chapter 1103. No other statute, code, or article is affected by the amendments.

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

Filed with the Office of the Secretary of State on May 27, 2011.

TRD-201101921

Devon V. Bijansky

General Counsel

Texas Appraiser Licensing and Certification Board

Effective date: June 16, 2011

Proposal publication date: March 11, 2011

For further information, please call: (512) 465-3938



## TITLE 34. PUBLIC FINANCE

### PART 4. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

#### CHAPTER 73. BENEFITS

##### 34 TAC §73.25

The Employees Retirement System of Texas (ERS) adopts an amendment to 34 Texas Administrative Code (TAC) §73.25, concerning Benefits, without changes to the proposed text as published in the April 22, 2011, issue of the *Texas Register* (36 TexReg 2606). The amendment was approved by the ERS Board of Trustees at its May 24, 2011 meeting. This section will not be republished.

Section 73.25, concerning Payment to an Estate, is amended to increase from \$5,000 to \$7,500 the amount that may be payable to an estate without the requirement of certain formal documents. This will ease the payment of claims when formal estate-related documentation will be difficult for beneficiaries or heirs to obtain.

Upon the death of an ERS annuitant, the annuitant's designated beneficiary is entitled to receive a \$5,000 lump sum death benefit. This benefit is in addition to any remaining retirement benefits due the deceased annuitant. Currently, §73.25 requires letters testamentary, an order admitting a will to probate as muniment of title, an affidavit filed with the county court under the small estates provisions of the Texas Probate Code §137, or a judgment to declare heirship to make a payment to an estate of more than \$5,000. Occasionally, ERS members or annuitants pass away without designating beneficiaries, updating beneficiaries or completing the process of adding beneficiaries. Quite often, if an annuitant was owed any remaining retirement annuity, when added to the \$5,000 lump sum death benefit, it will exceed the \$5,000 currently in the rule, and the estate or heirs would be required to obtain the necessary formal documentation in order to claim the funds. The estate and heirs are often reluctant to enter into a potentially complicated and expensive probate proceeding for the sole purpose of recovering the benefits for an amount of that size.

No comments were received on the proposed amendment.

The amendment is adopted under Texas Government Code §815.102, which provides authorization for the ERS Board of Trustees to adopt rules for the retirement system for the administration of funds and the transaction of any other business of the system.

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

Filed with the Office of the Secretary of State on May 24, 2011.

TRD-201101875

Paula A. Jones

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Effective date: June 13, 2011

Proposal publication date: April 22, 2011

For further information, please call: (512) 867-7416



## CHAPTER 85. FLEXIBLE BENEFITS

### 34 TAC §85.5

The Employees Retirement System of Texas (ERS) adopts amendments to 34 Texas Administrative Code (TAC) §85.5, concerning Flexible Benefits, without changes to the proposed text as published in the April 22, 2011, issue of the *Texas Register* (36 TexReg 2607). The amendments were approved by the ERS Board of Trustees at its May 24, 2011 meeting. This section will not be republished.

Amendments to §85.5, concerning Benefits, are necessary to simplify administration and to update the rule to conform to federal tax law. Some amendments to the Internal Revenue Code have affected the administration and management of a Flexible Spending Account (FSA). These changes are required in order that the FSA administered by ERS will remain compliant with the Internal Revenue Code.

Section 85.5 is amended to set an individual's yearly FSA contribution limit at the same rate permitted under the Internal Revenue Code and to set a maximum overall limit that is the same as the current limit for participants in the TexFlex FSA program.



No comments were received on the proposed amendments.

The amendments are adopted under Texas Insurance Code §1551.052 and §1551.206, which provide authorization for the ERS Board of Trustees to adopt rules necessary to carry out its statutory duties and responsibilities to implement the Texas Employees Group Benefits Act and to implement and administer a cafeteria plan.

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

Filed with the Office of the Secretary of State on May 24, 2011.

TRD-201101876

Paula A. Jones

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Effective date: June 13, 2011

Proposal publication date: April 22, 2011

For further information, please call: (512) 867-7416



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 3. TEXAS YOUTH COMMISSION

#### CHAPTER 87. TREATMENT

##### SUBCHAPTER A. PROGRAM PLANNING

###### 37 TAC §87.3

The Texas Youth Commission (TYC) adopts the amendments to §87.3, concerning Rehabilitation Program Stage Requirements and Assessment, without changes to the proposed text as published in the March 18, 2011, issue of the *Texas Register* (36 TexReg 1800).

The justification for the amended rule is to provide for enhanced facility and community safety through increased accountability for serious misconduct and to provide an opportunity for TYC youth and staff to re-focus on the development and implementation of skills necessary for youth to successfully re-enter their communities.

The amended rule establishes that a youth's stages in the rehabilitation program may be demoted for serious misconduct, as described in §95.3 of this title. An amendment to §95.3 detailing the rule violations which are eligible for stage demotion is also adopted in this issue of the *Texas Register*.

TYC did not receive any comments on the proposed amendments.

The amendments are adopted under: (1) Human Resources Code §61.034, which provides TYC with the authority to adopt rules appropriate to the proper accomplishment of its functions; (2) Human Resources Code §61.045, which assigns TYC with responsibility for the welfare, custody, and rehabilitation of the children in a school, facility, or program operated or funded by TYC; and (3) Human Resources Code §61.076, which provides TYC with the authority to require a youth committed to TYC to participate in moral, academic, vocational, physical, and correctional training and activities.

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

Filed with the Office of the Secretary of State on May 24, 2011.

TRD-201101866

Cheryl K. Townsend

Executive Director

Texas Youth Commission

Effective date: July 1, 2011

Proposal publication date: March 18, 2011

For further information, please call: (512) 424-6014



## CHAPTER 95. BEHAVIOR MANAGEMENT AND YOUTH DISCIPLINE

### SUBCHAPTER A. BEHAVIOR MANAGEMENT

#### 37 TAC §95.3

The Texas Youth Commission (TYC) adopts the amendments to §95.3, concerning Rules and Consequences for Residential Facilities, with changes to the proposed text as published in the March 18, 2011, issue of the *Texas Register* (36 TexReg 1801). Changes to the proposed text are outlined below, as described in the responses to public comments received.

The justification for the amended rule is to provide for enhanced facility and community safety through increased accountability for serious misconduct and to provide an opportunity for TYC youth and staff to re-focus on the development and implementation of skills necessary for youth to successfully re-enter their communities.

The amended rule allows for demotion of one or more stages in the agency's rehabilitation program as a consequence for two specific rule violations. The two rule violations are: (1) assault causing serious bodily injury to youth or staff; and (2) sexual misconduct causing contact, including penetration (however slight), between the penis and the vagina or anus; between the mouth and penis, vagina or anus; or penetration (however slight) of the anal or genital opening of another person by hand, finger or other object. The amended rule also defines serious bodily injury.

TYC received comments from Disability Rights Texas regarding the proposed rule. A summary of the comments, along with TYC's responses, is below.

Comment: The wording of subsection (e)(1)(C) could suggest that merely proving that the violation occurred could result in stage demotion. This provision should be re-written to include a specific reference to the requirement in 37 TAC §95.55 providing for the consideration of extenuating circumstances before imposing consequences.

Response: There are several references throughout the rule to "violations that are proven" through Level I, II, or III hearings. These hearings are governed by §§95.51, 95.55, and 95.57, respectively. Each of these rules requires a consideration of extenuating circumstances before imposing consequences. These rules apply to all hearings, including hearings referenced in subsection (e)(1)(C). Rather than include a reference to consideration of extenuating circumstances in each of these occurrences, §95.3(a) will be amended to clarify that appropriate due process,

including a consideration of extenuating circumstances, must be followed before imposing consequences.

Comment: The use of stage demotion serves as a consequence-based punishment and is seemingly inconsistent with best practices. While withholding future rewards, such as advancing to the next stage or even release from a secure facility, might be appropriate in certain instances, taking away something that a youth already earned may not be a productive method to prevent future, similar behaviors.

Response: As established in 37 TAC §87.3, stage assignments are intended to reflect youths' ability to demonstrate skills they have developed. The use of stage demotions will allow treatment staff to more accurately address the youth's current ability to demonstrate learned skills. Stage demotions will also allow staff to re-target the youth's goals and objectives to focus on areas where the youth is truly in need of rehabilitation. Stage demotions are not necessarily intended to prevent future misbehavior. Prevention is addressed through case plan objectives and other individualized treatment interventions that focus on the root causes of the youth's aggression. No changes were made to the proposed text as a result of the comment.

The amendments are adopted under: (1) Human Resources Code §61.034, which provides TYC with the authority to adopt rules appropriate to the proper accomplishment of its functions; (2) Human Resources Code §61.045, which assigns TYC with responsibility for the welfare, custody, and rehabilitation of the children in a school, facility, or program operated or funded by TYC; and (3) Human Resources Code §61.076, which provides TYC with the authority to require a youth committed to TYC to participate in moral, academic, vocational, physical, and correctional training and activities.

### §95.3. *Rules and Consequences for Residential Facilities.*

(a) Purpose. The purpose of this rule is to establish the actions that constitute violations of the rules of conduct youth will be expected to follow while in residential facilities. Violations of the rules may result in disciplinary consequences that are proportional to the severity and extent of the violation. Appropriate due process, including a consideration of extenuating circumstances, must be followed before imposing consequences.

(b) Applicability. This rule applies to youth assigned to a residential facility.

(c) Definitions. The following terms, as used in this rule, have the following meanings.

(1) Bodily Injury--physical pain, illness, or impairment of physical condition. Fleeting pain or minor discomfort does not constitute bodily injury.

(2) Multi-Disciplinary Team--has the meaning assigned by §85.1 of this title.

(3) Residential Facility--includes both high and medium restriction residential placements.

(4) Attempting to Commit--engaging in conduct that amounts to more than mere planning, but failing to commit the intended rule violation.

(5) Serious Bodily Injury--bodily injury which involves:

- (A) a substantial risk of death;
- (B) extreme physical pain;
- (C) protracted and obvious disfigurement; or

(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(d) General Provisions.

(1) Rules in this policy may be restated or otherwise adapted to accommodate a particular program to help clarify expected behavior in that program. All adapted or restated rules shall remain consistent with the general rules of conduct.

(2) The rules of conduct must be posted in a visible area accessible to youth in each facility and program.

(3) Repeated violations of any rule of conduct may result in more serious disciplinary consequences.

(4) Youth may be issued more than one disciplinary consequence for a rule violation proven in a Level II or III due process hearing held in accordance with §95.55 or §95.57 of this title, respectively.

(5) Major rule violations require the completion of a formal incident report.

(6) A youth's disciplinary record shall consist only of rule violations that are proven through a Level I or II due process hearing in accordance with §95.51 or §95.55 of this title, respectively.

(7) Within 24 hours after a report of a major rule violation or a minor rule violation resulting in a security referral, a case worker, program supervisor, or other appropriate non-involved staff member will review the incident and assess whether to request a Level II due process hearing in order to pursue major consequences and/or placement of the violation on the youth's disciplinary record. The facility administrator or designee will determine whether or not to hold a Level II due process hearing. When a youth is found to be in possession of prohibited money as defined in this rule, a Level II due process hearing is required to seize the money. Seized money will be placed in the student benefit fund in accordance with §95.55 of this title.

(8) Except as noted in paragraph (9) of this subsection, minor rule violations will be documented on the appropriate activity log. A formal incident report is not required.

(9) A minor rule violation that escalates to the point that the current program/activity cannot continue due to the disruption, or that poses a substantial risk to personal safety or facility security, must be documented on a formal incident report. In high restriction facilities, this type of minor rule violation will also include a referral to the security unit.

(10) Any time a formal incident report is prepared for an alleged rule violation, a copy of the incident report must be given to the youth within 24 hours after the alleged violation.

(11) Although certain rule violations may not result in immediate disciplinary consequences, a rule violation proven through a Level II due process hearing may be considered upon expiration of the youth's minimum length of stay in determining whether a youth is in need of additional rehabilitation.

(12) Each multi-disciplinary team will review all privilege suspensions for youth on its caseload at least once per week. The multi-disciplinary team may:

(A) lessen the duration of the suspension or allow the youth to accrue certain privileges for use after the period of suspension is complete as an incentive to display positive behavior; or

(B) extend (one time only) or modify an on-site privilege suspension issued by direct care staff if warranted by the youth's behavior.

(e) Consequences for High Restriction Facilities.

(1) Major Disciplinary Consequences.

(A) Major Suspension of Privileges--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for minor rule violations resulting in a referral to the security unit or major rule violations, and only if the rule violation is proven through a Level II due process hearing in accordance with §95.55 of this title.

(B) Loss of Transition Eligibility--a youth who has not completed the minimum length of stay will serve an additional month in high restriction facilities prior to becoming eligible for transition to a medium restriction facility under §85.45 of this title. This consequence may only be issued if it is proven through a Level II due process hearing that the youth committed:

(i) assault causing bodily injury to youth or staff, as defined in subsection (i)(3) - (4) of this section; or

(ii) sexual misconduct as defined in subsection (i)(21)(A) - (B) of this section.

(C) Stage Demotion--a youth's assigned stage in the agency's rehabilitation program is lowered by one or more stages. This consequence may be issued only if it is proven through a Level II due process hearing that the youth committed:

(i) assault causing serious bodily injury to youth or staff, as defined in subsections (c)(5) and (i)(3) - (4) of this section; or

(ii) sexual misconduct, as defined in subsection (i)(21)(A) of this section.

(2) Minor Disciplinary Consequences.

(A) Suspension of Privileges by Multi-Disciplinary Team. A youth has one or more privileges removed for up to 14 calendar days from the date of the multi-disciplinary team meeting, or has his/her privileges adjusted to those associated with a lower stage until the next scheduled meeting. This consequence may be issued for major or minor rule violations. In order to issue this consequence, the multi-disciplinary team must:

(i) meet with the youth to discuss the youth's behavior and potential consequences;

(ii) consider any on-site suspension of privileges already imposed for the behavior; and

(iii) document the discussion of the youth's conduct and consequence imposed.

(B) On-Site Suspension of Privileges. A youth has one specific privilege removed for up to seven calendar days from the date of the violation or all privileges removed for up to three calendar days. This consequence may be issued by a staff member with direct supervisory responsibility for the youth after witnessing a major or minor rule violation. This consequence should be issued only after non-disciplinary interventions have been attempted. The staff member must document the conduct and consequence and discuss the consequence and the reasons for it with the youth.

(f) Consequences for Medium Restriction Facilities.

(1) Major Consequences.

(A) Disciplinary Transfer--a youth assigned to a medium restriction facility is transferred to a high restriction facility. Disciplinary transfer may be issued only for major rule violations that are proven through a Level II due process hearing in accordance with §95.55 of this title. This consequence does not apply to youth

who are on parole status and who are currently assigned to a medium restriction facility.

(B) Major Suspension of Privileges--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for major rule violations that are proven through a Level II due process hearing.

(C) Stage Demotion--a youth's assigned stage in the agency's rehabilitation program is lowered by one or more stages. This consequence may be issued only if it is proven through a Level II due process hearing that the youth committed:

(i) assault causing serious bodily injury to youth or staff, as defined in subsections (c)(5) and (i)(3) - (4) of this section; or

(ii) sexual misconduct, as defined in subsection (i)(21)(A) of this section.

(2) Minor Consequences. Minor disciplinary consequences include but are not limited to consequences described herein. Minor consequences may only be imposed following a Level III due process hearing held in accordance with §95.57 of this title.

(A) Privilege Suspension--a suspension of one or more privileges for no more than 14 calendar days.

(B) Community Service Hours--disciplinary assignment of up to 40 hours in an approved community service assignment.

(C) Trust Fund Restriction--youth is restricted from accessing his/her accrued personal funds for up to seven calendar days.

(D) Facility Restriction--youth is restricted for up to 48 hours from participating in any activity outside the assigned placement other than the approved constructive activities.

(g) Review and Appeal of Consequences.

(1) All minor disciplinary consequences issued by staff other than the youth's multi-disciplinary team will be reviewed for policy compliance by the youth's assigned case worker or dorm supervisor within one workday of issuance. All minor consequences issued by the youth's multi-disciplinary team will be reviewed for policy compliance and consistency by the facility administrator or designee.

(2) The facility administrator or designee:

(A) must review any minor consequence issued for longer than 24 hours within 24 hours after issuance of the consequence; and

(B) may overturn or modify any privilege suspension determined to be excessive or not validly related to the nature or seriousness of the conduct.

(3) Youth may appeal major disciplinary consequences by filing an appeal in accordance with §95.51 or §95.55 of this title.

(h) Placement Disposition Options. In accordance with §95.17 of this title, youth in high restriction facilities may be placed in the Redirect program when the youth is found to have engaged in certain major rule violations. Placement in the Redirect program is not a disciplinary consequence.

(i) Major Rule Violations. It is a violation to knowingly violate, attempt to violate, or help someone else violate any of the following:

(1) Assault-Unauthorized Physical Contact with another Youth (No Injury)--making unauthorized physical contact with another youth that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.

(2) Assault-Unauthorized Physical Contact with Staff (No Injury)--intentionally making unauthorized physical contact with a staff member, contract employee, or volunteer that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.

(3) Assault Causing Bodily Injury to Another Youth--intentionally and knowingly or recklessly engaging in conduct that causes another youth to suffer bodily injury.

(4) Assault Causing Bodily Injury to Staff--intentionally and knowingly or recklessly engaging in conduct that causes a staff member, contract employee, or volunteer to suffer bodily injury.

(5) Attempted Escape--committing an act that amounts to more than mere planning but that fails to effect an escape.

(6) Chunking Bodily Fluids--causing a person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, and/or feces of another with the intent to harass, alarm, or annoy another person.

(7) Distribution of Prohibited Substances--distributing or selling any prohibited substances or items.

(8) Escape--leaving a high or medium restriction residential placement without permission or failing to return from an authorized leave.

(9) Extortion or Blackmail--demanding or receiving favors, money, actions, or anything of value from another in return for protection against others, to avoid bodily harm, or in exchange for not reporting a violation.

(10) Fighting Not Resulting in Bodily Injury--engaging in a mutually instigated physical altercation with another person or persons that does not result in bodily injury.

(11) Fighting that Results in Bodily Injury--engaging in a mutually instigated physical altercation with another person or persons that results in bodily injury.

(12) Fleeing Apprehension--running from or refusing to come to staff when called and such act results in disruption of facility operations.

(13) Two or More Failures to Comply with Written Reasonable Request (for Youth in Medium Restriction Residential Placement)--failing on two or more occasions to comply with a written reasonable request of staff. If the expectation is daily or weekly, the two failures to comply must be within a 30-day period. If the expectation is monthly, the two failures to comply must be within a 90-day period.

(14) Misuse of Medication--using medication provided to the juvenile by authorized personnel in a manner inconsistent with specific instructions for use, including removing the medication from the dispensing area.

(15) Participating in a Major Disruption of Facility Operations--intentionally participating with two (2) or more persons in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs.

(16) Possession of Prohibited Items--possessing the following prohibited items:

- (A) cellular telephone;
- (B) matches or lighters;
- (C) jewelry, unless allowed by facility rules;

(D) money in excess of the amount or in a form not permitted by facility rules (see §95.55 of this title for procedures concerning seizure of such money);

(E) pornography;

(F) items which have been fashioned to produce tattoos or body piercing;

(G) cleaning products when the youth is not using them for a legitimate purpose; or

(H) other items that are being used inappropriately in a way that poses a danger to persons or property or threatens facility security.

(17) Possession of a Weapon--possessing a weapon or item(s) which has been made or adapted for use as a weapon.

(18) Possession or Use of Prohibited Substances and Paraphernalia--possessing or using any unauthorized substance, including controlled substances or intoxicants (including alcohol and tobacco), medications not prescribed for the juvenile by authorized medical or dental staff, tobacco products, similar intoxicants, or related paraphernalia such as that used to deliver or make any prohibited substance.

(19) Refusing a Drug Screen--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen. (Note: If the youth says he/she cannot provide a sample, the youth must be given water to drink and two hours to provide the sample.)

(20) Refusing a Search--refusing to submit to an authorized search of person or area.

(21) Sexual Misconduct--intentionally and knowingly engaging in any of the following:

(A) causing contact, including penetration (however slight), between the penis and the vagina or anus; between the mouth and penis, vagina or anus; or penetration (however slight) of the anal or genital opening of another person by hand, finger or other object;

(B) touching or fondling, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person;

(C) kissing for sexual stimulation;

(D) exposing the anus, buttocks, breasts, or genitals to another or exposing oneself knowing the act is likely to be observed by another person;

(E) masturbating in an open and obvious way, whether or not the genitals are exposed.

(22) Stealing--intentionally taking property from another without permission and the property has an estimated value of \$100 or more.

(23) Tampering with Safety Equipment--intentionally tampering with, damaging, or blocking any device used for safety or security of the facility. This includes, but is not limited to, any locking device or item that provides security access or clearance, any fire alarm or fire suppression system or device, video camera, radio, telephone (when the tampering prevents it from being used as necessary for safety and/or security), handcuffs, or shackles.

(24) Tattooing/Body Piercing--engaging in tattooing or body piercing of self or others. Tattooing is defined as making a mark on the body by inserting pigment into the skin.

(25) Threatening another with a Weapon--intentionally and knowingly threatening another with a weapon. A weapon is something that is capable of inflicting bodily injury in the manner in which it is being used.

(26) Vandalism--intentionally causing \$100 or more in damage to state or personal property of another.

(27) Violation of any Law--violating a Texas or federal law that is not already defined as a major or minor rule violation.

(j) Minor Rule Violations. It is a violation to knowingly violate, attempt to violate, or help someone else violate any of the following:

(1) Breaching Group Confidentiality--disclosing or discussing information provided in a group session to another person not present in that group session.

(2) Disruption of Program--engaging in behavior that requires intervention to the extent that the current program of the youth and/or others is disrupted. This includes, but is not limited to:

(A) disrupting a scheduled activity;

(B) being loud or disruptive without staff permission;

(C) using profanity or engaging in disrespectful behavior toward staff or peers; or

(D) refusing to participate in a scheduled activity or abide by program rules.

(3) Failure to Abide by Dress Code--failing to follow the rules of dress and appearance as provided by facility rules.

(4) Failure to do Proper Housekeeping--failing to complete the daily chores of cleaning the living environment to the expected standard.

(5) Gang Activity--participating in an activity or behavior that promotes the interests of a gang or possessing or exhibiting anything related to or signifying a gang, such as, but not limited to, gang-related literature, symbols, or signs.

(6) Gambling or Possession of Gambling Paraphernalia--engaging in a bet or wager with another person or possessing paraphernalia that may be used for gambling.

(7) Horseplay--engaging in wrestling, roughhousing, or playful interaction with another person or persons that does not rise to the level of an assault. Horseplay does not result in any party getting upset or causing injury to another.

(8) Improper Use of Telephone/Mail/Computer--using the mail, a computer, or the telephone system for communication that is prohibited by facility rules, at a time prohibited by facility rules, or to inappropriately access information.

(9) Lending/Borrowing/Trading Items--lending or giving to another youth, borrowing from another youth, or trading with another youth possessions, including food items, without permission from staff.

(10) Lying/Falsifying Documentation/Cheating--lying or withholding information from staff, falsifying a document, and/or cheating on an assignment or test.

(11) Possession of an Unauthorized Item--possessing an item the youth is not authorized to have (possession of which is not a major rule violation), including items not listed on the youth's personal property inventory. This does not include personal letters or photographs.

(12) Refusal to Follow Staff Verbal Instructions--deliberately failing to comply with a specific reasonable verbal instruction made by a staff member.

(13) Stealing--intentionally taking property from another without permission and the property has an estimated value of less than \$100.

(14) Threatening Others--making verbal or physical threats toward another person or persons.

(15) Undesignated Area--being in any area without the appropriate permission to be in that area.

(16) Vandalism--intentionally causing less than \$100 in damage to state or personal property.

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

Filed with the Office of the Secretary of State on May 24, 2011.

TRD-201101867

Cheryl K. Townsend

Executive Director

Texas Youth Commission

Effective date: July 1, 2011

Proposal publication date: March 18, 2011

For further information, please call: (512) 424-6014



## PART 11. TEXAS JUVENILE PROBATION COMMISSION

### CHAPTER 344. EMPLOYMENT, CERTIFICATION AND TRAINING

The Texas Juvenile Probation Commission (TJPC) adopts amendments to §§344.100, 344.200, 344.230, 344.520, 344.600, 344.620, 344.630, 344.700, 344.840, 344.850, 344.860, and 344.880, concerning employment, certification and training. These rules are adopted without changes to the proposed text as published in the April 8, 2011, issue of the *Texas Register* (36 TexReg 2218) and will not be republished.

TJPC adopts these amendments in an effort to comply with §141.042, Human Resources Code, and House Bill 3689, adopted by the 81st Texas Legislature, making the Commission responsible for the development of Non-Secure Correctional Facility standards including appropriate, educational, pre-service and in-service training, and certification standards.

One public comment was received from Harris County specific to §344.100(18) relating to the definition of Youth Activities Supervisor and subsequently, no changes resulted from the public comment received.

#### SUBCHAPTER A. DEFINITIONS AND APPLICABILITY

##### 37 TAC §344.100

These amendments are adopted under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and

that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

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

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101903

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Effective date: July 1, 2011

Proposal publication date: April 8, 2011

For further information, please call: (512) 424-6710



## SUBCHAPTER B. QUALIFICATIONS FOR EMPLOYMENT

### 37 TAC §§344.200, §344.230

These amendments are adopted under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

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

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101904

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

Effective date: July 1, 2011

Proposal publication date: April 8, 2011

For further information, please call: (512) 424-6710



## SUBCHAPTER E. EDUCATION REQUIREMENTS FOR EMPLOYMENT AND CERTIFICATION

### 37 TAC §344.520

These amendments are adopted under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

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

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Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

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For further information, please call: (512) 424-6710



## SUBCHAPTER F. TRAINING AND CONTINUING EDUCATION

### 37 TAC §§344.600, 344.620, 344.630

These amendments are adopted under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

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

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TRD-201101906

Lisa A. Capers

Deputy Executive Director and General Counsel

Texas Juvenile Probation Commission

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For further information, please call: (512) 424-6710



## SUBCHAPTER G. COMPETENCY EXAMINATION

### 37 TAC §344.700

These amendments are adopted under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

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

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TRD-201101907

Lisa A. Capers  
Deputy Executive Director and General Counsel  
Texas Juvenile Probation Commission  
Effective date: July 1, 2011  
Proposal publication date: April 8, 2011  
For further information, please call: (512) 424-6710



## SUBCHAPTER H. CERTIFICATION

### 37 TAC §§344.840, 344.850, 344.860, 344.880

These amendments are adopted under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by these amendments.

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

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TRD-201101908

Lisa A. Capers  
Deputy Executive Director and General Counsel  
Texas Juvenile Probation Commission  
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For further information, please call: (512) 424-6710



## CHAPTER 349. GENERAL ADMINISTRATIVE STANDARDS

### SUBCHAPTER C. DISCIPLINARY ACTIONS AND HEARINGS

#### 37 TAC §349.300

The Texas Juvenile Probation Commission (TJPC) adopts an amendment to §349.300, concerning disciplinary actions and hearings. This rule is adopted without changes to the proposed text as published in the April 8, 2011, issue of the *Texas Register* (36 TexReg 2223) and will not be republished.

TJPC adopts this amendment in an effort to ensure that local probation departments are informed of any report that a certified officer might have violated a provision of the TJPC Code of Ethics.

No public comment was received during the official public comment period.

This amendment is adopted under Texas Human Resources Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards and that are necessary to provide adequate and effective probation services.

No other rule or standard is affected by this amendment.

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

Filed with the Office of the Secretary of State on May 26, 2011.

TRD-201101909

Lisa A. Capers  
Deputy Executive Director and General Counsel  
Texas Juvenile Probation Commission  
Effective date: July 1, 2011  
Proposal publication date: April 8, 2011  
For further information, please call: (512) 424-6710



## TITLE 43. TRANSPORTATION

### PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

#### CHAPTER 25. TRAFFIC OPERATIONS

##### SUBCHAPTER O. CRASH RECORDS INFORMATION SYSTEM

#### 43 TAC §25.977

The Texas Department of Transportation (department) adopts amendments to §25.977, concerning reporting of motor vehicle crashes by investigating officers. The amendments to §25.977 are adopted without changes to the proposed text as published in the February 11, 2011, issue of the *Texas Register* (36 TexReg 757) and will not be republished.

#### EXPLANATION OF ADOPTED AMENDMENTS

Law enforcement officers who investigate motor vehicle crashes are required by Transportation Code, §550.062 to submit a crash report to the department within 10 days of the crash on a form prescribed by the department if the crash resulted in injury to or death of a person or \$1,000 or more of property damage. The form used for the report is referred to as the Texas Peace Officer's Crash Report, or more commonly as the CR-3.

Under the revisions to §25.977, Reporting by Investigating Officers, the Texas Transportation Commission (commission) adopts a second version of the Form CR-3 by reference. The rule states that a law enforcement officer may use either the existing version of Form CR-3 or the revised version, the CR-3 Alternate, to report motor vehicle crash information.

The department developed the current version of the CR-3 after extensive consultation with the law enforcement community through a crash records working group and after consultation with the Texas Department of Public Safety. The current version of the CR-3 was also approved by both the working group and the Department of Public Safety. The department adopted the current version of crash reporting form in January of 2010.

The department has received some complaints on the current form and requested that the Center for Transportation Safety at the Texas Transportation Institute (CTS-TTI) conduct two surveys of law enforcement agencies concerning implementation of the current form. The survey indicated that some of the law enforcement community found the current version of the Form CR-3 to be both more confusing and time consuming than previous versions. These surveys indicate that some law enforce-

ment officers and agencies believe that use of the current form has resulted in a significant increase in completion time, more inaccurate data collection, and an increased level of frustration on the part of the officers completing the form. However, many of the survey respondents wished to continue using the current version of the form.

One of the primary issues identified by law enforcement agencies with the current Form CR-3 was that officers needed to refer to a separate code sheet to complete the form. The department sought to alleviate this problem by providing tools for the officer's use such as plastic clipboards printed with the necessary codes. Based on the survey these actions have not been sufficient to eliminate all of the officer complaints.

