

---

# TEXAS REGISTER

Volume 28 Number 15 April 11, 2003

Pages 2989-3172

*T.J. Mendieta*  
2nd 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.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

*Texas Register*, (ISSN 0362-4781), is published weekly, 52 times a year. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701. Subscription costs: printed, one year \$200. First Class mail subscriptions are available at a cost of \$300 per year. Single copies of most issues for the current year are available at \$10 per copy in printed format.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* Director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director.

The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Austin, Texas and additional mailing offices.

**POSTMASTER:** Send address changes to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824.

# TEXAS REGISTER

a section of the  
Office of the Secretary of State  
P.O. Box 13824  
Austin, TX 78711-3824  
(800) 226-7199  
(512) 463-5561  
FAX (512) 463-5569  
<http://www.sos.state.tx.us>  
[subadmin@sos.state.tx.us](mailto:subadmin@sos.state.tx.us)

**Secretary of State** - Gwyn Shea  
**Director** - Dan Procter

## Staff

Dana Blanton  
Leti Benavides  
Carla Carter  
LaKiza Fowler-Sibley  
Kris Hogan  
Robert Knight  
Jill S. Ledbetter  
Diana Muniz  
Luis Sanchez

**GOVERNOR**

Appointments .....2995  
Proclamation 41-2912 .....2996  
Proclamation 41-2913 .....2997

**ATTORNEY GENERAL**

Opinions .....2999  
Request for Opinions .....3003

**PROPOSED RULES**

**TEXAS BUILDING AND PROCUREMENT COMMISSION**

PROCUREMENT DIVISION

1 TAC §113.11 .....3005

**TEXAS DEPARTMENT OF AGRICULTURE**

CITRUS

4 TAC §§21.1, 21.2, 21.6, 21.8, 21.9 .....3007  
4 TAC §21.21 .....3009  
4 TAC §§21.30, 21.34, 21.36 .....3009

**CREDIT UNION DEPARTMENT**

CHARTERING, OPERATIONS, MERGERS,  
LIQUIDATIONS

7 TAC §91.210 .....3010  
7 TAC §91.403 .....3011  
7 TAC §91.701 .....3013  
7 TAC §91.702 .....3013  
7 TAC §91.704 .....3014  
7 TAC §91.708 .....3015  
7 TAC §91.710 .....3015  
7 TAC §91.711 .....3016  
7 TAC §91.712 .....3017  
7 TAC §91.713 .....3017  
7 TAC §91.715 .....3018  
7 TAC §91.718 .....3019  
7 TAC §91.719 .....3019  
7 TAC §§91.6001 - 91.6015 .....3020

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

MANUFACTURED HOUSING

10 TAC §80.54 .....3022  
10 TAC §80.137 .....3025

**RAILROAD COMMISSION OF TEXAS**

OIL AND GAS DIVISION

16 TAC §3.68 .....3027  
16 TAC §3.73 .....3027

COAL MINING REGULATIONS

16 TAC §12.108 .....3028

**PUBLIC UTILITY COMMISSION OF TEXAS**

SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

16 TAC §25.193 .....3030

SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS

16 TAC §26.131 .....3031

**STATE BOARD OF DENTAL EXAMINERS**

DENTAL BOARD PROCEDURES

22 TAC §107.102 .....3032

**TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.18 .....3033  
22 TAC §153.20 .....3034

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

RECEIPT AND DISBURSEMENT OF WORK PROGRAM RESIDENTS' EARNED FUNDS

37 TAC §§160.1 - 160.8 .....3035

**TEXAS VETERANS LAND BOARD**

GENERAL RULES OF THE VETERANS LAND BOARD

40 TAC §175.2 .....3035  
40 TAC §175.4 .....3037  
40 TAC §175.5 .....3038  
40 TAC §175.18 .....3039

VETERANS HOUSING ASSISTANCE PROGRAM

40 TAC §177.14 .....3040

**TEXAS COMMISSION ON HUMAN RIGHTS**

ADMINISTRATIVE REVIEW

40 TAC §§327.1, 327.3 - 327.6 .....3041

ADMINISTRATIVE ENFORCEMENT

40 TAC §§340.8, 340.9, 340.15 .....3042

**TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES**

GENERAL ADMINISTRATION

40 TAC §702.421 .....3043

**WITHDRAWN RULES**

**TEXAS BUILDING AND PROCUREMENT COMMISSION**

EXECUTIVE ADMINISTRATION DIVISION

1 TAC §111.14 .....3045

**TEXAS VETERANS LAND BOARD**

GENERAL RULES OF THE VETERANS LAND BOARD

40 TAC §175.2 .....3045

**ADOPTED RULES**

**TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

MEDICAID REIMBURSEMENT RATES

1 TAC §355.503, §355.505 .....3047

1 TAC §355.9022 .....3047

**PUBLIC UTILITY COMMISSION OF TEXAS**

SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

16 TAC §25.131 .....3048

**TEXAS LOTTERY COMMISSION**

BINGO REGULATION AND TAX

16 TAC §402.540 .....3054

16 TAC §402.545 .....3054

16 TAC §402.545 .....3054

16 TAC §402.583 .....3055

**STATE BOARD OF DENTAL EXAMINERS**

PROFESSIONAL CONDUCT

22 TAC §108.10 .....3055

**TEXAS DEPARTMENT OF INSURANCE**

LIFE, ACCIDENT AND HEALTH INSURANCE AND ANNUITIES

28 TAC §3.1307 .....3056

28 TAC §3.1406 .....3056

28 TAC §3.4509 .....3057

28 TAC §§3.9101 - 3.9106 .....3057

PROPERTY AND CASUALTY INSURANCE

28 TAC §5.3701 .....3058

**TEXAS MUNICIPAL RETIREMENT SYSTEM**

MISCELLANEOUS RULES

34 TAC §127.7, §127.8 .....3058

DOMESTIC RELATIONS ORDERS

34 TAC §129.12 .....3059

**TEXAS YOUTH COMMISSION**

PROGRAM SERVICES

37 TAC §91.81 .....3059

YOUTH RIGHTS AND REMEDIES

37 TAC §93.33 .....3060

37 TAC §93.33 .....3060

37 TAC §93.53 .....3060

YOUTH DISCIPLINE

37 TAC §95.7 .....3060

37 TAC §95.9 .....3061

37 TAC §95.11 .....3062

37 TAC §95.15 .....3062

37 TAC §95.17 .....3062

37 TAC §95.55 .....3064

SECURITY AND CONTROL

37 TAC §97.11 .....3064

37 TAC §97.15 .....3065

37 TAC §97.41 .....3065

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §§163.21, 163.35, 163.39, 163.40 .....3065

37 TAC §163.36 .....3066

37 TAC §163.38 .....3066

PAROLE

37 TAC §195.51 .....3066

**TEXAS DEPARTMENT OF HUMAN SERVICES**

EMPLOYMENT PRACTICES

40 TAC §77.1, §77.2 .....3067

40 TAC §§77.10 - 77.15 .....3067

40 TAC §§77.11 - 77.17 .....3067

40 TAC §§77.31 - 77.44 .....3067

**TEXAS VETERANS LAND BOARD**

GENERAL RULES OF THE VETERANS LAND BOARD

40 TAC §175.52 .....3068

40 TAC §175.61, §175.62 .....3068

**CHILDREN'S TRUST FUND OF TEXAS COUNCIL**

COUNCIL ADMINISTRATION: POLICIES AND PROCEDURES  
40 TAC §201.2, 201.4, 201.5, 201.8 - 201.10.....3069

FUNDED PROGRAM AWARDS AND CONTRACTS  
40 TAC §§202.1 - 202.8, 202.10 - 202.18 .....3069

**TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES**

COMMUNITY INITIATIVES  
40 TAC §§701.100 - 701.103.....3070  
40 TAC §§701.201, 701.203, 701.205, 701.207, 701.209, 701.211, 701.213, 701.215, 701.217, 701.219, 701.221, 701.223, 701.225, 701.271, 701.272.....3070

GENERAL ADMINISTRATION  
40 TAC §702.413 .....3070  
40 TAC §702.413 .....3070

PREVENTION AND EARLY INTERVENTION SERVICES  
40 TAC §704.1, §704.3 .....3072  
40 TAC §§704.201, 704.203, 704.205, 704.207 .....3072  
40 TAC §§704.401, 704.403, 704.405, 704.407, 704.409, 704.411.....3072  
40 TAC §704.601, §704.603 .....3072  
40 TAC §704.801, §704.803 .....3073

**TEXAS WORKFORCE COMMISSION**

PROJECT RIO EMPLOYMENT ACTIVITIES AND SUPPORT SERVICES  
40 TAC §§847.1 - 847.3.....3075  
40 TAC §§847.11, §847.12 .....3077  
40 TAC §§847.21, §847.22 .....3078  
40 TAC §847.31 .....3078  
40 TAC §847.41 .....3079  
40 TAC §847.51 .....3079

**TEXAS DEPARTMENT OF TRANSPORTATION**

PUBLIC TRANSPORTATION  
43 TAC §31.1, §31.3 .....3081  
43 TAC §31.11, §31.13 .....3082  
43 TAC §§31.16, 31.21, 31.22, 31.26, 31.31, 31.36 .....3082  
43 TAC §§31.40 - 31.49.....3084  
43 TAC §§31.50, 31.55, 31.57 .....3084  
43 TAC §§31.60 - 31.63, 31.65.....3084

**EXEMPT FILINGS**  
Texas Department of Insurance

Final Action on Rules .....3087

**RULE REVIEW**

**Agency Rule Review Plan--Revised**  
Texas Council on Workforce and Economic Competitiveness .....3089

**Proposed Rule Reviews**  
Texas Department of Licensing and Regulation .....3089  
Railroad Commission of Texas .....3089  
Texas State Soil and Water Conservation Board.....3090

**TABLES AND GRAPHICS**  
.....3091

**IN ADDITION**

**Texas Department on Aging**  
Request for Proposals--Aging Texas Well Community Preparedness .....3111

**Office of the Attorney General**  
Texas Clean Air Act Enforcement Action Settlement Notice.....3118

**Central Texas Regional Mobility Authority**  
Notice of Receipt of Unsolicited Proposal for Services Related to Development of the US 183-A Turnpike and Invitation for Competing Proposals.....3118

**Coastal Coordination Council**  
Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program.....3119

**Office of Consumer Credit Commissioner**  
Notice of Rate Ceilings.....3120

**Deep East Texas Council of Governments**  
Request for Qualifications for Regional Hazard Mitigation Plan..3121

**Texas Commission on Environmental Quality**  
Enforcement Orders .....3122  
Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions .....3125  
Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions .....3127  
Notice of Water Rights Application.....3128  
Proposed Enforcement Orders .....3128

**General Land Office**  
Notice of Approval of Coastal Boundary Survey .....3131

**Golden Crescent Workforce Development Board**  
Public Notice.....3131

**Office of the Governor**

Notice of Application and Priorities for the Federal Edward Byrne Formula Grant Program.....3132

**Texas Department of Health**

Correction of Error .....3132

Licensing Actions for Radioactive Materials.....3132

Notice of Agreed Order with Everest Exploration, Inc. ....3135

Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Healthmont of Texas I, LLC, dba Dolly Vinsant Memorial Hospital .....3135

Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Memorial Hermann Executive Wellness Program, dba B. J. Margaret Bradshaw Wellness Center .....3136

Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Richard C. Wood, D.C., dba Wood Chiropractic Clinic .....3136

Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Scott and White Memorial Hospital and Scott, Sherwood and Brindley Foundation, dba Scott and White Memorial Hospital .....3136

Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Wetz Chiropractic Center, P.C. ....3136

Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on William J. Langeland, D.C., dba Porter Chiropractic Center.....3136

**Texas Health and Human Services Commission**

Request for Proposals .....3137

**Texas Department of Housing and Community Affairs**

Notice of Public Hearing .....3137

**Houston-Galveston Area Council**

Request for Proposals .....3138

Request for Proposals .....3138

**Texas Department of Insurance**

Company Licensing .....3138

Third Party Administrator Applications .....3138

**Texas Lottery Commission**

Instant Game No. 379 "Cool 7's" .....3139

Instant Game No. 383 "Crossword" .....3143

**Manufactured Housing Division**

Amended Notice of Administrative Hearing .....3166

Notice of Administrative Hearing.....3166

Notice of Administrative Hearing.....3166

Notice of Public Hearing .....3167

**Public Utility Commission of Texas**

Notice of Application for Amendment to Service Provider Certificate of Operating Authority.....3167

Notice of Application for Discontinuance of Certain Services in Connection with a Service Provider Certificate of Operating Authority .....3167

Notice of Application for Relinquishment of a Service Provider Certificate of Operating Authority.....3167

Notice of Application for Service Area Exception in Jim Hogg County, Texas .....3168

Notice of Application for Waiver of Denial of Request for NXX Code .....3168

Public Notice of Amendment to Interconnection Agreement.....3168

Public Notice of Amendment to Interconnection Agreement.....3169

Public Notice of Amendment to Interconnection Agreement.....3169

Public Notice of Amendment to Interconnection Agreement.....3170

Public Notice of Interconnection Agreement .....3170

Public Notice of Interconnection Agreement .....3171

**Railroad Commission of Texas**

Correction of Error .....3171

**Texas Office of State-Federal Relations**

Notice of Contract Award .....3172

**Texas Water Development Board**

Applications Received .....3172

**WorkSource of the South Plains**

Request for Proposals for Child Care Services.....3172

# Open Meetings

A notice of a meeting filed with the Secretary of State by a state governmental body or the governing body of a water district or other district or political subdivision that extends into four or more counties is posted at the main office of the Secretary of State in the lobby of the James Earl Rudder Building, 1019 Brazos, Austin, Texas.

Notices are published in the electronic *Texas Register* and available on-line. <http://www.sos.state.tx.us/texreg>

To request a copy of a meeting notice by telephone, please call 463-5561 if calling in Austin. For out-of-town callers our toll-free number is (800) 226-7199. Or fax your request to (512) 463-5569.

Information about the Texas open meetings law is available from the Office of the Attorney General. The web site is <http://www.oag.state.tx.us>. Or phone the Attorney General's Open Government hotline, (512) 478-OPEN (478-6736).

For on-line links to information about the Texas Legislature, county governments, city governments, and other government information not available here, please refer to this on-line site. <http://www.state.tx.us/Government>



**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 GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

## Appointments

### Appointments for March 20, 2003

Appointed to the Texas Woman's University Board of Regents for a term to expire February 1, 2009, Tegwin Ann Pulley of Dallas (Ms. Pulley is being reappointed).

Appointed to the Texas Woman's University Board of Regents for a term to expire February 1, 2009, Harry L. Crumpacker, II of Plano (replacing Marie Martch whose term expired).

Appointed to the Office of Rural Community Affairs for a term to expire February 1, 2009, Lydia Rangel Saenz of Carrizo Springs. Mrs. Saenz is being reappointed.

Appointed to the One-Call Board for a term to expire August 31, 2004, Judith H. Davenport of Midland (replacing Sheila Brown whose term expired).

Appointed to the One-Call Board for a term to expire August 31, 2005, Jack G. Blaz of Dallas (Mr. Blaz is being reappointed).

Appointed to the One-Call Board for a term to expire August 31, 2005, Virginio Ortega of Lubbock (replacing Jose Valenciano whose term expired).

Appointed to the One-Call Board for a term to expire August 31, 2005, Deborah Ellison Farris of Dallas (replacing Beverly Clark whose term expired).

Appointed to the One-Call Board for a term to expire August 31, 2005, Steven F. Landon of Colleyville (Mr. Landon is being reappointed).

Appointed to the Texas Strategic Military Planning Commission for a term to expire February 1, 2006, Samuel Loyd Neal, Jr. of Corpus Christi. Colonel Neal is being reappointed.

Appointed to the Texas Commission on Jail Standards for a term to expire February 1, 2009, Gonzalo R. Gallegos of San Antonio (Mr. Gallegos is being reappointed).

Appointed to the Texas Commission on Jail Standards for a term to expire February 1, 2009, Horace Theodore Montgomery of Dumas (Sheriff Montgomery is being reappointed).

Appointed to the Texas Commission on Jail Standards for a term to expire February 1, 2009, David Gutierrez of Lubbock (replacing Terry Box of McKinney whose term expired).

Appointed to the Texas Guaranteed Student Loan Corporation for a term to expire January 31, 2005, Morgan William Howard (replacing Jennifer Esterline who resigned).

Appointed to the Texas Guaranteed Student Loan Corporation for a term to expire January 31, 2009, Tommy James Brooks of Sugarland (replacing Albert Myres whose term expired).

Appointed to the Texas Guaranteed Student Loan Corporation for a term to expire January 31, 2009, Grace A. Shore of Longview (replacing William Robinson whose term expired).

Appointed to the Texas Guaranteed Student Loan Corporation for a term to expire January 31, 2009, Ruben E. Esquivel of DeSoto (Mr. Esquivel is being reappointed).

Appointed to the Texas State Council for Adult Offender Supervision for a term to expire February 1, 2009, Linda L. White of Magnolia (Ms. White is being reappointed).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2005, Judy Rios Willgren of Austin (replacing Windy Hill of Bastrop whose term expired).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2007, Lori Roberts of Spicewood (replacing Carol Gage of Austin whose term expired).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2007, Peter W. Ellis of San Antonio (replacing Claire Balliett of Longview whose term expired).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Teresa Peterson of Brazoria (replacing Scott Wooldridge of Dallas whose term expired).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Anasa Dianne Foster Brooks of Austin (replacing Paula White of McKinney whose term expired).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Joyce R. Elliott of Bedford (Ms. Elliott is being reappointed).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Robin Lee Peyson of Bastrop (replacing Elizabeth Shelby of Austin whose term expired).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Dena M. Perez of Pflugerville (replacing Carol McDaniel of Austin whose term expired).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Stephanie K. Hilbish of Amarillo (Ms. Hilbish is being reappointed).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Lesa R. Walker, M.D. of Austin (Dr. Walker is being reappointed).

Appointed to the Interagency Council on Early Childhood Intervention Advisory Committee for a term to expire February 1, 2009, Laura Logan Kender of Lubbock (replacing John Delgado of San Antonio whose term expired).



Appointed to the Texas Board of Mental Health and Mental Retardation for a term at the pleasure of the Governor, Rudy Arredondo, Ed.D. of Lubbock. Dr. Arredondo will replace Andrew Hardin as chairman.

Rick Perry, Governor

TRD-200301842



**Appointments for March 24, 2003**

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Cynthia Y. Benson of Midland (Ms. Benson is being reappointed).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Kristen Rae Alexander of Dallas (replacing Juliy Divine whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Aaron R. Montemayor of Belton (replacing Diane Fanning whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Tara Kathleen Olens of Austin (replacing Harold LeBourgeois whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Patrick W. Chavez of El Paso (replacing Diana Phillips whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Traci Wickett of Brownsville (replacing Thomas Tobin whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Peter C. Mastrangelo of Corpus Christi (replacing Joseph Way whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2004, Carolyn Young of Austin (replacing Max Woodfin whose term expired).

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2005, James Richard Pendell of Clint (pursuant to SB 430, 77th Leg.).

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2005, Severita Sanchez of Laredo (Ms. Sanchez is being reappointed).

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2005, Lucy Rubio of Corpus Christi (Ms. Rubio is being reappointed).

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2005, Janace Pope Ponder of Amarillo (Ms. Ponder is being reappointed).

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2005, Judge Cheryl Lee Shannon, 305th District Court of Dallas (Judge Shannon is being reappointed).

**Appointments for March 26, 2003**

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired for a term to expire January 31, 2009, Gene Iran Brooks, Ph.D. of Austin (replacing Bruce Best of Austin whose term expired).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired for a term to expire January 31, 2009, Donna

Florence Vaden Clopton of Mt. Pleasant (replacing Barbara Cherry of Garrison whose term expired).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired for a term to expire January 31, 2009, Jamie Lou Wheeler of Watauga (replacing Zena Percy of Austin whose term expired).

Appointed to the Texas State Board of Acupuncture Examiners for a term to expire February 1, 2007, Hoang Xiong Ho of San Antonio (replacing Cheng Chang of San Antonio whose term expired).

Appointed to the Texas State Board of Acupuncture Examiners for a term to expire February 1, 2007, Terry Glenn Rascoe, M.D. of Temple (replacing Annette Zaharoff of San Antonio whose term expired).

Appointed to the Texas State Board of Acupuncture Examiners for a term to expire February 1, 2009, Sheng Ting Chen of Austin (replacing Jacquelyn Pearson of Plano whose term expired).

Rick Perry, Governor

TRD-200302176



**Appointments for March 25, 2003**

Appointed Judge of the 80th Judicial District Court in Harris County for a term until the next General Election and until his successor shall be duly elected and qualified, Kent C. Sullivan of Houston. Mr. Sullivan will replace Judge Scott Link who resigned.

Appointed as Judge of the 157th Judicial District Court in Harris County for a term until the next General Election and until his successor shall be duly elected and qualified, Randall W. Wilson of Houston. Mr. Wilson will replace Judge George Hanks who was elevated to Justice of the 1st Court of Appeals.

Appointed to the On-Site Wastewater Treatment Research Council for a term to expire September 1, 2004, Barry D. Bedwell of Amarillo (Mr. Bedwell is being reappointed).

Appointed to the On-Site Wastewater Treatment Research Council for a term to expire September 1, 2004, John R. Blount of Houston (Mr. Blount is being reappointed).

Appointed to the On-Site Wastewater Treatment Research Council for a term to expire September 1, 2004, Charles Montel Rutledge of College Station (Mr. Rutledge is being reappointed).

Appointed to the On-Site Wastewater Treatment Research Council for a term to expire September 1, 2004, Timothy N. Taylor of Nacogdoches (replacing Teri Mathis who resigned). Designated as presiding officer of the Texas Skills Standards Board for a term at the pleasure of the Governor, Wayne J. Oswald of Angleton. Mr. Oswald will replace Billie Pickard as presiding officer. Ms. Pickard no longer serves on the board.

Rick Perry, Governor

TRD-200302022



**Proclamation 41-2912**

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the words of President George Washington ring true now as they did more than 200 years ago, "*Almighty Father. Bless us with thy wisdom in our counsels and with success in battle, and let our victories be tempered with humanity. Endow, also, our enemies with enlightened*

*minds, that they become sensible of their injustice, and willing to restore our liberty and peace. Thy will be done. Amen.";* and

WHEREAS, as these words show, prayer has been a vital part of our shared national life since before the founding of our nation and state, providing comfort and direction in times of crisis and conflict, and reminding us of the calm assurance that God cares for us, whatever our ethnic, religious or political background; and

WHEREAS, the many brave and courageous men and women of the United States armed forces who have been deployed in the Middle East and around the world to keep freedom and protect liberty now find themselves in harm's way and in need of our prayers and petitions to God on behalf of their safety and wellbeing; and

WHEREAS, it seems right and fitting that the people of Texas should join with the soldiers in their foxholes, the pilots in their planes, and the sailors on the seas and stand in solidarity with them through prayer for their safe return and the resumption of peace in the region and throughout the world;

NOW, THEREFORE, I, RICK PERRY, GOVERNOR OF TEXAS, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby proclaim Thursday, March 20, 2003, as a day of prayer in the state of Texas. I further urge Texans of all faiths and religions to offer prayers and petitions for peace and safety on behalf of our troops deployed in the Middle East and around the world, that they may return home safely to the care and comfort of their families and that we may return to our daily lives of peace and calm.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 19th of March, 2003.

Rick Perry, Governor

ATTESTED BY: Gwyn Shea, Secretary of State

TRD-200302037



Proclamation 41-2913

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, a vacancy now exists in the Texas House of Representatives in the membership of District No. 43, which consists of Brooks,

part of Cameron, Jim Hogg, Kenedy, Kleberg, and Willacy Counties; and

WHEREAS, Texas Election Code Section 203.002, requires that a special election be ordered upon such vacancy; and

WHEREAS, Tex. Elec. Code Sec. 203.013, requires that the special election be expedited and shall be held on a Tuesday or Saturday occurring not earlier than the 21st day or later than the 45th day after the date the election is ordered, and

WHEREAS, Tex. Elec. Code Sec. 3.003, requires the election to be ordered by proclamation of the Governor;

NOW, THEREFORE, I, RICK PERRY, GOVERNOR OF TEXAS, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby order a special election to be held in House District No. 43 on Tuesday, April 15, 2003, for the purpose of electing a State Representative for District No. 43 to serve the remainder of the term of the Honorable Irma Rangel.

Candidates who wish to have their names placed on the special election ballot must file their applications with the Secretary of State no later than 5:00 p.m. on Monday, March 31, 2003.

Early voting by personal appearance shall begin on Monday, April 7, 2003, in accordance with Tex. Elec. Code Sec. 85.001(d).

A copy of this order will be mailed immediately to the County Judges of Brooks, Cameron, Jim Hogg, Kenedy, Kleberg, and Willacy Counties; and all appropriate writs will be issued and all proper proceedings will be followed to the end that said election may be held to fill the vacancy in District No. 43 and its result proclaimed in accordance with law.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 25th day of March, 2003.

Rick Perry, Governor

ATTESTED BY: Gwyn Shea, Secretary of State

TRD-200302039



# THE ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open records decisions are summarized for publication in the *Texas Register*. The attorney general responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the attorney general unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. You may view copies of opinions at <http://www.oag.state.tx.us>. To request copies of opinions, please fax your request to (512) 462-0548 or call (512) 936-1730. To inquire about pending requests for opinions, phone (512) 463-2110.

## Opinions

*(Editor's Note: Due to an error by the Texas Register, the following Attorney General Opinions were omitted from the March 28, 2003, issue of the Texas Register.)*

### Opinion No. GA-0032

The Honorable Kenneth Armbrister  
Chair, Senate Committee on Natural Resources  
Texas State Senate  
P. O. Box 12068  
Austin, Texas 78711-2068

Re: Whether a member of the Board of Trustees of the San Jacinto College District may simultaneously serve as a member of the Board of Directors of the Clear Brook Municipal Utility District (RQ-0596-JC)

#### SUMMARY

Although the position of director of the Clear Brook Municipal Utility District is an "office of emolument under article XVI, section 40 of the Texas Constitution," the position of trustee of the San Jacinto College District is not. Thus, a single individual is not prohibited by article XVI, section 40 of the Texas Constitution from simultaneously holding both positions. An individual is, however, barred from such simultaneous service on the basis of the common-law doctrine of incompatibility.

### Opinion No. GA-0033

Mr. Albert Hawkins  
Commissioner  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

Re: Whether the Texas Community Health Center Revolving Loan Fund exists as a trust fund outside the state treasury; whether loan income is the property of the Fund; and whether chapter 136 of the Human Resources Code, which establishes the Fund, violates article III, sections 1, 50 and 51 of the Texas Constitution (RQ-0602-JC)

#### SUMMARY

In House Bill 2574, the Seventy-seventh Texas Legislature created the Texas Community Health Center Revolving Loan Fund as a trust fund outside the state treasury administered by the Health and Human Services Commission pursuant to chapter 136 of the Human Resources Code. See Act of May 23, 2001, 77th Leg., R.S., ch. 878, §1, sec. 136.003, 2001 Tex. Gen. Laws 1759, 1760 (enacting Human Resources Code section 136.003). A later enacted bill, House Bill 3088, abolished the Fund. See Act of May 25, 2001, 77th Leg., R.S., ch. 1466, §§2, 8(a), (d), 2001 Tex. Gen. Laws 5216, 5218-19. As a result, the Fund does not exist as a trust fund outside the state treasury.

Pursuant to sections 136.006(e) and 136.008 of the Human Resources Code, income on a loan made by the development corporation under chapter 136 is the property of the development corporation that the development corporation must use to make new loans. See Tex. Hum. Res. Code Ann. §§136.006(e), 136.008 (Vernon Supp. 2003). Chapter 136 of the Human Resources Code on its face does not violate article III, sections 50 and 51 or article III, section 1 of the Texas Constitution.

### Opinion No. GA-0034

The Honorable Dib Waldrip  
Comal County Criminal District Attorney  
150 North Seguin, Suite 307  
New Braunfels, Texas 78130

Re: Whether a county may require the owner of a "junked vehicle" to erect a fence or other screening objects in order to shield the vehicle from public view (RQ-0605-JC)

#### SUMMARY

A county may abate and remove as a "public nuisance" any "junked vehicle" that is visible from public or private property or a public right-of-way. A county may not require a particular kind of camouflage to render the vehicle non-visible. The fencing and screening standards applicable to licensed automotive salvage yards and junkyards under chapter 396 of the Transportation Code do not apply to junked vehicles parked on other private property.

### Opinion No. GA-0035

The Honorable Mary Denny  
Chair, Committee on Elections  
Texas House of Representatives  
P.O. Box 2910

Austin, Texas 78768-2910

Re: Whether questioning by the Texas Ethics Commission of third-party witnesses to the circumstances giving rise to a sworn complaint violates section 571.140 of the Government Code (RQ-0599-JC)

#### **S U M M A R Y**

It is not a *per se* violation of section 571.140 of the Government Code for the staff of the Texas Ethics Commission to question third-party witnesses concerning a situation that has given rise to a sworn complaint.

#### **Opinion No. GA-0036**

Ms. Karen Lundquist

Executive Director

Texas Ethics Commission

P. O. Box 12070, Capitol Station

Austin, Texas 78711-2070

Re: Whether the Texas Ethics Commission, in providing to the respondent in a commission-initiated complaint information that was obtained in connection with another sworn complaint, violates the confidentiality provision of section 571.140 of the Government Code (RQ-0601-JC)

#### **S U M M A R Y**

Under certain circumstances, the Texas Ethics Commission may be obliged under chapter 571 of the Government Code and Commission rules to provide documents relating to a sworn complaint against one respondent to another respondent. Doing so in those circumstances does not violate section 571.140 of the Government Code, so long as the documents are properly redacted.

#### **Opinion No. GA-0037**

The Honorable Tom Maness

Jefferson County Criminal District Attorney

Jefferson County Courthouse

1001 Pearl Street, Third Floor

Beaumont, Texas 77701-3545

Re: County commissioners court's authority over hiring and budgetary matters concerning an elected county officer (RQ-0603-JC)

#### **S U M M A R Y**

A commissioners court may not impose the condition on a position of employment in an elected official's department such that, if the present employee vacates the position, funds for the position's salary either (1) will cease unless the officer obtains the commissioners court's special permission to hire someone who is not currently a county employee, or (2) will be reduced to increase a promoted existing employee's salary no more than three percent. Such a condition interferes with an elected officer's authority to appoint an employee of his or her choice to a position that the commissioners court has approved and for which the court has set compensation. For the same reason, a commissioners court may not "freeze" a vacant position and condition filling the position on promoting an existing county employee or obtaining the court's special permission.

A commissioners court may transfer funds from one line item in the county budget to another existing line item in the county budget without authorizing an emergency expenditure. See Tex. Loc. Gov't Code Ann. §111.070(c) (Vernon 1999). Thus, to the extent that a budget

amendment consists of transferring funds from one budgeted item to another, section 111.070(c) of the Local Government Code clearly authorizes the court to so amend the county budget, even in the absence of an emergency. See *id.* On the other hand, to the extent that a proposed amendment is not a mere transfer, the court may not accomplish the amendment in the absence of an emergency. See *id.* §111.070(b)-(c).

In general, a county commissioners court has discretionary authority to approve an expenditure proposed by a county officer after the annual budget is adopted, although the court may not, by refusing to approve a requested expenditure, interfere with an elected officer's ability to perform his or her legal duties.

#### **Opinion No. GA-0038**

The Honorable Kevin Bailey

Chair, Committee on General Investigating

Texas House of Representatives

P.O. Box 2910

Austin, Texas 78768-2910

Re: Authority of the Texas Education Agency to make a coordinated health program available to elementary schools (RQ-0606-JC)

#### **S U M M A R Y**

Pursuant to section 38.013 of the Education Code, the Texas Education Agency may provide "a coordinated health program designed to prevent obesity, cardiovascular disease, and Type II diabetes in elementary school students" to school districts by approving one or more sets of educational materials prepared by outside providers that fulfill the requirements of the coordinated health program described in the statute. Tex. Educ. Code Ann. § 38.013 (Vernon Supp. 2003); see Tex. Gov't Code Ann. §311.012(a) (Vernon 1998).

#### **Opinion No. GA-0039**

The Honorable Michael A. Stafford

Harris County Attorney

1019 Congress, 15th Floor

Houston, Texas 77002-1700

Re: Whether Harris County may participate in the design and construction of a toll bridge from Galveston Island to Point Bolivar (RQ-0608-JC)

#### **S U M M A R Y**

Because no part of the proposed Bolivar bridge project is located within Harris County, nor connected to a facility that is controlled by the Harris County Toll Road Authority, the Authority may not participate in the design and construction of a toll bridge from Galveston Island to Point Bolivar.

#### **Opinion No. GA-0040**

The Honorable Joe Driver

Chair, House Committee on Law Enforcement

Texas House of Representatives

P.O. Box 2910

Austin, Texas 78768-2910

Re: Whether the Texas Department of Insurance is authorized to enforce certain provisions of the Health Maintenance Organization Act, Tex. Ins. Code Ann. ch. 20A, against physicians who are not under contract with a health maintenance organization (RQ-0597-JC)

## S U M M A R Y

The Health Maintenance Organization Act, Tex. Ins. Code Ann. ch. 20A (Vernon 1981 & Supp. 2003), does not prohibit a physician who is not under contract with an HMO from billing an HMO enrollee for charges not paid by the HMO. The Department of Insurance is not authorized to enforce the Act to prohibit such a physician from balance billing an enrollee of the HMO.

### Opinion No. GA-0041

The Honorable Peggy Hamric  
Chair, Committee on House Administration  
Texas House of Representatives  
Post Office Box 2910  
Austin, Texas 78768-2910

Re: Whether chapter 143 of the Local Government Code, which provides civil service protection for certain municipal employees, applies to certain fire department employees (RQ-0604-JC)

## S U M M A R Y

In accordance with Local Government Code section 143.003(4), a fire department member whose position requires substantial knowledge of fire fighting and work in the fire department is entitled to civil service protection in a municipality that has adopted a civil service system. In addition, a position that is among those included within section 143.003(4)(A)-(J) is a fire fighter entitled to civil service protection as a matter of law. Whether a particular fire department member satisfies a municipality's definition of fire fighter is immaterial if that member holds a position that requires substantial knowledge of fire fighting and work in the fire department or the member holds one of the positions listed in (A) through (J).

A person who is not a fire department member is not entitled to civil service protection under chapter 143 of the Local Government Code. Thus, a city's communications personnel, who comprise a department separate from, and independent of, the city's fire department, are not members of the fire department and are not entitled to civil service status under chapter 143.

Under chapter 143, only a fire department member who has held a position that is entitled to civil service protection for at least six months before the municipality adopted its civil service system may retain the position without complying with civil service requirements. In other circumstances, an employee whom a municipality has employed as a fire department member without substantially complying with civil service requirements may not retain his or her position.

### Opinion No. GA-0042

The Honorable Jeb McNew  
Montague County Attorney  
Montague County Courthouse  
P.O. Box 336  
Montague, Texas 76251-0336

Re: Whether an inmate in a county jail has the right to choose a medical provider and whether an inmate who refuses to use the provider designated by the sheriff's office has refused medical treatment (RQ-0609-JC)

## S U M M A R Y

A county jail inmate does not have the right to choose a medical provider. Whether an inmate's refusal to use the medical provider

selected by the sheriff's office constitutes refusal of any and all medical treatment will depend upon the facts.

**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-200301822  
Nancy S. Fuller  
Assistant Attorney General  
Office of the Attorney General  
Filed: March 19, 2003



### Opinion No. GA-0046

The Honorable Dib Waldrip  
Comal County Criminal District Attorney  
150 North Seguin, Suite 307  
New Braunfels, Texas 78130

Re: Time at which a vacancy is created under the terms of Local Government Code section 22.010(d) in a type A general-law municipality (RQ-0610-JC)

## S U M M A R Y

Pursuant to section 201.023 of the Election Code, a vacancy would occur on the city council of a type A general-law city when the resignation is accepted by the city council or on the eighth day after the date the city receives the resignation, whichever is earlier. Assuming that city council members serve two-year terms so that vacancies on council are not required to be filled by election pursuant to Texas Constitution article XI, section 11, the city council may time its acceptance of the resignations to avoid holding an election to fill two vacancies pursuant to Local Government Code section 22.010(d). To do so, it must fill one vacancy before the other vacancy occurs on the eighth day after the city receives the resignation. Attorney General Opinion MW- 401 (1981) is modified by legislation as stated in this opinion.

### Opinion No. GA-0047

The Honorable William M. Jennings  
Gregg County Criminal District Attorney  
101 East Methvin Street, Suite 333  
Longview, Texas 75601

Re: Whether a municipal risk pool established under chapter 172 of the Local Government

Code is subject to certain Insurance Code provisions (RQ-0617-JC)

## S U M M A R Y

The mental health parity requirement in article 3.51-5A of the Insurance Code applies to a city's risk pool established under section 172.005(a) of the Local Government Code. A city is not bound, however, by the prohibition against treating pregnancy as a preexisting condition, found in article 26.90(d) of the Insurance Code. A city's risk pool may not charge a deductible for child immunizations required under article 21.53F, section 3 of the Insurance Code, even if the child receives the immunizations from an out-of-network provider.

### Opinion No. GA-0048

The Honorable Ken Armbrister  
Chair, Senate Committee on Natural Resources

Texas State Senate  
P.O. Box 12068  
Austin, Texas 78711

Re: Authority of a judge or magistrate to attach a financial condition to a personal bond or to permit a cash deposit of less than the full bail amount (RQ-0618-JC)

#### **S U M M A R Y**

A judge or magistrate may not attach a financial condition to a personal bond, or authorize the deposit of less than the full cash amount of bail.

#### **Opinion No. GA-0049**

The Honorable Susan Combs, Commissioner  
Texas Department of Agriculture  
P.O. Box 12847  
Austin, Texas 78711

Re: Whether the Texas Corn Producers Board may collect an assessment on corn ensilage (RQ-0619-JC)

#### **S U M M A R Y**

Corn ensilage is not "corn" for purposes of the 1980 and 1990 referenda authorizing the Texas Corn Producers Board to collect an assessment on corn. The Board may not collect an assessment on "corn ensilage" unless the corn producers of the state approve such an assessment in an election held under section 41.084 of the Agriculture Code.

#### **Opinion No. GA-0050**

The Honorable Kevin Bailey  
Chair, Committee on General Investigating  
Texas House of Representatives  
Post Office Box 2910  
Austin, Texas 78768-2910

Re: Whether, for purposes of section 155.003 (c)(1) of the Occupations Code, an international medical school graduate who trained in the United States in a program of graduate medical education that is accredited in a particular specialty but not accredited in the related subspecialty in which the graduate received training has received medical education from a program accredited "in the same subject" as the specialty (RQ-0621-JC)

#### **S U M M A R Y**

The Texas State Board of Medical Examiners may decline to license an international medical school graduate who received training in the United States in a graduate medical education program that is accredited in a particular specialty but not accredited in the subspecialty in which the applicant trained. A specialty and a subspecialty within it are not the "same subject" for the purposes of section 155.003(c)(1) of the Occupations Code and related rules. Whether such a graduate completed sufficient training in the accredited specialty to be eligible for licensing on that basis is a question of fact for the Board to resolve.

The fact that an agency charged with administering a particular statute has interpreted the statute differently over the years does not mean, as a matter of law, that the agency's current interpretation is unreasonable.

#### **Opinion No. GA-0051**

The Honorable Dib Waldrip  
Comal County Criminal District Attorney

150 North Seguin, Suite 307  
New Braunfels, Texas 78130

Re: Whether Attorney General Opinion JC-0471 (2002) correctly construes section 152.013(c) of the Local Government Code (RQ-0615-JC)

#### **S U M M A R Y**

Under section 152.013(c) of the Local Government Code, a commissioners court must notify elected county and precinct officers of proposed salaries and expenses after the court has received a proposed budget from the county judge, but sufficiently before the court's approval of the budget to permit an aggrieved officer to request a hearing before the salary grievance committee and to permit the salary grievance committee to determine the grievance consistently with section 152.016. See TEX. LOC. GOV'T CODE ANN. §§ 152.013(c), 152.016 (Vernon 1999). To the extent Attorney General Opinion JC-0471 suggests that a commissioners court may notify officers under section 152.013 only after having adopted the budget, the opinion is modified. See Tex. Att'y Gen. Op. No. JC-0471 (2002) at 2. To the same extent, Attorney General Opinion DM-405 is modified. See Tex. Att'y Gen. Op. No. DM-405 (1996) at 4.

#### **Opinion No. GA-0052**

The Honorable Michael A. Stafford  
Harris County Attorney  
1019 Congress, 15th Floor  
Houston, Texas 77002-1700

Re: Whether section 550.065(d) of the Transportation Code requires a governmental body to use the guidelines established by the Texas Building and Procurement Commission when calculating the "actual cost" of making a noncertified copy of an accident report (RQ-0611-JC)

#### **S U M M A R Y**

Section 550.065(d) of the Transportation Code provides that the fee for copies of accident reports and accident information is \$6 or the actual cost of preparing the copy, whichever is less. Because section 550.065 does not define "actual cost," governmental agencies must use the Texas Building and Procurement Commission's guidelines under the Public Information Act to calculate the "actual cost" of making a noncertified copy of an accident report subject to the limit of \$6 established by the Transportation Code.

#### **Opinion No. GA-0053**

The Honorable Mark E. Price  
San Jacinto County Criminal District Attorney  
1 State Highway 150, Room 21  
Coldspring, Texas 77331  
Mr. Ray Stelly, C.P.A.  
San Jacinto County Auditor  
1 State Highway 150, Room B1  
Coldspring, Texas 77331

Re: Auditing of certain accounts held by a criminal district attorney (RQ-0624-JC)

#### **S U M M A R Y**

State funds distributed to a prosecutor under the Professional Prosecutors Act or article 104.004 of the Code of Criminal Procedure are

not subject to the special audit provision of section 115.032 of the Local Government Code. "Hot check" funds established under article 102.007 of the Code of Criminal Procedure are subject to such audit. A district attorney's authority over the disposition of "hot check" proceeds does not empower him to make multi-year contracts binding them in violation of article XI, section 7 of the Texas Constitution. Funds distributed to a district attorney under the Professional Prosecutors Act are to be deposited in the county treasury.

**Opinion No. GA-0054**

The Honorable Stephen E. Ogden  
Chair, Senate Infrastructure Development  
and Security Committee  
Texas State Senate  
P.O. Box 12068  
Austin, Texas 78711-2068

Re: Whether, "in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House," the legislature may, pursuant to article III, section 49a of the Texas Constitution, authorize expenditures in excess of the amount of cash and anticipated revenues certified by the Comptroller of Public Accounts (RQ-0025-GA)

**S U M M A R Y**

In order to appropriate funds that exceed the amount of cash and anticipated revenue certified by the Comptroller of Public Accounts, an appropriation bill must state the legislature's finding that an "emergency or imperative public necessity" exists, and the bill must then be enacted by a four-fifths vote of the full membership of each house of the legislature.

*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-200302183  
Nancy S. Fuller  
Assistant Attorney General  
Office of the Attorney General  
Filed: April 2, 2003



**Request for Opinions**

*(Editor's Note: Due to an error by the Texas Register, the following Attorney General Request for Opinions were omitted from the March 28, 2003, issue of the Texas Register.)*

**RQ-0021-GA**

The Honorable Ismael "Kino" Flores, Chair, Licensing and Administrative Procedures Committee, Texas House of Representatives, P.O. Box 2910 Austin, Texas 78768-2910

Re: Construction of section 47.01(4)(B), Penal Code, which relates to the definition of "gambling device"; and determination of limitation on sweepstakes promotions under chapter 43 of the Business and Commerce Code (Request No. 0021-GA)

**Briefs requested by April 12, 2003**

**RQ-0022-GA**

The Honorable Tim Curry, Tarrant County Criminal District Attorney Justice Center, 401 West Belknap Fort Worth, Texas 76196-0201

Re: Whether section 1704.304 of the Occupations Code, which prohibits certain persons from recommending the employment of a bail bond surety or of an attorney or law firm to a criminal defendant, precludes those persons from furnishing a list of multiple attorneys or bail bond sureties (Request No. 0022-GA)

**Briefs requested by April 12, 2003**

**RQ-0023-GA**

The Honorable Michael A. Stafford, Harris County Attorney, P.O. Box 920975, Houston, Texas 77292-0975

Re: Construction of sections 11.26 and 23.23, Tax Code, regarding the valuation of repairs made to a property owners homestead as a result of flood, wind, fire or other damage (Request No. 0023-GA)

**Briefs requested by April 13, 2003**

**RQ-0024-GA**

Douglas A. Beran, Ph.D., Executive Director, State Board of Barber Examiners, 5717 Balcones Drive, Suite 217 Austin, Texas 78731

Re: Use of the Barber School Tuition Protection Account administered by the State Board of Barber Examiners (Request No. 0024-GA)

**Briefs requested by April 13, 2003**

**RQ-0025-GA**

The Honorable Stephen E. Ogden, Chair, Infrastructure Development and Security Committee Texas State Senate, P.O. Box 12068 Austin, Texas 78711

Re: Whether, "in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House," the legislature may, pursuant to article III, section 49a(b) of the Texas Constitution, authorize expenditures in excess of the amount of cash and anticipated revenue certified by the Comptroller (Request No. 0025-GA)

**Briefs requested by March 24, 2003**

**RQ-0026-GA**

The Honorable Joe Nixon, Chairman, Committee on Civil Practices, Texas House of Representatives, P.O. Box 2910 Austin, Texas 78768-2910

Re: Status of the University Interscholastic League as a state agency or other entity (Request No. 0026-GA)

**Briefs requested by April 19, 2003**

**RQ-0027-GA**

The Honorable Robert B. Scheske, Gonzales County Attorney, P.O. Box 3, Gonzales, Texas 78629-0003

Re: Whether a single county election may be held to determine whether, on the one hand, cattle may be permitted to run at large, and, on the other, whether other domesticated animals may be permitted to run at large (Request No. 0027-GA)

**Briefs requested by April 19, 2003**

**RQ-0028-GA**

The Honorable Mike Stafford, Harris County Attorney, 1019 Congress, 15th Floor Houston, Texas 77002-1700

Re: Authority of the presiding judge of the statutory probate courts to adopt statewide local rules of administration for the statutory probate courts (Request No. 0028-GA)

**Briefs requested by April 19, 2003**

**RQ-0029-GA**

The Honorable Kent Grusendorf, Chair, Committee on Public Education, Texas House of Representatives, P.O. Box 2910 Austin, Texas 78768-2910

Re: Whether a municipality that has been granted a charter to operate a charter school may issue certificates of obligation to construct facilities in which to house the school (Request No. 0029-GA)

**Briefs requested by March 28, 2003**

**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-200301821  
Nancy S. Fuller  
Assistant Attorney General  
Office of the Attorney General  
Filed: March 19, 2003



**RQ-0030-GA**

The Honorable Jose R. Rodriguez  
El Paso County Attorney  
500 East San Antonio, Room 503  
El Paso, Texas 79901

Re: Whether section 44.901 of the Education Code applies to a school district's purchase of certain energy conservation services (Request No. 0030-GA)

**Briefs requested by April 26, 2003**

**RQ-0031-GA**

The Honorable Mark Burtner  
Lamar County Attorney  
119 North Main Street  
Paris, Texas 75460

Re: Whether a sheriff may contract to provide security to a private entity (Request No. 0031-GA)

**Briefs requested by April 24, 2003**

**RQ-0032-GA**

The Honorable Phil King  
Chair, Regulated Industries Committee  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

Re: Reporting of child sexual abuse and required responses thereto (Request No. 0032-GA)

**Briefs requested by May 1, 2003**

**RQ-0033-GA**

The Honorable Tempie T. Francis  
Motley County Attorney  
P.O. Box 7  
Matador, Texas 79244

Re: Whether a county attorney who is not subject to the Professional Prosecutors Act may maintain a civil practice office in a neighboring county (Request No. 0033-GA)

**Briefs requested by May 1, 2003**

***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-200302182  
Nancy S. Fuller  
Assistant Attorney General  
Office of the Attorney General  
Filed: April 2, 2003





# 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 1. ADMINISTRATION

### PART 5. TEXAS BUILDING AND PROCUREMENT COMMISSION

#### CHAPTER 113. PROCUREMENT DIVISION SUBCHAPTER A. PURCHASING

##### 1 TAC §113.11

The Texas Building and Procurement Commission proposes amendments to 1 TAC §113.11, concerning Delegated Purchases.

The amendments to §113.11 are proposed to change the requirement to reflect that of three bids that must be taken, two must come from HUB vendors. The current rule requires three bids, including one from a woman owned business and one from a HUB. This recommendation for change is based on information received from the Statewide HUB Program which indicates that women are the most utilized of all HUB vendors.

Cindy Reed, Deputy Executive Director, has determined for the first five year period the rule is in effect, there will be no fiscal implication for the state or local governments as a result of enforcing or administering the amendments.

Ms. Reed has further determined that for each year of the first five-year period the amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to 1 TAC §113.11 is the increased involvement of a wider variety of HUB vendors in the state procurement process. There is no anticipated effect on large, small or micro-businesses. There is no anticipated economic costs to persons who are required to comply with the amendments and there is no adverse impact on local employment.

Comments on the proposed amendments may be submitted to Robert F. Moreland, Attorney, Texas Building and Procurement Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments to 1 TAC §113.11 is proposed under the authority of the Texas Government Code, Title 10, Subtitle D, Chapter 2155, §2155.132, which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections related to delegated purchases.

The following code is affected by the amendments: Government Code, Title 10, Subtitle D, Chapter 2155.

§113.11. *Delegated Purchases.*

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

(e) Provisions applicable to particular delegated purchases.

(1) Commodity purchases. Commodity purchases may be made in accordance with the following provisions:

(A) Agencies must attempt to obtain at least three informal bids, including a minimum of two bids from historically underutilized businesses (HUBs) [~~(including at least one bid each from a minority owned business and a woman owned business)~~], on all commodity purchases in excess of \$2,000 and not over \$10,000. Agencies must meet competitive bidding requirements and may supplement the list of bidders obtained from the CMBL and HUBs [~~Historically Underutilized Business (HUB)~~] Directory with non-CMBL bidders if the purchase price does not exceed \$5,000. Agencies must attempt to obtain at least three formal bids, including a minimum of two bids from HUBs [~~(including at least one bid each from a minority-owned business and a woman-owned business)~~], on all commodity purchases in excess of \$10,000 and not over \$25,000. Agencies may refer to the commission's HUB Directory, which is maintained and accessible electronically, to locate HUBs [~~historically underutilized businesses~~]. If an agency is unable to locate two HUBs [~~a minority-owned business and/or a woman-owned business~~] from the commission's HUB Directory or other available sources, the agency must make a written notation in the purchase file of all reference sources used.

(B) (No change.)

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

(4) Services. Purchases of services estimated to cost no more than \$100,000 per year per contract are delegated and must be obtained through a competitive selection process, and appropriate documentation must be forwarded to the commission for approval.

(A) (No change.)

(B) Agencies must attempt to obtain at least three informal bids, including a minimum of two bids from HUBs [~~(including at least one bid each from a minority-owned business and a woman-owned business)~~], on all service purchases in excess of \$2,000 and not over \$10,000.

(C) Agencies must meet competitive bidding requirements and may supplement the list of bidders obtained from the CMBL and HUBs [~~Historically Underutilized Business (HUB)~~] Directory with non-CMBL bidders if the purchase price does not exceed \$5,000.

(D) Agencies must attempt to obtain at least three formal bids, including a minimum of two bids from HUBs [~~(including at least one bid each from a minority-owned business and a woman-owned business)~~], on all service purchases in excess of \$10,000 and not over \$25,000. Agencies may refer to the commission's HUB Directory, which is maintained and accessible electronically, to locate HUBs [~~historically underutilized businesses~~]. If an agency is unable to locate two HUBs [~~a minority-owned business and/or a woman-owned business~~] from the commission's HUB Directory or other available sources, the

agency must make a written notation in the purchase file of all reference sources used. For purchases of services estimated up to \$25,000, state agencies shall solicit a minimum of three bids (two must be HUBs[; ~~one minority and one woman-owned business~~]) from CMBL and HUB Directory Vendors located in the agencies' geographic region.

(E) - (F) (No change.)

(5) - (7) (No change.)

(f) - (j) (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 March 25, 2003.

TRD-200301994

Cynthia de Roch

General Counsel

Texas Building and Procurement Commission

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 475-2400



## TITLE 4. AGRICULTURE

### PART 1. TEXAS DEPARTMENT OF AGRICULTURE

#### CHAPTER 21. CITRUS

The Texas Department of Agriculture (the department) proposes amendments to §§21.1, 21.2, §21.6, §21.21, §21.30, §21.34, §21.36 and new §§21.8 and 21.9, all concerning citrus quarantines, citrus quality, or the citrus budwood certification program. The amendments are proposed to clarify existing sections and to add new requirements related to quarantines, budwood, and citrus maturity. The new sections define labeling and record keeping requirements for regulated articles.

Section 21.1 defines terms used in Chapter 21 Subchapter A and is amended to include new definitions of the terms "distribute or distribution, regulated article, retail buyer, seizure, and transport." Section 21.30 defines terms used in Chapter 21 Subchapter C and is amended to include new definitions of the terms "certified budwood and non-certified budwood" and amended definitions of "certified citrus nursery tree."

The amendment to §21.2 is being proposed to remove the Asian citrus psyllid as a quarantined pest. This species was found to be established this year throughout the Rio Grande Valley of Texas in several locations. Another psyllid species, *trioza erytreae*, is added as a quarantined pest.

The amendments to §21.6 are being proposed to allow the citrus industry in Texas to choose from a larger selection of budwood that is free from pests and diseases. The acquisition of budwood into Texas can be a lengthy process. It requires that before budwood can be shipped into Texas, the source must present a certificate showing all required testing has been completed and confirmed by a federal or state agency approved by the department. Currently, only the California Citrus Clonal Protection Program (CCCPP) is exempt from requirements listed in subparagraphs (A) and (B) and is able to issue a certificate confirming the budwood is pest and disease free. The proposed revision will add

the USDA-ARS National Clonal Germplasm repository for Citrus and Dates (USDA-ARS-NCGR) as another entity exempt from subparagraphs (A) and (B) and that will be able to issue a certificate confirming the budwood is pest and disease free. The amendment to §21.6(4) allows citrus plants to enter Texas on a temporary basis for display purposes only, provided they are moved under a special permit issued by the department.

The amendments to §21.21 are proposed to combine the charts used for juice requirements of seedless and seeded grapefruit varieties. Present day grapefruit cultivars have fewer seeds and are not considered to be excessively seedy, therefore the juice requirements for seedless varieties of grapefruit is proposed for use on all grapefruit. Citrus maturity standards are also proposed to be in effect during the entire year to ensure citrus offered for sale in Texas is mature and fit for consumption.

The amendments to §§21.34 and 21.36 are being proposed to provide further clarification to proper procedures within the citrus budwood certification program. The amendment to §21.34 provides for the exchange of budwood between persons when certified budwood varieties are not yet available from either the foundation grove or increase block and such budwood has been tested and found to be free of Tristeza virus. This exchange is limited and cannot be distributed or resold further. The amendment to §21.36 does not limit the budwood record keeping requirements to only commercial nurseries. Record keeping is primarily for tracking the movement of propagative material.

New §21.8 defines the labeling requirements necessary to track and identify regulated articles; provides for an alternative to the labeling requirement; specifies administrative penalties that apply for non-compliance; and specifies requirements for record keeping to ensure that regulated articles can be easily identified as produced in Texas.

New §21.9 specifies requirements for record keeping; provisions for a rebuttable presumption; procedures for rebutting a presumption; and provisions for seizure and destruction of regulated articles.

David Kostroun, Assistant Commissioner for Regulatory Programs, has determined that for the first five-year period the proposed amendments and new sections are in effect, there is no anticipated fiscal impact on state or local governments as a result of administration and enforcement of the sections.

Mr. Kostroun has also determined that for each year of the first five years the proposed amendments and new sections are in effect, the public benefit anticipated as a result of administering and enforcing the new and amended sections is an adequate supply of Texas grown citrus trees that are free of serious diseases and pests that could threaten the citrus industry as well as citrus fruit that is mature and fit for consumption. There will be a cost to some growers and retailers required to comply with the proposal. These costs cannot be determined at this time due to the variable record keeping and identification practices used in the industry. Most commercial nurseries currently label plants with some of the required information and can include additional information that may be required on the same label. Making changes/additions to labels may be accomplished at little to no additional cost. Nurseries also have the option to identify the plants during production as prescribed within a "plan" developed by the grower and approved by the department, in lieu of an identification tag or label. Most growers and retailers maintain sufficient information to meet record keeping requirements.

Costs for additional record keeping cannot be determined because of the wide range of record keeping systems maintained by growers and retailers.

Comments on the proposal may be submitted to David Kostroun, Assistant Commissioner for Regulatory Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of the publication of the proposal in the *Texas Register*.

## SUBCHAPTER A. CITRUS QUARANTINES

### 4 TAC §§21.1, 21.2, 21.6, 21.8, 21.9

The amendments to §§21.1, 21.2, 21.6, and new §§ 21.8 and 21.9 are proposed in accordance with the Texas Agriculture Code (the Code), §71.009, which provides the department with the authority to adopt rules as necessary for the seizure, treatment, and destruction of plants, plant products, and other substances for the effective enforcement and administration of Chapter 71; §71.010 which provides for the appeal process to be followed for violation cases of these rules; §94.003 which provides the department with the authority to develop and adopt rules related to the requirements of citrus fruit for human consumption; §73.002 which provides for the state to use all constitutional measures to protect the citrus industry from destruction by pests and diseases; and §19.006 which provides the department with the authority to adopt rules necessary to administer the citrus budwood certification program.

The code that is affected by the proposal is Texas Agriculture Code, Chapters 19, 71, 73 and 94.

#### §21.1. Definitions.

In addition to the definitions set out in Texas Agriculture Code and Texas Administrative Code, the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) (No change.)
- (2) Citrus identification plan -- A department approved plan for the identification and tracking of citrus plants produced for the purpose of sale or distribution.
- (3) Distribute or distribution -- To supply, sell, deliver, lease, provide, or otherwise transfer possession of a regulated or quarantined article.
- (4) Non-rebuttable presumption -- A presumption that may not be challenged with evidence.
- (5) Rebuttable presumption -- A disputable presumption or a presumption which may be challenged with evidence.
- (6) Regulated article -- Any citrus plant grown for the purpose of sale or distribution.
- (7) Retail buyer -- A person who receives a regulated article other than for the purpose of resale.
- (8) [(2)] Rootstock -- A plant used as the recipient understock in budding or grafting.
- (9) Seizure -- To take official control of regulated or quarantined articles either determined to have been transported or carried from a quarantined area in violation of a quarantine order or determined to be infected with a disease or insect pest, at any stage of development, dangerous to a citrus plant, citrus plant product, or citrus substance, without regard to whether the citrus plant, citrus plant product, or citrus substance comes from an area known to be infested.

(10) Transport -- Carry, move, or transfer by motor vehicle, boat, or other conveyance licensed or otherwise authorized for use on a road, highway, or waterway of the United States or an individual state.

#### §21.2. Quarantined Pests and Diseases.

(a) (No change.)