CTS-TTI recommended that the department take a combined approach to resolve the issues by offering two versions of the CR-3 crash reporting form. Based on this recommendation the department proposes to adopt an additional CR-3 form, the CR-3 Alternate, containing the most commonly used data codes printed directly on the form. This form contains all the same data fields as the current CR-3 form. It does not require the gathering of any additional information. It also does not delete any data fields required on the current form. The difference between the two forms is that the CR-3 form is two pages long and requires the use of a code sheet and the CR-3 Alternate form is four pages and includes the codes on the form in the relevant places.

Section 25.977(d) provides that the commission is adopting Form CR-3 Alternate by reference. The adoption of this form will allow the department to offer two versions of the form to be used for gathering crash information. In addition the rule provides that a law enforcement officer or agency can use either form. This language is included to make it clear that the choice of form is up to the agency or law enforcement officer.

Subsection (f) is also amended to indicate that both forms will be available through the department website address.

#### COMMENTS

No comments on the proposed amendments were received.

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically Transportation Code, §550.064, which authorizes the department to prescribe the form of motor vehicle crash reports.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 550.

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

Filed with the Office of the Secretary of State on May 27, 2011.

TRD-201101919

Bob Jackson

General Counsel

Texas Department of Transportation

Effective date: June 16, 2011

Proposal publication date: February 11, 2011

For further information, please call: (512) 463-8683





# TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5,  
Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Department of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30<sup>th</sup> day before the proposal is adopted. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10<sup>th</sup> day before the proposal is adopted. The Administrative Procedure Act, Government Code, Chapters 2001 and 2002, does not apply to department action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

## Texas Department of Insurance

### Final Action on Rules

EXEMPT FILING NOTIFICATION PURSUANT TO TEXAS INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

ADOPTION OF AMENDMENTS TO PART TWO C.8. OF THE WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY, THE FEDERAL COAL MINE HEALTH AND SAFETY ACT COVERAGE ENDORSEMENT (WC 00 01 02), THE OUTER CONTINENTAL SHELF LANDS ACT COVERAGE ENDORSEMENT (WC 00 01 09A) AND THE INFORMATION PAGE (WC 00 00 01)

The Commissioner of Insurance (Commissioner) adopts the amendments proposed by the staff of the Texas Department of Insurance (Department) in a petition (Reference No. W-0411-02-I) to amend Part Two C.8. of the Workers' Compensation and Employers' Liability Insurance Policy (the policy), to amend the Federal Coal Mine Health and Safety Act Coverage Endorsement (WC 00 01 02) and the Outer Continental Shelf Lands Act Coverage Endorsement (WC 00 01 09 A), to make minor editorial changes to Part Two B, C, and D of the policy, and to amend the Information Page (WC 00 00 01). The policy, the two endorsements, and the Information Page are contained in the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Basic Manual). The petition was filed on April 13, 2011. Notice of the proposal was published in the April 29, 2011, issue of the *Texas Register* (36 TexReg 2737). The amendments are subject to the Commissioner's consideration for approval without a hearing. No hearing was requested, and no comments were received on the proposal. The amendments are adopted without changes to the proposed text.

The following amendments are adopted:

Part Two C.8. of the Workers' Compensation and Employers' Liability Insurance Policy and the Federal Coal Mine Health and Safety Act Coverage Endorsement (WC 00 01 02) are amended to update the statutory references to the Federal Mine Safety and Health Act. The Outer Continental Shelf Lands Act Coverage Endorsement (WC 00 01 09 A) is amended to update the statutory reference to the Outer Continental Shelf Lands Act. Part Two B, C, and D of the policy are also amended to capitalize the first letter of the first word of each subsection, in order to be consistent with other parts of the policy. The Information Page (WC 00 00 01) is amended to replace the words "Blank Insurance Company" with "Insurer" in the space designated to show the name of the insurance company providing the workers' compensation coverage.

The Commissioner has determined that the amendments to the Basic Manual policy, endorsements, and information page are necessary to ensure that the relevant statutes are cited correctly in the policy, to ensure consistency within the policy, and to ensure clarity. The amendments are also necessary to make the policy, endorsements, and information page consistent with the ones in use in most other states.

The staff petition and related exhibits have been on file with the Office of the Chief Clerk of the Department since April 13, 2011, and are incorporated by reference into this Commissioner's Order.

This adoption is made pursuant to Article 5.96 and §2052.002 of the Texas Insurance Code. Article 5.96 exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001), authorizing the Department to prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including workers' compensation insurance. Section 2052.002 requires the Commissioner to prescribe standard policy forms and a uniform policy for workers compensation insurance.

The Department hereby certifies that the amendments to the Basic Manual policy, endorsements, and information page have been reviewed by legal counsel and found to be a valid exercise of the Department's authority.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendments to the Basic Manual proposed by the staff petition (Reference No. W-0411-02-I), as described herein and set forth in the exhibits attached to this Order and incorporated into this Order by reference, be available for use for policies with an effective date on or after July 1, 2011; and be required for use for policies with an effective date on or after January 1, 2012.

TRD-201101954

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: June 1, 2011



Final Action on Rules

EXEMPT FILING NOTIFICATION PURSUANT TO TEXAS INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

ADOPTION OF AMENDMENTS TO THE TEXAS BASIC MANUAL OF RULES, CLASSIFICATIONS AND EXPERIENCE

RATING PLAN FOR WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE SECTION I.A. OF THE TEXAS EXPERIENCE RATING PLAN AND RULE D.3. OF THE APPENDIX

The Commissioner of Insurance (Commissioner) adopts the amendments proposed by the staff of the Texas Department of Insurance (Department) in a petition (Reference No. W-0411-03-I) to amend the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Basic Manual), filed on April 18, 2011. Notice of the proposal was published in the April 29, 2011, issue of the *Texas Register* (36 TexReg 2738). The amendments are subject to the Commissioner's consideration for approval without a hearing. No hearing was requested, and no comments were received on the proposal. The amendments are adopted without changes to the proposed text.

The following amendments are adopted: Section I.A. of the Basic Manual Texas Experience Rating Plan and Rule D.3. of the Basic Manual Appendix are amended to allow a copy of the experience modifier calculation to be "made available" to the insured rather than requiring that a copy of the experience modifier be "furnished" or "forwarded" to the insured. With the adoption of this change in wording, the experience modifier can be made available electronically or by mail.

The Commissioner has determined that the amendments to the Basic Manual are necessary to enable insurers to make a free copy of the experience modifier available electronically or by mail. Historically, one copy of the experience modifier calculation has been mailed to the insured. Mailing paper copies of important documents was the standard before creating and sending reliable electronic copies became feasible, due to a variety of factors, including appropriate standardized, widely available technology to receive and verify the authenticity of such documents. Sending the experience modifier calculation by mail required time to transport the document as well as other resources, such as fuel, ink, and paper. Electronic transmission allows for quicker, easier access to the experience modifier calculations than was possible at the

time the earlier rule was enacted. Though the amendments enable insurers to make a free copy of the experience modifier available electronically, the insured would still be able to choose to receive a hard copy of the experience modifier free of charge.

The staff petition and related exhibits have been on file with the Office of the Chief Clerk of the Department since April 18, 2011, and are incorporated by reference into this Commissioner's Order.

This adoption is made pursuant to Article 5.96 and §2053.052 of the Texas Insurance Code. Article 5.96 exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001), authorizing the Department to prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including workers' compensation insurance. Section 2053.052 requires the Commissioner to adopt a uniform experience rating plan for workers' compensation insurance.

The Department hereby certifies that the amendments to the Basic Manual have been reviewed by legal counsel and found to be a valid exercise of the Department's authority.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendments to the Basic Manual proposed by the staff petition (Reference No. W-0411-03-I), as described herein and set forth in the exhibits attached to this Order and incorporated into this Order by reference, apply to the distribution of all experience modifiers issued on or after July 1, 2011.

TRD-201101955  
Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: June 1, 2011



# REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Texas State Board of Public Accountancy

### Title 22, Part 22

The Texas State Board of Public Accountancy will review and consider for readoption, revision or repeal Texas Administrative Code, Title 22, Part 22, Chapters 501, 502, 505, 507, 509, 511, 512, 513, 514, 515, 517, 518, 519, 520, 521, 523, 525, 526 and 527.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review the Board will determine whether the reasons for the rule continue to exist. The rule review will also determine whether the rule is obsolete, whether the rule reflects current legal and policy considerations and whether the rule reflects current procedures of the Board.

Any comments pertaining to this notice of intention may be submitted within the next 30 days to General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701. Any proposed changes to the rules as a result of this review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

Chapter 501 - Rules of Professional Conduct

Chapter 502 - Peer Assistance

Chapter 505 - The Board

Chapter 507 - Employees of the Board

Chapter 509 - Rulemaking Procedures

Chapter 511 - Eligibility

Chapter 512 - Certification by Reciprocity

Chapter 513 - Registration

Chapter 514 - Certification as a CPA

Chapter 515 - Licenses

Chapter 517 - Practice by Certain Out of State Firms and Individuals

Chapter 518 - Unauthorized Practice of Public Accountancy

Chapter 519 - Practice and Procedure

Chapter 520 - Provisions for the Fifth-Year Accounting Students Scholarship Program

Chapter 521 - Fee Schedule

Chapter 523 - Continuing Professional Education

Chapter 525 - Criminal Background Investigations

Chapter 526 - Board Opinions

Chapter 527 - Peer Review

TRD-201101927

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Filed: May 31, 2011



# TABLES &

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# GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

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Figure: 16 TAC §3.80(a)

**Table 1. Railroad Commission Oil and Gas Division Forms**

| Form Number | Form Title   | Creation or Last Revision Date (* No date available) | Statewide Rule Number (16 TAC § __) or Other Authority |
|-------------|--|--|--|
| AOF-1       | Field Application for AOF Status   | 10/95  | 3.31   |
| AOF-2       | Individual Operator Application for AOF Status   | 10/95  | 3.31   |
| AOF-3       | Operator's Review of AOF Status  | 12/95  | 3.31   |
| C-1         | Carbon Black Plant Report  | 7/66   | 3.54, 3.63   |
| C-2         | Application for Permit to Operate a Carbon Black Plant   | 7/66   | 3.54, 3.63   |
| C-3         | Permit to Operate Carbon Black Plant   | 12/67  | 3.54, 3.63   |
| CF-1        | Commercial Facility Bond   | 8/98   | 3.78   |
| CF-2        | Commercial Facility Irrevocable Letter of Credit   | 8/98   | 3.78   |
| G-1         | Gas Well Back Pressure Test, Completion or Recompletion Report, and Log  | 4/83   | 3.4, 3.9, 3.16, 3.28, 3.31                             |
| G-3         | Gas Storage Data Sheet   | 10/94  | 3.96, 3.97   |
| G-5         | Gas Well Classification Report   | 1/86   | 3.53   |
| G-9         | Gas Cycling Report   | 4/71   |  |
| G-10        | Gas Well Status Report   | 9/00   | 3.28, 3.53, 3.55, 3.71                                 |
| GC-1        | Gas Well Capability  | 5/92   | 3.31   |
| GT-1        | Geothermal Production Test, Completion or Recompletion Report, and Log   | 01/76  | 3.4, 3.16, 3.33  |
| GT-2        | Producer's Monthly Report of Geothermal Wells  | 01/76  | Tex. Nat. Res. Code, Ch. 141                           |
| GT-3        | Monthly Geothermal Gatherer's Report   | 01/76  | Tex. Nat. Res. Code, Ch. 141                           |
| GT-4        | Producer's Certificate of Compliance and Authorization to Transport Geothermal Energy and/or Natural Gas and/or Other Minerals | 01/76  | Tex. Nat. Res. Code, Ch. 141                           |
| GT-5        | Application to Inject Fluid into a Reservoir Productive of Geothermal Resources  | 9/75   | Tex. Nat. Res. Code, Ch. 141                           |
| H-1         | Application to Inject Fluid into a Reservoir Productive of Oil or Gas  | 05/01/04   | 3.46   |
| H-1A        | Injection Well Data for H-1 Application  | 05/01/04   | 3.46   |
| H-1S        | Injection Well Area Permit   | 12/98  | 3.46   |
| H-2         | Permit Application to Create, Operate and Maintain a Brine Mining Facility   | 5/99   | 3.81   |
| H-4         | Application to Create, Operate and Maintain an Underground Hydrocarbon Storage Facility  | 4/82   | 3.95, 3.97   |
| H-5         | Disposal/Injection Well Pressure Test Report   | 6/85   | 3.9, 3.46, 3.96  |
| H-7         | Fresh Water Data Form  | 3/68   | 3.46   |
| H-8         | Crude Oil, Gas Well Liquids, or Associated Products Loss Report  | 6/70   | 3.20   |
| N/A         | Interim H-8 Crude Oil Spill Sheet  | 12/93  | 3.20   |
| H-9         | Certificate of Compliance, Statewide Rule 36 (Hydrogen Sulfide)  | 12/77  | 3.36   |
| H-10        | Annual Disposal/Injection Well Monitoring Report (RRC computer-generated)  | 6/11 7/95  | 3.9, 3.46, 5.207                                       |
| H-10H       | Annual Well Monitoring Report Underground Storage in Salt Formations   | 7/95   | 3.95, 3.96, 3.97                                       |

| Form Number | Form Title  | Creation or Last Revision Date (* No date available)                                   | Statewide Rule Number (16 TAC § __) or Other Authority |
|-------------|---|--|--|
| H-11        | Application for Permit to Maintain and Use a Pit  | 5/84   | 3.8  |
| H-12        | New or Expanded Enhanced Oil Recovery Project and Area Designation Approval Application   | 10/03  | 3.50   |
| H-12 A      | Application for Certification for Additional Tax Rate Reduction for Enhanced Oil Recovery Projects Using Anthropogenic Carbon Dioxide | 01/2008  | 3.50   |
| H-13        | EOR Positive Production Response Certification Application  | 4/90   | 3.50   |
| H-14        | Enhanced Oil Recovery Reduced Tax Annual Report   | 01/2008  | 3.50   |
| H-15        | Test on an Inactive Well More than 25 Years Old   | 8/93   | 3.14   |
| H-20        | Hazardous Oil and Gas Waste Generator (and Transporter) Notification  | 6/96   | 3.98   |
| H-21        | Annual Hazardous Oil and Gas Waste Report   | 10/01  | 3.98   |
| L-1         | Electric Log Status Report  | 1/02   | 3.16   |
| MD-1        | Optional Operator Market Demand Forecast for Gas Well Gas in Prorated Fields  | 5/92   | 3.31   |
| OW-1        | Application for Authority to Conduct a Surface Inspection of Orphaned Oil or Gas Wells  | 04/2006  | Tex. Nat. Res. Code, §89.060                           |
| OW-2        | Application for Certificate of Designation as the Operator of Orphaned Oil or Gas Wells   | 04/2006  | Tex. Nat. Res. Code, §89.060                           |
| OW-3        | Application for Payment for Reactivating or Plugging an Orphaned Oil or Gas Well  | 04/2006  | Tex. Nat. Res. Code, §89.060                           |
| PR          | Monthly Production Report   | New Form effective for production reports filed for 01/05 or after 5:00 pm CT 02/11/05 | 3.27, 3.54, 3.58                                       |
| P-1B        | Producer's Monthly Supplemental Report  | 9/90   | 3.50, 3.80   |
| P-3         | Authority to Transport Recovered Load or Frac Oil   | 6/11 3/77  | 3.58   |
| P-4         | Producer's Certificate of Compliance and Transportation Authority   | 5/02   | 3.1, 3.14, 3.30, 3.58, 3.73, 3.78                      |
| P-5         | Organization Report   | 6/11 1/87  | 3.1  |
| P-5A        | Organization Report Non-Employee Agent Listing  | 6/11   | 3.1  |
| P-5O        | Organization Report Officer Listing   | 6/11   | 3.1  |
| P-5 IWB     | Individual Well Bond  | 11/00  | 3.78   |
| P-5 IWLC    | Individual Well Irrevocable Documentary Letter of Credit  | 1/02   | 3.78   |
| P-5LC       | Irrevocable Documentary Blanket Letter of Credit  | 01/2008  | 3.78   |
| P-5 PB(1)   | Individual Performance Bond   | 2/01   | 3.78   |
| P-5PB(2)    | Blanket Performance Bond  | 2/01   | 3.78   |
| P-5S        | P-5 Supplemental Officer Listing  | 9/91   | 3.1  |
| P-6         | Request for Permission to Consolidate/Subdivide Leases  | 5/02   | 3.26, 3.27, 3.38, 3.39, 3.58                           |
| P-7         | New Field Designation and/or Discovery Allowable Application  | 2/89   | 3.41, 3.42   |
| P-8         | Request for Clearance of Storage Tanks Prior to Potential Test  | 12/82  | 3.58   |
| P-12        | Certificate of Pooling Authority  | 5/01   | 3.31, 3.38, 3.40                                       |
| P-13        | Application of Landowner to Condition an Abandoned Well for Fresh Water Production  | 10/2004  | 3.14   |
| P-15        | Statement of Productivity of Acreage Assigned to Proration Units  | 5/71   | 3.31   |

| Form Number     | Form Title  | Creation or Last Revision Date (* No date available) | Statewide Rule Number (16 TAC § __) or Other Authority |
|-----------------|---|--|--|
| P-17            | Application for Exception to Statewide Rules 26 and/or 27 (Commingling)       | 01/2008  | 3.26, 3.27   |
| P-18            | Skim Oil/Condensate Report  | 1/86   | 3.56   |
| PS-79           | Application for a Permit to Construct a Sour Gas Pipeline Facility            | 3/98   | 3.106  |
| <b>PSA-12</b>   | <b>Production Sharing Agreement Code Sheet</b>                                | <b>6/11</b>  | <b>3.38, 3.40, 3.86</b>                                |
| R-1             | Monthly Report and Operations Statement for Refineries                        | 1974   | 3.61   |
| R-2             | Monthly Report for Reclaiming and Treating Plants                             | 12/77  | 3.8, 3.57  |
| R-3             | Monthly Report for Gas Processing Plants                                      | 10/00  | 3.54, 3.56, 3.60, 3.62                                 |
| R-4             | Gas Processing Plant Report of Gas Injected                                   | 9/75   | 3.54   |
| R-5             | Certificate of Compliance (Gasoline Plants and Refineries)                    | 3/72   | 3.61   |
| R-6             | Application for Certificate of Compliance (Cycling Plant)                     | 9/75   | 3.62   |
| R-7             | Pressure Maintenance & Repressuring Plant Report                              | *  | 3.54   |
| R-9             | Application for Permit to Operate Reclamation Plant                           | 2/90   | 3.57   |
| S-10            | Application for Transfer of Allowable, Casing Leak Well East Texas Field)     | 2/89   | Field Rules  |
| ST-1            | Application for Texas Severance Tax Incentive Certification                   | 10/03  | 3.83, 3.101, 3.103                                     |
| T-1             | Monthly Transportation & Storage Report                                       | 3/72   | 3.59   |
| T-4, T-4A, T-4C | Forms relating to pipeline permits; under jurisdiction of the Safety Division | T-4: 9/99<br>T-4A: 4/99<br>T-4C: 4/97                | 3.70   |
| T-6             | Pipeline Company Monthly Report of Gas Exported from Texas                    | 1948   | Exec. Order  |
| T-7             | Dist. 10 Panhandle Fields Monthly Gas Gatherer Report                         | 6/91   | Dkt. 10-87017  |
| VCP-1           | Voluntary Cleanup Program Application   | 11/03  | 4.401-4.405  |
| VCP-2           | Voluntary Cleanup Program Agreement   | 11/03  | 4.401-4.405  |
| W-1             | Application to Drill, Deepen, Plug Back, or Reenter                           | <del>9/01</del><br>(Revision effective 07/01/04)     | 3.5  |
| W-1A            | Substandard Acreage Drilling Unit Certification                               | 5/01   | 3.38   |
| W-1D            | Supplemental Directional Well Information                                     | 07/01/04   | 3.5  |
| W-1H            | Supplemental Horizontal Well Information                                      | 07/01/04   | 3.5  |
| W-2             | Oil Well Potential Test, Completion or Recompletion Report, and Log           | 4/83   | 3.4, 3.9, 3.16, 3.46, 3.51                             |
| W-3             | Plugging Record   | 12/92  | 3.14   |
| W-3A            | Notice of Intention to Plug and Abandon                                       | 1/83   | 3.14   |
| <b>W-3C</b>     | <b>Certification of Surface Equipment Removal for an Inactive Well</b>        | <b>6/11</b>  | <b>3.15</b>  |
| <b>W-3X</b>     | <b>Application for Extension of Deadline for Plugging an Inactive Well</b>    | <b>6/11</b>  | <b>3.15, 3.78</b>                                      |
| W-4             | Application for Multiple Completion   | 8/69   | 3.6  |
| W-4A            | Sketch of Multiple Completion Installation                                    | 8/69   | 3.6  |
| W-5             | Packer Setting Report   | 8/69   | 3.6  |
| W-6             | Communication or Packer Leakage Test  | 1/70   | 3.6  |
| W-7             | Bottom-hole Pressure Report   | *  | 3.41   |
| W-9             | Net Gas-Oil Ratio Report  | 7/69   | RRC Order, §49   |
| W-10            | Oil Well Status Report  | 7/95   | 3.26, 3.27, 3.52, 3.53                                 |
| W-12            | Inclination Report  | 1/71   | 3.11   |

| Form Number | Form Title  | Creation or Last Revision Date (* No date available) | Statewide Rule Number (16 TAC § __) or Other Authority |
|-------------|---|--|--|
| W-14        | Application to Dispose of Oil & Gas Waste by Injection into a Porous Formation Not Productive of Oil or Gas | 1/82<br>Revision effective<br>05/01/04               | 3.9  |
| W-15        | Cementing Report  | 4/83   | 3.8, 3.13, 3.14  |
| WH-1        | Application for Oil and Gas Waste Hauler's Permit (formerly Application for Salt Water Hauler's Permit)     | 4/94   | 3.8  |
| WH-2        | Oil and Gas Waste Hauler's List of Vehicles (formerly Salt Water Hauler's Permit Bond)                      | 4/94   | 3.8  |
| WH-3        | Oil and Gas Waste Hauler's Authority to Use Approved Disposal/Injection System                              | 4/94   | 3.8  |
| W-21        | Application for Exception to Statewide Rule 21 to Produce by Swabbing, Bailing, or Jetting                  | 2/03   | 3.21   |
| Data Sheet  | SWR 32 Exception Data Sheet   | 2/99   | 3.32   |
| Data Sheet  | SWR 10 Exception Data Sheet   | *  | 3.10   |
| EPA 8700-12 | RCRA Subtitle C Site Identification Form (not an RRC form but required)                                     | 01/04  | 3.98   |
| N/A         | Claim for Proceeds of Salvage   | 9/94   | Tex. Nat. Res. Code, §89.086                           |
| N/A         | Request for Notice by Lienholder or Non-Operator  | 9/94   | Tex. Nat. Res. Code, §§89.043(c), 89.085(f), 91.115(f) |
| SAD         | Security Administrator Designation (SAD) Form   | 07/04  | 3.80   |



Figure 1: 37 TAC §341.60

TEXAS JUVENILE PROBATION COMMISSION

Electronic Data Interchange Specifications

File Requirements:

ASCII text file.  
 All records are a fixed length with one record per line.  
 No specific order is required with the exception of the Header Record which must occur first and the Trailer Record which must occur last.  
 All alphabetic fields must be UPPER CASE.  
 Filename is SRSJPCX.777 Where 777 is the department's 3-digit headquarter county number.  
 The entire file should be compressed and encrypted using public key encryption technology then transmitted to TJPC's FTP server.  
 Contact TJPC's MIS Division for the necessary encryption software provided by TJPC and instructions.

Reporting Requirements:

Records are due to TJPC on or before the tenth day of each month following the reporting period (example: extract of February data is due to TJPC on March 10). Multiple report periods may be included as a single submission with the following stipulations.  
 Report period must be for complete months.  
 Report period cannot specify a report period which ends prior to a previously reported period. For example, if the last reported period was May, a subsequent submission for Feb-Apr would be rejected. The subsequent submission should be for Feb-May. This provision prevents more recent information from being overwritten.  
 Records are submitted based on activity (last changed) date (i.e. all records added or changed during the reporting period should be included).  
 To ensure complete information the following rules apply when submitting records:

| Record Type                 | Description/Purpose   | Submission Interval   | Dependent Records Status |
|-----------------------------|---|---|--------------------------|
| Header                      | Identifies submitting county, reporting period, processing date and CASEWORKER specific information.              | Every submission. One per file. Must be first record.   | Not Applicable           |
| Trailer                     | Identifies the end of the file and verifies that all records were received.                                       | Every submission. One per file. Must be last record.  | Not Applicable           |
| Delete                      | Deletes a previously reported record.   | As needed. This option should only be used to remove a record reported in error. Delete records should not be sent for deleted or unreported records. May be submitted in every submission. One record for each Delete Key (code) within each required Decode Type. | Not Applicable           |
| Decode                      | Reports department-defined codes and their descriptions.  | When added or changed. Dependent record submission may also require Child to record submission may also require Child to record submission.   | Not Applicable           |
| Child                       | Reports the child's demographic information.  | Record should be submitted upon completion of intake and again upon completion of disposition. Dependent record submission may also require Referral to be submitted.   | Child                    |
| Referral                    | Reports intake and disposition information on each referral.  | Record should be submitted upon completion of disposition. Dependent record submission may also require Referral to be submitted.   | Child, Referral          |
| Detention                   | Reports information on secure detention events.   | Record should be submitted upon entrance and again upon exit.   | Child, Referral          |
| MAYSI                       | Reports the scoring summary from the Massachusetts Youth Screening Instrument.                                    | Record should be submitted upon completion of disposition for all Formal and Paper Formalized referrals.  | Child, Referral          |
| Behavioral Health           | Reports date, provider and outcome each time a child is referred to a mental health or substance abuse provider.  | When added or changed.  | Child                    |
| Offense                     | Reports information about each offense for which a child is charged.  | When added or changed.  | Child, Referral          |
| Placement                   | Reports information about each out of home placement excluding TYC commitment and placement with relatives.       | Record should be submitted upon entrance and again upon exit.   | Child, Referral          |
| Program                     | Reports program name, type, period and outcome each time a child is placed in a program.                          | Record should be submitted upon entrance and again upon exit.   | Child, Referral          |
| Supervision                 | Reports supervision type, period and outcome each time a child is placed on supervision.                          | Record should be submitted upon entrance and again upon exit.   | Child, Referral          |
| Behavioral Health Treatment | Reports date, provider and funding source for a child's treatment to a mental health or substance abuse provider. | When added or changed.  | Child                    |
| Drug Test                   | Reports date, results and funding source every time a child is tested.  | When added or changed.  | Child                    |
| Non-Residential Service     | Reports date, service type and funding source every time a child is provided a non-residential service.           | When added or changed.  | Child, Referral          |
| Program Component           | Reports program component name, type, period and outcome for a child's participation in a component.              | When added or changed.  | Child, Referral, Program |

NOTE: Editing will be done to ensure dependent records are contained within the current submission.