(b) Insects and mites. For the purposes of these regulations, the quarantined insects and mites injurious to citrus include the following: Brown citrus aphid, *Toxoptera citricida*; Branch and twig borer, *Melalagus confertus*; African psyllid, *Trioza erytraea* [*Citrus psyllid*, *Diaphorina eitri*]; Orange spiny whitefly, *Aleurocanthus spiniferous*; Avocado whitefly, *Trialeurodes floridensis*; Plumeria whitefly, *Paraleurodes perseae*; Inconspicuous whitefly, *Bemisia inconspicua*; Citrus root weevil, *Pachnaeus litus*; Sugarcane root-stalk borer weevil, *Diaprepes abbreviatus* [*abbreviata*]; Rufous scale, *Selenaspis articulatus*; Caribbean black scale, *Saissetia neglecta*; Citrus snow scale, *Unaspis citri*; Oystershell scale, *Lepidosaphes ulmi*; Citrus bud mite, *Eriophyes sheldoni*; Six-spotted mite, *Eotetranychus sexmaculatus*; Yuma spider mite, *Eotetranychus yumensis*; Orange sawyer, *Elaphidion inerme*; and Citrus thrips, *Scirtothrips citri*.

#### §21.6. Restrictions.

(a) General. In addition to any other applicable restrictions imposed by regulations adopted under Chapter 71, Texas Agriculture Code, quarantined articles may not be transported into Texas or, within Texas, into the citrus zone except as outlined in subsections (b) and (c) of this section.

(b) (No change.)

(c) Exceptions.

(1) (No change.)

(2) Budwood of citrus varieties not existing in Texas may be shipped to Texas from Florida, California, or outside the United States under the following conditions:

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

(E) in addition to the requirements outlined in subparagraphs (A), (B), and (C) of this paragraph, shipments originating in Florida or California shall include a certificate from the origin state's department of agriculture specifying that the budwood is free of pests and diseases listed in this subchapter. A copy of the certificate shall be sent to and approved by the Texas Department of Agriculture before shipment of the budwood to Texas. However, budwood originating from the California citrus clonal protection program (CCCPP) or the USDA-ARS National Clonal Germplasm Repository for Citrus and Dates (USDA-ARS-NCGR) will be exempt from the requirements in subparagraphs (A) and (B) of this paragraph, but will require a certificate from the CCCPP or the USDA-ARS-NCGR specifying that the budwood is free of pests and diseases listed in this subchapter instead of the state's certificate.

(3) (No change.)

(4) Citrus plants may enter Texas on a temporary basis for display purposes only, provided they move under the conditions of a special permit issued by the department.

(A) A request for a special permit must be submitted in writing to Texas Department of Agriculture, Attention: Pest Management Programs, P. O. Box 12847, Austin, Texas 78711. The request shall be received not later than 30 days prior to proposed date of entry into the state and shall include the following information:

(i) name and address of requestor;

(ii) name and address of location where plants will be displayed in the state;

(iii) date when plants will enter the state as well as the date the plants will exit the state;

(iv) common and scientific name of plants to be displayed, including variety or cultivar; and

(v) number of each type of plant to be displayed.

(B) Each request will be considered on a case by case basis and if approved by the department, a written permit will be issued. Permit conditions will include but may not be limited to the following:

(i) Citrus plants may not be moved into Texas from an area quarantined for citrus canker or any exotic fruit fly pest;

(ii) Within 7 days prior to entering the state, all citrus plants must be treated with a foliar insecticide and a soil drench to ensure they are free of all pests;

(iii) Plants must be inspected and found free of all pests in all stages of development by the origin state department of agriculture and a phytosanitary certificate issued by the origin state indicating the treatment product used, rate applied and date of application. A non-destructive tag written in waterproof ink identifying plants inspected and certified shall be attached to all plants by the origin state department of agriculture;

(iv) The special permit must accompany the shipment at all times and be presented to a department employee upon request; and

(v) Upon return to origin, plants must be re-inspected by the origin state department of agriculture to verify all permitted plants were returned. The origin state department of agriculture must submit written verification of inspection findings to the department.

§21.8. Labeling Requirements and Non-Rebuttable Presumption.

(a) General.

(1) Each regulated article sold, distributed or transported within this state or grown for the purpose of sale or distribution shall have attached to the article, or to the container in which the article is planted, a waterproof tag or label upon which is legibly printed in permanent lettering the words "Produced in Texas" and the Texas Nursery/Floral Registration Certificate number of the business location where the regulated article was produced for sale or distribution.

(2) The absence of a tag or label required by subsection (a) of this section creates a non-rebuttable presumption that the regulated article is a quarantined article and shall be destroyed in accordance with the applicable provisions of section 71.0091 of the Code.

(3) A regulated article with a tag or label required by subsection (a) of this section that is determined by the inspector or other agent of the department to have not been produced at the Texas business location represented by the registration number on the tag or label shall be seized and may be destroyed pursuant to section 21.9 (g) of this title (relating to Record Keeping; Rebuttable Presumption and Seizure), in accordance with the applicable provisions of section 71.0091 of the Code.

(4) The presence of a tag or label attached to a regulated article, or to a container in which the regulated article is planted, that states that the regulated article did not originate in Texas, including "product of," "produced in," "originated in," or "grown in" any geographic area outside of Texas, creates a non-rebuttable presumption that the regulated article is a quarantined article and shall be destroyed in

accordance with the applicable provisions of sections 71.0091 of the Code.

(5) Each failure to comply with a requirement of this section constitutes a separate violation for which an administrative penalty may be assessed and each day a violation continues or occurs may be considered a separate violation.

(b) Exemptions.

(1) Commercial citrus. Within the Texas citrus zone, commercial citrus production areas where trees are immediately field planted in groves and cultivated for commercial fruit production are exempt from the requirements of this subchapter.

(2) Identification. In lieu of identification tags during production, a nursery may develop a citrus identification plan, as approved by the department, that defines procedures and methods used to identify the citrus plants under production at the location. Identification tags, as provided in this section, will be required once the citrus plants are sold or distributed.

(3) Budwood.

(A) Budwood used to propagate trees for personal use and not for resale is not subject to the record keeping requirement in §21.36 of this title (relating to Record Keeping). The original invoice at time of sale for the parent tree may be used to verify the tree was produced in Texas.

(B) The labeling of budwood pieces for sale by the foundation grove manager is specified in §§21.34-21.35 of this title (relating to Citrus Budwood Certification and Labeling of Certified Citrus Nursery Trees).

§21.9. Record keeping; Rebuttable Presumption; and Seizure.

(a) Each lot of regulated articles distributed or transported within this state shall have a unique identifying number and be accompanied by an invoice, receipt, or other document(s) containing the following information:

(1) the identifying number of each lot of the regulated articles;

(2) the name, address, and telephone number of the producer of the regulated articles;

(3) if in transit, the name, address, and telephone number of the person to whom the regulated articles are to be delivered;

(4) the genus or widely recognized common name of the regulated article(s) and the number of individual regulated articles distributed or transported; and

(b) A copy or copies of the document or documents required by subsection (a) shall be provided to each person, other than a retail buyer, receiving all or a portion of the lot of regulated articles.

(c) A person, other than a retail buyer, shall not accept a distribution of regulated articles from any person unless accompanied by the documentation required by subsection (a) and/or subsection (b) of this section.

(d) Any person or organization who produces, sells, leases, or offers for sale or otherwise receives, distributes, or holds regulated articles for sale to any business outlet for resale purposes shall maintain a copy or copies of the document or documents required by subsection (a) and/or subsection (b) of this section for a period of at least two years after the sale or other distribution of the regulated article. Copies of the documents are not required to be maintained by the end user (grower or homeowner).

(e) A person required to maintain records under subsection (d) of this section shall, upon written request of the department, deliver copies of the records by mail, facsimile, commercial carrier, hand-delivery, or other means during normal business hours.

(f) A rebuttable presumption that the regulated articles, for which records are to be maintained under subsection (d) of this section, constitute quarantined articles is created if:

(1) the distributor fails to produce records or copies of records pursuant to a written request under either subsection (e) or subsection (f) of this section; or

(2) a regulated article with a tag or label required by this subchapter does not correspond with the records required to be maintained under subsection (d) of this section.

(g) Regulated articles deemed quarantined articles under subsection (f) of this section shall be seized by the department and shall not be further distributed without the written permission of the department.

(1) The department shall deliver by hand to the owner, or a representative of the owner at least 18 years of age, at the owner's place of business, an order notifying the owner of the seizure, listing the number and description of the regulated articles seized, stating the reason for seizure and the time period for rebutting the presumption set forth in subsection (f) of this section, and bearing the signature of the department's inspector or representative seizing the regulated articles..

(2) The presumption that regulated articles are quarantined articles may be rebutted by providing:

(A) adequate documentation or other assurances regarding the state and county of origin of the regulated articles and the chain of custody of the regulated articles from origin to the person affected by the order; or

(B) an adequate demonstration that the plants or plant products do not or cannot host a plant pest or plant disease for which a quarantine has been imposed under either state or federal law.

(3) The time period within which to rebut the presumption that the regulated articles are quarantined articles shall vary depending on the risk represented by the plant pest or plant disease that necessitated the seizure and destruction order and shall be provided in writing as provided in this section.

(4) If the presumption established by subsection (f) of this section is rebutted in accordance with the requirements of this section, the seizure shall be rescinded in writing.

(5) If the presumption established by subsection (f) of this section is not rebutted in accordance with the requirements of this section, the regulated articles subject to seizure shall be destroyed in accordance with applicable provisions of section 71.0091 of the Code.

(h) Each failure to comply with a requirement of this section constitutes a separate violation for which an administrative penalty may be assessed and each day a violation continues or occurs may be considered a separate violation.

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 March 31, 2003.  
TRD-200302111

Dolores Alvarado Hibbs  
Deputy General Counsel  
Texas Department of Agriculture  
Earliest possible date of adoption: May 11, 2003  
For further information, please call: (512) 463-4075



## SUBCHAPTER B. CITRUS QUALITY

### 4 TAC §21.21

The amendments to §21.21 are proposed in accordance with the Texas Agriculture Code (the Code), §71.009, which provides the department with the authority to adopt rules as necessary for the seizure, treatment, and destruction of plants, plant products, and other substances for the effective enforcement and administration of Chapter 71; §71.010 which provides for the appeal process to be followed for violation cases of these rules; §94.003 which provides the department with the authority to develop and adopt rules related to the requirements of citrus fruit for human consumption; §73.002 which provides for the state to use all constitutional measures to protect the citrus industry from destruction by pests and diseases; and §19.006 which provides the department with the authority to adopt rules necessary to administer the citrus budwood certification program.

The code that is affected by the proposal is Texas Agriculture Code, Chapters 19, 71, 73 and 94.

*§21.21. Standards.*

All citrus fruit handled and/or sold within the state of Texas [~~Grapefruit handled after July 31 and before December 2 and oranges after July 31 and before November 2~~] must be mature and fit for consumption. Fruit are considered mature and fit for consumption if the following conditions are met:

(1) Grapefruit:

(A) minimum ratio of soluble solids to anhydrous acid:  
Figure: 4 TAC §21.21(1)(A) (No change.)

(B) minimum juice requirement (in cubic centimeters) as it relates to fruit size:  
Figure: 4 TAC §21.21(1)(B)

(2) (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 March 31, 2003.  
TRD-200302112  
Dolores Alvarado Hibbs  
Deputy General Counsel  
Texas Department of Agriculture  
Earliest possible date of adoption: May 11, 2003  
For further information, please call: (512) 463-4075



## SUBCHAPTER C. CITRUS BUDWOOD CERTIFICATION PROGRAM

### 4 TAC §§21.30, 21.34, 21.36

The amendments to §§21.30, §21.34 and §21.36 are proposed in accordance with the Texas Agriculture Code (the Code),

§71.009, which provides the department with the authority to adopt rules as necessary for the seizure, treatment, and destruction of plants, plant products, and other substances for the effective enforcement and administration of Chapter 71; §71.010 which provides for the appeal process to be followed for violation cases of these rules; §94.003 which provides the department with the authority to develop and adopt rules related to the requirements of citrus fruit for human consumption; §73.002 which provides for the state to use all constitutional measures to protect the citrus industry from destruction by pests and diseases; and §19.006 which provides the department with the authority to adopt rules necessary to administer the citrus budwood certification program.

The code that is affected by the proposal is Texas Agriculture Code, Chapters 19, 71, 73 and 94.

§21.30. *Definitions.*

In addition to the definitions set out in the Texas Agriculture Code, Chapter 19 (the Act), and in, Chapter 21, Subchapter A of this title (relating to Citrus Quarantines) the following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) Certified budwood - Budwood that has been tested for pathogens listed under §21.32 (a) of this title (relating to Establishment of the Foundation Grove).

(2) [(4)] Certified citrus nursery tree--A citrus tree propagated by any vegetative means, germplasm or re-propagated from the same germplasm source. Propagation by vegetative means includes but is not limited to citrus propagated by budding, grafting, cuttings, and air-layering [with certified citrus budwood or re-budded from the same source].

(3) [(2)] Certified laboratory--A public or private laboratory authorized to perform tests for citrus pathogens.

(4) [(3)] Citrus--All species of the genus Citrus, Poncirus, and Fortunella including any hybrids thereof.

(5) [(4)] Increase Block--An area in which budwood from the foundation grove are budded or grafted onto rootstock to increase budwood production.

(6) Non-certified budwood - Budwood that has been tested for tristeza only.

§21.34. *Citrus Budwood Certification.*

(a) Only citrus budwood originating from the increase block or the foundation grove or both shall be certified. Budwood of varieties not available from the foundation grove or increase block may be distributed or obtained only if it has been tested and found to be free of tristeza virus as tested by a lab approved by the department or covered under §21.6 (2)(E) of this title (relating to Restrictions).

(b)-(c) (No change)

§21.36. *Record Keeping. [Record-keeping]*

(a) Records must be maintained for a minimum of four years by the foundation grove and by [commercial] nurseries selling certified citrus nursery trees.

(b) (No change.)

(c) The following records of certified budwood sales must be maintained on forms promulgated by the department at the foundation grove:

(1) origin of budwood sold, by source tree lot [identification] number;

(2) (No change.)

(3) records of each sale, including:

(A) - (B) (No change.)

(C) variety and source tree lot [identification] number(s); and

(D) (No change.)

(d) The following records of certified budwood purchases and certified citrus nursery tree sales must be maintained on forms promulgated by the department at [commercial] nurseries that purchase certified budwood:

(1) specific records of each purchase including:

(A) date of purchase;

(B) variety(ies) purchased; and

(C) number of buds purchased from each source tree;

(2) number of certified citrus nursery trees successfully budded from each budwood variety purchased:

(3) location of certified citrus nursery trees, until the trees are sold; and

(4) records of sales of certified citrus nursery trees.

(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 March 31, 2003.

TRD-200302113

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: May 11, 2003

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



## TITLE 7. BANKING AND SECURITIES

### PART 6. CREDIT UNION DEPARTMENT

#### CHAPTER 91. CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS SUBCHAPTER B. ORGANIZATION PROCEDURES

##### 7 TAC §91.210

The Texas Credit Union Commission proposes amendments to §91.210 relating to foreign credit unions. The amendment makes several changes. First, it defines local service area for foreign credit unions. Secondly it allows foreign credit unions to expand its field of membership to include any group with a community of interest (including geographic) within its local service area and automatically includes certain groups in their entirety, even though some of the potential members may be located outside the credit union's local service area under specified conditions. Finally, a new subsection was added to safeguard against foreign

credit unions using its Texas office(s) as share/deposit production office(s).

The amendment to the rule is adopted as a result of interested persons petitioning the Commission to amend the rule to change the current language in subsection (i) because it limited a foreign credit union's growth outside of their service area and foreign credit unions were not on parity with state-chartered credit unions for field of membership expansions.

Additional comments received stated that the proposed changes to Section 91.210 still set limits on a foreign credit union's ability to expand their field of membership and objected to the new subsection dealing with prohibition against share/deposit production offices. The Commission has determined from its review of Section 91.210 and the comments received that a need exists for this proposed amendment. The Commission felt that this amendment places the foreign credit union on par with state chartered credit unions in connection with expansion of field of membership and that the prohibition on share/deposit production offices was based on sound public policy considerations and is not unduly burdensome on foreign credit unions.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be greater choice for the Texas consumer, while safeguarding against disproportionate funneling of deposits out of this state to support loans in other states. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 122.013, that is interpreted as authorizing the Credit Union Commission to adopt rules that govern foreign credit union operations in this state..

The specific section affected by the proposed amendment is Texas Finance Code, Section 122.013.

*§91.210. Foreign Credit Unions [Certificate of Authority to Do Business in the State of Texas].*

(a) Definitions [Definition].

(1) Foreign credit union--[as used in this chapter, means] a credit union that is not chartered or otherwise organized under the laws of this state or the United States.

(2) Local service area--an area that is within reasonable proximity of a foreign credit union's office, allowing members to be realistically served from that office.

(b)-(h) (No change.)

(i) Field of membership. A certificate of authority to do business in this state is specifically issued to allow a foreign credit union to provide services to its existing field of membership. However, the commissioner may approve a foreign credit union's request to expand its field of membership to include groups with a community of interest that are [distinct, definable single occupational and /or associational

communities of interest] within the foreign credit union's local service area [the state of Texas that can be conveniently served from its office(s)] if it is organized in a state or country that allows a credit union organized under the act to expand its field of membership to at least the same extent. After being satisfied that the group is within the foreign credit union local service area, the [The] commissioner shall use, in making a determination on the expansion request, the same criteria and the same procedures as used when a Texas credit union seeks to expand its field of membership. The commissioner shall make a reasonable effort to coordinate this determination with the foreign credit union's primary regulator to assure that each agency's material interests, authorities and responsibilities are fulfilled.

(j) Location of Group. For the purposes of a field of membership expansion, the group as a whole will be considered to be within the local service area when:

(1) A majority of the persons in the group live, work, or gather regularly within the local service area;

(2) The group's headquarters is located within the local service area; or

(3) The group's "paid from" or "supervised from" location is within the local service area.

(k) Prohibition against share/deposit production offices. A foreign credit union may not use its certificate of authority primarily for the purpose of deposit production. The foreign credit union is expected to reasonably help meet the credit needs of the groups in Texas that are served by the credit union. If the Commissioner determines that the foreign credit union's level of lending in Texas relative to the deposits from Texas members is less than half the average of total loans relative to total deposits for all credit unions domiciled in Texas, the credit union will not be permitted to further expand its field of membership nor open additional offices in Texas.

(l) [(+) Enforcement; penalty. The commissioner has grounds to issue a cease and desist order to an officer, employee, director, and/or the foreign credit union itself, if the commissioner determines from examination or other credible evidence that the credit union has violated or is violating any applicable Texas law or rules of the commission. If the foreign credit union does not comply with an order, the commissioner may assess an administrative penalty as authorized by §122.260, Finance Code, as well as suspend or revoke the certificate of authority.

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 March 25, 2003.

TRD-200301988

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236

◆ ◆ ◆  
SUBCHAPTER D. POWERS OF CREDIT UNIONS

7 TAC §91.403

The Texas Credit Union Commission proposes amendments to §91.403 concerning federal parity with respect to offering debt cancellation products. The proposed amendment establishes

additional standards governing debt cancellation products in order to ensure that credit unions provide such products consistent with safe and sound credit union practices.

The Credit Union Department has long recognized that state credit unions may provide debt cancellation contracts as permissible credit union products. The Credit Union Commission officially granted state credit unions parity with federal credit unions relating to the sale of guaranteed auto protection programs and debt cancellation contracts in 1999 based on the regulations of the National Credit Union Administration at 12 C.F.R. Part 721.3(g) which expressly noted debt cancellation and debt suspension agreements as permissible loan-related products. In promulgating §91.403 the Commission codified the Department's position and specifically stated the authority of state credit unions under Texas Finance Code Section 123.003 to enter into debt cancellation products as authorized credit union loan terms and to charge a fee for these products.

The proposal removes references to a guaranteed auto protection program and improves the definition of debt cancellation product.

The proposal also adds three new subsections. New subsection (b) imposes additional standards that apply to credit unions offering debt cancellation products. These standards prohibit a credit union from engaging in any form of self-insurance to cover any loss resulting from these products; prohibit tying the approval or terms of an extension of credit to a member's purchase of a product; and requires the product provide for the refunding of, or credit to, the member any unearned fees resulting from the termination of the member's participation in the product. New subsection (c) requires a credit union to notify the commissioner of its intention to offer debt cancellation products and prescribes the information that must be included in the notification. And finally, new subsection (d) imposes a new duty on the credit union's board of directors to establish and maintain written policies concerning debt cancellation products.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be member protection and clear guidance on safety and soundness requirements for debt cancellation products. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the Texas Finance Code §15.402 and §123.003.

The Commission interprets §15.402 to authorize the Commission to adopt reasonable rules, and the Commission interprets §123.003 to authorize the Commission to adopt rules that authorize a state credit union to engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment it could make, if it were operating as a federal credit union.

The specific section affected by this proposed amendment is Texas Finance Code §124.001.

~~§91.403. Federal Parity [Guaranteed Auto Protection (GAP) Program/Debt Cancellation Contracts]Debt Cancellation Products.~~

(a) A credit union may offer any [establish and operate a] debt cancellation product it could offer [GAP program for its members as] if it were operating as a federal credit union, so long as it complies with this section. For the purposes of this section, a debt cancellation product is one [GAP program is defined as a program in] which the credit union agrees to waive, suspend, defer, or cancel all or part of a member's obligation to pay an indebtedness under a lease, loan, or other extension of credit upon the occurrence of a specified event[purchases insurance to protect itself from losses resulting when a leased vehicle or vehicle securing a loan or other extension of credit held by the credit union is declared a total loss or is stolen and the primary insurance settlement is not sufficient to cover the outstanding balance]. The credit union may offer debt cancellation products for a fee. [then, with or without a fee, enter into a debt cancellation contract, GAP waiver, or similar agreement under which the member will not be held responsible for the deficiency.] If the debt cancellation product [contract, GAP waiver, or similar agreement] is offered on a fee basis, then participation must be optional for the member.

(b) For any debt cancellation product offered by a credit union:

(1) The credit union must purchase insurance, from an insurer authorized to do business in Texas, to indemnify itself from loss resulting from operation of the product;

(2) The credit union may not extend credit nor alter the terms or conditions of an extension of credit conditioned upon the member choosing a debt cancellation product; and

(3) The debt cancellation product must provide for the refunding of, or crediting to, the member any unearned fees resulting from termination of the member's participation in the product, whether by prepayment of the extension of credit or otherwise. Any unearned fees must be calculated using the actuarial method or any other method at least as favorable to the member.

(c) A credit union must notify the commissioner in writing of its intent to offer any type of debt cancellation product at least 30 days prior to any such product being offered to members. The notice must contain:

(1) A statement describing the type(s) of debt cancellation product(s) that the credit union will offer to its membership; and

(2) The name of the insurer from whom the credit union will purchase the insurance policy required under subsection (b)(1).

(d) Each credit union, before offering any debt cancellation products, shall adopt written policies approved by its board of directors that establish and maintain effective risk management and control processes over the offering of these products. The policies shall also establish reasonable fees, if any, that will be charged; the appropriate disclosures that will be given; and the claims processing procedures that will be utilized.

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 March 25, 2003.

TRD-200301989



Harold E. Feeney  
Commissioner  
Credit Union Department  
Earliest possible date of adoption: May 11, 2003  
For further information, please call: (512) 837-9236



## SUBCHAPTER G. LENDING POWERS

### 7 TAC §91.701

The Texas Credit Union Commission proposes amendments to §91.701 relating to lending powers. The amendment makes several nonsubstantive changes, which clarify certain provisions of the rule.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review Section 91.701 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of Section 91.701 that a need exists for these proposed amendments.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be that a party will be afforded an opportunity for a fair and expeditious presentation of the relevant issues in a contested case. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendment is Texas Finance Code, Section 124.001.

#### §91.701. Lending Powers.

(a) (No change.)

(b) Each credit union, before engaging in any lending activity, shall establish written lending policies approved by its board of directors that establish prudent credit underwriting and documentation standards for each specific type of lending activity [~~in which the credit union will engage~~]. The lending policies shall contain a general outline of the manner in which loans are made, serviced, and collected. In addition the policies must:

(1) Be consistent with safe and sound credit union practices;

(2) Be appropriate to the size and financial condition of the credit union and the nature and scope of its operations;

(3) Be compatible with the size and expertise of the credit union's lending staff;

(4) Be compliant with all related laws and regulations;

(5) Be reviewed and approved by the credit union's board of directors at least annually;

(6) Address loan portfolio diversification standards to avoid undue concentrations of risk;

(7) Address underwriting standards that are clear and measurable;

(8) Address loan administration procedures for monitoring the loss exposure from [~~condition of~~] the loan portfolio; and

(9) State the lending authority delegated to any individuals or committees by the board of directors.

(c) (No change.)

(d) Except when a higher maturity date is provided for elsewhere in this chapter, the maturity of a loan to a member may not exceed 15 years unless the purpose of the loan is to finance the purchase of a manufactured home and the loan is secured by a first lien, in which case the maturity may not exceed 20 years. Open-end credit is not subject to a regulatory maturity limit. However, [~~Amortization of line of credit balances and the type and amount of security on any line of credit shall be as determined by the contract between the credit union and the member but~~] the amortization scheduling on a line of credit balance shall not exceed 15 years.

(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 March 25, 2003.

TRD-200301991  
Harold E. Feeney  
Commissioner  
Credit Union Department  
Earliest possible date of adoption: May 11, 2003  
For further information, please call: (512) 837-9236



### 7 TAC §91.702

The Texas Credit Union Commission proposes amendments to §91.702 relating to lending powers. The amendment makes one change, which clarifies that loan documentation practices must be written.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review Section 91.702 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of Section 91.702 that a need exists for this proposed amendment.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be consistency of application from written loan documentation practices. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendment is Texas Finance Code, Section 124.001.

*§91.702. Records for Lending Transactions.*

A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgement in exercising the lending powers granted under the Act, these rules, or other applicable law. At a minimum, each credit union shall establish and maintain written loan documentation practices that ensure that the credit union can make an informed lending decision and can assess risk on an ongoing basis; and ensure that any claims against a member, guarantor, security holders, and collateral are legally enforceable.

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 March 25, 2003.

TRD-200301993

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



**7 TAC §91.704**

The Texas Credit Union Commission proposes amendments to §91.704 relating to lending powers. The amendment makes several changes, which allows 30 year first lien home equity loans and clarifies several provisions under the subsection dealing with exceptions to loan to value limitations.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review Section 91.704 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has

determined from its review of Section 91.704 that a need exists for this proposed amendment.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be clarification of the applicable provisions. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendment is Texas Finance Code, Section 124.001.

*§91.704. Real Estate Lending.*

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

(c) Notwithstanding the general 15-year maturity limit on lending transactions to members, the board of directors shall establish in written policy internal maximum maturities for real estate lending transactions. These maturities should not exceed the following regulatory limits:

- (1) Improved residential real estate loans (owner-occupied) - 40 years
- (2) Improved residential real estate loans (not to be occupied by owner) - 30 years
- (3) Interim construction loans - 18 months
- (4) Manufactured home (first lien) - 20 years
- (5) Home equity loans - 20 years (second lien) - 30 years (first lien)
- (6) Home improvement loans - 20 years
- (7) All other loans - 15 years

(d) Exceptions to subsections (b) and (c) of this section are permitted for the following:

- (1) Loans that subsequently become compliant with loan-to-value ratio limits due to reduction in principal amount, elimination of senior liens, or contribution of additional collateral or equity (e.g. improvements to the real property securing the loan).
- (2) Loans guaranteed or insured by the U.S. government or its agencies, provided that the amount of the guaranty or insurance is at least equal to the portion of the loan that exceeds the regulatory loan-to-value limit.
- (3) Loans guaranteed, insured or otherwise backed by the full faith and credit of the state, a municipality, a county government, or an agency thereof, provided that the amount of the guaranty, insurance,

or assurance is at least equal to the portion of the loan that exceeds the regulatory loan-to-value limit.

(4) Loans guaranteed or insured by a private corporation, organization or other entity [the state, a municipal or local government, or an agency thereof] provided that the amount of guaranty or insurance is at least equal to the portion of the loan that exceeds the regulatory loan-to-value limit, and provided that the credit union has determined that the guarantor or insurer has the financial capacity and willingness to perform under the terms of the guaranty or insurance agreement.

(5) Loans that are to be sold promptly after origination, without recourse, to a financially responsible third party.

(6) Loans that are renewed, refinanced, or restructured without the advancement of new funds or an increase in the line of credit (except for reasonable closing costs) where consistent with safe and sound credit union practices and part of a clearly defined and well-documented program to achieve orderly liquidation of the debt, reduce risk of loss, or maximize recovery on the loan.

(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 March 25, 2003.

TRD-200301996

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



#### 7 TAC §91.708

The Texas Credit Union Commission proposes amendments to §91.708 relating to lending powers. The amendment makes several changes, which prescribe minimum standards for determining the market value of real estate loans with a transaction value of less than \$250,000.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review Section 91.708 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of Section 91.708 that a need exists for this proposed amendment.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be consistent documentation of real estate loans. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendment is Texas Finance Code, Section 124.001.

#### §91.708. Real Estate Appraisals.

(a) For real estate loans in which the transaction value exceeds \$250,000, the credit union shall obtain a professional appraisal report by a state certified or licensed appraiser [as required by the Financial Institutions Reform, Recovery and Enforcement Act of 1989; is necessary. Reappraisals may be required by the commissioner on real estate or other property or interests therein securing loans, at the expense of the credit union, when the commissioner has reason to believe the value of the security is overstated for any reason]. The appraisal report shall be in writing and conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation, in [4029 Vermont Avenue, NW,] Washington, D.C. [2005. In the case of renewal of a loan where additional funds are advanced by the credit union, a written certification of current value by the original appraiser or an acceptable substitute shall satisfy this section.]

(b) Real estate loans with a transaction value of less than \$250,000 shall be supported by a written estimate of market value either performed by a qualified individual who has no direct interest in the property or from tax appraisal data of a governmental entity.

(c) Reappraisals may be required by the commissioner on real estate or other property or interests therein securing loans, at the expense of the credit union, when the commissioner has reasonable cause to believe the value of the security is overstated.

(d) In the case of renewal of a loan where additional funds are advanced by the credit union, a written certification of current value by the original appraiser or an acceptable substitute shall satisfy this section.

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 March 25, 2003.

TRD-200301997

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



#### 7 TAC §91.710

The Texas Credit Union Commission proposes amendments to §91.710 relating to lending powers. The amendment rewrites the provision in its entirety to allow state chartered credit unions the

same overdraft protection programs currently available to federally chartered credit unions.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review Section 91.710 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. Comments were received from the Texas Credit Union League encouraging adoption of overdraft protection provisions which put state chartered credit unions in parity with federally chartered credit unions. The Commission has determined from its review of Section 91.710 that a need exists for this proposed amendment.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be consistency with federal credit unions and a written overdraft protection program disclosing details and fees to its members. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendment is Texas Finance Code, Section 124.001.

*§91.710. Overdraft Protection.*

A credit union may advance money to a member to cover an account deficit without having a credit application from the borrower on file if the credit union has a written overdraft policy. The policy must: set a cap on the total dollar amount of all overdrafts the credit union will honor consistent with the credit union's ability to absorb losses; establish a time limit not to exceed 45 calendar days for a member to either deposit funds or obtain an approved loan from the credit union to cover each overdraft; limit the dollar amount of overdrafts the credit union will honor per member; and establish the fee and interest rate, if any, the credit union will charge members for honoring overdrafts. [A credit union which permits withdrawal of funds from an account payable to third parties may offer in connection with such accounts overdraft protection to members in the form, on the terms and in amounts consistent with the credit union's policies. For purposes of financial reporting, funds advanced to or for the benefit of a member in connection with an overdraft condition shall be considered as a loan to the member.]

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 March 25, 2003.

TRD-200301998

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



**7 TAC §91.711**

The Texas Credit Union Commission proposes amendments to §91.711 relating to lending powers. The amendment makes several changes, which clarify when a loan participation is an investment and specifically authorizes a credit union to sell or purchase the servicing of any loan in which it owns a participation interest.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review Section 91.711 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of Section 91.711 that a need exists for this proposed amendment.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be clarification of the applicable provisions. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendment is Texas Finance Code, Section 124.001.

*§91.711. Loan Participations.*

(a) A credit union may participate in loans jointly with other credit unions, credit union organizations, corporations or other financial organizations pursuant to written policies established by the board of directors. Before the disbursement of proceeds to the originating lender, [participating in a loan transaction,] each credit union shall perform its own due diligence of the loan(s) [transaction]

(b) A participating credit union shall treat a participation as an investment, unless the participation is in a loan of a type that the credit union is authorized to make and the borrower is a member of the credit union or a member of another participating credit union.

(c) A credit union may sell to or purchase from any participant the servicing of any loan in which it owns a participation interest.

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 March 25, 2003.

TRD-200302002

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



### 7 TAC §91.712

The Texas Credit Union Commission proposes amendments to §91.712, relating to lending powers. The amendments makes several changes, which are technical corrections.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years.) Notice of Intention to Review §91.712 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of §91.712 that a need exists for the proposed amendments.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendments.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be clarification of the applicable provisions. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendments are proposed under the provision of the Texas Finance Code, §124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, §15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendments is Texas Finance Code, §124.001.

§91.712. *Plastic Cards.*

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

(1) Card Activation--process of sending new plastic cards from the issuer to the legitimate cardholder in an "inactive" mode.

Once the legitimate cardholder receives the card, they must call the issuer/processor and go through a member verification process before the card is "activated".

(2) Card Security Code--a set of unique numbers encoded on the magnetic strip of plastic cards used to combat counterfeit fraud.

(3) Neural Network--a computer program that monitors usage patterns of an account and typical fraud patterns. The program analyzes activity to determine fraud risk scores to detect potentially fraudulent activity. [~~Strategies are then used to determine actions to mitigate frauds. Human intervention occurs to validate if the activity is actually fraudulent.~~]

(4) Plastic Cards--includes credit cards, debit cards, automated teller machine (ATM) or specific network cards; and predetermined stored value and smart cards with micro-processor chips.

(b) (No change.)

(c) Program Review.

(1) A credit union shall review, on at least an annual basis, its plastic card program with particular emphasis on:

(A) Losses caused by theft and fraud;

(B) Loss prevention measures and their adequacy; and

(C) The availability and use of appropriate loss prevention measures including card activation, card security codes, neural networks, and other evolving technology.

(2) The review shall be documented in writing, with any changes to the plastic card program being entered into the minutes of the board meeting.

(3) [~~(b)~~] At least annually, the credit union's board shall also cause to be performed an assessment of earnings and the capital position to ensure that the credit union can absorb potential related plastic card program losses. This review shall include a cost benefit analysis of supplemental insurance coverage for theft and fraud related losses. Establishment of a segregated contingency reserve may be utilized to further mitigate the credit union's risk exposure for losses resulting from its plastic card program.

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 March 25, 2003.

TRD-200302003

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



### 7 TAC §91.713

The Texas Credit Union Commission proposes amendments to §91.713, relating to lending powers. The amendments makes several changes, which clarify requirements regarding retail installment contracts.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their

rules every four years.) Notice of Intention to Review §91.713 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of §91.713 that a need exists for the proposed amendments.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendments.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be clarification of the applicable provisions. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendments are proposed under the provision of the Texas Finance Code, §124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, §15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendments is Texas Finance Code, §124.001.

*§91.713. Indirect Financing of Motor Vehicles or Other Chattels.*

(a) Credit unions may implement a program of indirect financing of motor vehicles and other chattels. For the purposes of this chapter, a retail installment contract purchased under this authority may be treated as a loan on the books and records of the credit union and is subject to the same limitations and restrictions imposed upon loan transactions. As with other lending, the credit union is responsible for making the final underwriting decision. ~~The [Although the] seller may initially determine whether the prospective buyer is a member or eligible for membership in the credit union, but the final determination of [responsibility for ] membership eligibility is the responsibility of the credit union [decisions must be the credit union's first consideration] .~~

(b) ~~Credit unions may purchase or otherwise hold retail installment contracts when authorized by applicable law. The [A] retail installment contract must [may] provide for a rate or amount of time price differential that does not exceed a [the] rate or amount authorized by applicable law [Chapter 124 of the Texas Finance Code].~~

(c) (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 March 25, 2003.

TRD-200302004

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236

◆ ◆ ◆  
**7 TAC §91.715**

The Texas Credit Union Commission proposes amendments to §91.715, relating to lending powers. The amendments makes several changes, which clarify that standards of review and approval of exceptions to general loan policies should be written and make other review procedures mandatory.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years.) Notice of Intention to Review §91.715 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of §91.715 that a need exists for the proposed amendments.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendments.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be greater equity and control over exceptions to lending policies. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendments are proposed under the provision of the Texas Finance Code, §124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, §15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendments is Texas Finance Code, §124.001.

*§91.715. Exceptions to the General Lending Policies.*

(a) Credit unions may provide for the consideration of loan requests from creditworthy members whose credit needs do not fit within the credit union's general lending policies. A credit union may provide for prudently underwritten exceptions to its lending policies. However, the Board is responsible for establishing written standards for the review and approval of exception loans.

(b) Each credit union establishing exceptions to its general lending policies shall ~~[should]~~ establish an appropriate internal process for the review and approval of loans that do not conform to its own internal policy standards. The approval of any such loan shall also ~~[should]~~ be supported by a written justification that clearly sets forth all of the relevant credit factors that support the underwriting decision. The justification and approval documents for such loans will ~~[should]~~ be maintained as a part of the permanent loan file. Each credit union shall ~~[should]~~ monitor compliance with its lending policies and individually report exception loans of a significant size to its board of directors.

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 March 25, 2003.

TRD-200302005

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



### 7 TAC §91.718

The Texas Credit Union Commission proposes amendments to §91.718 relating to lending powers. The amendment makes one change which requires the commissioner to act in accordance with generally accepted accounting principals when determining value.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review Section 91.718 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. No comments have been received. However, the Commission has determined from its review of Section 91.718 that a need exists for this proposed amendment.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be enhancement of the applicable provision. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provision of the Texas Finance Code, Section 124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, Section 15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendment is Texas Finance Code, Section 124.001.

§91.718. *Charging Off or Setting Up Reserves.*

(a) The commissioner, after a determination of value in accordance with generally accepted accounting principles, may order that assets in the aggregate, to the extent that such assets have depreciated in value, or to the extent the value of such assets, including loans, are overstated in value for any reason, be charged off, or that a special

reserve or reserves equal to such depreciation or overstated value be established.

(b)-(c) (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 March 25, 2003.

TRD-200301992

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



### 7 TAC §91.719

The Texas Credit Union Commission proposes amendments to §91.719, relating to lending powers. The amendments makes two changes, which address the definition of immediate family and terminology in the subsection dealing with the limit on loans to officials and employees and their immediate families.

The amendments to the rule are proposed as a result of the general rule review mandated by the Government Code and General Appropriations Act. (Both contain provisions requiring state agencies to review and consider for re-adoption each of their rules every four years). Notice of Intention to Review §91.719 was published in the *Texas Register* on December 13, 2002 (27 TexReg 11797) for the purpose of accepting public comment. Comments were received from the Texas Credit Union League encouraging adoption of a definition of "immediate family" which mirrors the definition found in other similar federal regulations. The Commission has determined from its review of §91.719 that a need exists for the proposed amendments.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendments.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be consistency with other financial institutions. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendments are proposed under the provision of the Texas Finance Code, Section §124.001, which provides the Credit Union Commission with the authority to adopt rules governing loans made to credit union members; and under the Texas Finance Code, §15.402, which authorizes the commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amendments is Texas Finance Code, §124.001.

§91.719. *Loans to Officials and Employees.*

(a) (No change.)

(b) Before making a loan, extending credit, or becoming contractually liable to make a loan or extend credit to a director, employee, member of the credit committee, or an immediate family member of such individual, the board of directors must approve the transaction if the loan or the extension of credit or aggregate of outstanding loans and extensions of credit to any one person, the person's business interests, and the members of the person's immediate family is greater than 15% of the credit union's net worth [capital]. A loan fully secured by shares in the credit union or deposits in other financial institutions shall not be subject to, or included in the aggregate amounts included in this section.

(c) For purposes of this section, the term immediate family member includes the spouse of an individual, the individual's minor children, and any of the individual's children (including adults) residing in the individual's home [or other family member living in the same household].

(d) - (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 March 25, 2003.

TRD-200302006

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



## SUBCHAPTER O. TRUST POWERS

### 7 TAC §§91.6001 - 91.6015

The Texas Credit Union Commission proposes new §§91.6001 through 91.6015 concerning fiduciary powers. The proposed rules establish standards governing fiduciary activities in order to ensure that credit union provide such services consistent with safe and sound credit union practices.

Terminology has changed considerably with respect to fiduciary activities. Many years ago the use of the term "the trust business" denoted instances in which an institution was acting as a fiduciary. Today, a reference to trust business increasingly signifies an institution providing trust and asset management services. The term "asset management" is used by the industry to mean the management of third-party assets for a fee or commission. Trust and asset management thus includes the provisions of fiduciary (personal, employee benefit, and investment advisory services) as well as agency arrangements including custody of assets. For ease of reference, the term "trust" is used to refer to the trust and asset management activities conducted within a credit union. Credit unions have board authority to exercise trust powers under Finance Code §123.207.

The proposed rules impose new requirements on a credit union to ensure that credit unions providing trust services do so in a safe and sound manner. These requirements include making a credit union: give the Department notice of its intent to exercise trust powers; establish written trust policies and procedures; perform certain mandatory reviews; keep trust records separate from credit union records; arrange for an annual audit of the trust

business; create specially designated accounts for trust funds; and secure bond and errors and omission insurance. The rules also prohibit employees involved in trust activities from receiving certain types of compensation, gifts, or bequests.

Kerri T. Galvin, General Counsel, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Ms. Galvin has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefits anticipated as a result of enforcing the rule will be member protection and clear guidance on safety and soundness requirements for trust activities. There is no anticipated effect on small businesses as a result of adopting the amended rule. There is no economic cost anticipated to credit unions for complying with the amendments if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the Texas Register to Kerri T. Galvin, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the Texas Finance Code §15.402 and §123.207. The Commission interprets §15.402 to authorize the Commission to adopt reasonable rules necessary for administering Subtitle D, Title 3, Texas Finance Code.

The specific section affected by this proposed amendment is Texas Finance Code §123.207.

#### §91.6001. Fiduciary Duties.

A credit union must conduct its trust operations in accordance with applicable law, and must exercise its fiduciary powers in a safe and sound manner. All fiduciary activities shall be under the direction of the credit union's board of directors. In carrying out its responsibilities, the board may assign, by action duly entered in the minutes, any function related to the exercise of fiduciary powers to any director, officer, employee, or committee thereof.

#### §91.6002. Fiduciary Capacities.

A credit union is subject to this chapter if it acts in a fiduciary capacity. A credit union acts in a fiduciary capacity when it acts in any of the following capacities:

- (1) Trustee.
- (2) Custodian.
- (3) Executor.
- (4) Administrator.
- (5) Guardian.
- (6) Receiver.

#### §91.6003. Notice Requirements.

(a) Intent. A credit union is required to notify the commissioner in writing of its intent to exercise fiduciary powers, at least 31 days prior to the anticipated commencement date of such fiduciary activities. The notice must contain:

- (1) A statement describing the fiduciary powers that the credit union will exercise;
- (2) An opinion of counsel that the proposed activities do not violate law, including citations to applicable law;
- (3) A statement that the capital of the credit union is not less than the capital required by law of other financial institutions exercising comparable fiduciary powers;



(4) Sufficient biographical information on proposed trust management personnel to enable the Department to assess their qualifications; and

(5) A description of the locations where the credit union will conduct fiduciary activities.

(b) Prior Activity. A credit union that has initiated trust activities prior to the effective date of this rule, shall file the notice prescribed in subsection (a) by October 1, 2003.

§91.6004. Exercise of Fiduciary Powers.

(a) Supervisory Review. Unless otherwise notified by the department, a credit union may exercise its fiduciary powers on the 30th day after the credit union receives written confirmation from the Department that the notice required under Section 91.6003 of this title (relating to Notice Requirements) is complete and accepted for filing. The Department will consider the following factors when reviewing such a notice:

(1) The credit union's financial condition.

(2) The credit union's capital and whether that capital is sufficient under the circumstances.

(3) The credit union's overall performance.

(4) The fiduciary powers the credit union proposes to exercise.

(5) The availability of legal counsel.

(6) The experience and expertise of proposed trust management personnel.

(7) The needs of the members to be served.

(8) Any other facts or circumstances that the Department considers appropriate.

(b) Written Notice. Prior to expiration of the 30 day period referred to in subsection (a), the commissioner may give the credit union written notice of denial or consent, subject to certain conditions.

(c) Acceptance of Conditions. Commencement of the exercise of fiduciary powers constitutes confirmation of acceptance of all conditions imposed by the commissioner under subsection (b) and shall be considered an enforceable agreement against the credit union for all purposes.

§91.6005. Exemption from Notice.

A credit union does not need to provide notice under section 91.6003 (relating to notice requirements) to act as a trustee or custodian of any form of retirement, pension, profit sharing or deferred income accounts for its members, pension funds of self-employed individuals eligible for membership and pension funds of a company or organization whose employees are eligible for membership in the credit union if acting as such will only involve holding the funds on deposit and reporting information to the account holders and government agencies. All contributions to such fiduciary accounts, however, must be initially made to a share or deposit account in the credit union and the credit union may not directly or indirectly provide any investment advice for such fiduciary accounts.

§91.6006. Policies and Procedures.

A credit union exercising trust powers shall adopt and follow written policies and procedures adequate to maintain its fiduciary activities in compliance with applicable law. Among other relevant matters, the policies and procedures should address, where appropriate, the credit union's:

(1) Brokerage placement practices;

(2) Methods for ensuring that fiduciary officers and employees do not use material inside information in connection with any decision or recommendation to purchase or sell any security;

(3) Methods for preventing self-dealing and conflicts of interest;

(4) Selection and retention of legal counsel who is readily available to timely review trust instruments or other documents creating the credit union's fiduciary status and advise the credit union and its fiduciary officers and employees on all fiduciary related matters; and

(5) Investment of funds held as fiduciary, including short-term investments and the treatment of fiduciary funds awaiting investment or distribution.

§91.6007. Review of Fiduciary Accounts.

(a) Pre-acceptance review. Before accepting a fiduciary account, a credit union shall review the prospective account and related instruments and documents to determine whether it can properly administer the account.

(b) Initial post-acceptance review. Upon the acceptance of a fiduciary account for which a credit union has investment discretion, the credit union shall conduct a prompt review of all assets of the account to evaluate whether they are appropriate for the account.

(c) Annual review. At least once during every calendar year, a credit union shall conduct a review of all assets of each fiduciary account for which the credit union has investment discretion to evaluate whether they are appropriate, individually and collectively, for the account.

§91.6008. Recordkeeping.

A credit union shall adequately document the establishment and termination of each fiduciary account and shall maintain adequate records for all fiduciary accounts. All records pertaining to a fiduciary account shall be separate and distinct from other records of the credit union.

§91.6009. Audit.

At least once during each calendar year, a credit union shall arrange for a suitable audit by a certified public accountant in accordance with generally accepted standards for attestation engagement. The audit must ascertain whether the credit union's internal control policies and procedures provide reasonable assurance of three things:

(1) The credit union is administering fiduciary activities in accordance with applicable law and the trust instrument or other documents creating the fiduciary responsibility;

(2) The credit union is properly safeguarding fiduciary assets; and

(3) The credit union is accurately recording transactions in appropriate accounts in a timely manner.

§91.6010. Custody of Fiduciary Assets.

(a) A credit union shall place assets of fiduciary accounts in the joint custody or control of not fewer than two the fiduciary officers or employees designated for that purpose by the board of directors.

(b) A credit union shall keep assets of fiduciary accounts separate from the assets of the credit union. Except as otherwise authorized by applicable law and as may be in the best interests of the beneficiaries of the fiduciary account, a credit union shall keep assets of each fiduciary account separate from all other accounts.

§91.6011. Trust Funds.

All monies received by a credit union as fiduciary on trust business shall be deposited in a specially designated account or accounts, shall

not be commingled with any funds of the credit union and shall remain on deposit until disbursed or invested in accordance with powers and duties of the credit union in its capacity as such fiduciary.

§91.6012. Compensation, Gifts, and Bequests.

A credit union may not permit its directors, officers, or employees to retain any compensation for acting as co-fiduciary with the credit union in the administration of a fiduciary account, except with the specific approval of the board of directors. In addition, a credit union may not permit any fiduciary officer or employee to accept a bequest or gift of fiduciary assets, unless the bequest or gift is directed or made by a relative of the director, officer, or employee or is specifically approved by the board of directors.

§91.6013. Bond Coverage.

A credit union is required to maintain a bond for protection and indemnity of members, in reasonable amounts against dishonesty, fraud, defalcation, forgery, theft, embezzlement, and other similar insurable losses with an insurance or surety company authorized to do business in this state. Coverage against such losses shall include all agents who do not otherwise provide protection and indemnity for the credit union, directors, officers, and employees of the credit union acting independently or in collusion or combination with any person or persons whether or not they draw salary or compensation.

§91.6014. Errors and Omissions Insurance.

The credit union shall procure errors and omission insurance of at least five hundred thousand dollars.

§91.6015. Litigation File.

A credit union shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of fiduciary powers.

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 March 25, 2003.

TRD-200301990

Harold E. Feeney

Commissioner

Credit Union Department

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 837-9236



## TITLE 10. COMMUNITY DEVELOPMENT

### PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

#### CHAPTER 80. MANUFACTURED HOUSING SUBCHAPTER D. STANDARDS AND REQUIREMENTS

##### 10 TAC §80.54

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") proposes amendments to §80.54, relating to standards for the installation of manufactured homes.

Section 80.54(b)(1) updates the Department's rules regarding site preparation for the installation of a manufactured home to

address those situations where, because the home has already been installed or the home will be installed under circumstances that the consumer cannot control, the consumer needs to make sure that the party in a position to prepare the site has done so or will do so rather than assuming a responsibility that the consumer is unable to carry out.

Figure: 10 TAC §80.54(c) - Moved to §80.54(g) and improved the language in the Site Preparation Notice.

Figure: 10 TAC §80.54(d)(3) - Moved to §80.54(h)(3).

Figure: 10 TAC §80.54(d)(4) - Moved to §80.54(h)(4).

Figure: 10 TAC §80.54(d)(6) - Moved to §80.54(h)(6).

Figure: 10 TAC §80.54(d)(6)(B) - Moved to §80.54(h)(6)(B).

Figure: 10 TAC §80.54(d)(6)(C) - Moved to §80.54(h)(6)(C).

Figure: 10 TAC §80.54(d)(7) - Moved to §80.54(h)(7).

Figure: 10 TAC §80.54(d)(8) - Moved to §80.54(h)(8).

Figure: 10 TAC §80.54(d)(9)(A) - Moved to §80.54(h)(9)(A).

Figure: 10 TAC §80.54(d)(9)(D) - Moved to §80.54(h)(9)(D).

Figure: 10 TAC §80.54(g) - Moved from §80.54(c) and improved the language in the Site Preparation Notice for better clarification. The revised language alerts the consumer to instances where they may need to do additional work to be sure of the accuracy of their site preparation.

Figure: 10 TAC §80.54(h)(3) - Moved from §80.54(d)(3). No change in the content.

Figure: 10 TAC §80.54(h)(4) - Moved from §80.54(d)(4). No change in the content.

Figure: 10 TAC §80.54(h)(6) - Moved from §80.54(d)(6). No change in the content.

Figure: 10 TAC §80.54(h)(6)(B) - Moved from §80.54(d)(6)(B). No change in the content.

Figure: 10 TAC §80.54(h)(6)(C) - Moved from §80.54(d)(6)(C). No change in the content.

Figure: 10 TAC §80.54(h)(7) - Moved from §80.54(d)(7). No change in the content.

Figure: 10 TAC §80.54(h)(8) - Moved from §80.54(d)(8). No change in the content.

Figure: 10 TAC §80.54(h)(9)(A) - Moved from §80.54(d)(9)(A). No change in the content.

Figure: 10 TAC §80.54(h)(9)(D) - Moved from §80.54(d)(9)(D). No change in the content.

Bobbie Hill, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Ms. Hill also has determined that for each year of the first five years the amendments are in effect the public benefit as a result of enforcing the amendments will be: clarification of rules that will increase compliance; improved quality of home installation; and improved gathering of data to facilitate the administration of the Act.

The proposed amendments to §80.54 is expected to have no material economic costs to persons/businesses who are required to comply with the amendments as proposed.

Comments may be submitted to Ms. Bobbie Hill, Executive Director of the Manufactured Housing Division, of the Texas Department of Housing and Community Affairs, P. O. Box 12489, Austin, Texas 78711-2489 or by e-mail at the following address [bhill@tdhca.state.tx.us](mailto:bhill@tdhca.state.tx.us). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, §9, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.603, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed amendments.

*§80.54. Standards for the Installation of Manufactured Homes.*

(a) All manufactured homes shall be installed in accordance with one of the following:

- (1) the home manufacturer's installation instructions;
- (2) the state's generic standards set forth in this section, §80.55 of this title (relating to Anchoring Systems), §80.56 of this title (relating to Multi-Section Connection Standards), and modified by any appendix filed in accordance with §80.51(a)(2) of this title (relating to Manufactured Home Installation Requirements);
- (3) a custom designed stabilization system;
- (4) a stabilization system pre-approved by the department;

or

- (5) on a permanent foundation.

(b) Site Preparation Responsibilities and Requirements:

(1) The purchaser of a manufactured home, new or used, is responsible for the proper preparation of the site where the manufactured home will be installed except as set forth in subsection (g) of this section: ~~The purchaser is responsible for the proper preparation of the site where the manufactured home (new or used) is to be installed unless the home is installed in a rental community. Except in rental communities, the purchaser shall remove all debris, sod, tree stumps and other organic materials from all areas where footings are to be located. In areas where footings are not to be located, all debris, sod, tree stumps and other organic material shall be trimmed, cut, or removed down to a maximum height of 8 inches above the ground. The retailer must give the purchaser a site preparation notice as described in this section prior to the execution of any binding sales agreement, if the sales agreement will be executed before the home is installed. If the installation is a secondary move, not involving a retail sale, the installer must give the homeowner the site preparation notice prior to any agreement for the secondary installation of the home.~~

(A) In the case of a manufactured home that is to be installed in a manufactured home rental community (as defined in Local Government Code §232.007), the purchaser may not have the ability to control the preparation of the site. Therefore, the purchaser should confirm with the person who owns, leases, or manages the rental community that the site has been properly prepared as required by Property Code, §94.151.

(B) When a manufactured home is sold already installed it is not possible for the purchaser to prepare the site. Therefore, it is the responsibility of seller, if the seller is a licensed retailer, to ensure that the site has been properly prepared.

(2) Whenever a licensed retailer intends to sell a manufactured home, regardless of where it is located or is to be located, the retailer is required to give the proposed purchaser the Site Preparation Notice, for signature by the consumer, in the form set forth in subsection (g) of this section PRIOR to the execution of any binding sales agreement.

(3) Whenever a licensed installer proposes to move a used manufactured home, the installer is required to give the proposed purchaser the Site Preparation Notice, for signature by the consumer, in the form set forth in subsection (g) of this section PRIOR to entering into a binding agreement to move that home.

(c) [(2)] If the retailer or installer provides the materials for skirting or contracts for the installation of skirting, the retailer or installer is responsible for the following: The retailer or installer shall install any required moisture and ground vapor control measures in accordance with the home installation instructions, specifications of an approved stabilization system, or the generic standards and shall provide for the proper cross ventilation of the crawl space. If the purchaser or homeowner contracts with a person other than the retailer or installer for the skirting, the purchaser or homeowner is responsible for installing the moisture and ground vapor control measures and for providing for the proper cross ventilation of the crawl space.

(d) [(3)] Clearance: If the manufactured home is installed according to the state's generic standards, a minimum clearance of 18 inches between the ground and the bottom of the floor joists must be maintained. In addition, the installer shall be responsible for installing the home with sufficient clearance between the I-Beams and the ground so that after the crossover duct prescribed by the manufacturer is properly installed it will not be in contact with the ground. Refer to §80.56 of this title (relating to Multi-Section Connection Standards) for additional requirements for utility connections. It is strongly recommended that the installer not install the home unless all debris, sod, tree stumps and other organic materials are removed from all areas where footings are to be located.

(e) [(4)] Drainage: The purchaser is responsible for proper site drainage where the manufactured home (new or used) is to be installed unless the home is installed in a rental community. It is strongly recommended that the installer not install the home unless the exterior grade is sloped away from the home or another approved method to prohibit surface runoff from draining under the home is provided. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

(f) [(5)] Generic Moisture and Ground Vapor Controls:

(1) [(A)] If the manufactured home is installed according to the state's generic standards and the space under the home is to be enclosed with skirting and/or other materials provided by the retailer and/or installer, an access opening not less than 18 inches in any dimension and not less than three square feet in area shall be provided by the installer. The access opening shall be located so that any water supply and sewer drain connections located under the home are accessible for inspections. If a clothes dryer exhaust duct, air conditioning condensation drain, or combustion air inlet is present, the installer must pass it through the skirting to the outside. In addition, crawl space ventilation must be provided at the rate of minimum 1 square foot of net

free area, for every 150 square feet of floor area. At least six openings shall be provided, one at each end of the home and two on each side of the home. The openings shall be screened or otherwise covered to prevent entrance of rodents (note: screening will reduce net free area). For example, a 16'x76' single section home has 1216 square feet of floor area. This 1216 square feet divided by 150 equals 8.1 square feet or 1166 square inches of net free area crawl space ventilation.

(2) [(B)] The retailer and/or installer must notify the purchaser that moisture and ground vapor control measures are required if the space under the home is to be enclosed. Water vapor build-up may cause dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors. The generic ground vapor control measure shall consist of a ground vapor retarder that is minimum 6 mil polyethylene sheeting or its equivalent, installed so that the area under the home is covered with sheeting and overlapped approximately 12 inches at all joints. Any tear larger than 18 inches long or wide must be taped using a material appropriate for the sheeting used. The laps should be weighted down to prevent movement. Any small tears and/or voids around construction (footings, anchor heads, etc.) are acceptable.

(g) [(e)] Notice: The site preparation notice to be given to the consumer shall be as follows:

Figure: 10 TAC §80.54(g)  
[Figure: 40 TAC §80.54(e)]

(h) [(d)] Footers and Piers:

(1) Proper sizing of footings depends on the load carrying capacity of both the piers and the soil. To determine the load bearing capacity of the soil, the installer may use any of the following methods:

(A) Pocket penetrometer:

(i) Test a typical area adjacent to or within 10 feet of the perimeter of the unit;

(ii) Dig down to undisturbed soil. This should be a minimum of 1 square foot surface area; and

(iii) Using the pocket penetrometer take seven (7) readings, eliminate the highest and the lowest and average the remaining five (5).

(B) Soil surveys from the U.S. Department of Agriculture;

(C) Values from tables of allowable or presumptive bearing capacities given in local building codes. Such tables are commonly available from the local authority having jurisdiction; or

(D) Any other test data from soil analysis reports.

(2) The footing must be placed on firm, undisturbed soil, or fill compacted to at least 90% of its maximum relative density. Installation on loose, noncompacted fill may invalidate the home's limited warranty.

(3) Footer configurations:

Figure: 10 TAC §80.54(h)(3)  
[Figure: 40 TAC §80.54(d)(3)]

(4) Footer sizing and capacities: The following tables represent maximum loads and spacings based on footer size and soil bearing capacity. Other approved footers may be used if equal or greater in bearing area than those footer sizes tabulated.

Figure: 10 TAC §80.54(h)(4)  
[Figure: 40 TAC §80.54(d)(4)]

(5) Piers and pier spacings: One of the most important parts of home installation is proper pier installation. Incorrect size, location or spacing of piers may cause serious structural damage to the home. Spacing and location of piers shall be in accordance with the tables listed in these standards (Table 3B, without perimeter piers; Table 3C, with perimeter piers).

(A) Spacing shall be as even as practicable along each main I-Beam. Pier spacing may exceed tabulated values up to 30% so long as the total pier count remains the same. End piers are to be located within 24 inches of the end of the main frame.