Figure 2: 37 TAC §341.60

TEXAS JUVENILE PROBATION COMMISSION

Electronic Data Interchange Specifications

Record Specifications:

| Record Type | Field Name                                     | Description   | Type         | Size | Format                   | Begin Column       | End Column | Full Criteria   | Dependencies   |
|-------------|--|---|--------------|------|--------------------------|--------------------|------------|---|--|
| Header      | Headquarter County Number                      | County where department headquarters is located.  | numeric      | 3    | 999                      | 001_254            |            |   |  |
| Header      | FILLER   |   | alphanumeric | 4    |                          | Blank fill         |            |   |  |
| Header      | Record Type                                    | Record identifier for Header Record.  | alphanumeric | 2    |                          | Blank fill         |            |   |  |
| Header      | Report Period Begin Date                       | Should specify the first day of the reporting period.   | numeric      | 8    | YYYYMMDD                 | 20                 | 27         | Must be a valid date and specify the first day of a month.  |  |
| Header      | Report Period End Date                         | Should specify the last day of the reporting period. A multi-month period may be specified.   | numeric      | 8    | YYYYMMDD                 | 28                 | 35         | Must be a valid date and specify the last day of the reporting period. Must be greater than or equal to the Report Period Begin Date. |  |
| Header      | Users Initials                                 | User generating this extraction process.  | alphanumeric | 3    | left-justify, blank fill | 36                 | 38         | Blank fill  | CASEWORKER departments only  |
| Header      | CASEWORKER Program Release Number              | Used to determine revision of CASEWORKER that created the extracted information.  | alphanumeric | 8    | left-justify, blank fill | 39                 | 46         | Blank fill  | CASEWORKER departments only  |
| Header      | Unique Run ID                                  | Date and time of extraction process.  | alphanumeric | 14   | YYYYMMDDHHMMSS           | 47                 | 60         | Blank fill  |  |
| Header      | Additional Email Address                       | Specify an additional email address (if any) where the processing log should be sent. The log will automatically be sent to the CJPO's address; this field is to be used only if your department desires a second copy. | alphanumeric | 100  | left-justify, blank fill | 61                 | 160        | Blank fill  |  |
| Header      | Date of Last Comprehensive Folder Edit (CFE)   | Information extracted from CASEWORKER systems regarding the status of their last Comprehensive Folder Edit. Used by TJPC to determine future training issues.   | numeric      | 8    | YYYYMMDD                 | 161                | 168        | Zero fill   | CASEWORKER departments only  |
| Header      | Number of Errors on Last CFE                   |   | numeric      | 5    | 99999                    | 169                | 173        | Zero fill   | CASEWORKER departments only  |
| Header      | Number of Warnings on Last CFE                 |   | numeric      | 5    | 99999                    | 174                | 178        | Zero fill   | CASEWORKER departments only  |
| Header      | Individual error/warning numbers from last CFE |   | numeric      | 205  |                          | 179                | 383        | Zero fill   | CASEWORKER departments only  |
| Header      | End of Record Marker                           |   | alphanumeric | 1    |                          | 384                | 384        | Must contain 'T'  |  |
| Decode      | Headquarter County Number                      | County where department headquarters is located.  | numeric      | 3    | 999                      | 001_254            |            |   |  |
| Decode      | FILLER   |   | alphanumeric | 14   |                          | Blank fill         |            |   |  |
| Decode      | Record Type                                    | Record identifier for Decode Record.  | alphanumeric | 2    |                          | Blank fill         |            |   |  |
| Decode      | Decode Type                                    | Specifies the category of the following key (code).   | alphanumeric | 4    | left-justify, blank fill | 20                 | 23         | DFAC-Detention Facilities<br>DISP-Dispositions<br>PFAC-Placement Facilities<br>POMT-Programs<br>PRON-Program Component Name           |  |
| Decode      | Decode Key (code)                              | Key (code) used by Department for specified Decode Type (category).   | alphanumeric | 10   | left-justify, blank fill | 24                 | 33         | Not blank   |  |
| Decode      | Decode Description                             | Informative description of the Decode Key (code).   | alphanumeric | 40   | left-justify, blank fill | 34                 | 73         | Not blank   |  |
| Decode      | CASEWORKER Record ID                           | Unique record identifier assigned by CASEWORKER.  | alphanumeric | 36   | left-justify, blank fill | 74                 | 109        | Blank fill  | CASEWORKER departments only  |
| Decode      | End of Record Marker                           |   | alphanumeric | 1    |                          | 110                | 110        | Must contain 'T'  |  |
| Child       | Headquarter County Number                      | County where department headquarters is located.  | numeric      | 3    | 999                      | 001_254            |            |   |  |
| Child       | Personal ID Number                             | Unique child identifier.  | numeric      | 7    | 9999999                  | 0000001_9999999    |            |   |  |
| Child       | Record Type                                    | Record identifier for Child Record.   | numeric      | 2    | 9999999                  | Zero fill          |            |   |  |
| Child       | Child's Last Name                              | The child's last name.  | alphanumeric | 35   | left-justify, blank fill | 11                 | 17         | Not blank   |  |
| Child       | Child's First Name                             | The child's first name.   | alphanumeric | 35   | left-justify, blank fill | 20                 | 54         | Not blank   |  |
| Child       | Child's Middle Name                            | The child's middle name.  | alphanumeric | 35   | left-justify, blank fill | 55                 | 89         | Not blank   |  |
| Child       | Child's Name Suffix                            | The child's name suffix.  | alphanumeric | 3    | left-justify, blank fill | 90                 | 124        | Not blank   |  |
| Child       | Race   | The child's race/ethnicity.   | alphanumeric | 1    |                          | 125                | 127        | A-Asian<br>B-African American<br>H-Hispanic<br>I-Indian American<br>O-Other<br>U-Unknown<br>W-White                                   | Cannot be Unknown (U) if the child has one or more formal or paper-formalized referrals. |
| Child       | Sex  | The child's gender.   | alphanumeric | 1    |                          | 128                | 128        | M-Male<br>F-Female<br>U-Unknown   | Cannot be Unknown (U) if the child has one or more formal or paper-formalized referrals. |
| Child       | Date of Birth                                  | The child's date of birth.  | numeric      | 8    | YYYYMMDD                 | 130                | 137        | Valid date between 1/1/1900 and 12/31/2099  |  |
| Child       | FILLER   |   | alphanumeric | 2    |                          | Blank fill         | 138        | 139   |  |
| Child       | Social Security Number                         | The child's social security number.   | numeric      | 9    | 999999999                | 00000000_999999999 | 140        | 148   | 00000000_999999999 5-digit zip code is acceptable with trailing zeros.                   |
| Child       | Zip Code                                       | Zip code of the child's residence.  | numeric      | 9    | 999999999                |                    | 149        | 157   |  |

Record Specifications:

| Record Type | Field Name                               | Description  | Type         | Size | Format                   | Begin Column | End Column | Dependencies  |
|-------------|--|--|--------------|------|--------------------------|--------------|------------|---|
|             |  |  |              |      |                          |              |            | Edit Criteria   |
| Child       | Child Lives With                         | Specifies the parent(s) with whom the child lives. If the makeup of the child's household differs from the options provided, list the principal caretaker. | alphanumeric | 4    | left-justify, blank fill | 158          | 161        | ROTH- Two parents (natural or adoptive) or adoptive end step<br>BIEN- combination of two parents (natural and adoptive end step)<br>FATH- Father (natural, adoptive or step)<br>MOTH- Mother (natural, adoptive or step)<br>GPGR- Grandparent(s)<br>GARD- Legal guardian (non-family)<br>RELA- Other relative(s)<br>POST- Foster family<br>GRUP- Group home or institution that provides care<br>SELF- Child lives alone<br>SPOU- Spouse (child's legal or common-law boyfriend/girlfriend)<br>FRND- Friend (peer, adult friend, or other)<br>OTHR- Other<br>UNKN- Unknown<br>Y, N, U   |
| Child       | Special Education?                       | Has the child been identified as a special education student?  | alphanumeric | 1    |                          | 162          | 162        | Y, N, U   |
| Child       | Special Education Handicapping Condition | If the child has been identified as a special education student, specify the primary handicapping condition.   | alphanumeric | 2    | left-justify, blank fill | 163          | 164        | ED- Emotionally Disturbed<br>LD- Learning Disabled<br>MR- Mentally Retarded<br>OT- Other<br>PH- Physical Disability<br>UNKN- Unknown<br>Y, N, U   |
| Child       | Mental Health Needs                      | Does the child have mental health needs?   | alphanumeric | 1    | left-justify, blank fill | 165          | 165        | Y, N, U   |
| Child       | Date Determined Mentally Ill             | Date that the child was first determined to have mental health needs (by the department).  | numeric      | 8    | YYYYMMDD                 | 166          | 173        | Valid date between 1/1/1900 and 12/31/2099  |
| Child       | In Treatment?                            | Is the child currently in mental health treatment?   | alphanumeric | 1    |                          | 174          | 174        | Y, N, U or blank fill if not applicable.  |
| Child       | Diagnosis                                | What is the child's primary diagnosed mental health condition?   | alphanumeric | 2    |                          | 175          | 176        | AJ- Adjustment Disorder<br>AD- Attention Deficit Hyperactivity Disorder<br>BP- Bipolar<br>CD- Conduct Disorder<br>CG- Cognitive Disorder<br>DA- Dissociative Disorder<br>DE- Depressive Disorder<br>DM- Dementia Not Otherwise Specified<br>DS- Dysthymic Disorder<br>ED- Eating Disorder<br>GA- Generalized Anxiety<br>IC- Impulse Control Disorder<br>IE- Intermittent Explosive Disorder<br>MR- Major Depression<br>MI- Mental Retardation<br>OA- Other Anxiety Disorder<br>OC- Obsessive Compulsive Disorder<br>OM- Other Mood Disorder<br>OP- Other Psychotic Disorder<br>OT- Other Disorder<br>PD- Personality Disorder<br>PS- Post Traumatic Stress Disorder<br>PV- Pervasive Developmental Disorder<br>SA- Schizoaffective<br>SZ- Schizophrenia<br>UN- Unknown<br>Blank fill if not applicable. |
| Child       | Gang Affiliation/Membership              | Is the juvenile currently or has the juvenile ever been affiliated with a gang?  | alphanumeric | 1    |                          | 177          | 177        | Y, N, S (suspected), or U   |
| Child       | Sexual Abuse?                            | Has the child ever been a victim of sexual abuse?  | alphanumeric | 1    |                          | 178          | 178        | Y, N, S (suspected), or U   |
| Child       | Physical Abuse?                          | Has the child ever been a victim of physical abuse?  | alphanumeric | 1    |                          | 179          | 179        | Y, N, S (suspected), or U   |
| Child       | Emotional Abuse?                         | Has the child ever been a victim of emotional abuse?   | alphanumeric | 1    |                          | 180          | 180        | Y, N, S (suspected), or U   |
| Child       | DPS SID Number                           | The child's State Identification Number (SID) as issued by the Department of Public Safety.  | alphanumeric | 8    | 99999999                 | 181          | 188        | 00000000..99999999 or blank fill  |
| Child       | CASEWORKER Record ID                     | Unique record identifier assigned by CASEWORKER.   | alphanumeric | 36   | left-justify, blank fill | 189          | 224        | Blank fill  |
| Child       | End of Record Marker                     |  | alphanumeric | 1    |                          | 225          | 225        | Must contain '1'  |

|          |                            |  |              |   |          |    |    |                    |
|----------|----------------------------|--|--------------|---|----------|----|----|--------------------|
| Referral | Headquarters County Number | County where department headquarters is located. | numeric      | 3 | 99       | 1  | 3  |                    |
| Referral | County Number              | County where referral is located.                | numeric      | 7 | 99999999 | 4  | 10 | 001254..99999999   |
| Referral | Unique Referral Identifier | Unique referral identifier.                      | numeric      | 7 | 99999999 | 11 | 17 | 00000000..99999999 |
| Referral | Record Type                | Record identifier for Referral Record.           | alphanumeric | 2 |          | 18 | 19 | '03'               |

TEXAS JUVENILE PROBATION COMMISSION

Electronic Data Interchange Specifications

Record Specifications:

| Record Type | Field Name                                   | Description  | Type         | Size | Format                   | Begin Column | End Column | Exit Criteria  | Dependencies  |
|-------------|--|--|--------------|------|--------------------------|--------------|------------|--|---|
| Referral    | Referral Type                                | Type of referral. Definitions of these categories are available on the T.JPC website.  | alphanumeric | 2    |                          | 20           | 21         | FM-Formal<br>PF-Paper Formalized<br>CC-County Complaint<br>CR-Crisis Intervention<br>TR-Traveling/Parent Transfer<br>CI-Crisis Intervention<br>CD-Contract Detention<br>CP-Contract Placement<br>NJ-Non-Jurisdiction<br>IC-Interstate Compact          | Courtesy Supervision (CS) only valid for offenses that occurred prior to September 1, 2005.   |
| Referral    | Referral Date                                | For formal, paper formalized and crisis intervention referral types, the referral date is when face-to-face contact with the child occurs. For paper complaints, it is the date that the department received the complaint. For non-judicial, contract placements and detentions, and interstate compact, it is the date the child was received. For transfers, it is the official supervision start date. | numeric      | 8    | YYYYMMDD                 | 22           | 29         | Valid date between 1/1/1900 and 12/31/2099.  |   |
| Referral    | County Number                                | County referring the child. Same as Headquarter County Number unless referred to a multi-county jurisdiction. If Referral Type is Contract Detention, Contract Placement or Non-Jurisdiction, indicate the referring county or use a special identifier (755-759) if applicable.   | numeric      | 3    | 999                      | 30           | 32         | 001-254<br>755-Other State<br>756-TYC<br>757-INS<br>758-Other U.S. Government Agency<br>759-States or Local Government Agency  | County specified must be within the department's jurisdiction or special identifier (755-759).                                      |
| Referral    | School Status                                | School status at time of referral.   | alphanumeric | 2    |                          | 33           | 34         | IS-In Regular School<br>SC-School Suspended<br>SE-School Expelled<br>GD-GED<br>GR-Graduated<br>HS-Home School<br>AE-Alternative Education<br>JJ-Juvenile Justice Alternative Education Program<br>CS-Charter School<br>PS-Private School<br>UN-Unknown | Required for all Formal and Paper Formalized referrals, otherwise blank fill.   |
| Referral    | Last Grade Completed                         | The last grade completed by the child at time of referral.   | numeric      | 2    | 99                       | 35           | 36         | 00-12  | Must be non-zero value if School Status is known.   |
| Referral    | Substance Abuse                              | Is the juvenile in need of substance abuse services?   | alphanumeric | 1    |                          | 37           | 37         | Y-Yes, being treated<br>T-Yes, being treated<br>N-No<br>S-Suspected<br>U-Unknown   | Required for all Formal and Paper Formalized referrals, otherwise blank fill.   |
| Referral    | Referral Source                              | The agency referring the child to the probation department.  | alphanumeric | 1    |                          | 38           | 38         | P-Law Enforcement Agency<br>S-School<br>D-Probation Department<br>O-Other<br>T-TYC   |   |
| Referral    | Primary Alleged Offense                      | At intake, the most serious offense the child is alleged to have committed.  | alphanumeric | 8    | 99999999                 | 39           | 46         | A valid T.JPC-DPS offense code. A current list of codes may be obtained from T.JPC's website or by contacting T.JPC directly.  | An Offense Record must exist for this referral with the same offense code and the Alleged Offense Indicator field must contain "P". |
| Referral    | Primary Alleged Offense Preparatory Code     | Designates that the Primary Alleged Offense was a preparatory (attempted, conspired or solicited) offense. Reduce offense by one degree.   | alphanumeric | 1    |                          | 47           | 47         | A-Attempted<br>C-Conspired<br>S-Solicited<br>Blank fill if no modification   |   |
| Referral    | Primary Disposition Offense Code             | The most serious offense at disposition of the referral.   | alphanumeric | 6    | 99999999                 | 48           | 55         | A valid T.JPC-DPS offense code. A current list of codes may be obtained from T.JPC's website or by contacting T.JPC directly.  | An Offense Record must exist for this referral with the same offense code and the Disposition Indicator field must contain "P".     |
| Referral    | Primary Disposition Offense Preparatory Code | Designates that the Primary Disposition Offense was a preparatory (attempted, conspired or solicited) offense. Reduce offense by one degree.   | alphanumeric | 1    |                          | 56           | 56         | A-Attempted<br>C-Conspired<br>S-Solicited<br>Blank fill if no modification   |   |
| Referral    | Primary Disposition                          | Department defined code for disposition.   | alphanumeric | 4    | left-justify, blank fill | 57           | 60         | Department specified code.   | Required if Disposition Date field completed.<br>Must include a Decode Record for each code accepted                                |

Record Specifications:

| Record Type | Field Name                          | Description  | Type         | Size | Format                   | Begin Column | End Column | Edit Criteria   | Dependencies   |
|-------------|-------------------------------------|--|--------------|------|--------------------------|--------------|------------|---|--|
| Referral    | Primary Disposition (TJPC category) | Summarized category of Primary Disposition field as defined by TJPC. Definitions of these categories are available on the TJPC website.  | numeric      | 3    | 999                      | 61           | 63         | Prosecutor Actions:<br>010-Dismissed or Withdrawn<br>020-Supervisory Caution<br>030-Deferred Prosecution<br>040-No Probable Cause/Dismissed<br>050-Not Guilty<br>051-Not Guilty<br>060-Supervisory Caution<br>070-Deferred Prosecution<br>Court Actions:<br>080-Dismissed<br>081-Not Guilty<br>082-Adjudicated with no Disposition<br>090-Deferred Prosecution<br>100-Deferred Prosecution<br>110-Adjudicated to Probation<br>111-Determinate Sentence Probation<br>120-Modify/Extended Probation<br>130-Indeterminate Commitment to TYC<br>140-Concurrent Sentence to TYC<br>150-Determinate Commitment to TYC<br>150-Certified as an Adult<br>910-Consolidated and Disposed in Another Case<br>920-Transferred with no Disposition<br>Valid date between 1/1/1900 and 12/31/2099.<br>Zero fill if not applicable. | Required if Disposition Date field completed.                            |
| Referral    | Disposition Date                    | Date a disposition was assigned to this referral.  | numeric      | 8    | YYYYMMDD                 | 64           | 71         | 001..999 or zero fill if not applicable.  | Required if Primary Disposition (TJPC category) value equals 111 or 140. |
| Referral    | Determinate Sentence Months         | The total number of months ordered if the child is either committed to the Texas Youth Commission or placed on probation for a determinate sentence.   | numeric      | 3    | 999                      | 72           | 74         | 001..999 or zero fill if not applicable.  |  |
| Referral    | Diverted to Where                   | Designates the type of agency, organization or program (outside of the juvenile justice system) where the child was diverted. Do not complete this field for children who are under supervision, committed to TYC or certified as an adult. Definitions of these categories are available on the TJPC website. | alphanumeric | 4    | left-justify, blank fill | 75           | 78         | MVT-Mental Health Services<br>FOPS-Family/Child Protective Services<br>DAC-Drug & Alcohol Counseling<br>FOP-First Offender Program<br>STAR-STAR/Prevention Program<br>SCHL-School Resources<br>TRUP-Truancy Program<br>VCT-Victim Mediation<br>Blank fill if not applicable.<br>L - Low Risk<br>N - Medium-Low Risk<br>P - Medium-High Risk<br>H - High Risk<br>V - Very High Risk  |  |
| Referral    | Risk Level                          | Risk Level determined prior to the disposition of a juvenile's case  | alphanumeric | 1    |                          | 79           | 79         |   |  |
| Referral    | Needs Level                         | Needs Level determined prior to the disposition of a juvenile's case   | alphanumeric | 1    |                          | 80           | 80         |   |  |

The following section provides for two subsequent dispositions. This section is used only for children who violate the terms of their deferred prosecution and are subsequently adjudicated on the same referral, or for dispositions that are appealed and are subsequently assigned a different disposition. It is not used for modifications. See descriptions and edit criteria above.

| Record Type | Field Name                                     | Description             | Type         | Size | Format                   | Begin Column | End Column | Edit Criteria | Dependencies             |
|-------------|--|-------------------------|--------------|------|--------------------------|--------------|------------|---------------|--------------------------|
| Referral    | Subsequent Primary Disposition (TJPC category) | See descriptions above. | alphanumeric | 4    | left-justify, blank fill | 81           | 84         |               |                          |
| Referral    | Subsequent Disposition Date                    | See descriptions above. | numeric      | 3    | 999                      | 85           | 87         |               |                          |
| Referral    | Subsequent Determinate Sentence Months         | See descriptions above. | numeric      | 3    | YYYYMMDD                 | 88           | 95         |               | See edit criteria above. |
| Referral    | Subsequent Diverted to Where                   | See descriptions above. | alphanumeric | 4    | left-justify, blank fill | 99           | 102        |               |                          |
| Referral    | Subsequent Risk Level                          | See descriptions above. | alphanumeric | 1    |                          | 103          | 103        |               |                          |
| Referral    | Subsequent Needs Level                         | See descriptions above. | alphanumeric | 1    |                          | 104          | 104        |               |                          |
| Referral    | Subsequent Primary Disposition (TJPC category) | See descriptions above. | alphanumeric | 4    | left-justify, blank fill | 105          | 108        |               |                          |
| Referral    | Subsequent Disposition Date                    | See descriptions above. | numeric      | 3    | 999                      | 109          | 111        |               |                          |
| Referral    | Subsequent Determinate Sentence Months         | See descriptions above. | numeric      | 3    | YYYYMMDD                 | 112          | 119        |               |                          |
| Referral    | Subsequent Diverted to Where                   | See descriptions above. | alphanumeric | 4    | left-justify, blank fill | 120          | 123        |               |                          |
| Referral    | Subsequent Risk Level                          | See descriptions above. | alphanumeric | 1    |                          | 127          | 127        |               |                          |

TEXAS JUVENILE PROBATION COMMISSION

Electronic Data Interchange Specifications

Record Specifications:

| Record Type                                   | Field Name                          | Description   | Type         | Size | Format                   | Begin Column | End Column | Exit Criteria   | Dependencies   |
|---|-------------------------------------|---|--------------|------|--------------------------|--------------|------------|---|--|
| Referral                                      | Needs Level                         |   | Alphanumeric | 1    |                          | 128          | 128        |   |  |
| <b>End of subsequent disposition section.</b> |                                     |   |              |      |                          |              |            |   |  |
| Referral                                      | CASEWORKER Record ID                | Unique record identifier assigned by CASEWORKER.  | Alphanumeric | 36   | left-justify, blank fill | 128          | 164        | Blank fill  | CASEWORKER departments only  |
| Referral                                      | Originating Offense Referral Number | Distinguishes the referral number of the originating offense for juveniles referred for violation of a court order offense.   | numeric      | 7    | 9999999                  | 165          | 171        | 0000001_9999999   | Must be non-zero value if Primary Disposition Offense is Violation of a Court Order.   |
| Referral                                      | End of Record Marker                |   | Alphanumeric | 1    |                          | 172          | 172        | Must contain 'T'  |  |
| Detention                                     | Headquarter County Number           | County where department headquarters is located.  | numeric      | 3    | 999                      | 1            | 3          | 001_254   |  |
| Detention                                     | Personal ID Number                  | Child's Personal ID Number (PID).   | numeric      | 7    | 9999999                  | 4            | 10         | 0000001_9999999   |  |
| Detention                                     | Referral Number                     | Specifies the referral for which this secure detention applies.   | numeric      | 7    | 9999999                  | 11           | 17         | 0000001_9999999   |  |
| Detention                                     | Record Type                         | Record Identifier for Detention Record.   | Alphanumeric | 2    |                          | 18           | 19         | "DN"  |  |
| Detention                                     | Detention Sequence Number           | Uniquely identifies this detention record from all other detention records for the specified Personal ID Number.  | numeric      | 6    | 999999                   | 20           | 25         | 000001_999999   | Used in conjunction with the PID Number and Referral Number to determine unique record identifier. Once assigned it should not be changed. |
| Detention                                     | Detention Facility                  | TJPC registered facility identification number for secure detention facilities in Texas or department defined code for facilities outside of Texas.   | Alphanumeric | 7    | left-justify, blank fill | 26           | 32         | If facility is within Texas then code must be a TJPC registered facility identification code, otherwise a department specified code.  | If facility is not in Texas then include Department code for each code specified.  |
| Detention                                     | Date Detained                       | The date the child was placed in detention.   | numeric      | 8    | YYYYMMDD                 | 33           | 40         | Valid date between 1/1/1900 and 12/31/2099.   |  |
| Detention                                     | Time Detained                       | The time the child was placed in detention.   | numeric      | 4    | HHMM                     | 41           | 44         | Valid between 00:00 and 23:59.  |  |
| Detention                                     | Date Released                       | The date the child was released from detention.   | numeric      | 8    | YYYYMMDD                 | 45           | 52         | Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Date Detained.  |  |
| Detention                                     | Time Released                       | The time the child was released from detention.   | numeric      | 4    | HHMM                     | 53           | 56         | Valid between 00:00 and 23:59.  |  |
| Detention                                     | CASEWORKER Record ID                | Unique record identifier assigned by CASEWORKER.  | Alphanumeric | 36   | left-justify, blank fill | 57           | 92         | Blank fill  | Required if Date Released field completed.   |
| Detention                                     | End of Record Marker                |   | Alphanumeric | 1    |                          | 93           | 93         | Must contain 'T'  | CASEWORKER departments only  |
| MAYSI   | Headquarter County Number           | County where department headquarters is located.  | numeric      | 3    | 999                      | 1            | 3          | 001_254   |  |
| MAYSI   | Personal ID Number                  | Child's Personal ID Number (PID).   | numeric      | 7    | 9999999                  | 4            | 10         | 0000001_9999999   |  |
| MAYSI   | Referral Number                     | Specifies the referral for which this MAYSI screening applies.  | numeric      | 7    | 9999999                  | 11           | 17         | 0000001_9999999   |  |
| MAYSI   | Record Type                         | Record Identifier for MAYSI Record.   | Alphanumeric | 2    |                          | 18           | 19         | "NA"  |  |
| MAYSI   | MAYSI Sequence Number               | Uniquely identifies this MAYSI record from all other MAYSI records for the specified Personal ID Number.  | numeric      | 6    | 999999                   | 20           | 25         | 000001_999999   | Used in conjunction with the PID Number and Referral Number to determine unique MAYSI event. Once assigned it should not be changed.       |
| MAYSI   | Screening Date                      | Date the screening instrument was administered to the child for the specified referral. If the MAYSI was not administered, enter the date that the department attempted to administer the instrument or the date an assessment was attempted. If the child was already in detention or in treatment, enter the referral date. | numeric      | 8    | YYYYMMDD                 | 26           | 33         | Valid date between 1/1/1900 and 12/31/2099.   |  |
| MAYSI   | Administered?                       | Was the MAYSI-2 administered to the juvenile?   | Alphanumeric | 1    |                          | 34           | 34         | Y or N  |  |
| MAYSI   | Reason Not Administered             | Why was the MAYSI-2 not administered?   | Alphanumeric | 1    |                          | 35           | 35         | A-Assessed by mental health professional<br>D-Child already in detention at time of referral<br>E-Child is non-English speaking<br>R-Child Released Test<br>T-Child is already in treatment for mental health<br>U-Child is physically or mentally unable<br>C-Scholar reason | Required if Administered value is "N". Blank fill if not applicable.   |
| MAYSI   | Alcohol/Drug Use (AD) Score         | Refer to MAYSI-2 Scoring Summary.   | Alphanumeric | 1    |                          | 36           | 36         | 0-8 or blank fill if not applicable.  | Required if Administered value is "Y".   |
| MAYSI   | Aggravatable (A) Score              | Refer to MAYSI-2 Scoring Summary.   | Alphanumeric | 1    |                          | 37           | 37         | 0-9 or blank fill if not applicable.  | Required if Administered value is "Y".   |
| MAYSI   | Depressed-Anxious (DA) Score        | Refer to MAYSI-2 Scoring Summary.   | Alphanumeric | 1    |                          | 38           | 38         | 0-9 or blank fill if not applicable.  | Required if Administered value is "Y".   |
| MAYSI   | Somatic Complaints (SC) Score       | Refer to MAYSI-2 Scoring Summary.   | Alphanumeric | 1    |                          | 39           | 39         | 0-8 or blank fill if not applicable.  | Required if Administered value is "Y".   |
| MAYSI   | Suicide Ideation (SI) Score         | Refer to MAYSI-2 Scoring Summary.   | Alphanumeric | 1    |                          | 40           | 40         | 0-5 or blank fill if not applicable.  | Required if Administered value is "Y".   |
| MAYSI   | Thought Disturbance BOYS (TD) Score | Refer to MAYSI-2 Scoring Summary.   | Alphanumeric | 1    |                          | 41           | 41         | 0-5 or blank fill if not applicable.  | Required if Administered value is "Y" and Sex is "M". If Sex is "F", blank fill.   |

Record Specifications:

| Record Type | Field Name                          | Type         | Size | Format                   | Begin Column | End Column | Edit Criteria  | Dependencies   |
|-------------|-------------------------------------|--------------|------|--------------------------|--------------|------------|--|--|
| MAYSI       | Traumatic Experiences (TE) Score    | alphanumeric | 1    |                          | 42           | 42         | 0..5 or blank fill if not applicable.  | Required if Administered value is "Y".                       |
| MAYSI       | Referred for Subsequent Assessment? | alphanumeric | 1    |                          | 43           | 43         | Y or N   | Required if Administered value is "Y".                       |
| MAYSI       | Referred to Where                   | alphanumeric | 1    |                          | 44           | 44         | C-Contract Provider<br>M-Home<br>M-Local MH/ Substance Abuse Provider<br>P-Private Provider<br>O-Other | Required if Referred for Subsequent Assessment value is "Y". |
| MAYSI       | Subsequent Assessment?              | alphanumeric | 1    |                          | 45           | 45         | Y, N, U (unknown) or blank fill if not applicable.   | Required if Referred for Subsequent Assessment value is "Y". |
| MAYSI       | CASEWORKER Record ID                | alphanumeric | 36   | left-justify, blank fill | 46           | 81         | Blank fill   | CASEWORKER departments only                                  |
| MAYSI       | End of Record Marker                | alphanumeric | 1    |                          | 82           | 82         | Must contain "T"   |  |

|                   |                                   |              |    |                          |    |    |  |   |
|-------------------|-----------------------------------|--------------|----|--------------------------|----|----|--|---|
| Behavioral Health | Headquarter County Number         | numeric      | 3  | 999                      | 1  | 3  | 001..254   |   |
| Behavioral Health | Personal ID Number                | numeric      | 7  | 9999999                  | 4  | 10 | 000001..9999999  |   |
| Behavioral Health | FILLER                            | numeric      | 7  | 9999999                  | 11 | 17 | Zero fill  |   |
| Behavioral Health | Record Type                       | alphanumeric | 2  |                          | 18 | 19 | "B"  |   |
| Behavioral Health | Behavioral Health Sequence Number | numeric      | 6  | 999999                   | 20 | 25 | 000001..999999   | Used in conjunction with the PID Number to determine the event. Once assigned it should not be changed. |
| Behavioral Health | Referral Date                     | numeric      | 8  | YYYYMMDD                 | 26 | 33 | Valid date between 1/1/1900 and 12/31/2099.  |   |
| Behavioral Health | Presenting Problem                | alphanumeric | 1  |                          | 34 | 34 | M-Mental Health<br>S-Substance Abuse<br>A-Assessment/Evaluation<br>C-Counseling/Intervention<br>E-Emergency<br>S-Service<br>O-Other  |   |
| Behavioral Health | Referred For                      | alphanumeric | 1  |                          | 35 | 35 |  |   |
| Behavioral Health | Referred To                       | alphanumeric | 1  |                          | 36 | 36 | C-Contract Provider<br>M-Home Staff<br>M-Local MH/Substance Abuse Provider<br>P-Private Provider<br>O-Other  |   |
| Behavioral Health | Referral Outcome                  | alphanumeric | 1  |                          | 37 | 37 | N-Not Completed<br>P-Pending<br>U-Unknown Outcome  |   |
| Behavioral Health | CASEWORKER Record ID              | alphanumeric | 36 | left-justify, blank fill | 38 | 73 | Blank fill   | CASEWORKER departments only   |
| Behavioral Health | Funding Source                    | alphanumeric | 2  |                          | 74 | 75 | TB-Border Grant<br>TC-Commitment Reduction Grant<br>TE-IVE Federal Foster Care<br>TF-Progressive Sanctions JPO Grant<br>TH-Devotional Fund Grant<br>TK-Substance Abuse Grant<br>TL-Substance Abuse Grant<br>TM-Social Needs Diversionary Grant<br>TO-Progressive Sanctions ISJPO Grant<br>TR-Small County Diversionary Placement Grant<br>TU-Intensive Community Based Pilot Grant<br>TW-JJAEF Discretionary Grant<br>TX-Intensive Community Based Program Grant<br>TY-Community Corrections Grant<br>UZ-Local Fund<br>OP-Parent<br>OI-Insurance<br>OO-Other<br>ON-No Cost to Department<br>SO-State Funds, Non-TJPC |   |
| Behavioral Health | End of Record Marker              | alphanumeric | 1  |                          | 76 | 76 | Must contain "T"   |   |

|                             |                           |         |   |     |   |   |          |  |
|-----------------------------|---------------------------|---------|---|-----|---|---|----------|--|
| Behavioral Health Treatment | Headquarter County Number | numeric | 3 | 999 | 1 | 3 | 001..254 |  |
|-----------------------------|---------------------------|---------|---|-----|---|---|----------|--|