(B) Piers shall extend at least 6 inches from the centerline of the I-Beam or be designed to prevent dislodgment due to horizontal movement of less than 4 inches.

(C) Load bearing supports or devices shall be listed by an independent testing laboratory, nationally recognized inspection agency, or other nationally recognized organization and approved by the department. Engineers or architects licensed in Texas may design load bearing supports or devices for a single installation. A copy of the design for this particular home and site shall be provided to the department before the home is installed, but department approval is not required.

(D) Sidewall openings greater than 4 feet shall have perimeter piers located under each side of the opening, i.e. patio doors, recessed porches/entries, bay windows and porch posts. Perimeter piers for openings are not required for endwalls.

(6) Pier design: Piers shall be constructed per the following details:

Figure: 10 TAC §80.54(h)(6)  
[Figure: 40 TAC §80.54(d)(6) ]

(A) Shimming (if needed): Hardwood shims are commonly used as a means for leveling the home and filling any voids left between the bottom flange of the I-Beam and the top of the pier cap. Wedge shaped shims must be installed from both sides of the I-Beam to provide a level bearing surface. The allowable height must not exceed 1 inch. Shims shall be a minimum of 3 inches wide and 6 inches long. Over shimming should be avoided.

(B) Table 3B - Pier loads (pounds) at tabulated spacings WITHOUT perimeter supports:

Figure: 10 TAC §80.54(h)(6)(B)  
[Figure: 40 TAC §80.54(d)(6)(B) ]

(C) Table 3C - Pier loads (pounds) at tabulated spacings WITH perimeter supports:

Figure: 10 TAC §80.54(h)(6)(C)  
[Figure: 40 TAC §80.54(d)(6)(C) ]

(7) Typical multi-section pier layout:

Figure: 10 TAC §80.54(h)(7)  
[Figure: 40 TAC §80.54(d)(7) ]

(8) Typical single section pier layout:

Figure: 10 TAC §80.54(h)(8)  
[Figure: 40 TAC §80.54(d)(8) ]

(9) Multi-section units mating line column supports:

(A) On multi-section units, openings larger than 4 feet must have piers installed at each end of the opening. To determine the pier loads, refer to Table 3D in subparagraph (D) of this paragraph.

Figure: 10 TAC §80.54(h)(9)(A)  
[Figure: 40 TAC §80.54(d)(9)(A) ]

(B) Column loads for each section may be combined when the columns are opposite each other. The footer must be sized for the combined loading.

(C) Additional piers are required under marriage walls (see wall between column #3 and #4 in the Marriage Line Elevation drawing in subparagraph (A) of this paragraph). The maximum spacing is the same as the spacing at the main I-Beams, without perimeter piers, and one half the spacing of the perimeter piers, with perimeter piers installed.

(D) Table 3D: Mating line column loads (pounds).

Figure: 10 TAC §80.54(h)(9)(D)  
[Figure: 10 TAC §80.54(d)(9)(D) ]

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 March 31, 2003.

TRD-200302109

Bobbie Hill

Deputy Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Proposed date of adoption: June 10, 2003

For further information, please call: (512) 475-2206



## SUBCHAPTER E. GENERAL REQUIREMENTS

### 10 TAC §80.137

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (Department) proposes new §80.137, which will list and provide the format for all forms which the Division of Manufactured Housing, Texas Department of Housing and Community Affairs (the "Department") requires to be used in connection with the administration of the Texas Manufactured Housing Standards Act (the "Act"). The Department will, from time to time, make available on its website other forms which are suggested or "acceptable" sample forms that do not require the use of a specific format, and those forms are not included in this proposed regulation.

Section 80.137(a) sets forth those forms that are required forms to be used in connection with the installation of manufactured homes; that are required to be used in connection with the titling of manufactured homes; and that are required to be used in connection with the administration of the Homeowners' Recovery Fund, including the performing of reassigned warranty work under §14(k) of the Standards Act.

Figure: 10 TAC §80.137(a)(1) - Notice of Installation Affidavit (Form T)

Figure: 10 TAC §80.137(a)(2) - Down Payment Verification Affidavit

Figure: 10 TAC §80.137(a)(3) - Covenant Disclosure Notice

Figure: 10 TAC §80.137(a)(4) - Estimate for Reassigned Warranty Work

Section 80.137(b) provides for the approval of alternative forms.

Bobbie Hill, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period the new section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new section.

Ms. Hill also has determined that for each year of the first five years the new section is in effect the public benefit as a result of enforcing the new section will be: clarification of rules that will increase compliance; improved quality of home installation; and improved gathering of data to facilitate the administration of the Act.

The adoption of §80.137 is expected to have no material economic costs to persons/businesses who are required to comply with the new section as proposed.

Comments may be submitted to Ms. Bobbie Hill, Executive Director of the Manufactured Housing Division, of the Texas Department of Housing and Community Affairs, P. O. Box 12489, Austin, Texas 78711-2489 or by e-mail at the following address [bhill@tdhca.state.tx.us](mailto:bhill@tdhca.state.tx.us). The deadline for comments is 30 days after publication in the *Texas Register*.

The new section is proposed under the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, §9, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.603, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rule.

#### §80.137. Required Forms.

(a) The following forms are required by the Department to be used for the purposes described therein, as set forth in the Standards Act:

(1) Notice of Installation Affidavit/Form T;

Figure: 10 TAC §80.137(a)(1)

(2) Down Payment Verification Affidavit;

Figure: 10 TAC §80.137(a)(2)

(3) Covenant Disclosure Notice; and

Figure: 10 TAC §80.137(a)(3)

(4) Estimate for Reassigned Warranty Work.

Figure: 10 TAC §80.137(a)(4)

(b) Any alternative form or any modification of any of the foregoing forms may be accepted by the Department if the Director determines that all information necessary to the administration of the Standards Act has been provided and that in all other respects the alternative form or modified form is acceptable AND the director has evidenced such approval in writing prior to the acceptance of any such alternative or modified form. The director may require a legal opinion from counsel for the person seeking to use an alternative or modified form that it complies with the Standards Act and addressing such other legal issues as the director may determine. The director may place limitations or conditions on the approval of any alternative or modified form.

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 March 31, 2003.  
TRD-200302110  
Bobbie Hill  
Deputy Executive Director, Manufactured Housing Division of TDHCA  
Texas Department of Housing and Community Affairs  
Earliest possible date of adoption: May 11, 2003  
For further information, please call: (512) 475-2206

◆   ◆   ◆

## TITLE 16. ECONOMIC REGULATION

### PART 1. RAILROAD COMMISSION OF TEXAS

#### CHAPTER 3. OIL AND GAS DIVISION

The Railroad Commission of Texas (Commission) proposes the repeal of §3.68 (commonly called Statewide Rule 73), relating to Pipeline Connection; Cancellation of Certificate of Compliance; Severance, and proposes new §3.73 with the same title. The Commission proposes the repeal and new section in order to have the commonly-used Statewide Rule number match with the Texas Administrative Code section number. In addition, the Commission proposes some changes to the wording in the new rule to clarify Commission intent and to establish requirements and a procedure for the cessation of pipeline services from wells or leases when the pipeline operator is unable to obtain the written consent for cessation from the well or lease operator.

The Commission proposes to delete the last sentence from existing §3.68(a), move it to stand alone in new §3.73(b), and modify the sentence to state that except as otherwise provided in this section, no pipeline operator shall physically disconnect its facilities from or cease providing pipeline services to any well or lease without obtaining either prior written permission from the Commission or prior written consent of the well or lease operator. The Commission proposes to add a new last sentence to §3.73(a) which states that for purposes of this section, the term "Commission" means the Railroad Commission of Texas, the Director of the Oil and Gas Division or the Director's delegate.

The Commission proposes to move the current provisions of §3.68(b) to proposed new §3.73(d), with grammatical and syntax changes for consistency with modern usage.

The Commission proposes to add new provisions in §3.73(c) which describe the process a pipeline operator must follow to either physically disconnect from or cease providing service to a well or lease when the well or lease operator does not consent to the disconnection or termination of service. The Commission proposes to move the current provisions of §3.68(c) to proposed new §3.73(e), and change the word "remedy" to "correct."

The Commission proposes new §3.73(c) to provide that if the pipeline operator is unable to obtain the written consent of the well or lease operator to physically disconnect from or cease providing service to the well or lease, the pipeline operator may file an application with the Commission requesting permission to physically disconnect its facilities from or cease providing service to the well or lease. The process established in this rule is intended to apply to circumstances in which the pipeline operator desires a permanent cessation of service, whether by physical disconnection or otherwise, and does not have the consent of the well or lease operator. The process established in this rule is not intended to apply to temporary suspension of service that

is either authorized by other rules in this title or attributable to maintenance, safety or quality control issues.

The Commission proposes new §3.73(c)(1) to provide that the pipeline operator must file its application with the Commission at least 30 days before the date on which the pipeline operator wants to disconnect its facilities or cease providing service. The pipeline operator must also send a copy of the application to the operator of the well or lease affected by the application by certified mail, return receipt requested, on the same date as the pipeline operator files its application with the Commission.

The Commission proposes new §3.73(c)(2) which provides that if the operator of the well or lease does not object to the application in writing within 14 days following the filing of the application, the Commission may administratively approve or deny the application. The Commission will notify the pipeline operator and the well or lease operator of the decision and advise that both parties have 14 days following the date of the notice of administrative approval or denial to file a request for hearing. If neither party files a timely request for hearing, the administrative approval or denial is final.

The Commission proposes new §3.73(c)(3) which provides that if either party files a timely request for hearing, the Commission will refer the application to the Commission's docket services section to be set for hearing within 60 days.

The Commission proposes new §3.73(c)(4) to notify the public of subject matter that is important to the Commission when deciding issues contested under this section. Different circumstances may call for some factors to be more important in some cases and less important in other cases; and some cases may raise factors not enumerated in proposed §3.73(c)(4). Accordingly, the proposed subsection states that in determining whether or not to approve a request to physically disconnect from or cease serving a well or lease, the Commission may consider the following factors, including but not limited to: operational integrity of the pipeline facilities, operational integrity of the equipment on the well or lease, cost of continued operation of the physical connection, risk to human health and the environment, availability of alternative transportation, protection of correlative rights, and prevention of waste.

The Commission proposes to retain, with minor grammatical and syntax changes, the text in current §3.68(b), re-designated as §3.73(d); current §3.68(c) re-designated as §3.73(e); current §3.68(d) re-designated as §3.73(f); current §3.68(e) re-designated as §3.73(g); current §3.68(f) re-designated as §3.73(h); current §3.68(g) re-designated as §3.73(i); and current §3.68(h) re-designated as §3.73(j). In these subsections, the Commission has proposed minor wording changes to correct the references to Commission statutes, rules, permits and orders, and other non-substantive clarifications. For example, a sentence is added to proposed new subsections 3.73(h) and (i) explicitly advising operators of potential statutory penalties pursuant to Texas Natural Resources Code, §85.3855, for producing or transporting oil or gas from a well or facility capped or sealed by the Commission in violation of Texas Natural Resources Code, §85.165 or §85.166. This proposal does not create or change the Commission's statutory authority to impose a penalty for such violations because that authority exists by statute, whether it is mentioned in the rule or not. However, the Commission has determined that direct reference to such potential penalties in the rule itself is the most effective method of clearly advising operators and the public of potential consequences for producing or transporting oil or gas from a well or facility capped or sealed by the Commission.

Leslie Savage, Oil and Gas Division planner, has determined that for each year of the first five years the repeal and new section will be in effect, there will be some minimal fiscal implications to state government as a result of enforcing or administering the repeal and new section. The minimal fiscal implications may result from additional administrative hearings that may be requested as specified in the new rule. However, the Commission's hearing process is already established and available to resolve issues such as those described in the proposal, so the proposed new rule is not expected to cause significant fiscal impact to state government. In addition, some Commission staff time will be necessary to evaluate applications for termination of pipeline services, but this time will be balanced by the time Commission staff will save in having a clearly defined process for handling disagreements between pipeline operators and well and lease operators concerning cessation of pipeline services. There are no fiscal implications for local governments.

The cost of compliance with the proposed repeal and new section for the individual, small business, or micro-business operator will vary according to the number of applications for cessation filed each year, but the Commission does not find that the repeal and new section will result in any additional cost, primarily because persons who must comply with the rule have always been subject to a similar process, potentially culminating in a Commission hearing, when faced with oilfield pipeline service issues.

David Cooney, Assistant Director, Environmental Section, Office of General Counsel, has determined that for each year of the first five years that the repeal and new section will be in effect, there will be a public benefit in that the process for handling pipeline disconnection issues will be clarified by clearer regulations.

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.html](http://www.rrc.state.tx.us/rules/commentform.html); or by electronic mail to [rulescoordinator@rrc.state.tx.us](mailto:rulescoordinator@rrc.state.tx.us), and should refer to Oil and Gas Docket No. 20-0234023. The Commission will accept comments for 60 days after publication in the *Texas Register*. 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. Cooney at (512) 463-6977. The status of Commission rulemakings in progress is available at [www.rrc.state.tx.us/rules/proposed.html](http://www.rrc.state.tx.us/rules/proposed.html).

The Commission proposes the repeal of §3.68 and new §3.73 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; pursuant to 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; and pursuant to Texas Natural Resources Code §§85.165, 85.166, and 85.3855 which prohibit production and transport of oil and gas from an oil well, gas well, oil and gas well, or other associated oil or gas gathering equipment on which the Commission has placed a cap, seal or other device indicating the Commission has shut in the facility.

### 16 TAC §3.68

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

Statutory authority: Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.165, 85.166, 85.3855, 85.202, 86.041, and 86.042.

Cross-reference to statute: Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.165, 85.166, 85.3855, 85.202, 86.041, and 86.042.

Issued in Austin, Texas, on March 25, 2003.

*§3.68. Pipeline Connection; Cancellation of Certificate of Compliance; Severance.*

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 March 25, 2003.

TRD-200302008

Mary Ross McDonald

Deputy General Counsel

Railroad Commission of Texas

Earliest possible date of adoption: May 11, 2003

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



### 16 TAC §3.73

Statutory authority: Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.165, 85.166, 85.3855, 85.202, 86.041, and 86.042.

Cross-reference to statute: Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.165, 85.166, 85.3855, 85.202, 86.041, and 86.042.

Issued in Austin, Texas, on March 25, 2003.

*§3.73. Pipeline Connection; Cancellation of Certificate of Compliance; Severance.*

(a) No pipeline shall be connected with any oil, gas, or geothermal resources well until the operator of the well provides the pipeline operator with a certificate from the Commission that the rules in this title have been complied with. This section shall not prevent a temporary connection with any well in order to take care of production and prevent waste until the operator has a reasonable time, not to exceed 30 days from the date of such connection, within which to obtain such certificate. For purposes of this section, the term "Commission" means the Railroad Commission of Texas, the Director of the Oil and Gas Division, or the Director's delegate.

(b) Except as otherwise provided in this section, no pipeline operator shall physically disconnect its facilities from or cease providing pipeline services to any well or lease without obtaining either:

- (1) prior written permission from the Commission; or
- (2) prior written consent of the well or lease operator.

(c) If the pipeline operator is unable to obtain the written consent of the well or lease operator to physically disconnect from or cease providing service to the well or lease, the pipeline operator may file an application with the Commission requesting permission to physically disconnect its facilities from or cease providing service to the well or lease.

(1) The pipeline operator shall file its application with the Commission at least 30 days prior to the date on which the pipeline operator desires to make the physical disconnection or cease providing service. On the same date as the pipeline operator files its application with the Commission, the pipeline operator shall send a copy of the application to the operator of the well or lease affected by the application by certified mail, return receipt requested.

(2) If the operator of the well or lease does not file with the Commission a written objection to the application within 14 days following the filing of the application, the Commission shall administratively approve or deny the application and shall notify the pipeline operator and the well or lease operator of the decision. Following such notification, either party shall have 14 days to file a written request for hearing. If neither party files a timely request for hearing, the administrative approval or denial shall be deemed final.

(3) If either party files a timely request for hearing, the Commission shall refer the application to the Commission's Docket Services Section to be set for hearing within 60 days following the date of referral.

(4) In determining whether or not to approve a request to physically disconnect from or cease providing service to a well or lease, the Commission may consider relevant factors, including but not limited to:

- (A) operational integrity of the pipeline facilities;
- (B) operational integrity of the equipment on the well or lease;
- (C) cost of continued operation of the physical connection or service;
- (D) risk to human health and the environment;
- (E) availability of alternative transportation;
- (F) protection of correlative rights; and
- (G) prevention of waste.

(d) The Commission may shut in and seal any well, and cancel any certificate of compliance if it appears that the operator of a well has violated or is violating, in connection with the operation of the well, any statutes, rules in this title, permits, or orders of the Commission. Upon receipt of information that indicates operations are being conducted in violation of statutes, rules in this title, or a Commission permit or order, the Commission shall send a notice letter to the operator directing the operator to correct the violation. The letter shall state the facts or conduct alleged to warrant the shut-in and sealing of the well, and cancellation of the certificate of compliance. The letter shall give the operator an opportunity to show compliance with the statutes, rules in this title, or Commission permits or orders. The letter shall be sent by registered or certified mail, and shall indicate the time within which compliance shall be demonstrated or achieved. The time period allowed for the operator to achieve compliance shall not be less than 10 days from the date the notice letter is sent.

(e) Within the time period set out in the notice letter, the operator shall either demonstrate compliance or correct the violation, and notify the Commission of its action.

(f) If the violation is not corrected within the time period set out in the notice letter, the Commission may shut in and seal the well, and cancel the certificate of compliance.

(g) If a certificate of compliance has been cancelled, the Commission may not issue a new certificate of compliance until the owner or operator of the property covered by the certificate of compliance

submits to the Commission a reissuance fee as required by §3.78 of this title (relating to Fees, Performance Bonds and Alternate Forms of Financial Security Required To Be Filed) (Statewide Rule 78); and

(1) the property covered by the certificate is brought into compliance with the statutes, rules in this title, and Commission permits and orders; or

(2) the Commission determines that there are just and equitable grounds for reissuing the certificate.

(h) Pursuant to Texas Natural Resources Code, §85.165, upon notice from the Commission to any operator of a pipeline or other carrier connected to any oil, gas, or geothermal resource well that the certificate of compliance applicable to the well has been cancelled by the Commission, the operator of the pipeline or other carrier shall disconnect from or suspend service to the well and shall not transport any oil or gas produced from that well until a new certificate of compliance has been issued by the Commission. Pursuant to Texas Natural Resources Code, §85.3855, failure to comply with this subsection may subject a person to a penalty of up to \$10,000 per violation.

(i) Pursuant to Texas Natural Resources Code, §85.166, upon notice from the Commission that a certificate of compliance as to any oil, gas, or geothermal resource well has been cancelled as provided in this section, the operator of such well shall not produce oil, gas, or geothermal resources from that well until a new certificate of compliance with respect to the well has been issued by the Commission as provided in this section. Pursuant to Texas Natural Resources Code, §85.3855, failure to comply with this subsection may subject a person to a penalty of up to \$10,000 per violation.

(j) The provisions of this section shall be cumulative of other Commission actions and procedures relating to violations of state statutes or Commission permits, rules, and orders, including the authority of the Commission to immediately shut in a well or lease, or to direct the operator to shut in a well or lease, when an emergency exists due to pollution or an imminent threat of harm to people or property.

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 March 25, 2003.

TRD-200302009

Mary Ross McDonald

Deputy General Counsel

Railroad Commission of Texas

Earliest possible date of adoption: May 11, 2003

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



CHAPTER 12. COAL MINING REGULATIONS  
SUBCHAPTER G. SURFACE COAL MINING  
AND RECLAMATION OPERATIONS, PERMITS,  
AND COAL EXPLORATION PROCEDURES  
SYSTEMS  
DIVISION 2. GENERAL REQUIREMENTS  
FOR PERMITS AND PERMIT APPLICATIONS  
16 TAC §12.108



The Railroad Commission of Texas proposes an amendment to §12.108, relating to Permits Fees. This section addresses fees to be paid to the Commission for the processing of applications for new coal mining permits, permit revisions, and permit renewals, as well as annual fees paid for each acre of land mined.

The Commission proposes to amend subsection (b) to increase the annual per-acre fee to facilitate recovery of the Commission's costs of providing various services. Specifically, the proposed amendment adds new language to increase the annual fee from \$120 to \$300 for each acre of land in the permit area on which the permittee actually conducted operations for the removal of coal and lignite during a calendar year. The fee currently in effect is set at the statutory minimum and has not been increased since the provision in the Texas Surface Coal Mining and Reclamation Act that authorizes the Commission to set the fee, Texas Natural Resources Code, §134.055, became effective September 1, 1985 (Acts 1985, 69th Leg., ch 239, §70); Vernon's Ann. Civ. Stat. art. 5920-11, §18(c).

As proposed, the new fee amount would go into effect on September 1, 2003. The per-acre fee for calendar year 2003 would be calculated as follows: for each acre of land on which a permittee actually conducted operations for the removal of coal and lignite during the period January 1, 2003, through August 31, 2003, each permittee would pay to the Commission an annual fee of \$120 per acre. For each acre of land on which a permittee actually conducted operations for the removal of coal and lignite during the period September 1, 2003, through December 31, 2003, each permittee would pay to the Commission an annual fee of \$300 per acre. Beginning January 1, 2004, the annual \$300 per acre fee would apply for each acre of land within the permit area on which a permittee actually conducted operations for the removal of coal and lignite during the calendar year.

The Commission also proposes to amend the title of §12.108 to change the word "permits" to "permit."

Melvin Hodgkiss, Director, Surface Mining and Reclamation Division, has determined that, during each year of the first five years the proposed amendment is in effect, there will be an increase in revenue to the state. Based on the proposed annual fee increase beginning September 1, 2003, the annual revenue for calendar year 2003 would increase by approximately \$174,000. This estimated increase is based on an average of 2,900 acres mined annually in the state. Beginning January 1, 2004, the annual \$300 per acre fee would apply for each acre of land within the permit area on which a permittee actually conducted operations for the removal of coal and lignite during the calendar year. For fiscal year 2004 (which begins on September 1, 2003), and for the remaining four years of the first five years the proposed amendment would be in effect, the annual increase in revenue would be \$522,000 per fiscal year, based on the \$180 per acre increase applied to the average of 2,900 acres mined annually in the state. There are no fiscal impacts on local governments.

Mr. Hodgkiss has also determined that the public benefit from adoption of the proposed amendments will be sufficient revenue to the State to enable the Commission to continue administering the State's surface mining program. Through the Commission, the Texas mining program administers federal and state statutes and rules that assure continued adherence to environmental protection; protection of the rights of surface land owners from unregulated surface coal mining; and conduct of surface coal mining and reclamation operations in a manner that will prevent unreasonable degradation of land and water resources.

Mr. Hodgkiss has also determined that, during each year of the first five years the proposed amendment is in effect, the annual increased economic cost to operators required to comply with this rule is an additional \$180 per acre of land where coal or lignite is removed. The actual economic cost will vary among operators according to the number of acres from which a particular operator removes coal or lignite. In accordance with Texas Government Code, §2006.002, Mr. Hodgkiss has determined that there will be no adverse economic effects on small businesses or micro-businesses as a result of the proposed amendment because there are no small businesses or micro-businesses, as those terms are defined in Texas Government Code, §2006.001, holding permits from the Commission.

The Commission has not requested a local employment impact statement pursuant to Texas Government Code, §2002.022.

Comments on the proposed amendment should be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at <http://www.rrc.state.tx.us/rules/commentform.html>; or by electronic mail to [rulescoordinator@rrc.state.tx.us](mailto:rulescoordinator@rrc.state.tx.us) and should refer to SMRD Docket No. 1-03. Comments will be accepted for 60 days after publication in the *Texas Register*. 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 Melvin Hodgkiss, Director, Surface Mining and Reclamation Division, at (512) 463-6901. The status of Commission rulemakings in progress is available at <http://www.rrc.state.tx.us/rules/proposed.html>.

The Commission proposes the amendments under Texas Natural Resources Code, §134.013, which authorizes the Commission to promulgate rules pertaining to surface coal mining operations, and §134.055, which authorizes the Commission to obtain annual fees.

Statutory authority: Texas Natural Resources Code, §§134.013 and 134.055.

Cross-reference to statute: Texas Natural Resources Code, §§134.013 and 134.055.

Issued in Austin, Texas, on March 25, 2003.

§12.108. *Permit [Permits] Fees.*

(a) (No change.)

(b) In addition to application fees required by this section, each permittee shall pay to the Commission an annual fee in the amount of ~~\$300~~ \$120 for each acre of land within the permit area on which the permittee actually conducted operations for the removal of coal and lignite during the calendar year. The total amount of this fee is due and payable not later than March 15th of the year following the year of removal operations. For calendar year 2003 only, the annual fee shall be calculated as follows: for each acre of land on which a permittee actually conducted operations for the removal of coal and lignite during the period January 1, 2003, through August 31, 2003, the permittee shall pay to the Commission an annual fee of \$120 per acre. For each acre of land on which a permittee actually conducted operations for the removal of coal and lignite during the period September 1, 2003, through December 31, 2003, the permittee shall pay to the Commission an annual fee of \$300 per acre.

(c) (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 March 25, 2003.

TRD-200302007

Mary Ross McDonald

Deputy General Counsel

Railroad Commission of Texas

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 415-1295



## PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

### CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

#### SUBCHAPTER I. TRANSMISSION AND DISTRIBUTION

##### DIVISION 1. OPEN-ACCESS COMPARABLE TRANSMISSION SERVICE FOR ELECTRIC UTILITIES IN THE ELECTRIC RELIABILITY COUNCIL OF TEXAS

###### 16 TAC §25.193

The Public Utility Commission of Texas (commission) proposes an amendment to §25.193, relating to Distribution Service Provider Transmission Cost Recovery Factors (TCRF). The proposed amendment will modify the TCRF formula presented in §25.193(c). The current formula in §25.193(c) includes a "NL" component, which represents the new load of a distribution service provider (DSP), and a "BL" component, which represents the base load of the DSP. The proposed change replaces the "BL" component with the "NL" component. By removing the "BL" component from the formula, the TCRF will only reflect changes in wholesale transmission rates, and not be ratcheted upwards/downwards for changes in 4CP Load. Project Number 27290 is assigned to this proceeding.

Matthew Troxle, Senior Retail Market Analyst, Electric Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Troxle has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be an increased match between the amount of revenues that DSPs collect from retail customers and the expenses that the DSPs pay to transmission service providers, thereby providing a more accurate tracking and pass through of wholesale transmission costs to the non-bypassable charges. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Troxle has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rule-making, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Thursday, May 8, 2003 at 9:30 a.m. The request for a public hearing must be received within 21 days after publication.

Comments on the proposed amendment (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 21 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule(s). The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 27290.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §35.006 requiring the commission to adopt rules relating to wholesale transmission service rates and access, and PURA §39.203(a) relating to transmission and distribution service.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 35.006, and 39.203(a).

§25.193. *Distribution Service Provider Transmission Cost Recovery Factors (TCRF).*

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

(c) TCRF Formula. The TCRF for each class shall be computed pursuant to the following formula:  
Figure: 16 TAC §25.193(c)

(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 March 25, 2003.

TRD-200301995

Rhonda G. Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 936-7308



## CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS

## SUBCHAPTER F. REGULATION OF TELECOMMUNICATIONS SERVICE

### 16 TAC §26.131

*(Editor's Note: In accordance with Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," Figure: 16 TAC §26.131(d) is not included in the print version of the Texas Register. The Figure is available in the on-line issue of the April 11, 2003, issue of the Texas Register.)*

The Public Utility Commission of Texas (commission) proposes new §26.131, relating to Competitive Local Exchange Carrier (CLEC)-to-CLEC and CLEC-to-Incumbent Local Exchange Carrier (ILEC) Migration Guidelines. The proposed new rule is necessary to ensure that: (1) customers can migrate from one CLEC to another or from a CLEC to an ILEC in a seamless manner without encountering abnormal delays, service interruptions, and cumbersome procedures; (2) customer are not switched from one telecommunications provider to another without their permission (also known as "slamming"); and (3) customers do not have unauthorized charges placed on their bills (also known as "cramming"). The guidelines proposed for publication in this rulemaking were developed through a collaborative process involving telecommunications providers and emergency 9-1-1 administrators. Project Number 24389 is assigned to this proceeding.

Patrick Tyler, Director of Telecommunications, Legal and Enforcement Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Tyler has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of standardized procedures, general business rules, and privacy protocols governing end user or customer migrations between CLECs, or from a CLEC to an ILEC with 31,000 or more access lines in Texas, to ensure that customers can seamlessly migrate from one telecommunications provider to another; and to ensure better customer protection against slamming and cramming. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There may be economic costs to persons who are required to comply with the proposed section. These costs are likely to vary from business to business and are difficult to ascertain. However, it is believed that the benefits accruing from implementation of the proposed section will outweigh these costs.

Mr. Tyler has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rule-making, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Monday, May 19, 2003, starting at 9:30 a.m. The request for a public hearing must be received within 30 days after publication of this proposed rule.

Comments on the proposed new section (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas,

1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section, as well as whether to include provisions for line loss notifications. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 24389.

In addition, the commission requests comments on the following questions:

1. How do the CLEC-to-CLEC and CLEC-to-ILEC Migration Guidelines differ from the Local Service Ordering Guidelines (LSOG Issues 4 - 8) that have been developed in the ATIS-sponsored Ordering and Billing Forum (OBF)? What is the basis for any difference identified?
2. Should line-loss notification requirements be included in the CLEC-to-CLEC and CLEC-to-ILEC Migration Guidelines?

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §17.001(b) and §64.001(b) which confer on the commission the authority to adopt and enforce rules to protect customers from fraudulent, unfair, misleading, deceptive, or anticompetitive practices; §51.001 which grants the commission authority to make and enforce rules necessary to protect customers of telecommunications services consistent with the public interest; §52.001 which requires that rules, policies and principles for formulated and applied to protect the public interest and to provide equal opportunity to each telecommunications utility in a competitive marketplace; and §17.004(a) and §64.004(a) which provide that all buyers of telecommunications services are entitled to a choice of a telecommunications service provider and to have that choice honored.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 17.001, 17.004, 51.001, 52.001, 55.016, Chapter 55, Subchapter K, §§62.022, 64.001, and 64.004.

§26.131. Competitive Local Exchange Carrier (CLEC)-to-CLEC and CLEC-to-Incumbent Local Exchange Carrier (ILEC) Migration Guidelines.

(a) Purpose. The purpose of this section is to establish standardized procedures, general business rules, and privacy protocols governing end user or customer migrations between CLECs, or a CLEC and an ILEC that serves 31,000 or more access lines in the state, to ensure that:

(1) customers can migrate from one CLEC to another or from a CLEC to an ILEC in a seamless manner without encountering abnormal delays, service interruptions, and cumbersome procedures;

(2) customers are not switched from one telecommunications provider to another without their permission pursuant to §26.130 of this title (relating to Selection of Telecommunications Utilities); and

(3) customers do not have unauthorized charges placed on their bills pursuant to §26.32 of this title (relating to Protection Against Unauthorized Billing Charges ("Cramming")).

(b) Application. This section applies to all CLECs and all ILECs with 31,000 or more access lines in the state. This section does

not apply to Digital Subscriber Line (DSL) services, line sharing, or line splitting arrangements as defined by the Federal Communications Commission (FCC) or the commission, or to migrations resulting from a CLEC's exit from the Texas market or a major segment of the Texas market.

(c) Terminology. In this section, "CLEC" means a holder of either a certificate of operating authority (COA) or a service provider certificate of authority (SPCOA).

(d) Migration guidelines. All CLECs and applicable ILECs shall follow the *Texas CLEC-to-CLEC and CLEC-to-ILEC Migration Guidelines* when an end user or customer migrates from one CLEC to another or from a CLEC to an ILEC. These guidelines may only be changed through the rulemaking process.

Figure: 16 TAC §26.131(d)

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 March 27, 2003.

TRD-200302062

Rhonda G. Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 936-7308



## TITLE 22. EXAMINING BOARDS

### PART 5. STATE BOARD OF DENTAL EXAMINERS

#### CHAPTER 107. DENTAL BOARD PROCEDURES

##### SUBCHAPTER B. PROCEDURES FOR INVESTIGATING COMPLAINTS

###### 22 TAC §107.102

The State Board of Dental Examiners (Board) proposes amendments to §107.102, concerning Procedures in Conduct of Investigation.

The Board proposes amendments in order to make the investigatory process more efficient and to reduce the amount of staff resources required in completing an investigation.

Changes proposed are at subsections (d) and (e), the word "undercover" has been deleted in order to include any type of investigation.

Changes proposed at subsections (f) and (g) provide a more efficient review process for each case, while ensuring that proper consideration is given to each case.

Mr. Bobby Schmidt, Executive Director, State Board of Dental Examiners, has determined for the first five-year period the amended rule is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the rule.

Mr. Schmidt has also determined that for each year of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing the rule will be newly established procedures allowing for a more efficient review process. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section.

Comments on the proposed amendments may be submitted to Mr. Bobby Schmidt, Executive Director, State Board of Dental Examiners, 333 Guadalupe, Tower 1, Suite 800, Austin, Texas 78701. Comments must be received no later than 30 days from the date of publication in the *Texas Register*.

The amended rule is proposed under the authority of the Texas Government Code §2001.021 et seq; Texas Civil Statutes, the Occupations Code §254.001 which provides the State Board of Dental Examiners with the authority to adopt and enforce rules necessary for it to perform its duties, and §255.006, which provides that the SBDE shall adopt rules concerning procedures for investigations.

The following proposed amended rule does not affect other statutes, articles or codes.

###### §107.102. *Procedures in Conduct of Investigation.*

(a) An investigative file accounting for each complaint filed with the Board shall be maintained under the supervision of the Director of Enforcement.

(b) Every complaint shall be reviewed by the Director of Enforcement to determine jurisdiction. If jurisdiction exists, a complaint shall be investigated to determine the facts concerning the complaint. All investigators shall be state employees.

(c) If, upon initial review, the complaint reveals a possible threat to a person's welfare, the complaint shall be referred to the Board or an executive committee of the Board, for consideration of temporary suspension, pursuant to the Occupations Code, Chapter 263, Section 263.004.

(d) During the course of an investigation, the complainant shall be given an opportunity to explain or comment on the allegations made in the complaint. At the initiation of the investigation, the respondent shall be provided a copy of the complaint to facilitate a response, unless to do so would jeopardize an ~~undercover~~ investigation.

(e) The parties to the complaint shall receive notice of the status of the complaint, at least quarterly, until final disposition of the complaint, unless such notice would jeopardize an ~~undercover~~ investigation.

(f) Upon completion of the ~~an~~ investigation, ~~by~~ the Director of Enforcement ~~[staff, the Board Secretary or designee]~~ shall review the case ~~[investigative file]~~. The Director of Enforcement ~~[Secretary, or designee]~~ may recommend dismissal of~~[: dismiss]~~ the case,~~[: ]~~ refer the case to the State Office of Administrative Hearings, ~~[Hearing:]~~ refer the case to an informal settlement conference, request that the legal division prepare a proposed Board Order, ~~[for the proposal of an agreed settlement order imposing sanction(s):]~~ direct the case to the Board or a committee of the Board, direct further investigation, request the case be reviewed by a Board member, or other appropriate action or consideration in accordance with Board rules. The Director of Enforcement will not make a recommendation of standard of care matters. Cases involving standard of care matters will be reviewed by two Board members, one of those two must be a dentist[: or refer it to the Professional Evaluation Committee].

(g) ~~If the Director of Enforcement recommends [Board Secretary or designee dismisses a case, he or she shall state, with specificity, the reason or reasons for the] dismissal of a[- A] case, he or she shall state, with specificity, the reason or reasons for the recommended dismissal. A case recommended for dismissal by the Director of Enforcement shall be reviewed by a member [dismissed by the Board Secretary or designee shall be reviewed by at least two members] of the Enforcement Committee. If the committee member does not agree with the dismissal, the case will be forwarded to an informal settlement conference. If the committee member agrees that the case should be dismissed [one reviewing member of the Enforcement Committee does not agree with the Board Secretary or designee's decision to dismiss the case, that case shall be forwarded to the Professional Evaluation Committee for consideration. If both reviewing members of the Enforcement Committee agree with the Board Secretary or designee's decision to dismiss the case], the dismissal shall be final.~~

(h) All jurisdictional cases shall be investigated. No case will be dismissed without appropriate consideration. If a complaint is dismissed, the Board shall notify the complainant within ten days of the date of the Board action. The notice of dismissal must be in writing, include the reason(s) for the dismissal and inform the complainant of the right to appeal the dismissal. An appeal under this section shall be considered a request for reconsideration of the dismissed case.

(i) The Board may hear an appeal in a dismissed case only if:

(1) New information or evidence is presented, the acceptance of such, if taken as true supports the original complaint(s);

(2) The complainant must, in writing, request reconsideration of a dismissed case postmarked no later than twenty days from the date of receipt of the Board's dismissal letter. The complainant(s) is presumed to be in receipt of the dismissal letter on the third day after the date on which the dismissal letter is mailed.

(3) A request for reconsideration of a dismissed case(s) shall not be considered by the Board unless it is timely submitted.

(4) A request for reconsideration must contain the requirements specified in this subsection. For purposes of this section, a complainant is deemed to have received the dismissal letter three days from the date of mailing by the Board.

(5) Requests meeting this subsection shall be heard by the Professional Evaluation Committee no later than sixty days after the date the Board receives the request from the complainant requesting reconsideration. This time frame may be extended upon good cause shown by the Board. If the time for reconsideration occurs after this sixty day period, the Board shall notify the complainant(s) in writing.

(6) This subsection does not apply to cases dismissed by the full Board by recommendation from an Informal Settlement Conference panel. All cases dismissed by the full Board may be appealed in accordance with the Government Code.

(j) The Professional Evaluation Committee shall consist of three board members appointed by the President of the Board, one of whom must be a public member. Complaints referred to the Professional Evaluation Committee by the Secretary or designee may be dismissed, referred to an informal settlement conference or returned for further investigation. The Professional Evaluation Committee may also propose an agreed Board Order imposing sanctions. All Board Orders proposed by the Professional Evaluation Committee shall include a statement that the Respondent should not agree to the Order if he or she wants to explain any part of his or her conduct in connection with the complaint.

(1) Meetings of the Professional Evaluation Committee are open meetings as defined by the Open Meetings Act;

(2) Only Professional Evaluation Committee members and SBDE staff may participate in discussions concerning any complaint. The members may review and consider all information in the investigative file.

(3) All cases heard by the Professional Evaluation Committee involving reconsideration of an earlier dismissal by the Board are final.

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 March 27, 2003.

TRD-200302067

Bobby Schmidt

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 475-0972

◆ ◆ ◆  
**PART 8. TEXAS APPRAISER  
LICENSING AND CERTIFICATION  
BOARD**

**CHAPTER 153. RULES RELATING TO  
PROVISIONS OF THE TEXAS APPRAISER  
LICENSING AND CERTIFICATION ACT  
22 TAC §153.18**

The Texas Appraiser Licensing and Certification Board proposes an amendment to §153.18, Appraiser Continuing Education. This amendment would conform the appraiser continuing education requirements for the Uniform Standards of Professional Appraisal Practice (USPAP) to the Appraisal Qualifications Board (AQB) criteria and interpretations. It would require the Appraisal Foundation's National USPAP Update Course, National USPAP Course, or their equivalents, for meeting renewal requirements. It would also allow for an additional hour of Texas specific USPAP, TALCB, and enforcement related issues to be included.

Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, has determined that for the first five-year period the amendment is in effect, there will be no fiscal implications for state or local government.

Mr. Liner also has determined that for each year of the first five years this amendment is in effect, the public benefit anticipated as a result of enforcing the amendment will be more proficient appraisals since all appraisers will complete standardized USPAP presentations which will reduce misinformation and misunderstandings in applying those standards. There will be no effect on small businesses. There is no additional economic cost to persons who are required to comply with the amendments as proposed.

Comments on the proposal may be submitted Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, TX 78711-2188.

The amendments are proposed under the Powers and Duties of the Board, Texas Appraiser Licensing and Certification Act, §5 (Vernon's Texas Civil Statutes, Article 6573a.2), which provides the board with authority to adopt rules.

Section 14, Certification and License Renewal of the Texas Appraiser Licensing and Certification Act (Vernon's Texas Civil Statutes, Article 6573a.2) may be affected by the proposed amendment.

§153.18. *Appraiser Continuing Education.*

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

(d) In approving ACE courses, the board shall base its review and approval of appraiser continuing education courses upon the then current appraiser qualifications criteria of the Appraiser Qualifications Board (AQB).

(1) (No change.)

(2) The following types of educational offerings that may be accepted for meeting the ACE requirements are listed in subparagraphs (A)-(K) of this paragraph:

(A) - (G) (No change.)

(H) To be acceptable for meeting the Uniform Standards of Professional Appraisal Practice (USPAP), appraiser continuing education (ACE) requirement, a course must:

(i) Be the National USPAP Update Course or the National USPAP Course or equivalent as determined by the AQB [devoted to the Uniform Standards of Professional Appraisal Practice (USPAP) with a minimum of seven classroom hours of instruction]; and

(ii) Use the current edition of the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(iii) Provide each student with his or her own permanent copy of the current Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(iv) Providers may include up to one additional hour of supplemental Texas specific information. This may include such topics as the TALCB Act, TALCB Rules, processes and procedures, enforcement issues, or other topics deemed to be appropriate by the board. [At a minimum be based on topics covered by the Appraisal Standards Board (ASB) Instructor's Manual. This section does not limit additional USPAP related topics to be covered in the course, or utilize the national USPAP Update course, or its equivalent as determined by the AQB.]

(I) - (K) (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 March 26, 2003.

TRD-200302034

Renil C. Liner  
Commissioner

Texas Appraiser Licensing and Certification Board

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 465-3950



22 TAC §153.20

The Texas Appraiser Licensing and Certification Board proposes amendments to §153.20 relating to Guidelines for Revocation, Suspension or Denial of Licensure or Certification. A new §153.20(j) is being added specifically to provide for the accepted practice of requiring respondents in a complaint to provide the board with information and documentation, and for the board to engage in investigative research.

Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government.

Mr. Liner also has determined that for each year of the first five years the proposed amendment is in effect the public benefit anticipated as a result of enforcing the sections will be to clarify the authority of the board to request and receive information and materials and do other investigative research in resolving complaints to protect the public interests. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under the Powers and Duties of the Board, Texas Appraiser Licensing and Certification Act, §5 (Texas Civil Statutes, Article 6573a.2). Section 11, Denial of Certificate or License; Appeal; §12, Enforcement Proceedings; §12A, Contested Case Proceedings; and §21, Offenses, Texas Civil Statutes, Article 6573a.2, are affected by the proposal.

§153.20. *Guidelines of Revocation, Suspension or Denial of Licensure or Certification.*

(a) - (i) (No change.)

(j) If a complaint is brought against a licensee and the board finds the complaint is reasonable or if the board determines other just cause exists for requiring further information, the board may obtain the additional information or documentation requested by:

(1) requiring the licensee to complete a form, prescribed by the board, that includes detailed listings of appraisal experience showing, for each appraisal claimed by the licensee, the city or county where the appraisal was performed, the type and description of the building or property appraised, the approaches to value utilized in the appraisal, the actual number of hours expended on the appraisal, name of client, and other information determined to be appropriate by the board; or

(2) engaging in other investigative research determined to be appropriate by the board.

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 March 26, 2003.

TRD-200302031

Renil C. Liner  
Commissioner

Texas Appraiser Licensing and Certification Board

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 465-3950



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

#### CHAPTER 160. RECEIPT AND DISBURSEMENT OF WORK PROGRAM RESIDENTS' EARNED FUNDS

##### 37 TAC §§160.1 - 160.8

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Criminal Justice or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Board of the Texas Department of Criminal Justice proposes to repeal 37 TAC 160, Receipt and Disbursement of Work Program Residents' Earned Funds, and all subsections from §§160.1 to 160.8. The purpose of the repeal deletes language that describes a practice that is obsolete and no longer within the agency's authority.

Brad Livingston, Chief Financial Officer for TDCJ, has determined that for the first five years the rule will be in effect, enforcing or administering the rule does not have foreseeable implications related to costs or revenues for state or local government. Mr. Livingston has also determined that there will be no economic impact on persons required to comply with the rule, and that the public benefit expected as a result of the proposed rule is the increased opportunity for public discourse on issues relevant to the Texas Department of Criminal Justice.

Comments should be directed to Carl Reynolds, General Counsel, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas 78711, Carl.Reynolds@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this proposal.

The repeal is proposed under Texas Government Code, §492.010.

Cross Reference to Statutes: Texas Government Code, §492.010.

§160.1. *Conditional Work Program Contract.*

§160.2. *Residents' Contributions.*

§160.3. *Distribution of Residents' Contributions.*

§160.4. *Maximum Deductions.*

§160.5. *Accounting.*

§160.6. *Transfer of Residents' Funds upon Release.*

§160.7. *Transfer of Residents' Funds upon Release to Another Facility or Institution.*

§160.8. *Discretion To Change Disbursement Percentages.*

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 March 28, 2003.  
TRD-200302098

Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice  
Earliest possible date of adoption: May 11, 2003  
For further information, please call: (512) 463-0422

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 5. TEXAS VETERANS LAND BOARD

#### CHAPTER 175. GENERAL RULES OF THE VETERANS LAND BOARD SUBCHAPTER A. GENERAL RULES AND CONTRACTING FINANCING

##### 40 TAC §175.2

The Veterans Land Board of the State of Texas (the "Board") proposes an amendment to Title 40, Part 5, Chapter 175 of the Texas Administrative Code, §175.2 relating to Loan Eligibility Requirements of the General Rules of the Veteran Land Board. This amendment will change the definition of "surviving spouse" in 175.2(a)(5) to match the federal definition. This amendment will also change 175.2(c)(2) so that the surviving spouse of a veteran is eligible, if the veteran died as a result of a service-connected cause and would have been otherwise eligible, but did not enter military service from Texas. The proposed amendment to 175.2(a)(5) was previously proposed in the March 14, 2003, edition of the *Texas Register* (28 TexReg 2287) and is simultaneously being withdrawn in order to propose both amendments together.

Sections 161.001(b) and 162.001(b) of the Tex. Nat. Res. Code authorize the Board to change the definition of Veteran if it is in the best interest of the programs. The Board finds that it serves the best interest of the programs if a surviving spouse that is eligible for federal housing benefits is also eligible for the Board programs. The amendment to §175.2(a)(5) will incorporate the federal definition and modifications of the term "surviving spouse," including any future changes. The Board also finds that the present rule does not extend the benefits of the loan programs to the surviving spouse of a Veteran that would have been eligible for a loan, who has died as a result of a service-connected cause, but did not enter the service with Texas as his home of record. The amendments to §175.2(c)(2) will change the eligibility of a surviving spouse to include the surviving spouse of a Veteran who died as a result of a service-connected cause and who was a legal resident of Texas at the time of his or her death. (§177.5(b) of Title 40, Part 5, Chapter 177 of the Texas Administrative Code automatically incorporates by reference the changes in this amendment.)

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, there will be no significant fiscal implication to state or local government as a result of administering this section as amended.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years

that the section as proposed will be in effect, the public will benefit because the proposed amendment will allow the Board to be consistent with and function with federal loan programs. In addition, the public will benefit because the Board will be able to accept applications from the surviving spouse of any Veteran who would have been eligible for a loan but died as a result of a service-connected cause.

Mr. Oldmixon has determined that the proposed amendment will have no significant effect on small businesses during each year of the first five years the section is in effect.

Mr. Oldmixon has also determined that during each year of the first five years the proposed amendment is in effect, the anticipated economic cost to persons who are required to comply with the section will be insignificant. Persons who seek financing from the Board through the Program will pay the same fees to the Board, and costs to third parties, as previously required.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board has determined that during each year of the first five years the proposed amendment is in effect, the anticipated impact on local employment will be insignificant.

Comments may be submitted to Melinda Tracy, Legal Service, General Land Office of the State of Texas, 1700 N. Congress Avenue, Austin Texas, facsimile (512) 463-6311, by no later than 30 days after publication.

The amendment to this section is proposed under the Natural Resources Code, Title 7, Chapter 161, §§161.001, 161.061, 161.063, 161.218, 161.222, 161.233, and 161.283, 161.503, 162.001, and Chapter 162, §§162.001, 162.003, 162.011. These sections authorize the Board to adopt rules that it considers necessary and advisable for the Land Program.

The proposed amendment affects Chapter 161.001 and 162.001 of the Nat. Res. Code.

#### §175.2. Loan Eligibility Requirements.

(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Board--The Veterans Land Board of the State of Texas.
- (2) Bona fide resident--An individual actually living within the State of Texas with the intention to remain.
- (3) Missing/Missing in Action--To have an official designation of "missing status" as provided by Title 37, Chapter 10 of the United States Code relating to Payments to Missing Persons. The term "missing status" means the status of members of a uniformed service who are officially carried or determined to be absent in a status of missing; missing in action; interned in a foreign country; captured; beleaguered, or besieged by a hostile force; or detained in a foreign country against their will.
- (4) Program--The Veterans Land Program as authorized by Title 7, Chapter 161 of the Texas Natural Resources Code relating to Veterans Land Board.
- (5) Surviving spouse--A person who satisfies the federal definition of "surviving spouse" contained in Title 38 USC Sec. 101(3), as modified by the special provision in Title 38 USC Sec. 103, or any successor statutes, as amended from time to time. The board's intent is to match the eligibility requirements for a surviving spouse to qualify for a home loan guaranteed by the USDVA. ~~[of the opposite sex who was the spouse of a veteran at the time of the veteran's death, and who lived with the veteran continuously from the date of marriage to the~~

date of the veteran's death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after September 19, 1962, lived with another person and held himself or herself out openly to the public to be the spouse of the other person]

(6) USDVA/VA--The United States Department of Veterans Affairs or any successor thereto.

(7) Veteran--A person who satisfies the requirements of subsection (c)(1) of this section.

(b) The Board shall be the final authority in defining and interpreting all eligibility requirements, and whether an applicant has actually satisfied those requirements. The Board may by resolution prescribe the procedures and forms to be used by applicants to evidence eligibility.

(c) To be eligible to participate in the program, an applicant must satisfy one of the following:

- (1) be a person who:
  - (A) is at least 18 years of age;
  - (B) is a bona fide resident of Texas at the time of application for a loan. Active duty military personnel who otherwise meet the requirements of this subsection are eligible even though stationed outside of Texas at the time of application;
  - (C) satisfied one of the following service requirements after September 16, 1940:
    - (i) has served not less than 90 continuous days of active duty or active duty training time in the Army, Navy, Air Force, Coast Guard, Marine Corps, United States Public Health Service, or the reserve component of one of the listed branches of service, unless discharged earlier because of a service-connected cause;
    - (ii) has completed all initial active duty training required as a condition of the enlistment or appointment in the Texas National Guard; or
    - (iii) has at least 20 years of active or reserve military service as computed when determining the applicant's eligibility to receive retired pay under applicable federal law.
  - (D) is considered not to have been dishonorably discharged under subsection (j) of this section, if the person has been discharged from military service; and
  - (E) satisfies one of the following:
    - (i) was a bona fide resident of Texas at the time of enlistment, induction, commissioning, appointment or drafting; or
    - (ii) has been a legal resident of Texas for at least one year immediately before the date of application.
- (2) is the surviving spouse of a veteran who died as a result of a service-connected cause, as certified by the USDVA, or who is identified as missing in action, if the spouse satisfies the requirements of subparagraphs (A) and (B) of subsection (c)(1) of this section, and the veteran satisfied the requirements of subparagraphs (C) and (D) of subsection (c)(1) of this section and either: ~~(D) and~~ (E)(i) of subsection (c)(1) of this section or the Veteran was a legal resident of Texas at the time of his or her death.
- (3) is the surviving spouse of a veteran who died after filing an application and contract of sale with the Board, but before the transaction was completed, if he or she meets all other qualification requirements of the Board.



(d) A person may only have one loan at a time as a veteran. However, once that loan is paid in full he or she may apply for an additional loan as a veteran. The foregoing notwithstanding, an individual who is currently participating in the program as a veteran may take an assignment of a contract or contracts as a non-veteran and may bid on a tract or tracts at a forfeited land sale as a non-veteran.

(e) The applicant must sign applications and contracts. An attorney in fact may not sign these documents for an applicant, except under limited conditions approved by the Board.

(f) No application shall be approved to purchase land under the program:

(1) which provides for or recognizes a second or subordinate lien as a part of the original purchase price for any tract;

(2) where there is evidence that the benefits derived from the use of the land will not pass to the applicant; or

(3) where there exists any other good and sufficient reason to refuse approval, as determined by the chairman of the Board.

(g) If for any reason a veteran's application is not processed to completion, the down payment will be refunded to the veteran, together with the unused portion of any fees that have been deposited with the board.

(h) Each application will be considered as a wholly separate transaction, independent of any other agreement, transaction or contingency. The board will not consider an application which contains a provision making it contingent upon the success or completion of another agreement or transaction.

(i) Any requirement of this section, or of any section within this chapter, which is not otherwise required by the constitution or statutes of this state, may be waived on a case by case basis by the Veterans Land Board. Any waiver request must be in writing and must describe the circumstances surrounding the request, including all of the reasons why the waiver is requested.

(j) For purposes of this section, a person who has been discharged from the branch of the service in which the person served or from the Texas National Guard is considered not to have been dishonorably discharged if the person:

(1) received an honorable discharge;

(2) received a discharge under honorable conditions; or

(3) received a discharge and provides evidence from the United States Department of Veterans Affairs, its successor, or other competent authority that indicates that the character of the person's duty has been determined to be other than dishonorable.

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 March 31, 2003.

TRD-200302124

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 305-9129



**40 TAC §175.4**

The Veterans Land Board of the State of Texas (the "Board") proposes an amendment to Title 40, Part 5, Chapter 175 of the Texas Administrative Code, §175.4, relating to Land Description. This amendment will allow the Chairman to accept a survey or field notes, provided a title insurance company will delete the survey exception in its policy based on that survey. The amendment also requires that any survey or field notes presented to the board include a license by the surveyor for future use.

Section 161.061 of the Tex. Nat. Res. Code authorizes the Board to formulate policies and rules necessary and not in conflict with the law to ensure the proper administration of the program. The Board finds that its current requirements for a survey may exceed the requirements for a title company to insure a survey. The amendment to §175.4 will allow the chairman to accept a field note description or survey and waive any requirement in the rule if a title company will delete the survey exception in its policy. In addition, the Board notes that some surveyors may claim a copyright in a survey or field notes prepared for a transaction involving the Board. The Board may use the survey or field notes in future transactions, and therefore requires a license from the surveyor. The amendment to §175.4 includes a requirement for that license.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, there will be no significant fiscal implication to state or local government as a result of administering this section as amended.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, the public will benefit because the proposed amendment will allow the Board to reduce the initial cost of Veterans Land Board transactions.

Mr. Oldmixon has determined that the proposed amendment will have no significant effect on small businesses during each year of the first five years the section is in effect.

Mr. Oldmixon has also determined that during each year of the first five years the proposed amendment is in effect, the anticipated economic cost to persons who are required to comply with the section will be insignificant. Persons who seek financing from the Board through the Program will pay the same fees to the Board, and costs to third parties, as previously required or may pay less.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board has determined that during each year of the first five years the proposed amendment is in effect, the anticipated impact on local employment will be insignificant.

Comments may be submitted to Melinda Tracy, Legal Service, General Land Office of the State of Texas, 1700 N. Congress Avenue, Austin Texas, by no later than 30 days after publication.

The amendment to this section is proposed under the Natural Resources Code, Title 7, Chapter 161, §§161.001, 161.061, 161.063, 161.214, 161.218, 161.222, 161.233, and 161.283. These sections authorize the Board to adopt rules that it considers necessary and advisable for the Land Program.

The amendment affects §§161.061 & 161.214 of the Tex. Nat. Res. Code.

§175.4. *Land Description.*

(a) Land selected to be purchased by the board must be described by a legally sufficient metes and bounds description. The property description must:

(1) contain a general description of the land, specifying the acreage contained, the original survey(s) or grant(s) with abstract number(s), survey number(s) and block designation, if applicable, and the county in which the tract is located (if the tract is divided by a county line, the appropriate abstract numbers and acreage on each side of the county line will be shown). The general description shall also contain the deed reference to the parent tract including grantor, grantee, date of instrument, and volume and page of recording. Additional references to other instruments in the chain of title may be referred to if appropriate;

(2) contain a specific description of the land, defining each side of the tract by course and distance or appropriate and complete curve data, identifying and describing monuments at each corner, and further identifying the land by calls for other natural and artificial objects on and along the boundaries and by calls for and reference to adjoining properties where appropriate;

(3) be tied to a corner of an original grant or survey if such corner is locatable and if the tie is not impractical to obtain. If it is impossible or impractical to tie to a corner of an original grant or survey the tract should tie to a locatable corner of the parent tract or any of the adjointers;

(4) include a description, either by metes and bounds or center line, of the access easement from the tract to an existing public road of all tracts which do not abut a public road.

(b) If the tract selected is in a subdivision, a lot and block description of the tract may be substituted for the metes and bounds description. If a lot and block description is to be used, the board must be furnished a copy of the recorded subdivision plat. This plat must show the recording information and the required signatures of the governmental entity (commissioners court, city council, etc.) authorized to accept such subdivision plat. Easements as necessary for access to a public road from all tracts must be clearly shown on the subdivision plat together with appropriate language dedicating such easement to the public or to the owners of tracts in the subdivision. All the data required in subsection (a) of this section should be shown on the face of the plat, including courses and distances for all lot lines and areas for each lot. All plats accepted subsequent to the adoption of this section shall identify the size and type of monument set at each corner of every lot. If a lot is part of a subdivision already of record where monumentation is not shown, a survey plat shall be furnished indicating monuments set or found at all corners of the tract together with sufficient ties to locate the lot within the subdivision.

(c) All metes and bounds descriptions and survey plats shall bear the seal and original signature of the surveyor preparing the same. Any field notes or survey plat prepared for and used in any Veterans Land Board transaction shall include a license from the surveyor to the board and the veteran purchaser to copy and use the field notes in that transaction and in any future transactions involving the surveyed property.

(d) Metes and bounds descriptions must be prepared from a survey of the property made on the ground. The survey should be made in such manner to be generally acceptable to title companies in the State of Texas for the purpose of deleting the survey exception clause.

(e) Each corner of the tract of land shall be marked by concrete or metal monuments or other durable monuments generally used in the area. A description of each monument set or found and its location,

with witnesses as available, shall be incorporated into the metes and bounds description of the property.

(f) When a roadway or easement crosses a tract, it shall be described sufficiently to enable its location throughout the tract and its area to be determined.

(g) Property descriptions and subdivision plats will be examined by the board for acreage, closure, and sufficiency. The board's determination of these items will control.

(h) The surveyor should be instructed to do a proper boundary survey of the land to be conveyed according to the record boundaries of the tracts involved. Any encroachments by existing perimeter fences into the subject tract or into adjacent tracts should be shown together with the area of any lands lying between the record boundaries and the existing occupation. Any occupation on the ground not conforming to the record boundaries should be shown on a plat of survey and fully explained in an accompanying surveyors report.

(i) The chairman may waive any of the foregoing requirements and accept a survey deemed sufficient by the title company to permit deletion of the survey exception clause.

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 March 31, 2003.

TRD-200302119

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 305-9129

◆ ◆ ◆  
**40 TAC §175.5**

The Veterans Land Board of the State of Texas (the "Board") proposes an amendment to Title 40, Part 5, Chapter 175 of the Texas Administrative Code, §175.5, relating to Appraisal of Land. This amendment will correct a reference to another section.

Section 161.061 of the Tex. Nat. Res. Code authorizes the Board to adopt rules. Section 161.212 requires an appraisal of the land. The Board finds that the reference in 175.5(a) to 175.6(c) is incorrect. A previous rule change now requires that the reference be updated to 175.6(d). This amendment changes the reference to the correct section.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, there will be no significant fiscal implication to state or local government as a result of administering this section as amended.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, the public will benefit because the proposed amendment will eliminate any confusion from the Board's rules.