TEXAS JUVENILE PROBATION COMMISSION

Electronic Data Interchange Specifications

Record Specifications:

| Record Type                 | Field Name                                  | Description  | Type         | Size | Format                   | Begin Column | End Column | Edit Criteria  | Dependencies   |
|-----------------------------|---|--|--------------|------|--------------------------|--------------|------------|--|--|
| Behavioral Health Treatment | Personal ID Number                          | Child's Personal ID Number (PID).  | numeric      | 7    | 9999999                  | 4            | 10         | 000001..999999   |  |
| Behavioral Health Treatment | FILLER                                      |  | numeric      | 7    | 9999999                  | 11           | 17         | Zero fill  |  |
| Behavioral Health Treatment | Record Type                                 | Record identifier for Behavioral Health Treatment Record.  | alphanumeric | 2    |                          | 18           | 19         | "BT"   |  |
| Behavioral Health Treatment | Behavioral Health Treatment Sequence Number | Uniquely identifies this behavioral health treatment record from all other behavioral health treatment records for the specified Personal ID Number. | numeric      | 6    | 999999                   | 20           | 25         | 000001..999999   | Used in conjunction with the PID Number to determine unique behavioral health event. Once assigned it should not be changed. |
| Behavioral Health Treatment | Treatment Begin Date                        | The date that the child began the mental health or substance abuse treatment.  | numeric      | 8    | YYYYMMDD                 | 26           | 33         | Valid date between 1/1/1900 and 12/31/2099.  |  |
| Behavioral Health Treatment | Presenting Problem                          | The type of behavioral health treatment to which the juvenile is being referred.   | alphanumeric | 1    |                          | 34           | 34         | M-Mental Health<br>S-Substance Abuse   |  |
| Behavioral Health Treatment | Treated By                                  | What type of provider treated the child?   | alphanumeric | 1    |                          | 35           | 35         | C-Contract Provider<br>H-House Staff<br>M-Local MFS<br>S-Substance Abuse Provider<br>Private Provider<br>O-Other   |  |
| Behavioral Health Treatment | Funding Source                              | The source of funding for the behavioral health treatment.   | alphanumeric | 2    |                          | 36           | 37         | TB-Border Grant<br>TC-Commitment Reduction Grant<br>TE-IVE Federal Foster Care<br>TF-Progressive Sanctions JPO Grant<br>TG-Community Based Grant<br>TH-Collaborative Grant<br>TI-Secure Family Placement Grant<br>TJ-Secure Family Placement Grant<br>TK-Secure Family Placement Grant<br>TL-Secure Family Placement Grant<br>TM-Special Needs Diversionary Grant<br>TO-Progressive Sanctions ISJPO<br>TR-Small County Diversionary Placement Grant<br>TU-Intensive Community Based Pilot Grant<br>TV-JAEP Discretionary Grant<br>TW-Intensive Community Based Program<br>TX-Intensive Community Based Program<br>TY-Community Corrections Grant<br>UZ-Local Funds<br>OP-Parent<br>OI-Insurance<br>OO-Other<br>ON-No Cost to Department<br>OS-Other<br>SO-State Funds, Neg-JFC |  |
| Behavioral Health Treatment | Treatment End Date                          | The date that the child ends the mental health or substance abuse treatment.   | numeric      | 8    | YYYYMMDD                 | 38           | 45         | Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Treatment Begin Date. Zero fill if not applicable.   |  |
| Behavioral Health Treatment | CASEWORKER Record ID                        | Unique record identifier assigned by CASEWORKER.   | alphanumeric | 36   | left-justify, blank fill | 46           | 81         | Blank fill   | CASEWORKER departments only  |
| Behavioral Health Treatment | End of Record Marker                        |  | alphanumeric | 1    |                          | 82           | 82         | Must contain "J"   |  |

|              |                           |  |              |   |         |    |    |                |  |
|--------------|---------------------------|--|--------------|---|---------|----|----|----------------|--|
| Drug Testing | Headquarter County Number | County where department headquarters is located. | numeric      | 3 | 999     | 1  | 3  | 001..254       |  |
| Drug Testing | Personal ID Number        | Child's Personal ID Number (PID).                | numeric      | 7 | 9999999 | 4  | 10 | 000001..999999 |  |
| Drug Testing | FILLER                    |  | numeric      | 7 | 9999999 | 11 | 17 | Zero fill      |  |
| Drug Testing | Record Type               | Record identifier for Drug Testing Record.       | alphanumeric | 2 |         | 18 | 19 | "DT"           |  |



Record Specifications:

| Record Type  | Field Name                   | Description  | Type         | Size | Format                   | Begin Column | End Column | Edi Criteria  | Dependencies   |
|--------------|------------------------------|--|--------------|------|--------------------------|--------------|------------|---|--|
| Drug Testing | Drug Testing Sequence Number | Uniquely identifies this drug testing record from all other drug testing records for the specified Personal ID Number. | numeric      | 6    | 999999                   | 20           | 25         | 000001..999999  | Used in conjunction with the PID Number to determine unique behavioral health event. Once assigned it should not be changed. |
| Drug Testing | Test Date                    | The date that the drug test was administered to the child.   | numeric      | 8    | YYYYMMDD                 | 26           | 33         | Valid date between 1/1/1900 and 12/31/2099.   |  |
| Drug Testing | Test Results                 | The results of the drug test.  | alphanumeric | 1    |                          | 34           | 34         | P - Positive<br>N - Negative<br>I - Inconclusive  |  |
| Drug Testing | Funding Source               | The source of funding for the drug test.   | alphanumeric | 2    |                          | 35           | 36         | TB - Border Grant<br>TC - Commitment Reduction Grant<br>TD - Department of Transportation<br>TE - Probation Department<br>TF - Progressive Sanctions JPO Grant<br>TH - Diversionary Fund Grant<br>TK - Collaborative Program Grant<br>TL - Secure Felony Placement Grant<br>TM - Special Needs Diversionary Grant<br>TO - Progressive Sanctions ISJPO<br>TR - Small County Diversionary Placement Grant<br>TV - Intensive Community Based Pilot Grant<br>TW - Intensive Community Based Grant<br>TX - Intensive Community Based Program Grant<br>TY - Community Corrections Grant<br>L - Local Funds<br>OP - Parent<br>OI - Insurance<br>OO - Other<br>ON - No Cost to Department<br>SO - State Funds, Non-LJPC |  |
| Drug Testing | CASEWORKER Record ID         | Unique record identifier assigned by CASEWORKER.   | alphanumeric | 35   | left-justify, blank fill | 37           | 72         | Blank fill  | CASEWORKER departments only  |
| Drug Testing | End of Record Marker         |  | alphanumeric | 1    |                          | 73           | 73         | Must contain 'J'  |  |

|         |                                  |  |              |   |          |    |    |   |  |
|---------|----------------------------------|--|--------------|---|----------|----|----|---|--|
| Offense | Headquarter County Number        | County where department headquarters is located.   | numeric      | 3 | 999      | 1  | 3  | 001..254  |  |
| Offense | Personal ID Number               | Child's Personal ID Number (PID).  | numeric      | 7 | 9999999  | 4  | 10 | 0000001..9999999  |  |
| Offense | Referral Number                  | Specifies the referral for which this offense applies.   | numeric      | 7 | 9999999  | 11 | 17 | 0000001..9999999  |  |
| Offense | Record Type                      | Record identifier for Offense Record.  | alphanumeric | 2 |          | 18 | 19 | 01F   |  |
| Offense | Unique Offense Number            | Uniquely identifies this offense record from all other offense records for the specified Personal ID Number.   | numeric      | 6 | 999999   | 20 | 25 | 000001..999999  | Used in conjunction with the PID Number and Referral Number to determine unique behavioral health event. Once assigned it should not be changed. |
| Offense | Alleged Offense Date             | The date the alleged offense occurred.   | numeric      | 8 | YYYYMMDD | 26 | 33 | Valid date between 1/1/1900 and 12/31/2099.   |  |
| Offense | Alleged Offense Counts           | Used to specify multiple occurrences (counts) of the same offense and incident.  | numeric      | 2 | 99       | 34 | 35 | 01..99  |  |
| Offense | Alleged Offense Code             | Used to designate the DPS offense code for the alleged offense.  | alphanumeric | 8 | 99999999 | 36 | 43 | A valid TJPC-DPS offense code. A current list of codes may be obtained from TJPC's website or by contacting TJPC directly.                      |  |
| Offense | Alleged Offense Preparatory Code | Used to designate the Alleged Offense was a preparatory offense.   | alphanumeric | 1 |          | 44 | 44 | C-Completed<br>S-Solicited<br>Blank fill if no modification   |  |
| Offense | Alleged Offense Indicator        | Designates the status of the offense at time of intake. An offense may be designated as a primary or secondary offense. However, if during disposition the child is being disposed on an offense not currently on file, create a new offense and designate it as added at disposition or treated at disposition. | alphanumeric | 1 |          | 45 | 45 | P-Primary alleged offense<br>S-Secondary alleged offense<br>R-Reversed offense at time of disposition<br>A-Added offense at time of disposition | Only one offense within a referral may be designated as the primary alleged offense.   |
| Offense | Disposition Indicator            | Designates the status of the offense at time of disposition.   | alphanumeric | 1 |          | 46 | 46 | P-Primary disposition offense<br>C-Consolidated with primary offense<br>D-Dismissed (not included in the disposition)                           | Only one offense within a referral may be designated as the primary disposition offense.   |

Record Specifications:

| Record Type | Field Name              | Description   | Type         | Size | Format                   | Begin Column | End Column | Exit Criteria  | Dependencies   |
|-------------|-------------------------|---|--------------|------|--------------------------|--------------|------------|--|--|
| Offense     | Weapon Used             | Specifies the type of weapon used during the commission of the offense.   | alphanumeric | 2    |                          | 47           | 48         | BK-Brass Knuckles<br>CC-Club or other similar device<br>EX-Explosive/Explosive Weapon<br>FG-Firearm<br>HG-Handgun<br>KN-Knife<br>MA-Mace or other chemical dispensing device<br>RR-Rifle<br>SG-ShoGUN<br>OG-Other Gun<br>OT-Other<br>Blank fill if not applicable. |  |
| Offense     | School Related Location | Specifies the offense occurred on a school campus or during a school related activity.  | alphanumeric | 4    | left-justify, blank fill | 49           | 52         | OCAM-On Campus<br>OTHR-School Related Activity-ON/Off Campus<br>Blank fill if not applicable.  |  |
| Offense     | School Campus Number    | Specifies the Texas Education Agency (TEA) assigned campus number where the offense took place. If the offense occurred in transit then use the home campus number. | numeric      | 9    | 999999999                | 53           | 61         | 00000000..99999999 or zero fill if not applicable.   | Required if School Related Location field is "OCAM".<br>Zero fill if not applicable. |
| Offense     | CASEWORKER Record ID    | May be obtained from the local campus, school, district or Texas Education Agency (TEA).  | alphanumeric | 36   | left-justify, blank fill | 62           | 97         | Blank fill   | CASEWORKER departments only  |
| Offense     | End of Record Marker    | Unique record identifier assigned by CASEWORKER.  | alphanumeric | 1    |                          | 98           | 99         | Must contain Y   |  |

|           |                           |   |              |   |                          |    |    |   |   |
|-----------|---------------------------|---|--------------|---|--------------------------|----|----|---|---|
| Placement | Headquarter County Number | County where department headquarters is located.  | numeric      | 3 | 999                      | 1  | 3  | 001..254  |   |
| Placement | Personal ID Number        | Child's Personal ID Number (PID).   | numeric      | 7 | 99999999                 | 4  | 10 | 0000001..9999999  |   |
| Placement | Referral Number           | Specifies the referral for which this placement applies.  | numeric      | 7 | 99999999                 | 11 | 17 | 0000001..9999999  |   |
| Placement | Record Type               | Record identifier for Placement Record.   | alphanumeric | 2 |                          | 18 | 19 | PL  | Used in conjunction with the PID Number and Referral Number to determine unique placement event. Once assigned it should not be |
| Placement | Placement Sequence Number | Uniquely identifies the placement record from all other placement records for the specified Personal ID Number.   | numeric      | 6 | 999999                   | 20 | 25 | 000001..999999  |   |
| Placement | Placement Facility        | TJPC registered facility identification number or department defined code for placement facility.   | alphanumeric | 7 | left-justify, blank fill | 26 | 32 | If Placement Type is Secure Correctional (S) then code must be a TJPC registered facility identification code.<br>E-Emergency<br>F-FPS Placement<br>K-Respite Placement (by court)<br>L-Foster Care Placement<br>P-Probation Placement<br>S-Secure Correctional<br>R-Residential (non-secure) | If Placement Type is not Secure Correctional (S) then include a Decode Record for each code specified.                          |
| Placement | Placement Type            | Type of residential placement used.   | alphanumeric | 1 |                          | 33 | 33 | B-Bookcamp<br>C-Correctional<br>G-Female Offender<br>M-Mental Health<br>N-Probation Placement<br>P-Probation Placement<br>S-Secure Correctional<br>R-Residential (non-secure)   | Required if Placement Type field is Foster Care (L), Secure (S) or Residential (R)  |
| Placement | Service Type              | Description of the primary service delivered at the facility.   | alphanumeric | 1 |                          | 34 | 34 | B-Bookcamp<br>C-Correctional<br>G-Female Offender<br>M-Mental Health<br>N-Probation Placement<br>P-Probation Placement<br>S-Secure Correctional<br>R-Residential (non-secure)   | Required if Placement Type field is Foster Care (L), Secure (S) or Residential (R)  |
| Placement | Cost Per Day              | Specifies per day charge for this placement. Zero specifies a no-cost (free) placement. If the cost per day changes during the placement, create a new record.  | numeric      | 6 | \$000.00..\$9999.99      | 35 | 40 | \$0000.00..99999.99   |   |
| Placement | Level of Care             | Level of care as defined by TJPC or the Texas Department of Family Protective Services (FPS). TJPC Levels of Care are considered "Correctional". Definitions of these categories are available on the TJPC website. | alphanumeric | 1 |                          | 41 | 41 | C - Basic Correctional<br>T - Specialized Correctional<br>J - Intensive Correctional<br>E - Emergency<br>B - Basic<br>M - Moderate<br>S - Specialized<br>U - Unknown<br>Blank fill if not applicable.   | If the placement ended prior to 9/1/2003, then the old Levels of Care (1..6) should be used.                                    |
| Placement | Placement Date In         | The date the child entered the placement facility.  | numeric      | 8 | YYYYMMDD                 | 42 | 49 | Valid date between 1/1/1900 and 12/31/2099  |   |
| Placement | Placement Date Out        | The date the child exited the placement facility.   | numeric      | 8 | YYYYMMDD                 | 50 | 57 | Valid date between 1/1/1900 and 12/31/2099<br>Date In, Date Out, and Placement Type must be equal to the Placement Type.  |   |

Record Specifications:

| Record Type | Field Name           | Description  | Type         | Size | Format                   | Begin Column | End Column | Edit Criteria   | Dependencies  |
|-------------|----------------------|--|--------------|------|--------------------------|--------------|------------|---|---|
| Placement   | Discharge Reason     | Specifies the reason the child left the facility. Definitions of these categories are available on the TJPC website. | alphanumeric | 1    |                          | 58           | 58         | S-Completed<br>B-Absent without Permission<br>C-Changed Facility/Cost Per Day Changed/<br>D-Changed Level of Care<br>E-Discharge<br>F-Expiration of Furlough/Chauve<br>L-Transferred out of Jurisdiction<br>U-Unsuitable/Not Eligible<br>X-Failure to Comply  | Required if Placement Date<br>Out field completed.<br>If 'C' is used a new<br>Placement Record must<br>exist. |
| Placement   | CASEWORKER Record ID | Unique record identifier assigned by CASEWORKER.   | alphanumeric | 36   | left-justify, blank fill | 59           | 94         | Blank fill  | CASEWORKER departments<br>only  |
| Placement   | Funding Source       | The source of funding for the child's placement.   | alphanumeric | 2    |                          | 95           | 96         | TA-State Aid Grant<br>TB-Border Grant<br>TC-Commitment Reduction Grant<br>TE - IVE Federal Foster Care<br>TF-Progressive Sanctions JPO Grant<br>TH-Diversionary Fund Grant<br>TK-Collaborative Program Grant<br>TL-Social Needs Diversionary Grant<br>TM-Social Needs Diversionary Grant<br>TO - Progressive Sanctions IS/JPO<br>Grant<br>TU - Intensive Community Based Pilot Grant<br>TV - JJAEP Discretionary Grant<br>TW - Intensive Community Based Program<br>Grant<br>TX - Intensive Community Based Program<br>Grant<br>UY - Local Funds<br>UZ - Community Corrections Grant<br>VA - Parent<br>OB - Insurance<br>OC - Other<br>ON - No Cost In Diversionary<br>Must contain 'I' |   |
| Placement   | End of Record Marker |  | alphanumeric | 1    |                          | 97           | 97         |   |   |

|         |                           |  |              |   |                          |    |    |  |  |
|---------|---------------------------|--|--------------|---|--------------------------|----|----|--|--|
| Program | Headquarter County Number | County where department headquarters is located.   | numeric      | 3 | 999                      | 1  | 3  | 001_254  |  |
| Program | Personal ID Number        | Child's Personal ID Number (PID).  | numeric      | 7 | 9999999                  | 4  | 10 | 0000001_9999999  |  |
| Program | Referral Number           | Specifies the referral for which this program applies.   | numeric      | 7 | 9999999                  | 11 | 17 | 0000001_9999999  |  |
| Program | Record Type               | Record identifier for Program Record.  | alphanumeric | 2 |                          | 18 | 19 | PC*  |  |
| Program | Program Sequence Number   | Uniquely identifies this program record from all other program records for the specified Personal ID Number. | numeric      | 6 | 999999                   | 20 | 25 | 000001_999999  | Used in conjunction with the<br>PID Number and Referral<br>Number to determine unique<br>program event. Once<br>assigned it should not be<br>reused. |
| Program | Program Name              | Department defined code for the program.   | alphanumeric | 4 | left-justify, blank fill | 26 | 28 | Department specified code.   | Must include a Decide<br>Record for each code<br>specified.  |
| Program | Program Provider          | Type of provider for program.  | alphanumeric | 1 |                          | 30 | 30 | C-Contract Provider<br>I-In-House Staff<br>M-Local MHI/Gov't Provider<br>P-Private Provider<br>O-Other |  |

Record Specifications:

| Record Type | Field Name            | Description  | Type         | Size | Format                   | Begin Column | End Column | Full Content  | Comments                                      |
|-------------|-----------------------|--|--------------|------|--------------------------|--------------|------------|---|---|
| Program     | Program Type          | Summarizes the program into specific categories based on its primary purpose. Definitions of these categories are available on the TJPC website. | alphanumeric | 3    |                          | 31           | 33         | ANG-Anger Management/Conflict Resolution<br>ANM-Anger Management/Conflict Resolution<br>BP-Border Justice Project<br>CNS-Counseling Services<br>COG-Cognitive Behavioral<br>CSR-Community Service/Restitution<br>DCT-Drug Court<br>ERL-Early Intervention/First Referral<br>EDU-Educational<br>ELM-Electronic Monitoring<br>ETH-Animal/Equine Therapy<br>ETC-Extended Treatment<br>FAY-Extended Day Program/Day Boot Camp<br>FAM-Family Preservation<br>FEM-Female Offender<br>GNG-Gang Prevention/Intervention<br>HDT - Home Detention<br>ICM-Intensive Case Management<br>ISP-Intensive Supervision<br>LP-Life Skills<br>MEN-Mentor<br>MH-Mental Health<br>MJC-Mental Health Court<br>MPT-Mental Restoration<br>PAR - Parenting (for juveniles)<br>RUN-Runaway/Trajectory<br>SOF-Sex Offender<br><br>SAP-Substance Abuse Prevention/Intervention<br>SUT-Substance Abuse Treatment<br>VMD-Victim Mediation<br>VSC-Victim Services<br>VOC-Vocational/Employment<br>OTH-Other<br>PRT - Programming for Parents |   |
| Program     | Program Referral Date | The date that the child was referred to the program. (This is generally not the same date as the program begin date.)                            | numeric      | 8    | YYYYMMDD                 | 34           | 41         | Valid date between 1/1/1900 and 12/31/2099.   |   |
| Program     | Program Begin Date    | The date the child physically began the program.   | numeric      | 8    | YYYYMMDD                 | 42           | 49         | Valid date between 1/1/1900 and 12/31/2099. Zero fill if not applicable.  | Required when the child enters the program.   |
| Program     | Program End Date      | The date the child exited the program.   | numeric      | 8    | YYYYMMDD                 | 50           | 57         | Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Program Begin Date. Zero fill if not applicable.  |   |
| Program     | Program Outcome       | Specifies the program outcome. Definitions of these categories are available on the TJPC website.  | alphanumeric | 1    |                          | 58           | 58         | S-Completed<br>B-Absent without Permission<br>D-Deceased<br>F-Depletion of Funds/Closure<br>J-Transferred out of Jurisdiction<br>P-Probation not Eligible<br>X-Still in U.S. Society  | Required if Program End Date field completed. |
| Program     | CASEWORKER Record ID  | Unique record identifier assigned by CASEWORKER.   | alphanumeric | 36   | left-justify, blank fill | 59           | 94         |   | CASEWORKER departments only                   |

TEXAS JUVENILE PROBATION COMMISSION

Electronic Data Interchange Specifications

Record Specifications:

| Record Type       | Field Name                        | Description  | Type         | Size | Format                   | Begin Column | End Column | Edi Criteria   | Dependencies  |
|-------------------|-----------------------------------|--|--------------|------|--------------------------|--------------|------------|--|---|
| Program           | Funding Source                    | The source of funding for the child's program.   | alphanumeric | 2    |                          | 95           | 96         | TA - State Aid Grant<br>TB - Supplemental Grant<br>TC - Community Reduction Grant<br>TE - IVE Federal Foster Care<br>TF - Progressive Sanctions JPO Grant<br>TH - Diversionary Fund Grant<br>TK - Collaborative Program Grant<br>TL - Secure Felony Placement Grant<br>TM - Special Needs Diversionary Grant<br>TO - Progressive Sanctions ISJPO Grant<br>TR - Small County Diversionary Placement Grant<br>TU - Intensive Community Based Pilot Grant<br>TW - JJAEP Discretionary Grant<br>TX - Intensive Community Based Program Grant<br>TY - Community Corrections Grant<br>LL - Local Funds<br>OP - Parent<br>OI - Insurance<br>OO - Other<br>OS - Other State Department<br>SO - State Funds, Non-TJPC |   |
| Program           | Program Location                  | The location of program delivery   | numeric      | 1    | 9                        | 97           | 97         | 1 - Community<br>2 - Facility (Post Adjudication)<br>3 - JJAEP<br>4 - Other<br>0 Bill if not applicable  | Required when the child enters the program.   |
| Program           | Program Category                  | Summarizes the program into specific categories based on its primary purpose. Definitions of these categories are available on the TJPC website. | numeric      | 1    | 9                        | 98           | 98         | 1 - Intensive<br>2 - Educational<br>3 - Prevention<br>4 - Intervention<br>5 - Treatment  |   |
| Program           | End of Record Marker              |  | alphanumeric | 1    |                          | 99           | 99         | Must contain T   |   |
| Program Component | Headquarter County Number         | County where participant headquarters is located.  | numeric      | 3    | 999                      | 1            | 3          | 001-254  |   |
| Program Component | Personal ID Number                | Child's Personal ID Number (PID).  | numeric      | 7    | 9999999                  | 4            | 10         | 000001..999999   |   |
| Program Component | Referral Number                   | Specifies the referral for the program record which this program component applies.  | numeric      | 7    | 9999999                  | 11           | 17         | 0000001..9999999   |   |
| Program Component | Record Type                       | Record identifier for Program Component Record.  | alphanumeric | 2    |                          | 18           | 19         | PH*  |   |
| Program Component | Program Sequence Number           | Specifies the program for which this program component applies.  | numeric      | 6    | 9999999                  | 20           | 25         | 000001..9999999  | Used in conjunction with the PID Number, Referral Number and Program Sequence Number to determine unique program component record. If program component record should not be changed, must include a Decade Record for each code specified. |
| Program Component | Program Component Sequence Number | Uniquely identifies this program component record from all other program component records for the specified Personal ID Number.                 | numeric      | 6    | 9999999                  | 26           | 31         | 000001..9999999  |   |
| Program Component | Program Component Name            | Department defined code for the program component.   | alphanumeric | 4    | left-justify, blank fill | 32           | 35         | Department specified code.   |   |

Record Specifications:

| Record Type       | Field Name                       | Description   | Type         | Size | Format                   | Begin Column | End Column | Exit Criteria   | Dependencies  |
|-------------------|----------------------------------|---|--------------|------|--------------------------|--------------|------------|---|---|
| Program Component | Program Component Type           | Summarizes the program component into specific types based on its primary purpose. Definitions of these categories are available on the TJPC website. | alphanumeric | 3    |                          | 36           | 38         | ANG-Anger Management/Conflict Resolution<br>ACM - Aftercare Management<br>BJP-Border Justice Project<br>CNS-Counseling Services<br>COG-Cognitive Behavioral<br>CSR-Community Service/Restitution<br>DCT-Drug Court<br>ERL-Early Intervention/First Referral<br>EDU-Educational<br>ELM-Electronic Monitoring<br>EPT-Extended Day Program/Day Boot Camp<br>EXP-Extended Day Program/Day Boot Camp<br>FAM-Family Preservation<br>FEM-Female Offender<br>GNG-Gang Prevention/Intervention<br>HDT - Home Detention<br>ICM-Intensive Case Management<br>IIF-Intensive Supervision<br>LIF-Life Skills<br>MEN-Mentor<br>MHT-Mental Health<br>MCT-Mental Health Court<br>MRT-Mental Retardation<br>PAR - Parenting (for juvenile)<br>RUN-Runaway/Truancy<br>SOF-Sex Offender<br>SAP-Substance Abuse Prevention/Intervention<br>SUT-Substance Abuse Treatment<br>VMD-Victim Mediation<br>VSC-Victim Services<br>VOC-Vocational/Employment<br>OTH-Other<br>PRT - Programming for Parents |   |
| Program Component | Program Component Begin Date     | The date the child physically began the component.  | numeric      | 8    | YYYYMMDD                 | 39           | 46         | Valid date between 1/1/1900 and 12/31/2099. Zero fill if not applicable.  |   |
| Program Component | Program Component End Date       | The date the child exited the component.  | numeric      | 8    | YYYYMMDD                 | 47           | 54         | Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Program Component Begin Date. Zero fill if not applicable.  |   |
| Program Component | Program Component Outcome        | Specifies the program component outcome. Definitions of these categories are available on the TJPC website.   | alphanumeric | 1    |                          | 55           | 55         | Blank<br>B-Blank without Permission<br>D-Deceased<br>F-Depletion of Funds/Closure<br>J-Transferred out of Jurisdiction<br>U-Unsuitable/Not Eligible<br>X-Failure to Comply  | Required if Program Component End Date field completed. |
| Program Component | CASEWORKER Record ID for Program | Unique record identifier assigned by CASEWORKER which specifies the program for which this component applies.   | alphanumeric | 36   | left-justify, blank fill | 56           | 91         | Blank fill  | CASEWORKER departments only                             |
| Program Component | CASEWORKER Record ID             | Unique record identifier assigned by CASEWORKER.  | alphanumeric | 36   | left-justify, blank fill | 92           | 127        | Blank fill  | CASEWORKER departments only                             |
| Program Component | End of Record Marker             |   | alphanumeric | 1    |                          | 128          | 128        | Must contain T  |   |

|             |                             |  |              |   |         |    |    |               |  |
|-------------|-----------------------------|--|--------------|---|---------|----|----|---------------|--|
| Supervision | Headquarter County Number   | County where department headquarters is located.   | numeric      | 3 | 999     | 1  | 3  | 001-254       |  |
| Supervision | Personal ID Number          | Child's Personal ID Number (PID).  | numeric      | 7 | 9999999 | 4  | 10 | 000001-999999 |  |
| Supervision | Supervisor Number           | Specifies the referee for which this supervision applies.  | numeric      | 7 | 9999999 | 11 | 17 | 000001-999999 |  |
| Supervision | Record Type                 | Record identifier for Supervisor Record.   | alphanumeric | 2 |         | 18 | 19 | SV            |  |
| Supervision | Supervision Sequence Number | Uniquely identifies this Supervision record from all other supervision records for the specified Personal ID Number. | numeric      | 6 | 9999999 | 20 | 25 | 000001-999999 | Used in conjunction with the PID Number and Referral Number to determine unique supervision event. Once assigned it should not be changed. |