Mr. Oldmixon has determined that the proposed amendment will have no significant effect on small businesses during each year of the first five years the section is in effect.

Mr. Oldmixon has also determined that during each year of the first five years the proposed amendment is in effect, the anticipated economic cost to persons who are required to comply with the section will be insignificant. Persons who seek financing from the Board through the Program will pay the same fees to the Board, and costs to third parties, as previously required.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board has determined that during each year of the first five years the proposed amendment is in effect, the anticipated impact on local employment will be insignificant.

Comments may be submitted to Melinda Tracy, Legal Service, General Land Office of the State of Texas, 1700 N. Congress Avenue, Austin Texas, by no later than 30 days after publication.

The amendment to this section is proposed under the Natural Resources Code, Title 7, Chapter 161, §§161.001, 161.061, 161.063, 161.218, 161.222, 161.233, and 161.283. These sections authorize the Board to adopt rules that it considers necessary and advisable for the Land Program.

The amendment affects §161.212 of the Tex. Nat. Res. Code.

*§175.5. Appraisal of Land.*

(a) Before property is purchased it shall be appraised for the board by an appraiser approved by the board. The exclusive purpose of the appraisal is to assist the board in determining that its investment will be sufficiently secured. Any improvement existing on the land may be considered by the board in making the appraisal. If improvements are considered in determining the value of the property, the board may in accordance with §175.6(d) [~~§175.6(e)~~] of this title (relating to Commitment by the Board) require the purchase of an insurance policy covering fire and hazard losses.

(b) If the appraisal amount is less than the purchase price agreed upon, the veteran may cancel the transaction. The veteran must provide a written cancellation notice to the seller and the board and request that the board return the down payment and the unused portion of the fee deposits.

(c) Upon the request of the veteran, the appraiser shall meet with the veteran for a physical inspection of the land to be purchased. Except as provided in subsection (d) of this section, the board may not require that veterans accompany the appraiser. The Board may, by resolution, establish a procedure for veterans to certify they have personally inspected the tracts they are purchasing. This resolution may also provide a procedure for granting a request to permit the veteran's personal representative to inspect the tract for the veteran.

(d) If the veteran believes that the appraisal contains a mistake, the veteran may request that the land be appraised again. The board shall have the land re-appraised if all the following requirements are satisfied:

- (1) The request for a re-appraisal must be in writing and describe any mistake the veteran believes was made.
- (2) The written request should be accompanied by any documentation supporting the allegation that a mistake was made.
- (3) The re-appraisal fee must be remitted to the board.
- (4) If the board elects to perform another physical inspection of the tract in connection with the re-appraisal, the board may require that the veteran personally accompany the board's representative on that inspection.

(e) The chairman, or executive secretary, of the board may waive any of the requirements of subsection (d) of this section. The board shall be the sole and final judge regarding any matter associated

with the appraisal of the land to be purchased, and the amount of the loan offered to any veteran.

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 March 31, 2003.

TRD-200302118

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 305-9129



**40 TAC §175.18**

The Veterans Land Board of the State of Texas (the "Board") proposes an amendment to Title 40, Part 5, Chapter 175 of the Texas Administrative Code, §175.18, relating to Resale of Forfeited Land. This amendment will allow the Board to sell forfeited or foreclosed land under either a contract for sale or a note and deed of trust.

Section 161.319 (a) of the Tex. Nat. Res. Code authorizes the Board to sell forfeited tracts under terms and conditions and at the time and in the manner prescribed by the board in its rules, the provisions of this chapter notwithstanding. Subchapter K of Chapter 161 of the Tex. Nat. Res. Code allows the board to sell land to Veterans under a mortgage. The Board finds that it is in the best interest of the program if the Board can sell forfeited or foreclosed land under either financing method. The amendments to §175.18 will allow sales of forfeited or foreclosed tracts under either a contract for sale or a note and deed of trust.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, there will be no significant fiscal implication to state or local government as a result of administering this section as amended.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, the public will benefit because the proposed amendment will give the Board the flexibility to make either type of loan to purchasers.

Mr. Oldmixon has determined that the proposed amendment will have no significant effect on small businesses during each year of the first five years the section is in effect.

Mr. Oldmixon has also determined that during each year of the first five years the proposed amendment is in effect, the anticipated economic cost to persons who are required to comply with the section will be insignificant. Persons who seek financing from the Board through the Program will pay the same fees to the Board, and costs to third parties, as previously required.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board has determined that during each year of the first five years the proposed amendment is in effect, the anticipated impact on local employment will be insignificant.

Comments may be submitted to Melinda Tracy, Legal Service, General Land Office of the State of Texas, 1700 N. Congress Avenue, Austin Texas, by no later than 30 days after publication.

The amendment to this section is proposed under the Natural Resources Code, Title 7, Chapter 161, §§161.001, 161.061, 161.063, 161.218, 161.222, 161.233, 161.283, 161.319, 161.501, 161.503, and 161.513. These sections authorize the Board to adopt rules that it considers necessary and advisable for the Land Program.

The amendment affects §§161.319, 161.501, and 161.513 of the Tex. Nat. Res. Code.

*§175.18. Resale of Forfeited Land.*

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

(1) Bid--A bid is an offer to purchase a Type I or Type II tract submitted in the manner prescribed by the board.

(2) Highest bidder--The person who submits the best and highest bid which satisfies all the terms, conditions, and guidelines set by the board for any sale of any tract.

(3) Minimum bid amount--The minimum acceptable selling price set by the board for each Type I and Type II tract.

(4) Type I land tract--When a tract is forfeited and first ordered for sale or lease by the board, it is automatically classified as Type I land.

(5) Type II land tract--When Type I land has been made available for sale or lease and is not sold or leased by the board for any reason, it is automatically reclassified as Type II land at the moment the board determines that no acceptable bid was received.

(b) Costs of sale.

(1) All property taxes which are, in the opinion of the board, lawfully due and owing on a Type I or Type II tract on the date it is resold by the board, may be paid from the proceeds of the issuance of bonds.

(2) All costs to the board associated with selling a Type I or Type II tract, including administrative expenses, road construction, surveying, legal fees, real estate commissions, advertising expenses, and other similar costs, may be paid from the proceeds of the issuance of bonds.

(c) Sale of forfeited tracts.

(1) Qualified purchasers.

(A) Type I tracts shall be first offered for sale or lease only to veterans who meet the eligibility requirements of §175.2 of this title (relating to Application/Eligibility). Bids on Type I tracts shall be submitted to the board on or before the bid deadline set by the board. These bids shall be reviewed by the board and the board may, in its discretion, award any Type I tract to the highest bidder.

(B) Any Type I tract not awarded by the board on the bid deadline date shall be immediately reclassified as Type II land. Type II tracts may be offered for sale or lease to both nonveterans and eligible veterans. Bids on Type II tracts may be reviewed by the chairman who may, in his or her sole discretion, award any Type II tract to the highest bidder.

(2) Terms of sale.

(A) The board may, in its sole discretion, set terms, conditions, and guidelines governing the sale of any tract.

(B) The board may combine or subdivide Type I or Type II land to form individual Type I or Type II tracts.

(C) Any tract formed by combining Type I and Type II shall be classified as Type I until it has been offered for sale or lease and is not sold or leased by the board for any reason. Thereafter, it shall be reclassified as Type II land.

(3) Deposit. Each bidder shall be required to deposit, in cash, an amount designated by the board.

(4) Duration. The land shall be sold under contract of sale and purchase or under a note and deed of trust not to exceed 30 years in duration.

(5) Additional terms and conditions. Each contract of sale and purchase or note and deed of trust shall conform to the provisions of the Natural Resources Code and shall be in such form, and contain such terms and conditions, as the chairman of the board may prescribe.

(6) Bid rejection. The board may reject any and all bids on Type I tracts. The chairman of the board may reject any and all bids on Type II tracts.

(7) Forfeiture. If a successful bidder refuses to execute a contract of sale and purchase or a note and deed of trust, the money submitted with his bid may be forfeited and shall be deposited in the state treasury and credited to the fund.

(d) Bids.

(1) Minimal amount. The board shall, in its sole discretion, set the minimum amount for which offers will be accepted for each Type I and Type II tract. Any costs to the board associated with selling a Type I or Type II tract, including road construction, surveying, advertising, legal fees, property taxes, real estate commissions, advertising expenses, and other similar costs, may be made part of the minimum bid amount.

(2) Bid deadline.

(A) The board may set a specific time and date on or before which bids pertaining to any tract must be submitted. In such event, no bid shall be awarded by the board prior to that time.

(B) The board may elect to set no specific time and date on which bids pertaining to any tract must be submitted. In such event, the chairman of the board shall be authorized to review bids when and as received, and accept the first acceptable bid on any such tract.

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 March 31, 2003.

TRD-200302117

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 305-9129



## CHAPTER 177. VETERANS HOUSING ASSISTANCE PROGRAM

### 40 TAC §177.14

The Veterans Land Board of the State of Texas (the "Board") proposes an amendment to Title 40, Part 5, Chapter 177 of the Texas Administrative Code, §177.14, relating to Loan Amounts.

This amendment will allow the Board to set the maximum loan amount for a home improvement loan by resolution.

Section 162.003 of the Tex. Nat. Res. Code authorizes the Board to administer and adopt rules to administer the Veterans Housing Assistance Program. Section 162.011 gives the Board the authority to set the maximum principal amount of loans. The Board finds that the present limit for home improvement loans does not match lending practices prevalent in the residential mortgage lending industry. The amendment to §177.14 will allow the board to increase the present limit for home improvement loans to match the lending industry and to make future changes by resolution.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, there will be no significant fiscal implication to state or local government as a result of administering this section as amended.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board, has determined that for each year of the first five years that the section as proposed will be in effect, the public will benefit because the proposed amendment will allow the Board to make more and larger home improvement loans to Veterans.

Mr. Oldmixon has determined that the proposed amendment may have a beneficial effect on small businesses during each year of the first five years the section is in effect. Small home improvement businesses may benefit from the change.

Mr. Oldmixon has also determined that during each year of the first five years the proposed amendment is in effect, the anticipated economic cost to persons who are required to comply with the section will be insignificant, or will be in their favor. Persons who seek financing from the Board through the Program will either pay the same fees to the Board, and costs to third parties, as previously required, or may pay less to third parties.

Douglas Oldmixon, Executive Secretary of the Veterans Land Board has determined that during each year of the first five years the proposed amendment is in effect, the anticipated impact on local employment will be insignificant.

Comments may be submitted to Melinda Tracy, Legal Service, General Land Office of the State of Texas, 1700 N. Congress Avenue, Austin Texas, by no later than 30 days after publication.

The amendment to this section is proposed under the Natural Resources Code, Title 7, Chapter 162, §§162.001, 162.003, and 162.011. These sections authorize the Board to adopt rules that it considers necessary and advisable for the Land Program.

The proposed amendment affects §§162.003 & 162.011 of the Tex. Nat. Res. Code.

*§177.14. Loan Amounts.*

The maximum amount that an individual will be able to borrow under this chapter will be established by resolution of the board, from time to time. Provided however, the maximum loan amount may not exceed the maximum allowable loan amount under the United States Department of Veterans Affairs Home Loan Guaranty Program. In the case of a home improvement loan, the board shall establish the maximum loan amount by resolution. [may not exceed the maximum amount allowable under HUD Title 1 guidelines for home improvement loans.]

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 March 31, 2003.

TRD-200302116

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 305-9129



## PART 11. TEXAS COMMISSION ON HUMAN RIGHTS

### CHAPTER 327. ADMINISTRATIVE REVIEW

#### SUBCHAPTER A. ADMINISTRATIVE INVESTIGATION AND REVIEW

##### 40 TAC §§327.1, 327.3 - 327.6

The Commissioners of the Texas Commission on Human Rights (TCHR) propose the amendments of §§327.1, concerning Filing a Complaint, 327.3, concerning Subpoena, 327.4, concerning Dismissal of Complaint, 327.5, concerning Reasonable Cause Determination, and 327.6, concerning Conciliation. These amendments are necessary to comport with a legislative mandate requiring the reduction of agency spending of its General Revenue Appropriation. Through a reduction in other operating expenses, specifically postage, the TCHR will be able to reduce its spending without a reduction in services to the citizens of the state of Texas. Section 327.1 deletes the requirement that the TCHR provide the respondent with a copy of the perfected complaint via registered or certified mail, return receipt requested. Section 327.3 deletes the requirement that the TCHR provide proper persons and entities served with a subpoena and petition with notice via registered or certified mail, return receipt requested. Section 327.4 deletes the requirement that the TCHR provide the complainant, respondent, and other agencies with a copy of the letter of determination via registered or certified mail, return receipt requested. Also, the TCHR will no longer be required to notify the respondent of the complainant's right to file a civil action against the respondent via registered or certified mail, return receipt requested. Section 327.5 deletes the requirement that the TCHR provide the complainant, respondent and other agencies with a copy of the letter of determination of reasonable cause via registered or certified mail, return receipt requested. Section 327.6 deletes the requirement that the TCHR notify the complainant and the respondent in writing of the commission's inability to successfully negotiate a conciliation agreement via registered or certified mail, return receipt requested. Also, the TCHR will no longer be required to notify the respondent of the complainant's right to file a civil action against the respondent via registered mail or certified mail, return receipt requested.

J.D. Powell, Executive Director has determined that for each year of the first five years the amended rules are in effect, there will be no fiscal impact on state and local government as a result of enforcing and administering the amended rule. There will be no adverse effects on local employment or the local economy.

Mr. Powell has also determined that for the first five year period the amended rules are in effect the public benefit will be a reduction of agency spending of its General Revenue appropriation. There will be no economic cost nor adverse impact on small

businesses as a result of the amended rules. The requirements of the amended rules should not be waived.

Comments on the proposed amendments must be submitted within 30 days after the publication of the proposed section in the *Texas Register* to Katherine A. Antwi, General Counsel, Mail Code 344, Texas Commission on Human Rights, P.O. Box 13006, Austin, Texas, 78711, or [kantwi@tchr.state.tx.us](mailto:kantwi@tchr.state.tx.us). Any requests for a public hearing must be submitted separately to the General Counsel.

These rules are amended under the Texas Labor Code, Chapter 21, Section 21.003, and Texas Administrative Code, Chapter 321, Section 321.4 and Chapter 323, Section 323.5. The Texas Labor Code, Section 21.003, and the Texas Administrative Code, Sections 321.4 and 323.5, grant the Commission authority to adopt procedural rules to carry out the purposes and policies of Texas Commission on Human Rights Act.

No other code, article, or statute is affected by these amendments.

#### §327.1. *Filing a Complaint.*

(a)-(h) (No change.)

(i) Within ten days after the receipt of the perfected complaint, the executive director or his or her designee shall serve the respondent with a copy of the complaint by regular mail [~~registered or certified mail, return receipt requested~~]. If a perfected complaint is not received by the commission within 180 days of the alleged unlawful employment practice, the commission shall notify the respondent that a complaint has been filed and that the process of perfecting the complaint is in progress.

(j)-(k) (No change.)

#### §327.3. *Subpoena.*

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

(c) Notwithstanding the requirements of any other state law, any person served with a subpoena issued by the commission who intends not to comply therewith shall petition in writing the commission to revoke or modify the subpoena within five working days after receipt of the subpoena. Such petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply, and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached. The commission or its designee shall review the petition and make a final determination on revoking or modifying the subpoena. The commission or its designee shall serve a copy of the final determination of the petition upon the petitioner by regular mail [~~registered or certified mail, return receipt requested~~].

(d) (No change.)

#### §327.4. *Dismissal of Complaint.*

(a) (No change.)

(b) Where the executive director or his or her designee after an investigation has determined that there is no reasonable cause to believe that the respondent has engaged in an unlawful employment practice as alleged in the complaint, the executive director or his or her designee shall dismiss the complaint. The executive director or his or her designee shall issue a written determination in the form of a letter of determination incorporating the finding that the evidence does not support the complaint and shall serve a copy of the letter of determination on the complainant, the respondent, and other agencies as required by law and by regular mail [~~registered or certified mail, return receipt requested~~].

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

(g) Where the commission dismisses a complaint filed with it, the commission shall so notify in writing the complainant and the respondent by regular mail [~~registered or certified mail, return receipt requested~~]. Such notification shall inform the complainant, via certified mail, of his or her right to file a civil action against the respondent named in the complaint pursuant to the Texas Labor Code, §21.208 and §21.252. The commission shall delegate authority to issue such notifications to the executive director or his or her designee.

#### §327.5. *Reasonable Cause Determination.*

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

(d) The Executive Director shall serve a copy of the letter of determination to the complainant and respondent and other agencies as required by law by regular mail [~~registered or certified mail, return receipt requested~~].

#### §327.6. *Conciliation.*

(a)-(f) (No change.)

(g) Where the commission has not successfully negotiated a conciliation agreement between the respondent and complainant, the commission shall so notify in writing the complainant and respondent by regular mail [~~registered or certified mail, return receipt requested~~]. Such notification shall inform the complainant, via certified mail, of his or her right to file a civil action against the respondent named in the complaint pursuant to the Texas Labor Code, §§21.208 - 21.252. The executive director is authorized to issue this notification on behalf of the commission.

(h) (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 March 26, 2003.

TRD-200302028

Katherine A. Antwi

General Counsel

Texas Commission on Human Rights

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 437-3458



## CHAPTER 340. ADMINISTRATIVE ENFORCEMENT

### 40 TAC §§340.8, 340.9, 340.15

The Commissioners of the Texas Commission on Human Rights (TCHR) propose the amendments of §§340.8, concerning Service of Notice on Aggrieved Persons, 340.9, concerning Notification of Respondent and Joinder of Additional or Substitute Respondents, and 340.15, concerning Completion of Investigation. These amendments are necessary to comport with a legislative mandate requiring the reduction of agency spending of its General Revenue Appropriation. Through a reduction in other operating expenses, specifically postage, the TCHR will be able to reduce its spending without a reduction in services to the citizens of the state of Texas. Section 340.8 deletes the requirement that the TCHR notify each aggrieved person on whose behalf the complaint was filed notice via certified mail or personal service. Section 340.9 deletes the requirement that the TCHR notify each respondent of the filing of a complaint or the filing

of an amended complaint via certified mail or personal service. Section 340.15 deletes the requirement that the TCHR notify the aggrieved person and the respondent as to why an investigation was not completed within 100 days of the filing of the complaint via certified mail or personal service.

J.D. Powell, Executive Director has determined that for each year of the first five years the amended rules are in effect, there will be no fiscal impact on state and local government as a result of enforcing and administering the amended rule. There will be no adverse effects on local employment or the local economy.

Mr. Powell has also determined that for the first five year period the amended rules are in effect the public benefit will be a reduction of agency spending of its General Revenue appropriation. There will be no economic cost nor adverse impact on small businesses as a result of the amended rules. The requirements of the amended rules should not be waived.

Comments on the proposed amendments must be submitted within 30 days after the publication of the proposed section in the *Texas Register* to Katherine A. Antwi, General Counsel, Mail Code 344, Texas Commission on Human Rights, P.O. Box 13006, Austin, Texas, 78711, or [kantwi@tchr.state.tx.us](mailto:kantwi@tchr.state.tx.us). Any requests for a public hearing must be submitted separately to the General Counsel.

These rules are amended under the Texas Property Code, Chapter 301, Section 301.062, and 40 Texas Administrative Code Chapter 336, Section 336.1 and Chapter 335, Section 335.4. Under the Texas Property Code, Section 301.062, the Commission may adopt rules as necessary to implement the Texas Fair Housing Act. The Texas Administrative Code Title 40, Sections 335.4 and 336.1, provide that the Commission may adopt rules and regulations to execute the duties and functions of the Texas Commission on Human Rights.

No other code, article, or statute is affected by these amendments.

*§340.8. Service of Notice on Aggrieved Person.*

Upon the filing of a complaint, the executive director or his or her designee will notify, by regular mail [~~certified mail or personal service~~], each aggrieved person on whose behalf the complaint was filed. The notice will:

(1)-(5) (No change.)

*§340.9. Notification of Respondent and Joinder of Additional or Substitute Respondents.*

(a) Within 20 days of the filing of a complaint or the filing of an amended complaint under this chapter, the executive director or his or her designee will serve a notice on each respondent by regular mail [~~certified mail or personal service~~]. A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation under the Texas Fair Housing Act, Subchapter E, and this chapter, as a person who is alleged to be engaged, to have engaged, or to be about to engage in the discriminatory housing practice upon which the complaint is based may be joined as an additional or substitute respondent by service of a notice on the person under this section within 10 days of the identification.

(b) (No change.)

*§340.15. Completion of Investigation.*

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

(c) If the executive director is unable to complete the investigation within the 100-day period or dispose of all administrative proceedings related to the investigation within one year after the date the

complaint is filed, the executive director will notify the aggrieved person and the respondent, by regular mail [~~certified mail or personal service~~], of the reasons for the delay.

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 March 26, 2003.

TRD-200302029

Katherine A. Antwi

General Counsel

Texas Commission on Human Rights

Earliest possible date of adoption: May 11, 2003

For further information, please call: (512) 437-3458



## PART 19. TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES

### CHAPTER 702. GENERAL ADMINISTRATION SUBCHAPTER E. MEMORANDUM OF UNDERSTANDING WITH OTHER STATE AGENCIES

#### 40 TAC §702.421

The Texas Department of Protective and Regulatory Services (PRS) proposes new §702.421, concerning relocation pilot program, in its General Administration chapter. In the last legislative session, Senate Bill 367 amended the Human Resources Code by adding §22.037, which authorizes the development of a pilot program for community-based alternatives for persons with disabilities, and §22.038, which requires a Memorandum of Understanding (MOU) regarding the implementation of the pilot program. Each of the agencies involved, PRS, the Texas Department of Human Services (DHS) and the Texas Department of Mental Health and Mental Retardation (MHMR), are required to adopt the MOU. PRS has actively been involved in the development of the MOU. DHS and MHMR have adopted the MOU as a final rule. The purpose of this proposal is to adopt by reference the rule containing the DHS MOU.

Donna Krueger, Budget and Federal Funds Director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Krueger also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the clients of each of the agencies involved in the MOU will know which services of the pilot program will be provided by each agency. It is anticipated that the interagency cooperation will result in better services to clients served jointly by the three agencies. There will be no effect on large, small, or micro-businesses because the interagency cooperation will affect only those agencies involved and their clients. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Larry Burgess at (512) 438-5320 in PRS's Child Protective Services Division. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-244, Texas Department of Protective and Regulatory Services E-611, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

Under §2007.003(b) of the Texas Government Code, the department has determined that Chapter 2007 of the Government Code does not apply to this rule. Accordingly, the department is not required to complete a takings impact assessment regarding this rule.

The new section is proposed under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of departmental programs,

The new section implements the Human Resources Code, §22.037 and §22.038.

§702.421. Relocation Pilot Program.

The Texas Department of Protective and Regulatory Services (PRS), the Texas Department of Human Services (DHS) and the Texas Department of Mental Health and Mental Retardation (MHMR) are required

to enter into a Memorandum of Understanding (MOU) regarding the implementation of a pilot program for community-based alternatives for persons with disabilities, as provided under Human Resources Code (HRC), §22.037 and §22.038. PRS adopts by reference the DHS rule at 40 TAC §72.104 (relating to Relocation Pilot Program), which contains the terms of the MOU for the pilot program. The MOU provides for interagency coordination and addresses the responsibilities of each agency in implementing the components of the pilot program.

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 March 28, 2003.

TRD-200302093

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Proposed date of adoption: May 23, 2003

For further information, please call: (512) 438-3437





# 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 1. ADMINISTRATION

### PART 5. TEXAS BUILDING AND PROCUREMENT COMMISSION

#### CHAPTER 111. EXECUTIVE ADMINISTRATION DIVISION

##### SUBCHAPTER B. HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM

###### 1 TAC §111.14

The Texas Building and Procurement Commission has withdrawn from consideration the proposed amendments to §111.14 which appeared in the October 4, 2002, issue of the *Texas Register* (27 TexReg 9237).

Filed with the Office of the Secretary of State on March 29, 2003.

TRD-200302077

Cynthia De Roch

Attorney

Texas Building and Procurement Commission

Effective date: March 29, 2003

For further information, please call: (512) 475-2400



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## PART 5. TEXAS VETERANS LAND BOARD

### CHAPTER 175. GENERAL RULES OF THE VETERANS LAND BOARD

#### SUBCHAPTER A. GENERAL RULES AND CONTRACTING FINANCING

##### 40 TAC §175.2

The Texas Veterans Land Board has withdrawn from consideration the proposed amendments to §175.2 which appeared in the March 14, 2003, issue of the *Texas Register* (28 TexReg 2287).

Filed with the Office of the Secretary of State on March 31, 2003.

TRD-200302114

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Effective date: March 31, 2003

For further information, please call: (512) 305-9129



# 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 as published in 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 1. ADMINISTRATION

### PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 355. MEDICAID REIMBURSEMENT RATES

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§355.503, 355.505, and 355.9022 without changes to the proposed text published in the January 24, 2003, issue of the *Texas Register* (28 TexReg 637).

Justification for the amendments is to assist home health agencies in hiring and retaining qualified, experienced nursing staff. It has become increasingly difficult for these agencies to find Registered Nurses (RNs) and Licensed Vocational Nurses (LVNs) who have the experience and skills necessary to serve clients requiring daily nursing care with their ventilators or tracheostomies. In an effort to help the agencies attract and retain RNs and LVNs with the necessary skills, HHSC is implementing an add-on rate that will pay home health agencies more for these skilled nursing services.

In addition, references to the Texas Department of Human Services contained in §355.505 and §355.9022 are corrected to refer to HHSC. These changes reflect that HHSC is the agency responsible for Medicaid rate determination.

HHSC received no comments regarding adoption of the amendments.

#### SUBCHAPTER E. COMMUNITY CARE FOR AGED AND DISABLED

##### 1 TAC §355.503, §355.505

The amendments are adopted under the Government Code, §531.033, which authorizes the commissioner of HHSC to adopt rules necessary to carry out the commission's duties, and §531.021(b), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under Human Resources Code, Chapter 32.

The amendments implement the Government Code, §531.033 and §531.021(b).

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 March 24, 2003.

TRD-200301978

Steve Aragon

General Counsel

Texas Health and Human Services Commission

Effective date: April 13, 2003

Proposal publication date: January 24, 2003

For further information, please call: (512) 438-3734

#### SUBCHAPTER M. MISCELLANEOUS MEDICAID PROGRAMS

#### DIVISION 2. MEDICAID WAIVER PROGRAM FOR PEOPLE WITH DEAF-BLINDNESS AND MULTIPLE DISABILITIES

##### 1 TAC §355.9022

The amendment is adopted under the Government Code, §531.033, which authorizes the commissioner of HHSC to adopt rules necessary to carry out the commission's duties, and §531.021(b), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under Human Resources Code, Chapter 32.

The amendment implements the Government Code, §531.033 and §531.021(b).

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 March 24, 2003.

TRD-200301979

Steve Aragon

General Counsel

Texas Health and Human Services Commission

Effective date: April 13, 2003

Proposal publication date: January 24, 2003

For further information, please call: (512) 438-3734

## TITLE 16. ECONOMIC REGULATION

### PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

## CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

### SUBCHAPTER F. METERING

#### 16 TAC §25.131

The Public Utility Commission of Texas (commission) adopts new §25.131, relating to Load Profiling and Load Research, with changes to the proposed text as published in the October 25, 2002 *Texas Register* (27 TexReg 9914). The rule defines the entity responsible for load research to support the load profiling activities of the Electric Reliability Council of Texas (ERCOT), provides access to the data gathered from load profiling research, and provides for establishment of a procedure to provide a method of recovery of research costs associated with obtaining a new profile. This new section was adopted under Project Number 25516.

This rule is necessary to facilitate retail competition in the ERCOT area. Since a large number of customers' wholesale obligations are settled based on load profiles, it is imperative that the profiles be as accurate as possible. This rulemaking will allow ERCOT to get data it needs to validate and update its load profiles. More accurate profiles will enhance the retail market by providing for more accurate settlement.

A public hearing on the proposed section was held at commission offices on December 16, 2002, at 10:00 a.m. Representatives from American Electric Power Companies (AEP), CenterPoint Energy (CenterPoint), City Public Service of San Antonio (San Antonio), Competitive Retail Market Companies (representing Automated Utilities, EC Power, Fowler Energy, Retail Energy Aggregators of Texas, Texas Energy Association Cooperative, Utility Choice Electric, and Viterra Energy Services) (CRMC), ERCOT, Good Company and Associates (Good Company), and Oncor Electric Delivery Company (Oncor) attended the hearing and provided comments. To the extent that these comments differed from the submitted written comments, such comments are summarized herein.

The commission received comments on the proposed new section from AEP, CenterPoint, CRMC, Energy Data Source, Entergy Solutions, Ltd. (Entergy Solutions), ERCOT, Good Company, Green Mountain Energy Company (Green Mountain), Reliant Resources, Inc. (RRI), San Antonio, and TXU Energy/Oncor (TXU Companies).

The commission posed two questions for comment in addition to taking comment on proposed rule language.

*1. Proposed §25.131(e)(3) calls for ERCOT to develop a process for assessing a fee to users of a new profile that is developed by a sponsor other than ERCOT. Rather than this process, when a person petitions ERCOT to establish a new profile and incurs costs for research and development of the new profile, should the new profile become the property of this sponsor?*

AEP and Entergy Solutions stated that they believe that the entity that pays for the profile should own it. AEP commented that the entity that pays for the profile should be permitted to charge a market-based price for its use, as innovative market participants should have an opportunity to receive a return on their investment. AEP proposed that ERCOT develop the procedures for cost recovery through the Profiling Working Group (PWG). The TXU Companies agreed with AEP that ERCOT in conjunction

with market participants should develop the procedures for cost recovery.