Record Specifications:

| Record Type | Field Name                    | Description   | Type         | Size | Format                   | Begin Column | End Column | Full Column  | Dependencies                                      |
|-------------|-------------------------------|---|--------------|------|--------------------------|--------------|------------|--|---|
| Supervision | Supervision Type              | Specifies the type of supervision. Definitions of these categories are available on the TJPC website. | alphanumeric | 4    | left-justify, blank fill | 26           | 29         | PROB-Court Ordered Probation<br>DEFF-Deferred Prosecution<br>CREL-Conditional Release from Detention<br>TEMP-Temporary Pre-Court Monitoring<br>INDR-Indirect Supervision<br>PRBI-Interim Probation<br>PRBP-Permanent Probation (Transferred)<br>ICF-Intra-county Transfer Supervision<br>DIP-Interim Detention Probation<br>Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Supervision Begin Date. Zero fill if not applicable. |   |
| Supervision | Supervision Begin Date        | The beginning date of the supervision.  | numeric      | 8    | YYYYMMDD                 | 30           | 37         | Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Supervision Begin Date.  |   |
| Supervision | Supervision Expected End Date | The date that the supervision is scheduled to end (based on a court order or department agreement).   | numeric      | 8    | YYYYMMDD                 | 38           | 45         | Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Supervision Begin Date.  |   |
| Supervision | Supervision End Date          | The ending date of the supervision.   | numeric      | 8    | YYYYMMDD                 | 46           | 53         | Valid date between 1/1/1900 and 12/31/2099 and greater than or equal to the Supervision Begin Date. Zero fill if not applicable.   |   |
| Supervision | Supervision Outcome           | Specifies the supervision outcome. Definitions of these categories are available on the TJPC website. | alphanumeric | 1    |                          | 54           | 54         | A- Transferred to the Adult System<br>B-Absent without Permission<br>U-Deceased out of Jurisdiction<br>T-TYC Commitment<br>X-Failure to Comply   | Required if Supervision End Date field completed. |
| Supervision | CASEWORKER Record ID          | Unique record identifier assigned by CASEWORKER.  | alphanumeric | 36   | left-justify, blank fill | 55           | 90         | Blank fill   | CASEWORKER departments only                       |
| Supervision | End of Record Marker          |   | alphanumeric | 1    |                          | 91           | 91         | Must contain '1'   |   |

|                         |                           |   |              |   |          |    |    |   |  |
|-------------------------|---------------------------|---|--------------|---|----------|----|----|---|--|
| Non-Residential Service | Headquarter County Number | County where department headquarters is located.  | numeric      | 3 | 999      | 1  | 3  | 001..254  |  |
| Non-Residential Service | Personal ID Number        | Child's Personal ID Number (PID).   | numeric      | 7 | 9999999  | 4  | 10 | 0000001..9999999  |  |
| Non-Residential Service | Referral Number           | Specifies the referral for which this non-residential service applies   | numeric      | 7 | 9999999  | 11 | 17 | 0000001..9999999  |  |
| Non-Residential Service | Record Type               | Record Identifier for Non-Residential Service Record.   | alphanumeric | 2 |          | 18 | 19 | "NR"  |  |
| Non-Residential Service | Sequence Number           | Uniquely identifies this non-residential service record from all other non-residential services for the specified Personal ID Number and referral number. | numeric      | 6 | 999999   | 20 | 25 | 000001..999999  | Used in conjunction with the PID Number to determine unique behavioral health event. Once assigned it should not be changed. |
| Non-Residential Service | Date of Service           | The date that the service was provided to the child.  | numeric      | 8 | YYYYMMDD | 26 | 33 | Valid date between 1/1/1900 and 12/31/2099.   |  |
| Non-Residential Service | Service Type              | The type of service provided to the child.  | alphanumeric | 1 |          | 34 | 34 | M-Medical/Dental<br>C-Clothing<br>E-Equipment<br>F-Financial Assessment/Testing<br>I-Critus Intervention<br>A - Assessment/Testing (non-educational)<br>L- Class/single session<br>U-Counseling single Session<br>O-Other |  |

TEXAS JUVENILE PROBATION COMMISSION

Electronic Data Interchange Specifications

Record Specifications:

| Record Type             | Field Name           | Description  | Type         | Size | Format                   | Begin Column | End Column | File Criteria  | Dependencies                |
|-------------------------|----------------------|--|--------------|------|--------------------------|--------------|------------|--|-----------------------------|
| Non-Residential Service | Funding Source       | The source of funding for the non-residential service. | Alphanumeric | 2    |                          | 35           | 36         | TB - Border Grant<br>TC - Commitment Reduction Grant<br>TD - Community Based Pilot Grant<br>TE - Intensive Community Based Grant<br>TF - Progressive Sanctions JPO Grant<br>TH - Diversionary Fund Grant<br>TK - Collaborative Program Grant<br>TL - Secure Falony Placement Grant<br>TM - Special Needs Diversionary Grant<br>TO - Progressive Sanctions ISJPO Grant<br>TR - Small County Diversionary Placement Grant<br>TU - Intensive Community Based Pilot Grant<br>TW - JLEP Diversionary Grant<br>TX - Intensive Community Based Program Grant<br>TY - Community Corrections Grant<br>LL - Local Funds<br>OP - Parent<br>OI - Insurance<br>OC - Other<br>OS - Grant to Department<br>SO - State Funds, Non-TJPC | CASEWORKER departments only |
| Non-Residential Service | CASEWORKER Record ID | Unique record identifier assigned by CASEWORKER.       | Alphanumeric | 36   | left-justify, blank fill | 37           | 72         | Blank fill   | CASEWORKER departments only |
| Non-Residential Service | End of Record Marker |  | Alphanumeric | 1    |                          | 73           | 73         | Must contain 'T'   |                             |

|        |                           |  |              |    |                          |    |    |  |  |
|--------|---------------------------|--|--------------|----|--------------------------|----|----|--|--|
| Delete | Headquarter County Number | County where department headquarters is located.   | numeric      | 3  |                          | 1  | 3  | 001..354   |  |
| Delete | FILLER                    |  | Alphanumeric | 14 | 999                      | 4  | 17 | Blank fill   |  |
| Delete | Record Type               | Record identifier for Delete Record.   | Alphanumeric | 2  |                          | 18 | 19 | "XX"   |  |
| Delete | Delete Record Type        | A Delete Record should only be used to remove records reported in error. It should not be used to remove sealed or purged records.<br>A request to delete a Child Record will cause all records for the specified PID Number to be removed.<br>A request to delete a Referral Record will cause all records attached to the referral (i.e. detentions, offenses, placements, etc) to be removed.<br>All other delete requests will remove only the requested record. | Alphanumeric | 2  |                          | 20 | 21 | 01-Child<br>03-Referral<br>DN-Detention<br>BH-Behavioral Health<br>MA-MAYSI<br>OF-Offense<br>PL-Placement<br>PG-Program<br>SZ-Supervisor<br>BT-Substance Abuse<br>DT-Drug Test<br>NR-Non-residential Service<br>PH-Program Component |  |
| Delete | Delete Personal ID Number | Specifies the personal identification number of the record to be deleted.  | numeric      | 7  | 9999999                  | 22 | 28 | 0000001..9999999   | Required for all delete transactions.  |
| Delete | Delete Referral Number    | Specifies the referral number of the record to be deleted.   | numeric      | 7  | 9999999                  | 29 | 35 | 0000001..9999999, zero fill if not applicable  | Required for all delete transactions except '01-Child and 'BH-Behavioral Health. |
| Delete | Delete Sequence Number    | Specifies the sequence number of the record to be deleted.   | numeric      | 6  | 999999                   | 36 | 41 | 000001..999999, zero fill if not applicable  | Required for all delete transactions except '01-Child and '03-Referral.          |
| Delete | CASEWORKER Record ID      | Unique record identifier assigned by CASEWORKER.   | Alphanumeric | 36 | left-justify, blank fill | 42 | 77 | Blank fill   | CASEWORKER departments only  |
| Delete | End of Record Marker      |  | Alphanumeric | 1  |                          | 78 | 78 | Must contain 'T'   |  |

|         |                           |   |              |    |          |    |    |                    |   |
|---------|---------------------------|---|--------------|----|----------|----|----|--------------------|---|
| Trailer | Headquarter County Number | County where department headquarters is located.                                | numeric      | 3  | 999      | 1  | 3  | 001..354           |   |
| Trailer | FILLER                    |   | Alphanumeric | 14 |          | 4  | 17 | "ZZZZZZZZZZZZZZZZ" | Must be last record in the file.  |
| Trailer | Record Type               | Record identifier for Trailer Record.   | Alphanumeric | 2  |          | 18 | 19 | "ZZ"               |   |
| Trailer | Total Record Count        | Total number of records contained in the file including the header and trailer. | numeric      | 8  | 99999999 | 20 | 27 |                    | Compared to calculated number of records to ensure complete file was transmitted. |
| Trailer | End of Record Marker      |   | Alphanumeric | 1  |          | 28 | 28 | Must contain 'T'   |   |



# 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 issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Ark-Tex Council of Governments

### Request for Proposal

The Ark-Tex Council of Governments (ATCOG) is soliciting proposals for a training provider/police academy to provide regional law enforcement training through a grant provided by the Texas Governor's Office, Criminal Justice Division (if awarded this funding).

The types of training to be provided include: Basic Law Enforcement Officer, Basic Jailer Certification, Basic Telecommunications, and Advanced/Specialized Law Enforcement Training. The period of performance is September 1, 2011 through August 31, 2012.

The service delivery area includes the following counties in Texas: Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, and Titus.

Potential respondents may obtain a copy of the request for proposal, scoring guidelines, and project scoring criteria by contacting Patricia Haley by email, [phaley@atcog.org](mailto:phaley@atcog.org), or call (903) 832-8636. Proposals must be completed and received in the ATCOG office (by mail or in person), located at 4808 Elizabeth Street, Texarkana, Texas 75503 by June 24, 2011, at 5:00 p.m. The Ark-Tex Council of Governments Regional Criminal Justice Advisory Committee will score multiple proposals received. Respondents will be notified in writing of the date, time, and place of the meeting at which the proposals will be scored.

Request for Proposals will be issued on or after Wednesday, June 1, 2011.

TRD-201101925  
L. D. Williamson  
Executive Director  
Ark-Tex Council of Governments  
Filed: May 27, 2011

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, 303.008, 303.009, 304.003, and 346.111, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 06/06/11 - 06/12/11 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 06/06/11 - 06/12/11 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009<sup>3</sup> for the period of 06/01/11 - 06/30/11 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009 for the period of 06/01/11 - 06/30/11 is 18% for Commercial over \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 07/01/11 - 09/30/11 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 07/01/11 - 09/30/11 is 18% for Commercial over \$250,000.

The retail credit card quarterly rate as prescribed by §303.009<sup>1</sup> for the period of 07/01/11 - 09/30/11 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The lender credit card quarterly rate as prescribed by §346.111, Texas Finance Code<sup>1</sup> for the period of 07/01/11 - 09/30/11 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009<sup>4</sup> for the period of 07/01/11 - 09/30/11 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009 for the period of 07/01/11 - 09/30/11 is 18% for Commercial over \$250,000.

The retail credit card annual rate as prescribed by §303.009<sup>1</sup> for the period of 07/01/11 - 09/30/11 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 06/01/11 - 06/30/11 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 06/01/11 - 06/30/11 is 5.00% for Commercial over \$250,000.

<sup>1</sup>Credit for personal, family or household use.

<sup>2</sup>Credit for business, commercial, investment or other similar purpose.

<sup>3</sup>For variable rate commercial transactions only.

<sup>4</sup>Only for open-end credit as defined in §301.002(14), Texas Finance Code.

TRD-201101950  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: June 1, 2011

## Employees Retirement System of Texas

### Request for Proposal

In accordance with Texas Insurance Code, Chapter 1551, the Employees Retirement System of Texas ("ERS") is issuing a Request for Proposal ("RFP") seeking qualified third-party administrators ("TPA") to provide Health Care administration (claim processing, network management and utilization review services) benefits and/or services for HealthSelect<sup>SM</sup> of Texas ("HealthSelect"), currently a self-funded, managed care, point-of-service ("POS") health plan under the Texas Employees Group Benefits Program ("GBP") with an initial term begin-

ning September 1, 2012 through August 31, 2016. TPA shall provide administrative services for the level of benefits required in the RFP and meet other requirements that are in the best interest of ERS, the GBP, its Participants and the state of Texas, and shall be required to execute a Contractual Agreement ("Contract") provided by, and satisfactory to, ERS.

A TPA wishing to respond to this request shall: 1) maintain its principal place of business and provide all products and/or services including, but not limited to: call center, billing, eligibility, and programming, etc. within the United States of America, and shall have a Certificate of Authority and/or license to do business in Texas as a TPA from the Texas Department of Insurance, 2) have been providing administrative, claim processing, network management and utilization review services for organizations with a membership of no less than 50,000 or an aggregate of 1,000,000 covered lives for a minimum of three (3) years, 3) reflect a provider network capable of servicing no less than 85% of GBP Participants as of January 31, 2011; and 4) have a current net worth of \$100 million as evidenced by a 2010 audited financial statement. Since the TPA may be required to advance up to two (2) weeks of claim payments totaling approximately \$70 million before being reimbursed by ERS, the TPA shall have at least \$100 million of cash and cash equivalents available, on average, throughout its 2010 financial period. The services requested and described in the RFP have been segregated into two (2) distinct Plan Administrations: a) High Deductible Health Plan with a Health Savings Account ("HDHP with HSA") option, and b) Preferred Provider Organization/Point-of-Service. Qualified TPAs may submit a Proposal and bid response materials to provide services for one or both programs. ERS reserves the right to select one or more TPAs to provide services for either or both a Preferred Provider Organization/Point-of-Service model or an HDHP with HSA option.

The RFP will be available on or after June 1, 2011 from ERS' website and will include documents for TPA's review and response. To access the secured portion of the RFP website, an interested TPA shall email its request to the attention of IVendor Mailbox at: ivendorquestions@ers.state.tx.us. The email request shall reflect TPA's legal name, street address, phone and fax numbers, and email address for the organization's direct point of contact. Upon receipt of this information, a user ID and password will be issued to the requesting organization that will permit access to the secured RFP.

General questions concerning the RFP and/or ancillary bid materials should be sent to the IVendor Mailbox where the responses, if applicable, are updated frequently. Submission deadline for all RFP questions submitted to the IVendor Mailbox are due on June 16, 2011 at 4:00 p.m. CT. The RFP will be discussed at a Bidders Web Conference on June 23, 2011, beginning at 2:00 p.m. (CT). A TPA wishing to participate is required to register for participation in the Bidders Web Conference no later than 4:00 p.m. (CT) on June 17, 2011, by emailing an acknowledgement to the IVendor Mailbox as referenced above.

To be eligible for consideration, the TPA is required to submit a total of six (6) sets of the Proposal in a sealed container. One (1) printed original shall be labeled as an "Original" and include fully executed documents, as appropriate, **signed in blue ink** and without amendment or revision. Three (3) additional duplicates of the Proposal, including all required exhibits, shall be provided in printed format. Finally, two (2) complete copies shall be submitted on CD-ROMs in Excel or Word format. No PDF documents (with the exception of sample GBP-specific marketing materials, financial statements and audited financial materials) may be reflected on the CD-ROMs. All materials shall be received by ERS no later than 12:00 noon (CT) on July 27, 2011.

ERS will base its evaluation and selection of a TPA on factors including, but not limited to the following, which are not necessarily listed in order of priority: compliance with the RFP, operating requirements,

provider network, and experience serving large group programs, past experience, administrative quality, program fees and other relevant criteria. Each Proposal will be evaluated both individually and relative to the Proposal of other qualified TPAs. Complete specifications will be included with the RFP.

ERS reserves the right to reject any and/or all Proposals and/or call for new Proposals if deemed by ERS to be in the best interests of ERS, the GBP, its Participants and the state of Texas. ERS also reserves the right to reject any Proposal submitted that does not fully comply with the RFP's instructions and criteria. ERS is under no legal requirement to execute a Contract on the basis of this notice or upon issuance of the RFP and will not pay any costs incurred by any entity in responding to this notice or in connection with the preparation thereof. ERS reserves the right to vary all provisions set forth at any time prior to execution of a Contract where ERS deems it to be in the best interest of ERS, the GBP, its Participants and the state of Texas.

TRD-201101914

Paula A. Jones

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Filed: May 26, 2011

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is July 11, 2011. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on July 11, 2011. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Akzo Nobel Surface Chemistry LLC; DOCKET NUMBER: 2011-0451-AIR-E; IDENTIFIER: RN100219393; LOCATION: Houston, Fort Bend County; TYPE OF FACILITY: chemical manufacturing plant; RULE VIOLATED: 30 TAC §116.115(c) and §122.143(4), Federal Operating Permit Number O1328, Special Terms

and Conditions Number 9, Air Permit Number 9600, Special Conditions Number 13, and Texas Health and Safety Code, §382.085(b), by failing to maintain the scrubber (V-004) vapor temperature at or below 100 degrees Fahrenheit on May 28, 2010, June 21, 2010, June 22, 2010, July 15, 2010, and July 24, 2010; PENALTY: \$3,300; ENFORCEMENT COORDINATOR: Nadia Hameed, (713) 767-3629; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: Beverly Minaldi dba Timberlane Water System; DOCKET NUMBER: 2011-0350-PWS-E; IDENTIFIER: RN101182624; LOCATION: Hemphill, Sabine County; TYPE OF FACILITY: public water system; RULE VIOLATED: 30 TAC §290.109(f)(3), by failing to comply with the Maximum Contaminant Level for total coliform; 30 TAC §290.109(c)(2)(F), by failing to collect at least five distribution coliform samples for the months following a total coliform-positive sample result; 30 TAC §290.109(c)(2)(A)(ii) and Texas Health and Safety Code, §341.033(d), by failing to collect routine distribution water samples for coliform analysis; PENALTY: \$1,878; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3425; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(3) COMPANY: Chiwoo Park dba Dunlavy Mart; DOCKET NUMBER: 2011-0365-PST-E; IDENTIFIER: RN102259454; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2)(A), and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tank (UST) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the pressurized piping associated with the UST; PENALTY: \$5,730; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5933; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(4) COMPANY: Clarity Homes, LTD; DOCKET NUMBER: 2011-0753-WQ-E; IDENTIFIER: RN106078371; LOCATION: Hudson Oaks, Parker County; TYPE OF FACILITY: residential construction; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$700; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: GREENSPOINT ENTERPRISES LLC dba Courtesy Chevron 6; DOCKET NUMBER: 2011-0100-PST-E; IDENTIFIER: RN102482957; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.242(3)(G) and (9) and Texas Health and Safety Code, §382.085(b), by failing to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system and by failing to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system; 30 TAC §115.245(2) and Texas Health and Safety Code, §382.085(b), by failing to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first; 30 TAC §115.246(4) and (6) and Texas Health and Safety Code, §382.085(b), by failing to maintain all required Stage II records at the station and make them immediately available for review upon request by agency personnel; PENALTY: \$11,317; ENFORCEMENT COORDINATOR: Cara Windle, (512) 239-2581; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6) COMPANY: Jefferson, Neil D; DOCKET NUMBER: 2011-0265-LII-E; IDENTIFIER: RN104318993; LOCATION: Allen, Collin County; TYPE OF FACILITY: irrigation services business; RULE VIOLATED: 30 TAC §344.35(d)(2), by failing to obtain an irrigation permit; 30 TAC §344.61(c)(1), (5), (7)(A) and (7)(B), by failing to submit an irrigation plan that was complete; PENALTY: \$375; ENFORCEMENT COORDINATOR: Nadia Hameed, (713) 767-3629; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: J-W Operating Company; DOCKET NUMBER: 2011-0039-AIR-E; IDENTIFIER: RN100791417; LOCATION: Wise County; TYPE OF FACILITY: gas plant; RULE VIOLATED: 30 TAC §106.352 and §106.512, Texas Health and Safety Code, §382.085(b) and Permit By Rule Registration Number 74342, by failing to comply with the annual allowable emissions rate; PENALTY: \$212,500; Supplemental Environmental Project (SEP) offset amount of \$212,500 applied to the University of Texas at Arlington, Texas Air Monitoring Network SEP; ENFORCEMENT COORDINATOR: John Muennink, (713) 422-8970; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: Martin Operating Partnership L.P.; DOCKET NUMBER: 2011-0503-AIR-E; IDENTIFIER: RN102548864; LOCATION: Plainview, Hale County; TYPE OF FACILITY: sulfuric acid production plant; RULE VIOLATED: 30 TAC §116.115(c), Texas Health and Safety Code, §382.085(b) and New Source Review (NSR) Permit Number 76571 Special Conditions (SC) 4, by failing to limit visible emissions from the Scrubber Stack (Emission Point Number 1) to less than 10% opacity averaged over a six-minute period; and 30 TAC §116.115(c), Texas Health and Safety Code, §382.085(b) and NSR Permit Number 76571, SC 8D, by failing to maintain all continuous emission monitoring system monitoring data and quality-assurance data; PENALTY: \$2,320; ENFORCEMENT COORDINATOR: Allison Fischer, (512) 239-2574; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(9) COMPANY: New Waverly Sound Investments, LLC; DOCKET NUMBER: 2010-2066-WQ-E; IDENTIFIER: RN106032709; LOCATION: Hockley, Waller County; TYPE OF FACILITY: construction; RULE VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization under a Texas Pollutant Discharge Elimination System Construction General Permit to discharge storm water associated with construction activities; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10) COMPANY: Paula Roak dba Naconiches Farm; DOCKET NUMBER: 2011-0225-IHW-E; IDENTIFIER: RN105944524; LOCATION: Garrison, Nacogdoches County; TYPE OF FACILITY: poultry business; RULE VIOLATED: 30 TAC §335.25(c), by failing to prevent the unauthorized disposal of poultry carcasses; PENALTY: \$1,050; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(11) COMPANY: Rays Acquisition Company LLC; DOCKET NUMBER: 2011-0182-PWS-E; IDENTIFIER: RN105915656; LOCATION: Plantersville, Waller County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.109(c)(2)(A)(i) and §290.122(c)(2)(B) and Texas Health and Safety Code, §341.033(d), by failing to collect routine distribution water samples for coliform analysis and by failing to provide public notification of the failure to sample; and 30 TAC §290.51(a)(3) and TWC, §5.702, by failing to pay annual public health service fees, including late fees; PENALTY: \$2,483; ENFORCEMENT COORDINATOR: Kelly Wisian, (512)

239-2570; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(12) COMPANY: Sand Hill Panola SWD #5 LLC; DOCKET NUMBER: 2011-0306-AIR-E; IDENTIFIER: RN105906119; LOCATION: Carthage, Panola County; TYPE OF FACILITY: salt water disposal plant; RULE VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.085(b) and §382.0518(a), by failing to obtain permit authorization for a source of air emissions or satisfy the conditions of a Permit By Rule prior to the commencement of operations of a facility which emits air contaminants; PENALTY: \$3,210; ENFORCEMENT COORDINATOR: James Nolan, (512) 239-6634; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(13) COMPANY: SANR, INCORPORATED dba China Market; DOCKET NUMBER: 2011-0362-PST-E; IDENTIFIER: RN101763282; LOCATION: China, Jefferson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(5)(C), by failing to ensure that a legible tag, label or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated underground storage tank (UST) according to the UST registration and self-certification form; 30 TAC §334.72(3)(B), by failing to report a suspected release to the TCEQ within 24 hours of the discovery; and 30 TAC §334.74, by failing to investigate a suspected release within 30 days of discovery; 30 TAC §115.242(3) and (9) and Texas Health and Safety Code, §382.085(b), by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is part of the approved system and by failing to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with the Stage II vapor recovery system; PENALTY: \$3,925; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5933; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(14) COMPANY: SKIDMORE WATER SUPPLY CORPORATION; DOCKET NUMBER: 2011-0370-PWS-E; IDENTIFIER: RN104620026; LOCATION: Skidmore, Bee County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(l), by failing to flush all dead-end mains at monthly intervals; 30 TAC §290.46(j), by failing to complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities; 30 TAC §290.41(c)(3)(K), by failing to properly seal the wellhead with a gasket or sealing compound and by failing to provide a 16-mesh or finer corrosion-resistant screen on the well casing vent; and 30 TAC §290.44(h)(4), by failing to test backflow prevention assemblies which are installed to provide protection against health hazards on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications; PENALTY: \$1,280; ENFORCEMENT COORDINATOR: Andrea Byington, (512) 239-2579; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(15) COMPANY: STANDARD WASTE SERVICES, LLC; DOCKET NUMBER: 2011-0246-MSW-E; IDENTIFIER: RN100684059; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: recycling facility; RULE VIOLATED: 30 TAC §330.7(a), by failing to obtain a permit or other authorization prior to conducting storage, pro-

cessing, or disposal of municipal solid waste; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Andrea Park, (512) 239-4575; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(16) COMPANY: The Salvation Army; DOCKET NUMBER: 2011-0258-MWD-E; IDENTIFIER: RN102769098; LOCATION: Midlothian, Ellis County; TYPE OF FACILITY: wastewater treatment system; RULE VIOLATED: TWC, §26.121(a), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0013904001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limits; PENALTY: \$5,140; ENFORCEMENT COORDINATOR: Jorge Ibarra, (512) 239-2569; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: TOTAL PETROCHEMICALS USA, INCORPORATED; DOCKET NUMBER: 2011-0260-AIR-E; IDENTIFIER: RN102457520; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: petrochemical refinery; RULE VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O-2222, Special Terms and Conditions Number 17, and Air Permit Numbers 20381, PSD-TX-1005 and N-044, Special Condition Numbers 1 and 12, by failing to maintain allowable emissions and firing rates; PENALTY: \$10,000; Supplemental Environmental Project offset amount of \$4,000 applied to the Southeast Texas Regional Planning Commission, West Port Arthur Home Energy Efficiency Program; ENFORCEMENT COORDINATOR: Audra Benoit, (409) 899-8799; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(18) COMPANY: WTG Gas Processing, L.P.; DOCKET NUMBER: 2011-0283-AIR-E; IDENTIFIER: RN100211473; LOCATION: Vincent, Howard County; TYPE OF FACILITY: natural gas plant; RULE VIOLATED: 30 TAC §116.115(c) and §112.3(a), Permit Number 20137, Special Condition Number 1, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions and exceeding the net ground level concentration of 0.4 parts per million by volume of sulfur dioxide during an emissions event (Incident Number 147325) which began on November 12, 2010; PENALTY: \$10,000; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (432) 570-1359.

TRD-201101940  
Kathleen C. Decker  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: May 31, 2011

◆ ◆ ◆  
Notice of Application and Opportunity to Request a Public Meeting for a New Municipal Solid Waste Facility Registration Application No. 40257

Application. EER (Texas) Environmental Technologies, Inc., 1674 Luckenbach-Cain City Road, Fredericksburg, Texas 78624-4949, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Registration No. 40257, to construct and operate a Type V municipal solid waste, medical waste storage and processing facility. The proposed facility, EER La Porte Recycling Center will be located near the intersection of Miller Cut-Off Road and Strang Road in the Battleground Industrial District in La Porte, approximately 3,000 feet to the north of S.H. 225 (Pasadena Freeway), 77571, in Harris County. The Applicant is requesting authorization to process and recycle med-

ical waste. The registration application is available for viewing and copying at the Harris County Public Library - La Porte Branch Library, 600 South Broadway, La Porte, Texas 77571 and may be viewed online at [http://eer-pgm.com/en-us/news/texas\\_registration/](http://eer-pgm.com/en-us/news/texas_registration/). The TCEQ executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the Coastal Coordination Council and has determined that the action is consistent with the applicable CMP goals and policies.

**Public Comment/Public Meeting.** Written public comments or written requests for a public meeting must be submitted to the Office of the Chief Clerk at the address included in the information section below. If a public meeting is held, comments may be made orally at the meeting or submitted in writing by the close of the public meeting. A public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the development is to be located, or if there is a substantial public interest in the proposed development. The purpose of the public meeting is for the public to provide input for consideration by the commission, and for the applicant and the commission staff to provide information to the public. A public meeting is not a contested case hearing. The executive director will review and consider public comments and written requests for a public meeting submitted during the comment period. The comment period shall begin on the date this notice is published and end 60 calendar days after this notice is published. The comment period shall be extended to the close of any public meeting. The executive director is not required to file a response to comments.

**Executive Director Action.** The executive director shall, after review of an application for registration, determine if the application will be approved or denied in whole or in part. If the executive director acts on an application, the chief clerk shall mail or otherwise transmit notice of the action and an explanation of the opportunity to file a motion to overturn the executive director's decision. The chief clerk shall mail this notice to the owner and operator, the public interest counsel, to adjacent landowners as shown on the required land ownership map and landowners list, and to other persons who timely filed public comment in response to public notice. Not all persons on the mailing list for this notice will receive the notice letter from the Office of the Chief Clerk.

**Information.** Written public comments or requests to be placed on the permanent mailing list for this application should be submitted to the Office of the Chief Clerk mail code MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically submitted to <http://www10.tceq.state.tx.us/epic/ecmnts/>. If you choose to communicate with the TCEQ electronically, please be aware that your e-mail address, like your physical mailing address, will become part of the agency's public record. Individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Further information may also be obtained from EER (Texas) Environmental Technologies, Inc. at the address stated above or by calling Mr. Jose E. Kauachi, Vice-President Business Development, at (830) 997-8174.

TRD-201101963  
Melissa Chao  
Acting Chief Clerk  
Texas Commission on Environmental Quality  
Filed: June 1, 2011



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 11, 2011**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 11, 2011**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: AET Inc. Limited; DOCKET NUMBER: 2010-0703-AIR-E; TCEQ ID NUMBER: RN105885180; LOCATION: Sabine-Neches ship channel located north of the Martin Luther King bridge and immediately to the east of the port of Port Arthur, Jefferson County; TYPE OF FACILITY: sour crude oil tanker; RULES VIOLATED: 30 TAC §382.085(a) and (b), by failing to prevent a condition of air pollution; PENALTY: \$36,000; Supplemental Environmental Project offset amount of \$18,000 applied to Port Arthur Building and Infrastructure Energy Efficiency Upgrades Program; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: Brothers Materials, Ltd; DOCKET NUMBER: 2010-1147-AIR-E; TCEQ ID NUMBER: RN103004099 and RN103004081; LOCATION: six miles west of Loop 20 on Highway 359, Laredo, Webb County; TYPE OF FACILITY: asphalt plant; RULES VIOLATED: 30 TAC §101.20(1), §106.147(a), 40 Code of Federal Regulations (CFR), §60.8, Texas Health and Safety Code (THSC), §382.085(b), and AO Docket Order Number 2008-0188-AIR-E, Ordering Provisions Numbers 2.c., 2.g., and 2.h., by failing to conduct the required stack sampling test, failing to conduct a pretest meeting concerning the stack sampling test, and failing to submit the stack sampling test results to the TCEQ; 30 TAC §101.24 and §101.27, THSC, §382.085(b), and TWC, §5.702, by failing to pay outstanding air emissions, inspection, and late fees for TCEQ Financial Account Numbers 21006623 and 21505942 for Fiscal Year 2010; 30 TAC §101.20(1) and §116.615(6), THSC, §382.085(b), 40 CFR, §60.8, and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, Condition 1(O), by failing to conduct performance testing no later than 180 days after the initial start-up; 30 TAC §116.615(9) and (10), THSC, §382.085(b), and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, Conditions 1(O)

and 1(H), by failing to install permanently mounted spray bars at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points for use, as necessary, to maintain compliance with all opacity; 30 TAC §116.115(b) and §116.615(2), THSC, §382.085(b), and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, Condition (3)(E), by failing to comply with the standard permit conditions limiting the operation of a rock crusher to no more than 180 non-consecutive days; PENALTY: \$12,625; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(3) COMPANY: Daniel Garcia and Julia Garcia; DOCKET NUMBER: 2010-0862-MSW-E; TCEQ ID NUMBER: RN105896252 and RN105913198; LOCATION: 110 West Mockingbird Lane, Harker Heights, Bell County; TYPE OF FACILITY: used and scrap tire transporting business; RULES VIOLATED: 30 TAC §328.57(c)(3), by failing to ensure that all scrap tires are transported to an authorized facility; and 30 TAC §330.15(c), by failing to prevent the unauthorized disposal of scrap tires; PENALTY: \$3,500; STAFF ATTORNEY: Kari Gilbreth, Litigation Division, MC 175, (512) 239-1320; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: John Alihemati dba Station 66; DOCKET NUMBER: 2010-1896-AIR-E; TCEQ ID NUMBER: RN103937389; LOCATION: 7500 Gateway Boulevard North, El Paso, El Paso County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: THSC, §382.085(b) and 30 TAC §114.100(a), by failing to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 - March 31; PENALTY: \$1,400; STAFF ATTORNEY: Mike Fishburn, Litigation Division, MC 175, (512) 239-0635; REGIONAL OFFICE: El Paso Regional Office, 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(5) COMPANY: Southwest Grain Co.; DOCKET NUMBER: 2010-1456-AIR-E; TCEQ ID NUMBER: RN102570926; LOCATION: 611 Missouri Street, Edcouch, Hidalgo County; TYPE OF FACILITY: grain storage plant; RULES VIOLATED: 30 TAC §116.110(a) and THSC, §382.0518(b), by failing to submit a permit renewal application for the plant prior to the expiration of the permit; PENALTY: \$2,040; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(6) COMPANY: Star Fuels, Inc. dba Brookshire Conoco; DOCKET NUMBER: 2010-0696-PST-E; TCEQ ID NUMBER: RN102009396; LOCATION: 306 Farm-to-Market Road 359 South, Brookshire, Waller County; TYPE OF FACILITY: underground storage tank system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(a) and 30 TAC §334.50(b)(2) and (A)(i)(III), by failing to provide proper release detection for the pressurized piping associated with the USTs and failing to test the line leak detectors at least once per year for performance and operational reliability; 30 TAC §334.72(3)(B), by failing to report a suspected release to the TCEQ within 24 hours of discovery; 30 TAC §334.74, by failing to investigate a suspected release of regulated substances within 30 days of discovery; PENALTY: \$43,696; STAFF ATTORNEY: Jim Sallans, Litigation Division, MC 175, (512) 239-2053; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-201101943

Kathleen C. Decker  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: May 31, 2011

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Notice of Opportunity to Comment on Default Orders of  
Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 11, 2011**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 11, 2011**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Greenwood Place Civic Club, Inc.; DOCKET NUMBER: 2010-1799-UTL-E; TCEQ ID NUMBER: RN101438463; LOCATION: 1018 Verhalen Avenue, Houston, Harris County; TYPE OF FACILITY: public water system; RULES VIOLATED: TWC, §13.1395(b)(2), Texas Health and Safety Code (THSC), §341.049, 30 TAC §§290.39(o)(1), 291.162(a), and 291.162(j), by failing to adopt and submit to the executive director for approval by March 1, 2010, an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$428; STAFF ATTORNEY: Peipey Tang, Litigation Division, MC 175, (512) 239-0654; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Meroslem Garcia and Miguel Alfaro; DOCKET NUMBER: 2010-2085-PST-E; TCEQ ID NUMBER: RN100918317; LOCATION: 12903 East Freeway, Houston, Harris County; TYPE OF FACILITY: out-of-service underground storage tank (UST) system; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable

component of the system is not brought into timely compliance with the upgrade requirements; and 30 TAC §334.7(a)(1), by failing to register with the commission, on authorized agency forms, USTs in existence on or after September 1, 1987; PENALTY: \$3,675; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Nimi's Inc. dba Ray Stuart's Cleaners; DOCKET NUMBER: 2010-2042-DCL-E; TCEQ ID NUMBER: RN104095062; LOCATION: 425 Pinson Road, Forney, Kaufman County; TYPE OF FACILITY: dry cleaner drop station; RULES VIOLATED: THSC, §374.102 and 30 TAC §337.11(e), by failing to renew the facility's registration by completing and submitting the required registration form to the Texas Commission on Environmental Quality for a dry cleaning facility and/or drop station; PENALTY: \$7,586; STAFF ATTORNEY: Marshall Coover, Litigation Division, MC 175, (512) 239-0620; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Western States Realty LLC; DOCKET NUMBER: 2010-1699-MSW-E; TCEQ ID NUMBER: RN102865227; LOCATION: approximately four miles east of Hawley on Farm-to-Market Road 1226, Jones County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULES VIOLATED: 30 TAC §330.15(c) and TCEQ Agreed Order Docket Number 2003-1496-MSW-E, Ordering Provision Numbers 2.1., 2.2., and 2.3., by failing to prevent the unauthorized disposal of MSW; PENALTY: \$32,300; STAFF ATTORNEY: Jim Sallans, Litigation Division, MC 175, (512) 239-2053; REGIONAL OFFICE: Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

TRD-201101942  
Kathleen C. Decker  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: May 31, 2011



### Notice of Water Quality Applications

The following notices were issued on May 19, 2011 through May 27, 2011.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

### INFORMATION SECTION

STEPHEN F AUSTIN STATE UNIVERSITY has applied for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013161001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility is located at 336 County Road 473, 1 mile west of Farm-to-Market Road 705 on Farm-to-Market Road 3127, north on County Road 473 in San Augustine County, Texas 75929.

CITY OF WHITE OAK has applied for a renewal of TPDES Permit No. WQ0010940001 which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,100,000 gallons per day. The facility is located approximately 1,500 feet east of State Highway 42 and 3,800 feet south U.S. Highway 80 in Gregg County, Texas 75693.

TIN INC which operates Buna Lumber Operation, has applied for a renewal of TPDES Permit No. WQ0002924000, which authorizes the discharge of commingled wastewaters on an intermittent and flow variable basis via Outfall 001 and storm water on an intermittent and flow variable basis via Outfalls 002, 003, and 004. The facility is located approximately one mile east of U.S. Highway 96 and approximately two miles north of the community of Buna, Jasper County, Texas.

TOSHIBA INTERNATIONAL CORPORATION which operates Toshiba International, a facility which manufactures electric motors, inverters, and other electrical products, has applied for a renewal with changes to TPDES Permit No. WQ0003153000, to remove the authorization for disposal of effluent via irrigation and evaporation. The current permit authorizes the discharge of treated sanitary wastewater and parts washwater at a daily average flow not to exceed 50,000 gallons per day via Outfall 001, or disposal of this wastewater via irrigation; and recirculated non-contact cooling water and once-through cooling water at a daily average flow not to exceed 50,000 gallons per day via Outfall 002. The facility is located at 13131 West Little York Road on the southeast corner of the intersection of West Little York Road and Eldrige Parkway in the extraterritorial jurisdiction of the City of Houston, Harris County, Texas 77041.

CITY OF FORT WORTH TARRANT REGIONAL WATER DISTRICT AND TEXAS DEPARTMENT OF TRANSPORTATION, which operate the City of Fort Worth MS4 Municipal Separate Storm Sewer System (MS4) have applied for a renewal of TPDES Permit No. WQ0004350000 (EPA I.D. No. TXS000901) to authorize storm water point source discharges to surface water in the state from the City of Fort Worth MS4. The MS4 is located within the corporate boundary of the City of Fort Worth, except agricultural lands, in Denton, Tarrant, and Wise Counties, Texas.

NORTH TEXAS TOLLWAY AUTHORITY (NTTA) which operates the NTTA Municipal Separate Storm Sewer System (MS4) has applied for a major amendment with renewal of TPDES Permit No. WQ0004400000 (NPDES No. TXS000703) to authorize the expansion of the MS4 boundaries and storm water point source discharges to surface water in the state from the NTTA MS4. The MS4 is located within the NTTA right-of-way within the corporate boundaries of the Cities of Addison, Allen, Carrollton, Coppell, Dallas, Fairview, Farmers Branch, Frisco, Garland, Grand Prairie, Highland Park, Irving, Lake Dallas, Lewisville, Little Elm, McKinney, Plano, Prosper, Richardson, The Colony, and University Park, 75001, 75006, 75007, 75010, 75013, 75019, 75024, 75025, 75034, 75035, 75038, 75039, 75040, 75044, 75050, 75051, 75052, 75056, 75057, 75061, 75062, 75063, 75065, 75067, 75068, 75069, 75070, 75074, 75075, 75078, 75082, 75093, 75201, 75205, 75207, 75209, 75211, 75219, 75220, 75225, 75229, 75230, 75234, 75236, 75240, 75244, 75248, 75252, 75254, and 75287 in Collin, Dallas, and Denton Counties, Texas.

CITY OF DAWSON has applied for a renewal of TPDES Permit No. WQ0010026001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 130,000 gallons per day. The facility is located at 200 South County Line Road, approximately 0.5 mile south-southeast of Farm-to-Market Road 709 and approximately 0.5 mile east-northeast of Farm-to-Market Road 1838 in the southeast section of the City of Dawson in Navarro County, Texas 76639.

CITY OF KILGORE has applied for a renewal of TPDES Permit No. WQ0010201001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 6,000,000 gallons per day. The facility is located at 2701 Angeline Street, approximately 0.7 mile east and 0.4 mile north of the intersection of U.S. Highway 259 and Farm-to-Market Road 2204 in the City of Kilgore in Gregg County, Texas 75662.

CITY OF LEWISVILLE has applied for a renewal of TPDES Permit No. WQ0010662001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 18,000,000 gallons per day. The applicant has also applied to the TCEQ for approval of a substantial modification to its pretreatment program under the TPDES program. The facility is located approximately 2,000 feet southwest of the intersection of AT & SF Railroad and Elm Fork of the Trinity River, northeast of the City of Lewisville in Denton County, Texas 75057.

CROSBY MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0011388001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 990,000 gallons per day. The facility is located at 5703 Avenue E approximately one-half mile southwest of the intersection of Farm-to-Market Road 2100 and the Southern Pacific Railroad in the City of Crosby, in Harris County, Texas 77532.

MOFFETT TWIN-OAKS MOBILE HOME PROPERTY TRUST AND MR. FRANKLIN LEE GOODMAN have applied to the TCEQ for a renewal of TPDES Permit No. WQ0011588001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 49,000 gallons per day. The facility is located on the west bank of Willis Creek, approximately one mile south of the Willis Creek crossing of Farm-to-Market Road 842 and approximately two miles northeast of the intersection of Farm-to-Market Road 842 and State Highway 103E near the City of Lufkin in Angelina County, Texas 75901.

CITY OF HUDSON has applied for a renewal of TPDES Permit No. WQ0011826001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 550,000 gallons per day. The facility is located approximately 0.8 mile east of the intersection of State Highway 94 and Farm-to-Market Road 3258 and approximately 0.8 mile south of the intersection of State Highway 94 and Farm-to-Market Road 706 in Angelina County, Texas 75904.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO 202 has applied for a renewal of TPDES Permit No. WQ0012631001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 725,000 gallons per day. TCEQ received this application on January 31, 2011. The facility is located approximately 1,300 feet west of Bammel-North Houston, between Bourgeois Road and Harris County Flood Control District ditch in Harris County, Texas 77066.

MIRANDO WATER SUPPLY CORPORATION has applied for a renewal of TPDES Permit No. WQ0014207001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 125,000 gallons per day. The facility is located due south of the Tex-Mex Railroad and 3,000 feet due west of the intersection of State Highway 359 and Farm-to-Market Road 2895 in Webb County, Texas 78369.

The following do not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, at the address provided in the information section above, WITHIN 30 DAYS OF THE ISSUED DATE OF THE NOTICE.

E I DU PONT DE NEMOURS AND COMPANY which operates the Corpus Christi Plant, which manufactures industrial organic and inorganic chemicals has applied for a minor amendment to TPDES Permit No. WQ0001651000 to correct the single grab effluent limitation for total suspended solids at Outfall 001. The existing permit authorizes the discharge of process wastewater, treated domestic wastewater, utility water, treated groundwater, laboratory wastewater, dismantling operation wastewater, equipment wash water, and storm water via Outfall

001 at a daily average flow not to exceed 4,610,000 gallons per day; and hydrostatic test water, noncontact steam condensates, and storm water runoff via Outfall 002 on an intermittent and flow variable basis. The facility is located on the south side of State Highway 361, approximately 1.25 miles east of the intersection of State Highway 361 and State Highway 35, southeast of the City of Gregory, San Patricio County, Texas 78362.

JOHANN HALTERMANN LTD which operates Johann Haltermann, Ltd., Jacintoport Facility, has applied for a minor amendment to TPDES Permit No. WQ0002458000 to authorize the removal of Outfall 004. The existing permit authorizes the discharge of process wastewater, utility wastewater, domestic wastewater, and storm water at a daily average flow not to exceed 0.22 million gallons per day via Outfall 001, and storm water runoff on an intermittent and flow variable basis via Outfall 002 and 004, and non-contact heating water on an intermittent and flow variable basis via Outfall 003. The facility is located at 16717 Jacintoport Boulevard on the north bank of the Houston Ship Channel, approximately 1.6 miles east of the intersection of Sheldon Road and Jacintoport Boulevard, near the Community of Channelview, Harris County, Texas 77015.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.TCEQ.state.tx.us](http://www.TCEQ.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-201101961

Melissa Chao

Acting Chief Clerk

Texas Commission on Environmental Quality

Filed: June 1, 2011



## Notice of Water Rights Application

Notice issued May 25, 2011.

APPLICATION NO. 18-3891A; Tri-Community Water Supply Corporation, P.O. Box 11, Fentress, Texas 78622, Applicant, has applied for an amendment to Certificate of Adjudication No. 18-3891 to change its two diversion points to divert underflow of the San Marcos River, Guadalupe River Basin in Caldwell County and to increase the maximum combined diversion rate. More information on the application and how to participate in the permitting process is given below. The application and fees were received on July 14, 2010. Additional information was received on November 2 and December 30, 2010. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on January 13, 2011. The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions, including but not limited to, contacting the South Texas Watermaster prior to diversion. The application, technical memoranda, and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F, Austin, TX 78753. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

### INFORMATION SECTION

To view the complete issued notice, view the notice on our website at [www.tceq.state.tx.us/comm\\_exec/cc/pub\\_notice.html](http://www.tceq.state.tx.us/comm_exec/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the com-



plete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-201101962

Melissa Chao

Acting Chief Clerk

Texas Commission on Environmental Quality

Filed: June 1, 2011



### Notice of Woodward Industries, Inc. Proposed State Superfund Site

The executive director of the Texas Commission on Environmental Quality (TCEQ or commission) hereby issues public notice of intent to perform a removal action, as provided by Texas Health and Safety Code (THSC), §361.133, for the Woodward Industries, Inc., proposed state Superfund site (the site). The site, including all land, structures, appurtenances, and other improvements, occupies approximately seven acres and is located along the south side of County Road 816, approximately 0.25 miles west of Highway 259, and approximately six miles north of Nacogdoches, in Mahl, Texas. The site also includes any areas where hazardous substances have come to be located as a result, either directly or indirectly of releases of hazardous substances from the site.

Wood treating operations began at the site in 1947. Pentachlorophenol was used to treat posts at the site from 1947 until 1982 by East Texas Wood Treating and Woodward Industries, Inc. A portion of the current site was owned by Southern Pacific Transportation Company. The property was later owned by Texwood, Inc., which used the property for pallet building. It was later owned by Wesley and Jesse Myrow, and it is currently owned by Don and Marsha Shoemaker.

The site is proposed for listing under THSC, Chapter 361, Subchapter F. A removal action is appropriate at this site for a number of reasons, as supported in the statute. For example, immediate action is appropriate to protect human health and the environment due to confirmed releases

and spills, and a potential threat of a release of hazardous substances to the adjacent residential properties, a nearby cemetery, a pond located 250 feet from the site, and a large wooded area. Immediate action may also prevent the site from needing to be listed under Subchapter F. Additionally, the removal action can be completed without extensive investigation and planning and will achieve a significant cost reduction for the site cleanup. The removal action will consist of excavation and off-site disposal of the contaminated surface and subsurface soils at an approved offsite disposal facility. Removal of source material and soil contamination may prevent groundwater contamination. Thus detailed and extensive design processes associated with things such as on-site containment cells or groundwater plume management zones is unnecessary in this case, and the significant cost associated with these processes can be averted.

A portion of the records for this site is available for review during regular business hours at the Nacogdoches Public Library, 1112 North Street, Nacogdoches, Texas 75961, (936) 556-2970. Copies of the complete public record file may be obtained during business hours at the commission's Records Management Center, Building E, First Floor, Records Customer Service, MC 199, 12100 Park 35 Circle, Austin, Texas 78753, 1-800-633-9363 or (512) 239-2920. Photocopying of file information is subject to payment of a fee. Parking for persons with disabilities is available on the east side of Building D, convenient to access ramps that are between Buildings D and E.

For further information, please telephone Dean Perkins, TCEQ Project Manager, Remediation Division at (903) 535-5175, or John Flores, TCEQ Community Relations Coordinator, Remediation Division at 1-800-633-9363.

TRD-201101934

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 31, 2011



### Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality on May 18, 2011, in the matter of the Executive Director of the Texas Commission on Environmental Quality, Petitioner v. David Higginbotham and Katha Higginbotham; SOAH Docket No. 582-11-0541; TCEQ Docket No. 2010-0157-PST-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against David Higginbotham and Katha Higginbotham on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. If you have any questions or need assistance, please contact Melissa Chao, Office of the Chief Clerk, (512) 239-3300.

TRD-201101895

Melissa Chao

Acting Chief Clerk

Texas Commission on Environmental Quality

Filed: May 25, 2011



### Texas Board of Professional Geoscientists

## Advisory Opinion Request

### AOR #5 (2011)

Requestor: Kevin Almaguer, P.G.

**Re: Is the Texas Commission on Environmental Quality (TCEQ) Petroleum Storage Tank (PST) Division contributing to violations of the Geoscience Practice Act? Also, do companies have to be Geoscience/PE Firms to perform environmental geoscience work and submit reports to the TCEQ Voluntary Cleanup Program (VCP) and Industrial Hazardous Waste-Corrective Action Program? Still, what does the definition of public mean?**

Any interested person may submit written comments concerning this Advisory Opinion Request and Draft Opinion to: Charles Horton, Deputy Executive Director, P.O. Box 13225, Austin, Texas 78711, or by e-mail to [chorton@tbp.state.tx.us](mailto:chorton@tbp.state.tx.us) or by fax to (512) 936-4409. Comments must be submitted no later than 30 days from the date of the posting in the *Texas Register*. Please reference Advisory Opinion Request #5.

#### Draft Opinion

**Is the Texas Commission on Environmental Quality (TCEQ) Petroleum Storage Tank (PST) Division contributing to violations of the Geoscience Practice Act?**

No.

**Also, do companies have to be Geoscience/PE Firms to perform environmental geoscience work and submit reports to the TCEQ Voluntary Cleanup Program (VCP) and Industrial Hazardous Waste-Corrective Action Program?**

Not all corrective actions require geoscientific work that is regulated by the Texas Geoscience Practice Act, Texas Occupations Code Chapter 1002 (Act). Those corrective actions which constitute work that is regulated by the Texas Geoscience Practice Act would be in violation of the Act if not performed by a licensed Professional Geoscientist and/or Professional Geoscience Firm independent of and without regard to any other requirements or registrations under the Texas Commission on Environmental Quality (TCEQ). Work that is not regulated under the Texas Geoscience Practice Act is not required to be performed by a licensed P.G. and/or Professional Geoscience Firm. Work that is regulated must be submitted under seal to certify that the geoscience work has been performed by a licensed P.G. and/or Professional Geoscience Firm.

Geoscience, under the Texas Occupations Code §1002.002(3), means "the science of the earth and its origin and history, the investigation of the earth's environment and its constituent soils, rocks, minerals, fossil fuels, solids, and fluids, and the study of the natural and introduced agents, forces, and processes that cause changes in and on the earth."

Since much corrective action work is not related to geoscience, the mere registration of Registered Corrective Action Specialist (RCAS) and Corrective Action Project Manager (CAPM) is not relevant to the issue, as not all RCAS and CAPMs may be practicing geoscience work.

Please also see Advisory Opinion #4 with respect to "responsible charge."

#### Still what does the definition of public mean?

Texas Occupations Code §1002.002(7) defines the public practice of geoscience as "the practice for the public of geoscientific services or work, including consulting, investigating, evaluating, analyzing, planning, mapping, and inspecting geoscientific work and the responsible supervision of those tasks."

"Practice for the public" is further defined in the Texas Occupations Code §1002.002(6): "(A) means providing professional geoscientific services: (i) for a governmental entity in this state; (ii) to comply with a rule established by this state or a political subdivision of this state; or (iii) for the public or a firm or corporation in this state if the practitioner assumes the ultimate liability for the work product; and (B) does not include services provided for the express use of a firm or corporation by an employee or consultant if the firm or corporation assumes the ultimate liability for the work product."

TRD-201101958

Charles Horton

Deputy Executive Director

Texas Board of Professional Geoscientists

Filed: June 1, 2011

## Texas Health and Human Services Commission

### Notice of Public Hearing on Proposed Medicaid Payment Rate

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on June 28, 2011, at 2:30 p.m., to receive public comment on the proposed rate for the Truman W. Smith Children's Care Center, a nursing facility which is a member of the pediatric care facility special reimbursement class of the Nursing Facility Program operated by the Texas Department of Aging and Disability Services (DADS).

The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.105(g), which require public notice and hearings on proposed Medicaid reimbursements. The public hearing will be held in the Permian Basin Conference Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. Persons requiring Americans with Disabilities Act (ADA) accommodation or auxiliary aids or services should contact Esther Brown by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made.

**Proposal.** HHSC proposes to increase the rate for the nursing facility pediatric care facility special reimbursement class for Truman W. Smith Children's Care Center from \$219.69 a day to \$223.44 a day. The proposed rate will be effective September 1, 2011, and was determined in accordance with the rate-setting methodology listed below under "Methodology and Justification."

**Methodology and Justification.** The proposed rate was determined in accordance with the rate-setting methodology codified at 1 TAC Chapter 355, Subchapter C, §355.307, Reimbursement Setting Methodology.

**Briefing Package.** A briefing package describing the proposed payment rate will be available at <http://www.hhsc.state.tx.us/rad/rate-packets.shtml> on June 13, 2011. Interested parties may also obtain a copy of the briefing package prior to the hearing by contacting Esther Brown by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rate may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Esther Brown, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Esther Brown at (512) 491-1998; or by e-mail to [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). In addition,

written comments may be sent by overnight mail or hand delivered to Esther Brown, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-201101936

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2011



## Notice of Public Hearing on Proposed Medicaid Payment Rates

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on Monday June 27, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment reductions for Clinical Laboratory Services (non-state entities), Freestanding Psychiatric Facilities (non-state entities), Renal Dialysis Facilities, Ambulatory Surgical Centers/Hospital Based Ambulatory Surgical Centers (ASC/HASC), and Hospital Outpatient Medicaid Services. The public hearing will be held in the Public Hearing Room of HHSC, Winters Building, located at 701 W. 51st St., Austin, Texas. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 of the Texas Administrative Code (TAC) §355.201(e)-(f), which require public notice of and hearings on proposed Medicaid reimbursements.

**Proposal.** The Medicaid payments for the following services are proposed to be reduced in response to direction received in the 2012-13 General Appropriations Act (Article II, H.B. 1, 82nd Legislature, Regular Session, 2011), effective September 1, 2011: Ambulatory Surgical Centers services; Clinical Laboratory services; Freestanding Psychiatric services; Hospital Outpatient services; and Renal Dialysis services. In addition HHSC will convert the payment methodology for outpatient hospital imaging services to a fee schedule and will reduce reimbursement for outpatient services provided in an emergency department that do not qualify as emergency services to 60 percent of the calculated outpatient reimbursement.

**Methodology and Justification.** The payment rates were calculated in accordance with 1 TAC §355.8610, which addresses the reimbursement methodology for Clinical Laboratory Services; 1 TAC §355.8063, which addresses the reimbursement methodology for Freestanding Psychiatric Facilities; 1 TAC §355.8121, which addresses the reimbursement methodology for ASC/HASC; 1 TAC §355.8061, which addresses the reimbursement methodology for Hospital Outpatient Services; 1 TAC §355.8660, which addresses the reimbursement methodology for Renal Dialysis Facilities; and subsequently adjusted in accordance with 1 TAC 355.201(d) regarding Establishment and Adjustment of Reimbursement Rates by the Health and Human Services Commission.

**Briefing Package.** A briefing package describing the proposed payment rates will be available on or after June 10, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail

Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201101933

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2011



## Notice of Public Hearing on Proposed Medicaid Payment Rates

**Hearing.** The Health and Human Services Commission (HHSC) will conduct a public hearing on June 28, 2011, at 1:30 p.m., to receive public comment on proposed payment rates for state-owned veterans nursing facilities. These nursing facilities are in the nursing facility program operated by Department of Aging and Disability Services. These payment rates are proposed to be effective March 1, 2011.

The public hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 of the Texas Administrative Code (TAC) §355.105(g), which require public notice and hearings on proposed payment rates. The public hearing will be held in the Permian Basin Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. Persons requiring Americans with Disabilities Act (ADA) accommodation or auxiliary aids or services should contact Esther Brown by calling (512) 491-1358, at least 72 hours prior to the hearing so appropriate arrangements can be made.

**Proposal.** HHSC proposes the following interim per day payment rates for the state-owned veterans nursing facilities effective March 1, 2011: Big Spring, \$143.00; Bonham, \$143.00; Floresville, \$143.00; Temple, \$143.00; McAllen, \$143.00; El Paso, \$143.00 and Amarillo, \$143.00. The proposed rates for each home are based upon the state veterans home semi-private basic daily rate in effect on the first day of the rate period in accordance with the rate-setting methodologies listed below under "Methodology and Justification." These rates will be reconciled retrospectively based on actual costs in accordance with 1 TAC §355.311(j).

**Methodology and justification.** The proposed rates were determined in accordance with the rate reimbursement setting methodology at 1 TAC §355.311(d).

**Briefing package.** A briefing package describing the proposed payment rates will be available at <http://www.hhsc.state.tx.us/rad/rate-packets.shtml> on June 13, 2011. Interested parties may also obtain a copy of the briefing package prior to the hearing by contacting Esther Brown at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). The briefing package will also be available at the public hearing.

**Written and oral comments.** Written comments regarding the payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Esther Brown, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Esther Brown at (512) 491-1998; or by e-mail to [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to

Esther Brown, HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-201101935

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2011



### Notice of Public Hearing on Proposed Medicaid Payment Rates

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on June 28, 2011, at 8:30 a.m., to receive public comment on proposed rates for the Hospice-Nursing Facility (NF) and Hospice-Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) programs operated by the Texas Department of Aging and Disability Services (DADS).

The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.105(g), which require public notice and hearings on proposed Medicaid reimbursements. The public hearing will be held in the Permian Basin Conference Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. Persons requiring Americans with Disabilities Act (ADA) accommodation or auxiliary aids or services should contact Jamie Mollenhauer by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made.

**Proposal.** HHSC proposes to adjust the rates for the Hospice-NF and Hospice ICF/MR programs to be equal to 95 percent of the appropriate NF or ICF/MR rate for each Medicaid recipient residing in an NF or ICF/MR. Currently, Hospice-NF and Hospice-ICF/MR rates are equal to 96.96 percent of the appropriate NF or ICF/MR rate. The proposed rates will be effective September 1, 2011, and were determined in accordance with the rate-setting methodology listed below under "Methodology and Justification."

**Methodology and Justification.** The proposed rates were determined in accordance with the rate-setting methodology codified at Title 40 of the Texas Administrative Code (TAC), Chapter 30, Subchapter F, §30.60, Medicaid Hospice Payments and Limitations. These rates were subsequently adjusted in accordance with 1 TAC Chapter 355, Subchapter A, §355.101, Introduction, and §355.109, Adjusting Reimbursement When New Legislation, Regulations or Economic Factors Affect Costs, and Subchapter B, §355.201, Establishment and Adjustment of Reimbursement Rates by the Health and Human Services Commission. These rate adjustments are being made as a result of the 2012-2013 General Appropriations Act (Article II, H.B. 1, 82nd Legislature, Regular Session, 2011).

**Briefing Package.** A briefing package describing the proposed payment rate will be available at <http://www.hhsc.state.tx.us/rad/rate-packets.shtml> on June 13, 2011. Interested parties may also obtain a copy of the briefing package prior to the hearing by contacting Jamie Mollenhauer by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at [jamie.mollenhauer@hhsc.state.tx.us](mailto:jamie.mollenhauer@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rate may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Jamie Mollenhauer, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Jamie Mollenhauer at

(512) 491-1998; or by e-mail to [jamie.mollenhauer@hhsc.state.tx.us](mailto:jamie.mollenhauer@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Jamie Mollenhauer, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-201101937

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2011



### Notice of Public Hearing on Proposed Medicaid Payment Rates

**Hearing.** The Texas Health and Human Services Commission will conduct a public hearing on June 29, 2011, at 8:30 a.m. to receive public comment on payment rate adjustments for the non-state operated Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) program and the Home and Community-based Services (HCS) and Texas Home Living (TxHmL) waiver programs and the Supported Employment, Out-of-Home Respite in an ICF/MR, Consumer Directed Services Out-of-Home Respite in an ICF/MR and 24-Hour Residential Habilitation services in the Consolidated Waiver Program (CWP) and the Supported Employment and Employment Assistance services in the Deaf-Blind with Multiple Disabilities (DBMD) waiver program. These programs are operated by the Texas Department of Aging and Disability Services (DADS). The hearing will be held in compliance with Human Resources Code §32.0282, which requires a public hearing on proposed payment rates. The public hearing will be held in the John H. Winters Building Public Hearing Room, 701 West 51st Street, Austin, Texas. Persons requiring Americans with Disabilities Act (ADA) accommodation or auxiliary aids or services should contact Esther Brown by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made.

**Proposal.** HHSC proposes to adjust rates for the programs and services listed above under "Hearing." The proposed payment rates will be effective September 1, 2011, and were determined in accordance with the rate-setting methodologies listed below under "Methodology and Justification."

**Methodology and Justification.** The proposed rates were determined in accordance with the rate-setting methodologies codified at Title 1 of the Texas Administrative Code (TAC), Chapter 355, Subchapter D, §355.456, Reimbursement Methodology, Subchapter E, §355.506, Reimbursement Methodology for Consolidated Waiver Program, and §355.513, Reimbursement Methodology for the Deaf-Blind with Multiple Disabilities Waiver Program, and Subchapter F, §355.723, Reimbursement Methodology for Home and Community-Based Services and Texas Home Living Programs. (Note that §355.723 will be proposed to be amended in the *Texas Register* for a September 1, 2011, effective date.) These rates were subsequently adjusted in accordance with 1 TAC Chapter 355, Subchapter A, §355.101, Introduction, and §355.109, Adjusting Reimbursement When New Legislation, Regulations or Economic Factors Affect Costs, and Subchapter B, §355.201, Establishment and Adjustment of Reimbursement Rates by the Health and Human Services Commission. These rate adjustments are being made as a result of the 2012-2013 General Appropriations Act (Article II, H.B. 1, 82nd Legislature, Regular Session, 2011).

**Briefing Package.** A briefing package describing the proposed payment rates will be available at <http://www.hhsc.state.tx.us/rad/rate-packets.shtml> on June 13, 2011. Interested parties may also obtain a copy of the briefing package prior to the hearing by contacting Esther Brown by telephone at (512) 491-1445; by fax at (512) 491-1998; or

by e-mail at [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Esther Brown, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Esther Brown at (512) 491-1998; or by e-mail to [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Esther Brown, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-201101938

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2011



### Notice of Public Hearing on Proposed Medicaid Payment Rates

**Hearing.** The Texas Health and Human Services Commission will conduct a public hearing on June 29, 2011, at 1:00 p.m. to receive public comment on payment rate adjustments for the Community Based Alternatives (CBA) waiver program. This program is operated by the Texas Department of Aging and Disability Services (DADS). The hearing will be held in compliance with Human Resources Code §32.0282, which requires a public hearing on proposed payment rates. The public hearing will be held in the John H. Winters Building Public Hearing Room, 701 West 51st Street, Austin, Texas. Persons requiring Americans with Disabilities Act (ADA) accommodation or auxiliary aids or services should contact Jamie Mollenhauer by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made.

**Proposal.** HHSC proposes to adjust rates for the CBA waiver program. The proposed payment rates will be effective September 1, 2011, and were determined in accordance with the rate-setting methodologies listed below under "Methodology and Justification."

**Methodology and Justification.** The proposed rates were determined in accordance with the rate-setting methodology codified at Title 1 of the Texas Administrative Code (TAC), Chapter 355, §355.503, Reimbursement Methodology for the Community-Based Alternatives Waiver Program and the Integrated Care Management-Home and Community Support Services and Assisted Living/Residential Care Programs. (Note that §355.503 will be proposed to be amended in the *Texas Register* for a September 1, 2011 effective date.) These rates were subsequently adjusted in accordance with 1 TAC Chapter 355, Subchapter A, §355.101, Introduction, and §355.109, Adjusting Reimbursement When New Legislation, Regulations or Economic Factors Affect Costs, and Subchapter B, §355.201, Establishment and Adjustment of Reimbursement Rates by the Health and Human Services Commission. These rate adjustments are being made as a result of the 2012-2013 General Appropriations Act (Article II, H.B. 1, 82nd Legislature, Regular Session, 2011).

**Briefing Package.** A briefing package describing the proposed payment rates will be available at <http://www.hhsc.state.tx.us/rad/rate-packets.shtml> on June 13, 2011. Interested parties may also obtain a copy of the briefing package prior to the hearing by contacting Jamie Mollenhauer by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at [jamie.mollenhauer@hhsc.state.tx.us](mailto:jamie.mollenhauer@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Jamie Mollenhauer, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Jamie Mollenhauer at (512) 491-1998; or by e-mail to [jamie.mollenhauer@hhsc.state.tx.us](mailto:jamie.mollenhauer@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Jamie Mollenhauer, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-201101939

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: May 31, 2011



### Notice of Public Hearing on Proposed Medicaid Payment Reductions

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on June 27, 2011, at 9:00 a.m., to receive comment on proposed Medicaid payments for Ambulance Services; Case Management for Children and Pregnant Women; Early and Periodic Screening, Diagnosis and Treatment Services, including Medical Checkups, Private Duty Nursing, and Therapies in a Comprehensive Outpatient Rehabilitation Facility/Outpatient Rehabilitation Facility; Personal Care Services; Family Planning Services; Home Health Services, including Professional Services and Durable Medical Equipment and Expendable Supplies; Mental Health Rehabilitation Services; Mental Health Targeted Case Management; Tuberculosis Clinics; and the Vendor Drug Dispensing Fee. The public hearing will be held in the HHSC, Winters Building, Public Hearing Room, 701 W. 51st Street, Austin, Texas.

The hearing will be held in compliance with the Texas Human Resources Code §32.0282; and 1 TAC §355.105 and §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

**Proposal.** The Medicaid payments for the services outlined above are proposed to be reduced in response to direction received in the 2012-2013 General Appropriations Act (Article II, House Bill 1, 82nd Legislature, Regular Session, 2011), effective September 1, 2011.

**Methodology and Justification.** The proposed reimbursements are calculated in accordance with the previously cited sections and the following sections, as applicable:

1 TAC §355.201, which addresses the establishment and adjustment of reimbursement rates by the HHSC;

1 TAC §355.8001, which addresses the reimbursement methodology for vision care services;

1 TAC §355.8021, which addresses the reimbursement methodology for home health professional services and durable medical equipment, prostheses, orthotics and supplies;

1 TAC §355.8087, which addresses the reimbursement methodology for in-home total parenteral hyperalimentation services;

1 TAC §355.8091, which addresses the reimbursement methodology for licensed professional counselors, licensed master social worker-advanced clinical practitioners, and licensed marriage and family therapists;

1 TAC §355.8141, which addresses the reimbursement methodology for hearing aid services;

1 TAC §355.8161, which addresses the reimbursement methodology for certified nurse midwives;

1 TAC §355.8221, which addresses the reimbursement methodology for certified registered nurse anesthetists;

1 TAC §355.8241, which addresses the reimbursement methodology for chemical dependency and treatment facilities;

1 TAC §355.8281, which addresses the reimbursement methodology for nurse practitioner or clinical nurse specialist;

1 TAC §355.8401, which addresses the reimbursement methodology for case management for children and pregnant women;

1 TAC §355.8441, which addresses the reimbursement methodology for durable medical equipment, prostheses, orthotics, and supplies in early and periodic screening, diagnosis, and treatment (EPSDT);

1 TAC §355.8441(4) and (12) which addresses the reimbursement methodology for private duty nursing and personal care services in EPSDT;

1 TAC §355.8461, which addresses the reimbursement methodology for the eyeglass program;

1 TAC §355.8551, which addresses the reimbursement methodology for pharmacy services dispensing fee; and

1 TAC §§355.8581 - 355.8584, which address the reimbursement methodology for case management for family planning services.

**Briefing Package.** A briefing package describing the proposed payments will be available at [www.hhsc.state.tx.us/medicaid/programs/rad/ratepackets.html](http://www.hhsc.state.tx.us/medicaid/programs/rad/ratepackets.html) on or after June 13, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payments may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to [esther.brown@hhsc.state.tx.us](mailto:esther.brown@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201101964

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: June 1, 2011



Notice of Public Hearing: Task Force for Children with Special Needs

The Task Force for Children with Special Needs (Task Force) will hold a public hearing Tuesday, June 21, 2011, in Austin to hear testimony about its ongoing work.

The hearing will run from 9:00 a.m. - 11:00 a.m. in the Public Hearing Room of the Brown-Heatly Building, 4900 N. Lamar Blvd., Austin, Texas 78751.

The Task Force was established in 2009 by Senate Bill 1824, 81st Legislature, Regular Session, 2009. It includes state agency representatives, legislators and public members. The goal of the Task Force is to focus key decision-makers in creating a strategic plan to be implemented over a five-year period to improve coordination, quality and efficiency for the delivery of services for children with chronic illnesses, intellectual and/or developmental disabilities and/or mental illness. The Task Force's areas of focus includes health, mental health, education, juvenile justice, crisis prevention, transitioning youth, long-term care and early childhood intervention.

The Task Force will hear testimony on the proposed draft elements of the Strategic Plan.

To ensure that all interested parties are provided an opportunity to speak, time for verbal testimony may be limited depending on the number of witnesses present. Written testimony may also be submitted in addition to or in lieu of verbal testimony.

For those unable to attend the hearing, testimony may be emailed to [opccy@hhsc.state.tx.us](mailto:opccy@hhsc.state.tx.us), or sent via U.S. mail to:

Task Force for Children with Special Needs

Texas Health and Human Services Commission

P.O. Box 13247

Mail Code: 1214

Austin, TX 78711

For additional information, contact:

Sherry Broberg, Office of Program Coordination for Children and Youth, Health and Human Services Commission, 1106 Clayton Lane, Austin, TX 78723; (512) 420-2856; [Sherry.Broberg@hhsc.state.tx.us](mailto:Sherry.Broberg@hhsc.state.tx.us)

This meeting is open to the general public. No reservations are required and there is no cost to attend this meeting.

People with disabilities, who need auxiliary aids or services for this meeting, are asked to contact Cassandra Marx at (512) 420-2857 or [Cassandra.Marx@hhsc.state.tx.us](mailto:Cassandra.Marx@hhsc.state.tx.us) at least 72 hours before the meeting.

TRD-201101957

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: June 1, 2011



#### Notification of Request for Proposal for Consulting Services

I. Pursuant to Chapter 2254, Subchapter B, Texas Government Code, the Health and Human Services Commission (HHSC) announces the release of its Request for Proposals for Consulting Services to Provide a 2nd Medical Checkup Completeness Study per Civil Action No. 3:93:CV65 (*Frew et al., v. Suehs, et al.*) RFP #529-12-0004. HHSC seeks to contract with one vendor to fulfill the requirements pursuant to this RFP.

II. In compliance with the Corrective Action Order: Checkups, entered September 5, 2007 in *Frew, et al., v. Suehs, et al.*, Civil Action No.

3:93CV65, the Health and Human Services Commission (HHSC) seeks to procure the second court-ordered study of Medicaid Early and Periodic Screening and Diagnostic Treatment (EPSDT) medical checkup completeness.

The RFP is located in full on HHSC's Business Opportunities Page under link at [http://www.hhsc.state.tx.us/about\\_hhsc/Bu-sOpp/BO\\_home.shtml](http://www.hhsc.state.tx.us/about_hhsc/Bu-sOpp/BO_home.shtml). HHSC also posted notice of the procurement on the Texas Marketplace on June 10, 2011.

III. The successful contractor(s) will be expected to complete one (1) court-ordered study in accordance with the directives of the *Frew, et al., v. Suehs, et al.*, Civil Action No. 3:93CV65, Corrective Action Order: Checkups. HHSC is requesting procurement of vendor services to complete a final independent, unbiased, statistically valid, and timely study of Medicaid EPSDT medical checkup completeness no later than November 2012.

IV. Health and Human Services Commission's Sole Point-of-Contact for Procurement

Abel Martinez, C.T.P.M.

Purchaser

Health and Human Services Commission

Enterprise Contract and Procurement Services

4405 North Lamar, Bldg. 1

Mail Code: 2020

Austin, Texas 78756

(512) 206-5524

[Abel.Martinez@hhsc.state.tx.us](mailto:Abel.Martinez@hhsc.state.tx.us)

V. All questions regarding the RFP must be sent in writing to the above-referenced contact by 1:00 p.m. Central Time on June 20, 2011. HHSC will post all written questions received with HHSC's responses on its website on July 8, 2011, or as they become available. All proposals must be received at the above-referenced address on or before 1:00 p.m. Central Time on July 22, 2011. Proposals received after this time and date will not be considered.

VI. HHSC will hold a Vendor Conference on June 17, 2011 from 9:30 a.m. to 12:00 p.m. Central Time in the Lone Star Conference Room at the HHSC located at 11209 Metric Boulevard, Building H, Austin, Texas 78758.

All proposals will be subject to evaluation based on the criteria and procedures set forth in the RFP. HHSC reserves the right to accept or reject any or all proposals submitted. HHSC is under no legal or other obligation to execute any contracts on the basis of this notice. HHSC will not pay for costs incurred by any entity in responding to this RFP.

TRD-201101956

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: June 1, 2011

◆ ◆ ◆  
**Texas Department of Housing and Community Affairs**

Announcement of the Opening of the Public Comment Period for the Draft Substantial Amendment 2 to the State of Texas FFY 2010 Action Plan

The Texas Department of Housing and Community Affairs (the "Department") announces the opening of a 15-day public comment period for an amendment to the *State of Texas Federal Fiscal Year (FFY) 2010 Action Plan* as required by the U.S. Department of Housing and Urban Development (HUD). The Amendment is necessary as part of the overall requirements governing the State's consolidated planning process. The Amendment is submitted in compliance with 24 CFR §91.520, Consolidated Plan Submissions for Community Planning and Development Programs, as modified by the *Federal Register* Notice (Docket No.FR-5321-N-03). The 15-day public comment period begins June 14, 2011 and continues until 5:00 p.m. on June 29, 2011.

This amendment outlines the expected distribution and use of \$7,284,978.00 through the Neighborhood Stabilization Program (NSP), which HUD is providing to the State of Texas. This allocation of funds is provided under §1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203, approved July 21, 2010) ("Dodd-Frank Act").

Beginning June 14, 2011, the Substantial Amendment will be available on the Department's website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us). A hard copy may be requested by contacting the Texas Neighborhood Stabilization Program at P.O. Box 13941, Austin, Texas 78711-3941 or by calling (512) 463-2179.

Written comment should be sent by mail to Megan Sylvester, Texas Department of Housing and Community Affairs, Neighborhood Stabilization Program, P.O. Box 13941, Austin, Texas 78711-3941, by email to [megan.sylvester@tdhca.state.tx.us](mailto:megan.sylvester@tdhca.state.tx.us), or by fax to (512) 475-3746.

TRD-201101946

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: May 31, 2011

◆ ◆ ◆  
**Texas Department of Insurance**

Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application of PLANCONNECT, LLC, a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Application of LIBERTY DENTAL PLAN OF TEXAS, INC., a foreign third party administrator. The home office is CARSON CITY, NEVADA.

Application of MOUNTAIN STATES INSURANCE SERVICES, INC. (DOING BUSINESS AS MOUNTAIN STATES ADMINISTRATIVE SERVICES), a foreign third party administrator. The home office is TUCSON, ARIZONA.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of David Moskowitz, MC 305-2E, 333 Guadalupe, Austin, Texas 78701.

TRD-201101951

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: June 1, 2011

◆ ◆ ◆  
**Texas Lottery Commission**

Instant Game Number 1331 "20X the Money"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1331 is "20X THE MONEY". The play style is "key number match with multipliers".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1331 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1331.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the ticket that is used to determine eligibility for a prize. Each Play Symbol

is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10X SYMBOL, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20X SYMBOL, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$500, \$1,000, and \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:



Figure 1: GAME NO.1331 - 1.2D

| PLAY SYMBOL | CAPTION  |
|-------------|----------|
| 1           | ONE      |
| 2           | TWO      |
| 3           | THR      |
| 4           | FOR      |
| 5           | FIV      |
| 6           | SIX      |
| 7           | SVN      |
| 8           | EGT      |
| 9           | NIN      |
| 10X SYMBOL  | WINX10   |
| 11          | ELV      |
| 12          | TLV      |
| 13          | TRN      |
| 14          | FTN      |
| 15          | FFN      |
| 16          | SXN      |
| 17          | SVT      |
| 18          | ETN      |
| 19          | NTN      |
| 20X SYMBOL  | WINX20   |
| 21          | TWON     |
| 22          | TWTO     |
| 23          | TWTH     |
| 24          | TWFR     |
| 25          | TWV      |
| 26          | TWSX     |
| 27          | TWSV     |
| 28          | TWET     |
| 29          | TWNI     |
| 30          | TRTY     |
| 31          | TRON     |
| 32          | TRTO     |
| 33          | TRTH     |
| 34          | TRFR     |
| 35          | TRFV     |
| 36          | TRSX     |
| 37          | TRSV     |
| 38          | TRET     |
| 39          | TRNI     |
| 40          | FRTY     |
| \$5.00      | FIVE\$   |
| \$10.00     | TEN\$    |
| \$20.00     | TWENTY   |
| \$25.00     | TWY FIV  |
| \$50.00     | FIFTY    |
| \$100       | ONE HUND |
| \$500       | FIV HUND |
| \$1,000     | ONE THOU |
| \$50,000    | 50 THOU  |

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100, \$200 or \$500.

H. High-Tier Prize - A prize of \$1,000, \$5,000 or \$50,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1331), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 1331-0000001-001.

K. Pack - A pack of "20X THE MONEY" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

L. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "20X THE MONEY" Instant Game No. 1331 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "20X THE MONEY" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) play symbols. If the player matches any YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE for that number. If the player reveals a "10X" symbol, the player WINS 10 TIMES the PRIZE for that symbol. If the player reveals a "20X" symbol, the player WINS 20 TIMES the PRIZE for that symbol! No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

#### 2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 45 (forty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.

- B. The "10X" (win x 10) and "20X" (win x 20) play symbols will only appear on intended winning tickets as dictated by the prize structure.
- C. No four or more duplicate non-winning prize symbols on a ticket.
- D. No duplicate WINNING NUMBERS play symbols on a ticket.
- E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.
- F. Non-winning prize symbols will never be the same as the winning prize symbol(s).
- G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e., 5 and \$5).
- H. The top prize symbol will appear on every ticket unless otherwise restricted.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "20X THE MONEY" Instant Game prize of \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required to pay a \$50.00, \$100, \$200 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "20X THE MONEY" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "20X THE MONEY" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "20X THE MONEY" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "20X THE MONEY" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

### 3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 1331. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1331 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$5          | 480,000                        | 12.50                       |
| \$10         | 600,000                        | 10.00                       |
| \$20         | 280,000                        | 21.43                       |
| \$50         | 57,500                         | 104.35                      |
| \$100        | 11,950                         | 502.09                      |
| \$200        | 2,500                          | 2,400.00                    |
| \$500        | 2,300                          | 2,608.70                    |
| \$1,000      | 300                            | 20,000.00                   |
| \$5,000      | 16                             | 375,000.00                  |
| \$50,000     | 6                              | 1,000,000.00                |

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.18. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1331 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant ticket game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1331, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201101959  
 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: June 1, 2011

(CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Cebridge Acquisition, L.P. d/b/a Suddenlink Communications for Amendment to a State-Issued Certificate of Franchise Authority, Project Number 39444.

The requested amendment is to expand the service area footprint to include the municipalities of Mineola and Conroe, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll free) 1-800-735-2989. All inquiries should reference Project Number 39444.

TRD-201101945  
 Adriana A. Gonzales  
 Rules Coordinator  
 Public Utility Commission of Texas  
 Filed: May 31, 2011

◆ ◆ ◆  
**Public Utility Commission of Texas**

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on May 27, 2011, to amend a state-issued certificate of franchise authority

◆ ◆ ◆  
 Notice of Application for Approval of Transaction Under Public Utility Regulatory Act §39.158

Notice is given to the public of an application for approval of the sale, transfer, merger, or affiliation of electric generation facilities filed with the Public Utility Commission of Texas on May 17, 2011, pursuant to the Public Utility Regulatory Act, Texas Utility Code Annotated, §§14.101, 39.154, and 39.158 (Vernon 2007 & Supplement 2010).

Docket Style and Number: Application of Exelon Corporation Pursuant to §39.158 of the Public Utility Regulatory Act, Docket Number 39412.

The Application: Exelon Corporation (Exelon) filed an application for approval of the proposed acquisition of Wolf Hollow I, LP (transaction). Exelon owns electric generation facilities located in the Electric Reliability Council of Texas (ERCOT) region. Wolf Hollow is an electric generating facility located near Granbury, Texas and is a power generation company in the ERCOT region. Exelon proposes to close the transaction on September 14, 2011, or as soon as possible following the acquisition of all required regulatory approvals.

The applicant is required to obtain commission approval before closing the transaction if the electricity to be offered for sale in the relevant power region will exceed one percent of the total electricity for sale in the relevant power region. Under §39.154, a power generation company may not own and control more than 20% of the installed generation capacity located in, or capable of delivering electricity to a power region. Exelon stated that, since the newly affiliated entities will own and control 3,740 MW of installed generation capacity within ERCOT, this will not exceed the 20% limitation in the region.

Persons who wish to intervene in or comment upon this application should notify the Public Utility Commission of Texas. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is June 24, 2011. All correspondence should refer to Docket Number 39412.

TRD-201101896  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 25, 2011



#### Notice of Application for Approval of Transaction Under Public Utility Regulatory Act §39.158

Notice is given to the public of an application for approval of the sale, transfer, merger, or affiliation of electric generation facilities filed with the Public Utility Commission of Texas on May 17, 2011, pursuant to the Public Utility Regulatory Act, Texas Utility Code Annotated, §§14.101, 39.154, and 39.158 (Vernon 2007 & Supplement 2010).

Docket Style and Number: Joint Application of Exelon Corporation and Constellation Energy Group, Inc. Pursuant to §39.158 of the Public Utility Regulatory Act, Docket Number 39413.

The Application: Exelon Corporation (Exelon) and Constellation Energy Group, Inc. (Constellation) (collectively, applicants) filed an application for approval of the proposed merger of Constellation with a subsidiary of Exelon, Bolt Acquisition Group (transaction). The applicants propose to close the transaction on January 5, 2012, or as soon as possible following the acquisition of all required regulatory approvals.

Through subsidiaries, Exelon owns 3,035 MW of generation facilities located in or capable of delivering electricity to the Electric Reliability Council of Texas (ERCOT). Through subsidiaries, Constellation owns 991 MW of generation facilities located in or capable of delivering electricity to ERCOT. Following the transaction, the combined entity's 4,026 MW of installed generation capacity located in, or capable of

delivering electricity to, ERCOT will be 4.75% of the total installed generation capacity located in, or capable of delivering electricity to, ERCOT. Exelon owns 2,819 MW of generation facilities located in or capable of delivering electricity to the Southwest Power Pool (SPP) power region in Texas. Constellation owns 905 MW of generation facilities located in or capable of delivering electricity to the SPP. Following the transaction, the combined entity's 3,725 MW of installed generation capacity located in, or capable of delivering electricity to, SPP, will be 6.97% of the total installed generation capacity located in, or capable of delivering electricity to SPP.

The applicants are required to obtain commission approval before closing the transaction if the electricity to be offered for sale in the relevant power region will exceed one percent of the total electricity for sale in the relevant power region. Under §39.154, a power generation company may not own and control more than 20% of the installed generation capacity located in, or capable of delivering electricity to a power region. The applicants have stated that, since the combined entity will own and control 4,026 MW of installed generation capacity within ERCOT and 3,725 MW of installed generation capacity in SPP, this will not exceed the 20% limitation in either power region.

Persons who wish to intervene in or comment upon this application should notify the Public Utility Commission of Texas. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is June 24, 2011. All correspondence should refer to Docket Number 39413.

TRD-201101897  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 25, 2011



#### Notice of Application for Service Area Exception

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on May 25, 2011, for an amendment to certificated service area for a service area exception within Sherman County, Texas.

Docket Style and Number: Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for Electric Service Area Exception within Sherman County. Docket Number 39442.

The Application: Southwestern Public Service Company (SPS) filed an application for a service area boundary exception to allow SPS to provide service to a specific customer located within the certificated service area of Rita Blanca Electric Cooperative, Inc. (RBEC). RBEC has provided a letter of concurrence for the proposed change.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than June 20, 2011 by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 39442.

TRD-201101944

Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 31, 2011

◆ ◆ ◆  
**Railroad Commission of Texas**

**Request for Comments on Proposed Railroad Commission Oil and Gas Form Changes**

The Railroad Commission of Texas requests comments on certain Oil and Gas Division forms as part of the proposed amendments to 16 TAC §3.80, relating to Commission Oil and Gas Forms, Applications, and Filing Requirements, published in this issue of the *Texas Register*. The proposed amendments to §3.80 are found only in the Table and refer to revisions to Form H-10, Annual Disposal/Injection Well Monitoring Report; Form P-3, Authority to Transport Recovered Load or Frac

Oil; and Form P-5, Organization Report; new Form PSA-12, Production Sharing Agreement Code Sheet; Form P-5A, Organization Report Non-Employee Agent Listing; Form P-5O, Organization Report Officer Listing; Form W-3C, Certification of Surface Equipment Removal for an Inactive Well; and Form W-3X, Application for an Extension of Deadline for Plugging an Inactive Well; and the deletion of Form OW-1, Application for Authority to Conduct a Surface Inspection of Orphaned Oil or Gas Well; Form OW-2, Application for Certificate of Designation as the Operator of Orphaned Oil or Gas Well; Form P-5IWB, Individual Well Bond; Form P-5IWLC, Individual Well Irrevocable Documentary Letter of Credit; and Form P-5S, P-5 Supplemental Officer Listing. The Commission is requesting comments on both the proposed amendments to §3.80 and these proposed form changes and new forms.



## Instructions

### Form H-10: Annual Disposal/Injection Well Monitoring Report

Reference: Statewide Rules 9 and 46

#### When to File

The Railroad Commission (RRC) will provide a list of well(s) for which Form(s) H-10 are due prior to the due date. The Form H-10 must be completed, received, and accepted at the Austin office by the due date on the front of the form. A Form H-10 can be filed electronically (Online or EDI) at <https://webapps.rrc.state.tx.us/security/login.do>. If you prefer to file on paper, the blank Form H-10 may be printed individually at <http://webapps.rrc.state.tx.us/H10/publicSearchH10.do>.

#### Items

**Item 13.** Complete this item if the well has been used for injection. Report the average and maximum injection pressure for each month of the specified reporting cycle.

**Item 14.** If the well has been used for injection, report the total volume of liquid and/or gas injected for each month. Report liquid and gas volumes at standard temperature and pressure. If no injection occurred during the reporting cycle, report "0" (zero) in the Liquids (BBLs) column or Gases (MCF) column for each month of the cycle

**Item 15.** This item is optional (unless required by permit) and may be accepted as an alternative mechanical integrity demonstration under certain conditions. Report the minimum and maximum annulus pressure (between tubing and casing) and include the number of times the readings were made each month. Enter a "C" under number of readings for continuous monitoring.

**Items 16 and 17.** Complete these items if the well has been used for injection. Indicate the injection intervals and the tubing/packer depth.

**Item 20.** Indicate all fluid types injected or disposed during the reporting cycle by indicating the percentage of total liquid/gas injected during the cycle year. Round off to whole numbers so that the sum of the percentages for all fluids equals 100%. For disposal wells, the percentage of salt water disposal (as opposed to enhanced recovery), NORM, H<sub>2</sub>S, and other non-hazardous oil and gas waste should total 100%. The percentage of Anthropogenic CO<sub>2</sub> should be a subset of the overall CO<sub>2</sub> volume and not counted in the fluid total.

Use the "Other Fluid" category to report specific fluids injected that are not included in the preset choices available. To report exploration and production exempted waste by the Resource Conservation and Recovery Act (RCRA) online filers choose from the drop down box "Other Non-Hazardous Oil & Gas Waste"; hard-copy filers specify at "other fluid" that the fluid injected is "RCRA Non-Hazardous Oil & Gas Waste".

Form H-10 must be filed even if the well is not currently being used. Report "0" (zero) in the Liquids (BBLs) or Gases (MCF) column for each month of the cycle and sign, date and return. If you do not receive a notice to file Form H-10 for every injection/disposal well in an oil or gas field, contact the Railroad Commission Austin Office (Technical Permitting).

Definitions for injection/disposal fluid types can be found on the Railroad Commission website at <http://www.rrc.state.tx.us/onlinefilings/H10online/index.php>



|  |  |                      |
|--|--|----------------------|
| <b>RRC DISTRICT NO.</b> _____  |  |                      |
| This form is to be used only when the recovered load or frac oil was obtained from a source other than the lease on which it was used. <u>This form must be completed in a timely manner to assure proper accounting by both the Producer and the Transporter.</u> |  |                      |
| <b>Producer and Address</b> (including city, state and zip code)   |  |                      |
| Both the Producer and the Transporter must honor this Form P-3 in the month shown at right for reporting purposes and the month shown must be the month in which the material was moved.   | _____<br><b>MONTH</b>  | _____<br><b>YEAR</b> |
| This is the authority for the transportation of _____ barrels of recovered load or frac oil by _____ (GATHERER) from our _____   |  |                      |
| LEASE NAME _____ LEASE NO. _____ WELL NO. _____  |  |                      |
| FIELD _____ COUNTY _____   |  |                      |
| RESERVOIR _____ MONTH OF RECOVERY _____  |  |                      |
| This material was used for _____ and is now or will be ready for movement in the month covered by this report.   |  |                      |
| <b>SOURCE – LOAD OR FRAC OIL (FILL IN THE APPROPRIATE SPACES BELOW)</b>  |  |                      |
| _____ barrels of oil were transferred for this purpose from the _____ LEASE  |  |                      |
| _____ FIELD _____ COUNTY _____   |  |                      |
| and/or _____ barrels of oil were obtained for this purpose from _____ SOURCE AND SUPPLIER  |  |                      |
| on ____/____/____<br>(Mo.) (Day) (Year)  |  |                      |
| Remarks:   | <p style="text-align: center;"><b>CERTIFICATE</b></p> <p>I declare under penalties prescribed in §91.143, Natural Resources Code, that I am authorized to make this report, that this report was prepared by me or under my supervision and direction, and that data and facts stated therein are true, correct, and complete, to the best of my knowledge.</p> <p>Name: _____</p> <p>Position: _____</p> <p>Date: _____</p> <p>Telephone No. (____) _____</p> |                      |
| <b>IMPORTANT NOTE: The use of DIESEL FUEL in hydraulic fracturing activities is subject to the federal Safe Drinking Water Act and requires prior notice to, and approval from, the Railroad Commission.</b>   |  |                      |

## **FORM P-3**

### **INSTRUCTIONS**

A receipted delivery ticket or a certified copy of the invoice of the supplier of load or frac oil stating therein the volume of load or frac oil furnished must be attached to the original copy of Form P-3 in each case where the load oil source is other than lease source.

This form should not be completed until such time as the recovery of the liquid hydrocarbon material has begun and should be filed for the volume ready for movement or the volume that is anticipated to be ready for movement in the month covered by Form P-3.

Form P-3 shall be filed in duplicate with the appropriate Commission district office. In addition, a copy shall be immediately supplied to the transporter designated on Form P-3 prior to the movement of the recovered load or frac oil.

Recovered load or frac oil shall not be shown as production on Form PR.

Recovered liquid hydrocarbons moved on authority of Form P-3 shall be shown as "Receipts From Other Sources" Page 1-A of Form T-1 by the transporter and designated as load or frac oil.

# ORGANIZATION REPORT

|   |  |   |
|---|--|---|
| <b>1. Purpose of Filing</b>   | <input type="checkbox"/> New Filing <input type="checkbox"/> Annual Refiling<br><input type="checkbox"/> Change of Officers/Resident Agent <input type="checkbox"/> Address Correction   | <b>2. RRC Operator No. (if assigned)</b>    |
| <b>3. ORGANIZATION</b>  | Name of entity: _____<br><small>(If the name of the organization has changed, see Instructions on back)</small>  |   |
|   | Mailing Address: _____   | Street Address: _____                       |
|   | Organization Phone Number: _____   | Emergency (after hours) Phone Number: _____ |
| <b>4. Plan of Organization (select one)</b>   | <input type="checkbox"/> A. Corporation <input type="checkbox"/> B. Limited Partnership <input type="checkbox"/> C. Sole Proprietorship <input type="checkbox"/> D. Partnership <input type="checkbox"/> E. Trust<br><input type="checkbox"/> F. Joint Venture <input type="checkbox"/> G. Estate <input type="checkbox"/> H. Ltd Liability Co. (LLC) <input type="checkbox"/> I. Other (specify): _____ |   |
| <b>5. TEXAS RESIDENT AGENT</b>  | Name of Texas Resident Agent: _____  |   |
|   | Street Address _____   | Mailing Address _____                       |
| <p>A Texas Resident Agent is required for any foreign or nonresident organization pursuant to Statewide Rule 1(a)(4)(D).</p>  |  |   |
| <b>6. Attachments:</b>  |  |   |
| P-50 - Officer Listings: Information for each controlling entity of the organization as required by Statewide Rule 1(a)(4)(C).<br>P-5A - Agent Listings: (optional) - Designation of non-employee agents authorized to sign certain Forms P-4 and P-5 pursuant to Statewide Rule 1(a)(4)(E).<br>Filing Fee: Required for all "New Filing" and "Annual Refiling" submissions. See instructions on back.<br>Financial Assurance: If the operator is required to maintain financial assurance, the Organization Report will not be approved until it is in place.  |  |   |
| <b>7. Reorganization</b> <input type="checkbox"/> Check here if this is a reorganization of an existing registrant<br>If checked, provide the current name and RRC P5 Number: _____   |  |   |
| <b>8. Comments: (optional)</b>  |  |   |
| <p>Organization reports for operators of inactive wells: The Commission may not approve the P-5 Organization Report for an operator of one or more inactive wells unless the operator has complied with Commission rules and Texas statutes concerning the approval of plugging extensions for such inactive wells, including disconnection of electrical service and any required surface equipment removal.</p> <p>Organization reports for operators with outstanding enforcement orders/judgments: The Commission may not approve the P-5 Organization Report for an operator if that operator is the subject of a final and unappealable order related to a violation of a Commission rule, order, license, permit, or certificate relating to safety or the prevention or control of pollution. Organization Reports for organizations with officers who are subject to such outstanding orders through their involvement with other organizations similarly may not be approved.</p> <p>If the organization has used, or reported use of, a well for which the Certificate of Compliance has been canceled, the Commission may refuse to approve an Organization Report until the operator has paid any required reconnect fees and the Certificate of Compliance has been reissued for the well.</p> <p>An organization must file an amended Organization Report within 15 days after a change in any information required to be reported in the Organization Report.</p> |  |   |
| Signature _____ Title _____<br>Filer's Name (Printed) _____ Filer's Telephone Number _____<br>Email Address (OPTIONAL - SEE INSTRUCTIONS FOR IMPORTANT INFORMATION) _____ Date _____  |  | <b>FOR RRC USE ONLY</b>                     |
| Certificate: I declare under penalties prescribed in Sec. 91.143, Texas Natural Resources Code, that I am authorized to make this report, that this report was prepared by me or under my supervision and direction, and that data and facts stated therein are true, correct, and complete, to the best of my knowledge.   |  | Approved by _____<br>Remarks _____          |

**PRODUCTION SHARING  
AGREEMENT  
CODE SHEET**

**Form PSA-12**

(Rev. \_\_\_\_/2011)

READ INSTRUCTIONS ON BACK

|                           |                                 |   |
|---------------------------|---------------------------------|---|
| 1. FIELD NAME(S)          | 2. LEASE / ID NO. (if assigned) | 3. RRC District No.   |
| 4. OPERATOR P-5 NO.       | 5. OPERATOR P-5 NO.             | 6. WELL NO.   |
| 7. SHARING AGREEMENT NAME | 8. API NO.                      | 9. PURPOSE OF FILING  |
| 10. COUNTY                | 11. TOTAL ACRES                 | <input type="checkbox"/> Drilling Permit Application (W-1)<br><input type="checkbox"/> Proration Unit |

**Description of Individual Tracts Contained Within the Production Sharing Agreement**

| TRACT/PLAT IDENTIFIER | TRACT NAME | ACRES IN TRACT | ACREAGE ALLOCATED TO WELL | INDICATE UNDIVIDED INTERESTS |                   |
|-----------------------|------------|----------------|---------------------------|------------------------------|-------------------|
|                       |            |                |                           | UNLEASED                     | NOT-PARTICIPATING |
|                       |            |                |                           |                              |                   |
|                       |            |                |                           |                              |                   |
|                       |            |                |                           |                              |                   |
|                       |            |                |                           |                              |                   |
|                       |            |                |                           |                              |                   |
|                       |            |                |                           |                              |                   |
|                       |            |                |                           |                              |                   |
|                       |            |                |                           |                              |                   |

**REMARKS:**

**CERTIFICATION:** I declare under penalties prescribed pursuant to §91.143, Tex. Nat. Res. Code, that this report was prepared by me or under my supervision and direction, that I am authorized to make this report, and that the information contained in this report is true, correct, and complete to the best of my knowledge.

|                 |                            |
|-----------------|----------------------------|
| Signature _____ | Name (print or type) _____ |
| Title _____     | Date _____ Phone No. _____ |

**INSTRUCTIONS — Reference: Statewide Rules 38, 40 and 86.**

1. The certified plat must designate each participating lease/pooled unit with an outline and a tract identifier. The tract identifier on the plat must correspond to the tract identifier and associated information listed on the Certificate.
2. If within an individual tract, a non-pooled and/or unleased interest exists, indicate by checking the appropriate box.
3. If the Purpose of Filing is to obtain a drilling permit, in Box #1 list all applicable fields separately or enter "All Fields" if the Certificate pertains to all fields requested on Form W-1.
4. Identify the drill site tract with an \* to the left of the tract identifier.
5. The total number of acres in the pooled unit in Box #11 should equal the total of all acres in the participating lease/pooled units contributing acreage to the PSA well.
6. In remarks section provide the percentage of mineral owners who have signed a "production sharing agreement" in each participating lease/pooled unit.

Page \_\_\_\_\_ of \_\_\_\_\_

# ORGANIZATION REPORT NON-EMPLOYEE AGENT LISTING

|  |  |
|--|--|
| 1. Current operator name exactly as shown on P-5 Organization Report | <b>PURSUANT TO OIL &amp; Gas Statewide Rule 1(a)(4)(E), the organization must provide the name of any non-employee agent that the organization authorizes to act for the organization in signing Oil and Gas Division certificates of compliance which initially designate the operator or change the designation of the operator. Organizations may designate non-employee agents to execute subsequent organization reports. That designation shall be authorized by the organization and not by a non-employee agent.</b> |
| 2. RRC Operator No. (if assigned)                                    |  |

**Instructions:**

**DO NOT USE THIS FORM TO DESIGNATE A TEXAS RESIDENT AGENT.** (Your Texas Resident Agent is identified on Form P-5 to which this is attached.) This Form P-5A must **ONLY** be used if you have designated a non-employee agent with authority to sign operator-change Forms P-4 and/or P-5 renewals. If you have not designated any non-employee agents for that purpose, then you should not file Form P-5A.

**IF ANY NON-EMPLOYEE AGENTS LISTED ON THIS FORM ARE NOT CURRENTLY DESIGNATED ON YOUR ORGANIZATION REPORT RECORD, THEN THIS FORM P-5A MUST BE SIGNED BY A DULY AUTHORIZED COMPANY OFFICER OR EMPLOYEE.** (If no changes have been made to the information on this form and it is being filed in connection with the annual renewal of the organization's P-5, then a previously designated non-employee agent listed below may sign it.)

**EMAIL ADDRESS: YOU ARE NOT REQUIRED TO PROVIDE AN EMAIL ADDRESS** when completing and filing this form. Please be aware that information provided to any governmental body may be subject to disclosure pursuant to the Texas Public Information Act or other applicable federal or state legislation. **IF YOU PROVIDE AN EMAIL ADDRESS, YOU AFFIRMATIVELY CONSENT TO THE RELEASE OF THAT EMAIL ADDRESS TO THIRD PARTIES.** Other departments within the Railroad Commission also may use the email address you provide to communicate with you.

|                       |  |
|-----------------------|--|
| Agent's Name: _____   |  |
| Street Address: _____ | Mailing Address (if different from Street Address) _____ |

|                       |  |
|-----------------------|--|
| Agent's Name: _____   |  |
| Street Address: _____ | Mailing Address (if different from Street Address) _____ |

|                       |  |
|-----------------------|--|
| Agent's Name: _____   |  |
| Street Address: _____ | Mailing Address (if different from Street Address) _____ |

|                       |  |
|-----------------------|--|
| Agent's Name: _____   |  |
| Street Address: _____ | Mailing Address (if different from Street Address) _____ |

|   |   |
|---|---|
| Signature _____ Title _____<br>Filer's Name (Printed) _____ Filer's Telephone Number _____<br>Email Address (OPTIONAL - SEE INSTRUCTIONS FOR IMPORTANT INFORMATION) _____ Date _____  | <b>FOR RRC USE ONLY</b><br>Approved by _____<br>Remarks _____ |
| Certificate: I declare under penalties prescribed in Sec. 91.143, Texas Natural Resources Code, that I am authorized to make this report, that this report was prepared by me or under my supervision and direction, and that data and facts stated therein are true, correct, and complete, to the best of my knowledge. |   |

# ORGANIZATION REPORT OFFICER LISTING

(File as attachment to Form P-5 Organization Report)

Page \_\_\_\_ of \_\_\_\_

|  |  |
|--|--|
| 1. Current operator name exactly as shown on P-5 Organization Report | PURSUANT TO Oil & Gas Statewide Rule 1(a)(4)(C), information must be provided "for each officer, director, general partner, owner of more than 25% ownership interest, or trustee (hereinafter controlling entity) of the organization." |
| 2. RRC Operator No. (if assigned)                                    |  |

**Instructions:**

Attach as many sheets as are needed to identify all required officers.

**Full Legal Name:** The entity's or individual's full legal name. Please do not use initials.

**ID Number:** If the filing organization is a Sole Proprietorship (i.e., an individual), you must provide the owner's social security number. Otherwise, you may provide (at your choice) the officer's social security number, driver's license number, or Texas State Identification number. (Note: The Railroad Commission considers such ID numbers to be confidential information.)

**Addresses:** You must provide an address for each officer that is different from the address for the organization UNLESS: 1) you have shown a Texas Resident Agent on your Organization Report, and that agent has an address different from that of the organization; or 2) the organization is being operated out of the officer's home.

If an entity is identified as an officer on this form, you must also identify each officer of that entity.

|   |  |
|---|--|
| Full Legal Name:  | Title:   |
| Street Address: <input type="checkbox"/> Check here if operating out of this officer's home.  | Mailing Address (if different from Street Address) |
| <input type="checkbox"/> Driver's Lic. <input type="checkbox"/> State ID <input type="checkbox"/> Social Security No.   State (if not SSN): | Number:  |
| Full Legal Name:  | Title:   |
| Street Address: <input type="checkbox"/> Check here if operating out of this officer's home.  | Mailing Address (if different from Street Address) |
| <input type="checkbox"/> Driver's Lic. <input type="checkbox"/> State ID <input type="checkbox"/> Social Security No.   State (if not SSN): | Number:  |
| Full Legal Name:  | Title:   |
| Street Address: <input type="checkbox"/> Check here if operating out of this officer's home.  | Mailing Address (if different from Street Address) |
| <input type="checkbox"/> Driver's Lic. <input type="checkbox"/> State ID <input type="checkbox"/> Social Security No.   State (if not SSN): | Number:  |
| Full Legal Name:  | Title:   |
| Street Address: <input type="checkbox"/> Check here if operating out of this officer's home.  | Mailing Address (if different from Street Address) |
| <input type="checkbox"/> Driver's Lic. <input type="checkbox"/> State ID <input type="checkbox"/> Social Security No.   State (if not SSN): | Number:  |





## Instructions:

File Form W-3C as required by Oil & Gas Statewide Rule 15 (16 Tex. Admin. Code §3.15) to certify that an operator has fulfilled the requirements related to surface equipment removal for an inactive well. A person with personal knowledge of the physical condition of the inactive well must state the following:

- A. for wells that have been inactive for 12 months or longer, that the operator has physically terminated electric service to the well's production site;
- B. if the operator does not own the surface of the land where the well is located, and the well has been inactive for at least five years but for less than 10 years as of the date of renewal of the operator's organization report, that the operator has emptied or purged of production fluids all piping, tanks, vessels, and equipment associated with and exclusive to the well;
- C. if the operator does not own the surface of the land where the well is located, and the well has been inactive for at least 10 years as of the date of renewal of the operator's organization report, that the operator has removed all surface equipment and related piping, tanks, tank batteries, pump jacks, headers, fences, and firewalls; has closed all open pits; and has removed all junk and trash, as defined by Commission rule, associated with and exclusive to the well.

All items on this form should be typed or clearly printed in blue or black ink.

### Detailed Item Instructions:

#### Items 4 through 10:

If you are filing Form W-3C for a single well, then enter all information for Items 4 through 10. Item 11 should be left blank when filing for a single well.

If you wish to certify multiple wells on a single filing, then please prepare the listing of wells to be attached as shown below. Items 4 through 10 should be left blank; the number of wells and the number of pages for the attached listing should be entered in Item 11.

#### Item 11: Attached Listing.

If you prefer to attach a listing showing the wells to which the certification applies, then the listing must conform to the following requirements

- A. The listing should be clearly typed or printed in blue or black ink, and should be double-spaced.
- B. The listing should identify wells by API Number, RRC District, Oil Lease/Gas ID Number, Well Number, and County.
- C. Each page of the listing should indicate that it is "Page \_\_\_\_ of \_\_\_\_" where the first blank indicates the page number, and the second blank should show the total number of pages.
- D. The person making the certification should personally initial each page of the listing in the bottom right corner.

**Physical termination of electric service to the well's production site:** disconnection of the electric service to an inactive well site at a point on the electric service lines most distant from the production site toward the main supply line in a manner that will not interfere with electrical supply to adjacent operations, including cathodic protection units.

**Temporary exemption to requirement:** An operator may be eligible for a temporary exception to the surface equipment removal requirements if the operator is unable to comply with the requirements because of safety concerns or required maintenance of the well site. THE OPERATOR MUST INCLUDE A WRITTEN AFFIRMATION OF THE FACTS REGARDING THE SAFETY CONCERNS OR MAINTENANCE. Pursuant to Tex. Nat. Res. Code §81.0521, a \$150 non-refundable fee is required for each exception to a Commission rule.

#### Special Notice Regarding Surface Equipment Removal for wells identified as inactive for 10 years or longer as of September 1, 2010:

With respect to the surface equipment removal requirement for 10-year inactive wells in an operator's inventory as of September 1, 2010, the requirement is phased in over the next five years. This will require an operator to remove the surface equipment for 20% of its 10-year inactive wells as of September 1, 2010, in each year until all of the 10-year inactive wells in an operator's inventory have been addressed. The population of all 10-year inactive wells in Texas as of September 1, 2010, has been identified by the Commission and will be posted on the Commission's website. Wells that become 10-year inactive wells after September 1, 2010, or that are acquired by a new operator after September 1, 2010 are not subject to the 5-year phase in period. In the case of acquired wells, an operator must bring those wells into compliance within 6 months after the Commission recognizes the new operator of the well. For wells becoming 10-years inactive after September 1, 2010, the operator must bring the wells into compliance prior to the time the operator's annual organization report is required to be filed.

## APPLICATION FOR AN EXTENSION OF DEADLINE FOR PLUGGING AN INACTIVE WELL

**Form W-3X**  
 (Rev. \_\_\_\_/2011)

READ INSTRUCTIONS ON BACK

|  |  |
|--|--|
| 1. OPERATOR NAME exactly as shown on Form P-5, Organization Report | 2. OPERATOR ADDRESS including city, state and zip code |
| 3. OPERATOR P-5 NO.  |  |

**- If you are applying for a blanket plugging extension for all inactive land wells operated by this entity:**

| Blanket Extension Options (See Instructions) |  |
|--|--|
| <input type="checkbox"/> A                   | The filing operator has plugged or restored to active status 10% of the number of inactive land wells operated at the time of the last annual renewal of the operator's organization report;   |
| <input type="checkbox"/> B                   | The filing operator is a publicly traded entity and has filed with the Commission documentation naming the operator as "debtor" and the Railroad Commission of Texas as the "secured creditor" and specifies the funds covered by the documents in the amount of the cost calculation for plugging all inactive wells. |
| <input type="checkbox"/> C                   | The filing operator has submitted additional financial security covering the amount of the cost calculation for plugging all inactive wells or \$2 million, whichever is less.   |

**OR**

**- If you are applying for a plugging extension for a single well:**

|  |                     |                           |  |            |  |
|--|---------------------|---------------------------|--|------------|--|
| 4. LEASE NAME as shown on Proration Schedule |                     |                           | 5. FIELD NAME as shown on Proration Schedule |            |  |
| 6. API NUMBER<br><b>42-</b>                  | 4. RRC DISTRICT NO. | 8. OIL LEASE / GAS ID NO. | 9. WELL NO.                                  | 10. COUNTY |  |

| Individual Well Extension Options (See Instructions) |   |
|--|---|
| <input type="checkbox"/> D                           | The well identified above is covered by an abeyance of plugging report and the operator has paid the required filing fee of \$100. (Please attach the abeyance of plugging report.)   |
| <input type="checkbox"/> E                           | The well identified above is part of a Commission-approved EOR Project.   |
| <input type="checkbox"/> F                           | The well identified above is not otherwise required by Commission rule or order to conduct a fluid level or hydraulic pressure test of the well, and the operator has conducted a successful fluid level or hydraulic pressure test of the well and has paid the required filing fee of \$50. (The test results must be filed with the Railroad Commission on Form H-15.) |
| <input type="checkbox"/> G                           | The operator has filed additional financial security in the amount of the cost calculation for plugging the well identified above.  |
| <input type="checkbox"/> H                           | The operator has filed an escrow fund deposit in an amount at least equal to 10% of the cost calculation for plugging the well identified above.  |

**CERTIFICATION:** I certify under penalties prescribed by the Texas Natural Resources Code, §91.143, and the Texas Penal Code that, to the best of my knowledge, the well or wells for which this application is filed are in compliance with the conservation laws of the State of Texas and all rules, regulations, and orders of the Railroad Commission of Texas, and that the information given in this application is true, complete, and correct.

|           |                      |
|-----------|----------------------|
| Signature | Name (print or type) |
| Title     | Date                 |
|           | Phone No.            |

## Instructions:

File Form W-3X as required by Oil & Gas Statewide Rule 15 (16 Tex. Admin. Code §3.15) to apply for an extension to the deadline to plug an inactive well. All items on this form should be typed or clearly printed in blue or black ink.

### **Blanket Application for Extensions:**

If you are filing Form W-3X to request blanket plugging extensions for all wells that you operate:

- 1) Complete items 1 through 3;
- 2) Indicate the applicable blanket extension option;
- 3) Attach any necessary supporting documentation (see below); and
- 4) Sign and date the Form W-3X.

Under Statewide Rule 15(f)(2)(B), blanket plugging extensions require that you file with the Commission one of the following:

- 1) for all inactive land wells that an operator has operated for more than 12 months, documentation that the operator has plugged or restored to active operation, as defined by Commission rule, 10% of the number of inactive land wells operated at the time of the last annual renewal of the operator's Organization Report (Form P-5);
- 2) if the operator is a publicly traded entity, for all inactive land wells, the operator has filed with the Commission a copy of the operator's federal documents filed to comply with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement Obligations, and an original executed Uniform Commercial Code Form 1 Financing Statement, filed with the Secretary of State, that names the operator as the "debtor" and the Railroad Commission of Texas as the "secured creditor" and specifies the funds covered by the documents in the amount of the cost calculation for plugging all inactive wells; or
- 3) the filing of a blanket bond on Commission Form P-5PB(2), Blanket Performance Bond, a letter of credit on Commission Form P-5LC, Irrevocable Documentary Blanket Letter of Credit, or a cash deposit, in the amount of either the lesser of the cost calculation for plugging all inactive wells or \$2 million

### **Individual Well Application for Extension:**

If you are filing Form W-3X to request a plugging extension for a single well that you operate:

- 1) Complete items 1 through 10;
- 2) Indicate the applicable individual well extension option;
- 3) Attach any necessary supporting documentation (see below); and
- 4) Sign and date the Form W-3X

Under Statewide Rule 15(f)(2)(B), individual well plugging extensions require that you document one of the following:

- 1) For each inactive land well identified in the application, the operator has paid the required filing fee, and the Commission or its delegate has approved an abeyance of plugging report which includes the following certification under the seal of the certifying professional engineer or professional geoscientist: "I hereby certify, that I am a currently licensed professional engineer or professional geoscientist and based on my personal knowledge of the inactive well identified in this report, the well has a future utility based on both 1) a reasonable expectation of economic value in excess of the cost of plugging the well during the period covered by this report; and 2) a reasonable expectation that the well will ultimately be restored to a beneficial use that will prevent waste of oil or gas resources that otherwise would not be produced if the well is plugged. I further certify that I have reviewed the documentation demonstrating the basis for the affirmation of the well's future utility attached to this application.;
- 2) for each inactive land well identified in the application, the operator has filed a statement that the well is part of a Commission-approved EOR project;
- 3) for each inactive land well identified in the application that is not otherwise required by Commission rule or order to conduct a fluid level or hydraulic pressure test of the well, the operator has conducted a successful fluid level test or hydraulic pressure test of the well and the operator has paid the required filing fee;
- 4) for each inactive land well identified in the application, the Commission or its delegate has approved a supplemental bond, letter of credit, or cash deposit in an amount at least equal to the cost calculation for plugging an inactive land well for each well specified in the application; or
- 5) for each time an operator files an application for a plugging extension and for each inactive land well identified in the application, the Commission or its delegate has approved an escrow fund deposit in an amount at least equal to 10% of the total cost calculation for plugging an inactive land well.

### **Cost Calculation for Plugging an Inactive Well:**

The cost calculation pursuant to Statewide Rule 15 is the cost, calculated by the Commission or its delegate, for each foot of well depth plugged based on average actual plugging costs for wells plugged by the Commission for the preceding state fiscal year for the Commission Oil and Gas Division district in which the inactive well is located.

Comments on the proposed amendments to §3.80 or these proposed forms included in this notice may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at [www.rrc.state.tx.us/rules/commentform.php](http://www.rrc.state.tx.us/rules/commentform.php); or by electronic mail to [rulescoordinator@rrc.state.tx.us](mailto:rulescoordinator@rrc.state.tx.us). The Commission will accept comments until **noon** on Monday, July 11, 2011, which is 31 days after publication in the *Texas Register*; and encourages all interested persons to submit comments on the forms no later than this deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Ms. Leslie Savage at (512) 463-7308. The status of Commission rulemakings in progress is available at [www.rrc.state.tx.us/rules/proposed.php](http://www.rrc.state.tx.us/rules/proposed.php).

Issued in Austin, Texas, on May 24, 2011.

TRD-201101913

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Filed: May 26, 2011

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## Texas Department of Transportation

### Request for Information

During the recently concluded legislative session, the Texas Department of Transportation ("department") was authorized under Senate Bill 1420 (which is awaiting signature by the Governor as of June 1, 2011) to develop certain projects through comprehensive development agreements ("CDAs"), including among others, the State Highway 99 (Grand Parkway) project in the Houston area and the SH 183 Managed Lanes and IH 35E Managed Lanes projects in the Dallas/Fort Worth area. Subject to Senate Bill 1420 being signed by the Governor or otherwise going into effect, the department intends to work with stakeholders and the public and private sector to deliver these projects to meet urgent transportation needs in the State of Texas.

The department is seeking information in response to requests for information ("RFIs") to assist in developing a strategy for the development of the Grand Parkway, IH 35E Managed Lanes and SH 183 Managed Lanes projects, and the implementation of the procurement process for those projects. Responses are sought from individual firms or teams with experience in developing and/or financing large transportation infrastructure projects that may be interested in designing, building, financing, operating and/or maintaining one or more of these projects. The department will issue the RFIs, analyze all responses, and hold one-on-one meetings with companies expected to lead prospective developer teams. Three separate RFIs will be issued, one for each of the identified projects, and separate one-on-one meetings will be held for each of those projects.

The RFIs are issued solely to obtain information to assist the department on an administrative level. The RFIs do not constitute Requests for Qualifications ("RFQs"), Requests for Proposals ("RFPs") or other solicitation documents nor do the RFIs represent a commitment to issue RFQs or RFPs for the identified projects in the future. The RFIs do not commit the department to contract for any supply or service whatsoever. The department will not pay for any information or administrative cost incurred in response to the RFIs.

**Release of RFIs and Due Dates.** The department currently anticipates that RFIs for each of the projects will be available on June 10, 2011. Copies of each RFI will be available at the department's offices located at 7745 Chevy Chase Drive, Bldg. 5, Austin, Texas 78752, or on the following website:

<http://www.txdot.gov/business/partnerships/rfi.htm>

Responses to each RFI will be due at the address specified therein on the following dates:

SH 99 (Grand Parkway) Project July 6, 2011

SH 183 Managed Lanes Project July 13, 2011

IH 35E Managed Lanes Project July 20, 2011

The department anticipates holding the one-on-one meetings on the following dates:

SH 99 (Grand Parkway) Project July 12-13, 2011;

SH 183 Managed Lanes Project July 19-20, 2011; and

IH 35E Managed Lanes Project July 26-27, 2011.

Further details regarding the projects, the meetings and the requests for information can be found on the following website:

<http://www.txdot.gov/business/partnerships/rfi.htm>

TRD-201101960

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: June 1, 2011

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## Upper Rio Grande Workforce Development Board

### Request for Quotation/Request for Proposal

The Upper Rio Grande Workforce Development Board dba/Workforce Solutions Upper Rio Grande announces the issuance of PY11\_RFQ\_RFP-200-128: INTERIM WORKFORCE SYSTEM CONTRACTOR of Workforce Solutions Upper Rio Grande Career Centers in El Paso County.

The authorized Workforce Board contact person for this procurement is Guillermo Morales II, Regulatory Administrator, Upper Rio Grande Workforce Development Board, 221 N. Kansas St., Suite 1000, El Paso, Texas 79901, Telephone: (915) 772-2002, Ext. 239, Fax: (915) 351-2790 or via email at [guillermo.morales@urgjobs.org](mailto:guillermo.morales@urgjobs.org).

The Procurement and Contracts Management staff (or Workforce Board representative) must physically receive responses to this RFQ/RFP no later than 5:00 p.m. June 16, 2011 Mountain Standard Time (MST). Any reasonable delivery method may be used. Use of a traceable delivery method, such as certified mail-return receipt requested, guaranteed express service, or hand delivery is recommended. Submissions postmarked prior to the due date of June 16, 2011 but received after the due date of June 16, 2011 will not be considered.

Request for Quotation/Request for Proposal packets will be available beginning on May 25, 2011 at the above address. Packets may be picked up in person or requested in writing. The RFQ will also be available on the Workforce Board website at [www.urgjobs.org](http://www.urgjobs.org) under the Procurements section.

TRD-201101941

Joseph Sapien

Communications Specialist

Upper Rio Grande Workforce Development Board

Filed: May 31, 2011

## How to Use the Texas Register

**Information Available:** The 14 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.

**Secretary of State** - opinions based on the election laws.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules**- sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

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

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Texas Department of Banking** - opinions and exempt rules filed by the Texas Department of Banking.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules**- notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

**Review of Agency Rules** - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative 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 the 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 36 (2011) is cited as follows: 36 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 "36 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 36 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, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document

format) version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each 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*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*. The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION

#### Part 4. Office of the Secretary of State

#### Chapter 91. Texas Register

40 TAC §3.704.....950 (P)