Entergy Solutions commented that when a market participant bears the costs of developing and implementing a new profile, that entity should become the owner of the new profile and should be compensated when other market participants use it. Entergy Solutions offered the example that if a second market participant desired to use the new profile, then, at a minimum, that market participant should pay a pro-rata share of the owner's cost. If other market participants subsequently desired to use the profile, then at a minimum, they should pay the pro-rata share and the second market participant should receive a refund of the amount it paid over its new pro-rata share. Entergy Solutions commented that, in the alternative, the owner of the profile should have the option of charging a market-based fee for use of the profile. In reply, TXU Companies commented that the Entergy Solutions' proposal has the potential to be complex and difficult to administer. TXU Companies noted that the concepts can be appropriately considered within the established ERCOT stakeholder process, as contemplated in the proposed rule.

CRMC did not support setting market-based rates to employ fundamental market instruments used in the settlement of accounts in the ERCOT market. CRMC argued that the designation of some profiles as "new" and costly to use and others as grandfathered and "free" to use, when in fact, they are all merely descriptors of a market segment used for settlement at ERCOT, works against the principles of innovation in a competitive marketplace. TXU Companies responded that the current market rules do not indicate that all new profiles will be costly to use. In fact, they argue, once the profile is approved by ERCOT, it is available for all retail electric providers (REPs) to use, and the cost of implementing and maintaining the new profile is the responsibility of ERCOT.

TXU Companies argued that ERCOT is in the best position to establish and implement a fair and equitable process for assessing a fee to users of a non-ERCOT-sponsored profile. Additionally, they stated that ERCOT is the best entity to develop the procedures for the use of such a profile by other participants in the market, as the rule presently provides. Finally, TXU Companies commented that ERCOT, through a cooperative effort with the transmission and distribution utilities (TDUs) and REPs, can develop a fee process and asserted that, with modifications, the current rule language can accommodate this cooperative effort.

ERCOT argued that it does not believe ERCOT is the appropriate entity to assess or determine the process to collect fees for a new profile. ERCOT stated that in addition to the difficulty in determining the amount of such fees and estimating the cost of third-party services, ERCOT would be required to obtain commission approval for any such fee. ERCOT also stated that it does not have money in its current budget for these activities. ERCOT suggested that TDUs or their designated agents are in the best position to perform the load-sampling services and recover costs.

ERCOT stated that load research in support of a new load profile request is the responsibility of the requesting entity. ERCOT explained that if the requesting entity desires cost reimbursement for load research needed to support the request for a new load profile, the requesting entity should work with ERCOT for sample design and TDUs to perform the necessary load research sample metering. ERCOT argued that the requesting entity should initially pay to the TDUs the costs that the TDUs incur to support

the load research sample metering activities needed to evaluate the proposed profile. At the conclusion of the evaluation process, ERCOT staff would make a recommendation to the ERCOT PWG regarding implementation of the new profile group as outlined in the Load Profiling Guides. If the PWG decides to implement the new profile, ERCOT proposed that the load research costs incurred in the development of the profile would be refunded by the TDUs to the sponsoring entity and absorbed into the TDUs rate base, as is the case for ERCOT-directed load profiles. The profile would then be made available to any REP, as appropriate, across the market. Under this assignment of responsibilities, the transition from evaluation to implementation of a profile would be seamless. In addition, ERCOT concluded that all market participants would benefit from the implementation of the new profile as a result of the settlement improvements derived from improved profile accuracies.

The commission agrees with AEP and the TXU Companies that ERCOT in conjunction with its working groups should develop the procedure for the reimbursement of costs. Rather than attempt to impose a solution on the market, the commission prefers to allow the ERCOT stakeholders an opportunity to develop a process for compensation or reimbursement to those who have spent money on developing the initial research for a new profile. The commission believes its original proposed rule language provides this flexibility. If the parties are unable to establish a process by the date provided in the rule, the commission may open a proceeding to develop the process. In determining the process, market participants are urged to consider fair compensation to the initial requestor as well as efficient functioning of the market and the availability of the new profiles to be used by others.

*2. In these circumstances, should the sponsor of a new profile be allowed to charge a market-based fee for its use?*

CRMC did not support setting market-based rates for the use of fundamental market instruments that are employed in the settlement of accounts in the ERCOT market. CRMC reiterated, to designate some profiles as "new" and costly to use and others as grandfathered and "free" to use, when in fact they are all merely descriptors of a market segment used for settlement at ERCOT would work against the principles of innovation in a competitive marketplace. TXU Companies responded that the current market rules do not indicate that all new profiles will be costly to use. In fact, once the profile is approved by ERCOT it is available for all REPs to use, and the cost of implementing and maintaining the new profile is the responsibility of ERCOT. TXU Companies asserted that ERCOT in conjunction with market participants is in the best position to assess the costs and to equitably manage usage rights associated with such profiles.

AEP and Entergy Solutions commented that the entity who pays for the new profile should financially own it. AEP argued that the fee should be market based and that the process should be worked out through the PWG.

The commission determines that charging a market-based fee for use of the load profile could negatively affect competition. The commission agrees, however, that if a market participant has paid for the initial research of a load profile, others should not be afforded free use. Allowing free use of a profile that a market participant has paid to develop would deter participants from making investments in profile development. However, as decided in question one, the commission believes that market participants are in the best position to design a process for cost-

based reimbursement. Therefore, the commission does not alter the rule in favor of market-based rates.

*Comments on proposed §25.131*

*Subsection (b), Applicability*

RRI suggested language to specify that the rule would not require REPs to perform load research as a mandatory service for customers that desire a new load profile. TXU Companies asserted that such language is unnecessary because there is no express or implied requirement in the proposed rule that would obligate a REP to perform load research at the request of a customer. TXU Companies stated that the proposed language would create greater confusion rather than clarify the existing language.

The commission does not intend to impose a requirement upon REPs to perform load research. The obligation to perform load research falls on ERCOT and the TDUs, not the REPs. However, the commission agrees with TXU Companies that this is evident from the rule, and it is not necessary to add the proposed language to this section of the rule.

Green Mountain suggested that metering designed to measure the impact of a specific demand response or energy efficiency program not be considered load research and should not be affected by this rulemaking in order to provide market participants greater flexibility to work with ERCOT on metering and monitoring approaches that make the most sense for specific programs. TXU Companies agreed that letting the market determine the load profiling details associated with demand response programs allows for the proper input from all affected parties. Good Company supported Green Mountain's suggestion but encouraged the commission to evaluate an alternative approach to reducing and financing the costs of Direct Load Control (DLC) programs through advanced metering. Good Company proposed that TDUs be allowed to recover portions of the costs of managing profiling samples from the market as a whole rather than recovering all costs through direct billing of the operating entity. Energy Data Source stated its support for third-party agents providing sampling for DLC programs, as they believe third-party agents would be more efficient and could provide better quality results at a lower cost. AEP pointed out that one of the purposes of this rulemaking is to define the entity responsible for load research to support the load profiling activities of ERCOT, and in order to settle customers under a demand response program, ERCOT must have an applicable load profile so that metered energy use can be properly allocated across all settlement intervals.

CenterPoint disagreed that demand response or energy efficiency programs should be exempted from the requirements of a rule that is intended to establish the standards for the market. CenterPoint stated that ERCOT should be the party responsible for market settlement, including oversight of sample design and sample point selection, as well as management oversight of the entity performing the services for any activities regarding load research for market settlement.

The commission agrees with AEP and CenterPoint that in order to settle customers under a direct load control program or energy efficiency program, the customers in the program must have an applicable load profile like all other customers so that metered energy use can be properly allocated across all settlement intervals. However, the commission has not set standards for obtaining a new profile in this proceeding. The standards have been established in the Load Profiling Guides (LPGs). This

affords Green Mountain and others hoping to establish a new non-universally applicable profile to work with ERCOT on metering approaches or other monitoring techniques that make the most sense for non-universally applicable load profiles. While the commission is concerned with demand response and energy efficiency programs, as well as advanced metering, apart from their impact on load profiling and settlement, those issues are being addressed in other projects and working groups within ERCOT. Therefore, the commission declines to address these issues as well as the suggestions made by Good Company and Energy Data Source in this rulemaking.

#### *Subsection (c), Load Research Responsibility*

CenterPoint commented that there may be limited opportunities to effectively use common sample points for both settlement and class delivery groups. ERCOT proposed language to clarify that ERCOT would be responsible for the load research sample design and sample point selection for ERCOT-directed load research samples.

The commission agrees that ERCOT shall be responsible for selecting the load research sample design and sample points and adds ERCOT's proposed language to the rule. However, the commission is concerned that sample points be chosen efficiently and that costs of data collection be minimized. To the extent possible, the TDUs and ERCOT need to coordinate research samples to minimize the sample points needed.

RRI proposed that a third party be selected to perform the load research through a competitive bidding process with costs recovered through the ERCOT administrative fee. Energy Data Source agreed that involving the TDU in installation of such metering would significantly increase overall costs. Under RRI's proposal, the third party chosen may include a TDU's competitive affiliate.

CRMC commented that, as a general principle, ERCOT sponsored load research for establishing load profiles should not be performed by individual stakeholder companies and questioned the right of TDUs to collect information. Additionally, CRMC stated that incumbent utilities have cash-flow ties to affiliate or successor-in-interest REPs and generators; thus, to have incumbent utilities perform basic research for the market when such research potentially enables new competitors to take customers away from the affiliated REPs poses a conflict. TXU Companies commented that CRMC's comments display a disregard for the commission's code of conduct and demonstrate a lack of understanding of the operation of the ERCOT market. The TXU Companies stated that implementing CRMC's recommendations to avoid groundless assertions of conflicts of interest could result in the potential loss of significant economies of scale. They also stated that TDUs are performing load research today in ERCOT, as well as in California and the PJM Interconnection. The TXU Companies concluded that CRMC has failed to provide evidence of how ERCOT would compensate third-party providers, how third-party providers would provide more cost effective load profile research than TDUs, how third-party providers would produce greater efficiencies, and how using third parties that are presumably performing the work for some specific market participant does not create a conflict of interest for which the commission has no regulatory recourse.

CRMC urged the commission to consider whether a third-party load-research effort that would fulfill many market needs could be initially undertaken in conjunction with a pilot project that includes competitive metering. TXU Companies stated that there

is no basis to delay this project and combine the load profiling and load research rulemaking with the vast issues associated with competitive metering.

AEP disagreed with parties who recommended that third parties conduct load research. AEP did not agree that a third party could provide these services at a lower cost. AEP stated that the proposed rule provides economies of scale by allowing ERCOT to "piggy back" on existing TDU load research activities. According to AEP, the marginal cost to support ERCOT profiles is primarily the cost of the additional meters required by ERCOT, with the TDU providing meter installation, data retrieval, and data validation, editing, and estimation using existing resources. AEP argued that a third party may not have those structures in place, and would have to implement them at a higher cost.

Since a large percentage of customers are settled based on the ERCOT profiles, the commission is concerned with the accuracy of the current profiles. The commission staff has stressed the importance of updating and validating the profiles to ERCOT for well over a year. However, updating the profiles has not received priority status in the ERCOT prioritization process; therefore, the commission has conducted this rulemaking. In order to have third parties conduct load research, an RFP process would have to be put in place and would require ERCOT funding, which could take a year or longer. In addition, ERCOT systems would need to be updated to receive data from entities other than the TDUs. The commission believes that this process would take too long, would be inefficient, and would be more costly to develop. Furthermore, it is not clear how third parties could gain access through customer premises, other than through the use of TDU's easement rights. Therefore, the commission declines to implement this suggestion. The commission believes that CRMC's concerns are mitigated by the commission's code of conduct and the fact that all certified REPs will have access to the data generated by the load research. The commission agrees with TXU Companies that third parties performing load research could present a concern to the market, especially if entities who had a financial interest in the results of the profile sample data (such as REPs) were chosen as the third-party provider.

CRMC suggested a pilot program for third-party providers combined with a competitive metering pilot project. The commission is currently working with interested parties to consider a pilot project for competitive metering. A pilot project to combine competitive metering and this project would probably delay the initial load profiling and load research efforts. The commission agrees with TXU Companies that there is no basis to delay this project or to combine it with the multitude of difficult issues surrounding competitive metering. Therefore, the commission declines to make any rule change based on these suggestions.

CenterPoint expressed concern that parties have lost sight of the potential for inappropriate gaming that may occur if REPs, aggregators, or other entities with market interests are allowed to develop samples and select sample points for market settlement profiles. Therefore, CenterPoint stated that ERCOT should be the independent provider for these services. The TXU Companies agreed that CRMC's comments fail to understand the intent of the rule and the operation of the ERCOT market; furthermore, they stated that a market participant requesting a new load profile will be responsible for sample design, sample selection, data validation, data aggregation, data analysis, and any model development as part of its request for approval of such profile.

The commission agrees with CenterPoint that ERCOT should be the only entity to choose sample points for market settlement

profiles. To allow any other entity to choose samples provides clear gaming opportunities and should be disallowed. However, this issue has already been decided and is published in the Profiling Operating Guides at ERCOT. The current process requires that ERCOT first determine from the information submitted by the requestor that a new profile should be developed. ERCOT then chooses the samples from which these profiles will be monitored and validated on a going-forward basis. The sample is unknown to any market participant other than the TDU (who is required to read and install the meters). Therefore, the commission does not believe that the established process affords inappropriate gaming opportunities. To the extent the process changes, the commission may open a new rulemaking to address these concerns.

#### *Subsection (c)(2)*

Entergy Solutions proposed that data from recorders with remote interrogation be collected on a weekly basis at a minimum, so that information can be used more quickly. AEP stated that ERCOT's system is designed to utilize profiles derived from models and initial load research efforts will be used to validate and possibly calibrate the model results; therefore, there are no benefits gained from providing data more often than monthly.

The commission agrees that the information gathered from this process is to be used to validate and possibly calibrate the load profiles. The commission does not see a need to require that information be collected within a specific timeframe. Rather, the commission determines that ERCOT is in the best position to determine when it needs information and the rule should allow ERCOT to determine within reason when the data should be collected. The commission declines to make changes to the rule based on Entergy Solutions' suggestion.

AEP commented that it is unclear from the proposal what input the TDUs would have in the development of data collection requirements. AEP stated that as long as the TDU meets the ERCOT requirements for data transmission and accuracy, the method of collection should be determined by the TDUs. This would allow the TDUs to perform data collection activities in the most efficient manner under their existing operating procedures. TXU Companies agreed and proposed language to ensure that ERCOT does not make unreasonable requests of TDUs with respect to the manner of load profile research data collection and the means and frequency of transmittal of information to ERCOT.

The commission agrees with AEP and TXU that TDUs should not be subject to unreasonable requests by ERCOT but it concludes that it is not necessary to adopt an explicit requirement that the data-collection requirements be reasonable. To the extent that a TDU wishes to challenge ERCOT's directives, the commission has adopted a new procedural rule, §22.251 of this title, (relating to Review of Electric Reliability Council of Texas (ERCOT) Conduct) that prescribes the procedures for an appeal of an ERCOT action.

#### *Subsection (c)(3)*

AEP supported the ability of the TDU to recover costs but urged that the rule should specify the methodology for cost recovery. In addition, AEP stated that the word "may" could create instances in which the TDU may not be allowed to recover reasonable and prudent costs from the performance of ERCOT-directed load profiling.

The commission declines to accept AEP's suggestion to require a utility to recover its costs. Nevertheless, under the rule a utility

may recover costs that are determined in the course of a rate case to be prudently and reasonably incurred.

#### *Subsection (d), Availability of load research data*

ERCOT proposed a clarification that ERCOT would make available load profile research data collected under its direction for accepted load profiles. TXU Companies commented that, as currently drafted, this section could be read to apply to the non-ERCOT sponsored load profile research data.

The commission agrees with ERCOT's clarification and makes changes to the rule accordingly. This should also address TXU's concern.

#### *Subsection (d)(1)*

San Antonio stated that many small municipally-owned utilities (MOUs) and electric cooperatives (coops) may not have the resources necessary to meet the load research requirements. They proposed considering a multi-tiered approach similar to the code of conduct for the sharing of load research data since they believed that smaller MOUs and coops should have access to ERCOT load research and profiling data. TXU Companies stated that San Antonio's comments do not include a discussion as to why smaller MOUs and coops should be entitled to ERCOT load profile research data, if they are providing data to ERCOT that is not of industry standard quality. TXU Companies concurred with San Antonio and urged the commission to provide smaller MOUs and coops with access to all of ERCOT's load profile research data --even if the data does not conform with the industry standard practices --as long as the commission makes clear in the rule that a smaller MOU or coop shall not distribute, sell, or share load profiled research data with any other entity.

The commission has determined that making data available to REPs benefits the competitive market. In those instances in which MOUs and coops share with ERCOT data that is of value to the competitive marketplace, the rule provides that they may also have the benefit of access to the data collected. The parameters of this rule allow TDUs to recover their costs of load research through TDU rates, which results in distributing the costs of the research to customers eligible for competition. These customers should not have to pay all of the costs for data that is also provided to MOUs and coops for free. MOUs and coops that have research that is beneficial to the competitive market may gain access to the data by following the guidelines for submitting that data to ERCOT in accordance with the proposed rule; therefore, the commission makes no change to the rule.

#### *Subsection (d)(2)*

Entergy Solutions proposed that, in the event ERCOT concludes that there is a significant risk that release of customer level data for a sample may lead to the disclosure of the customer's identity, then the requesting party should have the opportunity to challenge ERCOT's decision. Entergy Solutions commented that a process should be set out in the rule or in ERCOT's Load Profiling Guide that provides a requesting party the opportunity to demonstrate that the release of customer level load data from the sample will not disclose the identity of a particular sampled customer.

The commission believes that the release of customer level data where the customer's identity is not disclosed can be helpful to the market. The commission has provided for this information to be released to certified REPs unless ERCOT concludes that there is significant risk that the release may lead to disclosure

of the customer's identity. Any party that does not agree with ERCOT's determination may challenge that determination using the procedures in §22.251 of this title (relating to Review of Electric Reliability Council of Texas (ERCOT) Conduct). Therefore the commission makes no change to the rule to accommodate the suggestion of Entergy Solutions. The commission does make changes to (d)(2) to accommodate ERCOT's concern discussed under subsection (d), and to clarify that there may also be other factors that could cause a customer's identity to be compromised, which could affect ERCOT's assessment of whether the release of information poses a significant risk of identifying a customer.

CRMC questioned why the raw data should not be made available to anyone wishing to utilize it for their own load research purposes, as long as that raw data cannot be used to identify individual customers. TXU Companies stated that REPs are the entities currently paying for load profile research to the TDUs through the ERCOT administrative fee and wires charges. While CRMC suggests that other market entities might be willing to partially fund such efforts, no mechanism is currently in place and CRMC did not propose one. TXU Companies pointed out that in order to ensure the statistical validity of each load research data point, it is important that the customer not be aware of their status as a sample point, as it could affect the customer's usage characteristics, and bias the sample. Therefore, providing customers (and any other market participant) with the interval data would potentially affect the customer's usage characteristics and bias the sample. TXU Companies concluded that this project and the rule were not intended to address the widespread availability of data but to provide a mechanism whereby ERCOT may accomplish its load profiling requirements in a cost effective and statistically accurate manner.

The commission does not believe that data paid for by customers and REPs should be released indiscriminately to the market. The commission determines that at this time REPs should be given access to the data in order to develop competitive offerings and enhance competition; therefore, the commission declines to make any changes to the rule at CRMC's request. The commission does make changes to this section to address the concerns of ERCOT discussed in subsection (d).

*Subsection (e), New load profiles and fee for use of load profiles*

AEP stated that throughout subsection (e), intermittent reference is made to the entity that "sponsored" the profile segment change. For clarity, AEP recommended that the term "sponsored" be changed to "initially requested."

The commission agrees that this proposed change adds clarity and amends the rule in accordance with AEP's suggestion.

RRI commented that it does not support the development of load profiles based on existing characteristics that could further segment any customer class for which there is a regulatorily administered price or product. TXU Companies stated that the ERCOT Protocols require ERCOT to give at least 150 days notice to all market participants prior to market implementation of any change in a load profiling methodology, existing profiles or when any additional load profiles are developed. TXU Companies suggested that 150 days is adequate notice for the entity offering a regulatorily based product to plan; thus, the language proposed by RRI is not necessary.

The commission agrees with the TXU Companies that if new profiles are developed, the ERCOT Protocols require 150 days notice before the notice goes into effect. The commission agrees

that this should be enough notice for the price-to-beat REP to prepare.

*Subsection (e)(3)*

The TXU Companies suggested that subsection (e)(3) be modified to relieve TDUs of the burden of determining whether a requesting REP or other party has taken the appropriate steps for assigning a customer to a non-ERCOT sponsored profile. ERCOT stated that it does not currently have the system functionality to automatically verify that only appropriate REPs are using a new profile. ERCOT's comments reinforced the TXU Companies' position that TDUs should not be responsible for determining whether a customer should be assigned to a particular non-ERCOT sponsored profile. TXU Companies questioned that if ERCOT is unable to verify whether a particular REP is authorized to utilize a given profile, how will TDUs be able to determine whether customer assignment to a non-ERCOT sponsored profile is appropriate? TXU Companies stated that the proposed rule should appropriately place the burden on REPs or other persons for properly requesting assignment of customers to a non-ERCOT sponsored profile.

The commission agrees that REPs should not be improperly requesting profile assignments. The process for dealing with new profile costs has not been fully laid out in this rule, so it is uncertain at this time where TDUs will obtain the information needed for profile assignments. At this time it is the TDU who is responsible for assigning profile IDs; therefore, the TDU should have the ultimate responsibility for ensuring the assignment is proper. The stakeholder process at ERCOT should address and design the process in a way that the TDU has access to the information necessary to verify the assignment. The commission makes no changes to the rule at this time.

TXU Companies also requested altering subsection (e)(3) to state that within six months of the effective date of this section, ERCOT, through the stakeholder process, shall establish and implement a process to collect a fee from any REP who seeks to assign customers to a non-ERCOT sponsored profile.

While the commission envisions that ERCOT will solicit input from its working groups, the commission determines that "through the stakeholder process" is not a clear or properly defined term. The commission declines to make changes to the rule accordingly.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically PURA §39.101(a)(1), which provides that customers are entitled to safe, reliable, and reasonably priced electricity; PURA §39.101(a)(6), which provides that customers are entitled to accurate metering and billing; PURA §39.101(e), which authorizes the commission to adopt and enforce such rules as may be necessary or appropriate to carry out the provisions of PURA §39.101(a); and PURA §39.151(d), which requires that an independent organization certified by the commission for a power region establish and enforce procedures, consistent with the commission's rules, relating to accounting for the production

and delivery of electricity among generators and all other market participants.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.101, and 39.151.

§25.131. *Load Profiling and Load Research.*

(a) Purpose. This section allocates responsibilities for obtaining load research information necessary to support the load profiling activities of the Electric Reliability Council of Texas (ERCOT), provides for access to that load profile research data by retail electric providers (REPs), and provides a method for recovery of costs by a person who successfully requests a new load profile.

(b) Applicability. This section applies to ERCOT, each transmission and distribution utility (TDU) that has a service territory within ERCOT, and each REP certified by the commission. For the purposes of this section, the term person may include a municipally owned utility or electric cooperative.

(c) Load research responsibility. Each TDU shall perform load research to support ERCOT's load profiling activities, as directed by ERCOT.

(1) ERCOT shall be responsible for load research sample design and sample point selection for ERCOT-directed load profiling and load research samples. ERCOT shall coordinate with each TDU to optimize load research programs of both ERCOT and the TDU. The same samples shall be used to support both the TDU's load research activities and ERCOT's load profile research needs whenever reasonably possible. Each TDU shall coordinate with ERCOT to synchronize its load research cycles and sample replacement with those of ERCOT.

(2) ERCOT, in consultation with TDUs, shall specify the manner of data collection for ERCOT load profile research samples and the means and frequency of transmission of such information to ERCOT. Each TDU shall adhere to the specifications for data collection and transmission specified by ERCOT.

(3) A TDU may recover its reasonable and necessary costs incurred in performing load profile research as required by this section.

(4) This section shall not be interpreted to require a TDU to redeploy any existing samples that were deployed less than five years before the effective date of this section, although this section shall also not be interpreted as addressing the appropriateness of continued deployment of existing TDU samples apart from an ERCOT request to do so. Notwithstanding the foregoing, the TDU shall deploy additional samples as requested by ERCOT in order to support ERCOT's load profiling activities.

(d) Availability of load research data. ERCOT shall make load profile research data collected under its direction for accepted load profiles available to all certified REPs.

(1) Notwithstanding the foregoing, a municipally-owned utility or electric cooperative that conducts load research activities shall have access to load research data maintained by ERCOT only if it shares statistically valid load research data from its own service territory with ERCOT in accordance with the provisions of subparagraphs (A)-(C) of this paragraph.

(A) A municipally-owned electric utility or electric cooperative may submit load research data only if it is obtained in a manner consistent with the Association of Edison Illuminating Companies (AEIC) load research standards and provided in the form and manner specified by ERCOT pursuant to subsection (c)(2) of this section.

(B) The municipally-owned electric utility or electric cooperative shall provide to ERCOT information concerning its load research sample design and any other relevant information required by ERCOT.

(C) ERCOT shall determine whether the load research data submitted by a municipally owned utility or electric cooperative is statistically valid sample data compiled in a manner consistent with the AEIC Load Profiling Guidelines.

(2) ERCOT shall make available customer level data collected under its direction for accepted load profiles for all customers as provided in this subsection, unless ERCOT concludes that, due to the size, usage characteristics, or location of a sample, or other factors, there is a significant risk that release of customer level data for a sample would lead to the disclosure of the identity of the customer being sampled. ERCOT shall make available, as provided in this subsection, all other load profile research data on an aggregated basis, unless ERCOT determines that there is significant risk that disclosure of such aggregated data would lead to the disclosure of the identity of one or more sampled customers. In no event shall the location, name, account number, zip code, or electric service identifier (ESI-ID) of an individual customer in a load profile research sample be made available. The following information shall be made available for load profile research data provided on either an individualized or aggregated basis:

- (A) customer class;
- (B) TDU service area;
- (C) weather zone; and
- (D) interval usage, or average interval usage for aggregated data.

(3) ERCOT may not assess a charge to access the data specified in paragraph (2) of this subsection.

(e) New load profiles and fee for use of load profiles. ERCOT may establish new load profiles at the request of a REP or another person.

(1) A request for a new or modified load profile must include the requested information detailed in ERCOT's Load Profiling Guide.

(2) Any costs associated with developing the supporting data and documentation that is necessary for ERCOT's evaluation of the proposed profile change shall be the responsibility of the person initially requesting the profile change.

(3) Within six months of the effective date of this section, ERCOT shall establish and implement a process to collect a fee from any REP who seeks to assign customers to a non-ERCOT sponsored profile. The process shall include a method for other REPs who use the profile to compensate the original requester of the new profile and for ERCOT to notify TDUs which REPs are authorized to use the new profile. A TDU shall not, without authorization, assign a customer to a profile for which a REP or another person has paid the costs of developing the new profile.

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 March 27, 2003.

TRD-200302066



Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Effective date: April 16, 2003  
Proposal publication date: October 25, 2002  
For further information, please call: (512) 936-7223

◆ ◆ ◆  
**PART 9. TEXAS LOTTERY  
COMMISSION**

**CHAPTER 402. BINGO REGULATION AND  
TAX**

**16 TAC §402.540**

The Texas Lottery Commission adopts new §402.540, relating to general licensing provisions without changes to the proposed text as published in the February 14, 2003, issue of the *Texas Register* (28 TexReg 1320) and will not be republished.

The new section identifies who must submit a license application, what information is required to be submitted in a license application, what the impact is if an application is incomplete, what the impact is if a licensee voluntarily surrenders its license, what the impact is if a licensee places a license in administrative hold, what the impact is on a licensee for failure to timely renew its license, sets out the requirement that the licensee notify the commission timely of changes of information contained in the application, and identifies who may act as an authorized representative for a licensee. The new section provides applicants and licensees with a better understanding of the licensing process and the requirements for obtaining a license.

No comments were received regarding adoption of this section.

The new rule is adopted under Occupations Code, Section 2001.054 which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, under Government Code, Section 467.102 which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction, and under Occupations Code, Section 2001.051(b) which grants the Commission broad authority to exercise strict control and close supervision over all bingo conducted in Texas so that bingo is fairly conducted and the proceeds derived from bingo are used for an authorized purpose.

The new rule implements Occupations Code, Chapter 2001.

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 March 28, 2003.

TRD-200302079  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Effective date: April 17, 2003  
Proposal publication date: February 14, 2003  
For further information, please call: (512) 344-5113

**16 TAC §402.545**

The Texas Lottery Commission adopts the repeal of §402.545, relating to license, fees and bonds for conduct of bingo occasions and for commercial lessor without changes as published in the February 14, 2003, issue of the *Texas Register* (28 TexReg 1322) and will not be republished.

The rule set out requirements for licenses and applications relating to the conduct of bingo and the lease of bingo premises and requirements for bonds and other security. Contemporaneous with the adoption of the repeal of this section, the Commission adopts new sections 16 TAC §402.545 relating to licenses for conduct of bingo and to lease premises and 16 TAC §402.583 relating to bonds or other security because the changes are so substantial that it is less confusing to the reader of the rules to propose new rules.

No comments were received regarding the adoption of this repeal.

The repeal is adopted under Occupations Code, Section 2001.054 which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, under Government Code, Section 467.102 which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction, and under Occupations Code, Section 2001.051(b) which grants the Commission broad authority to exercise strict control and close supervision over all bingo conducted in Texas so that bingo is fairly conducted and the proceeds derived from bingo are used for an authorized purpose.

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 March 28, 2003.

TRD-200302078  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Effective date: April 17, 2003  
Proposal publication date: February 14, 2003  
For further information, please call: (512) 344-5113

◆ ◆ ◆  
**16 TAC §402.545**

The Texas Lottery Commission adopts new §402.545, relating to licenses for the conduct of bingo occasions and to lease bingo premises without changes to the proposed text as published in the February 14, 2003, issue of the *Texas Register* (28 TexReg 1322) and will not be republished.

The new section identifies the different types of licenses and procedural requirements an applicant must follow when the applicant has filed a license application. The new section also sets out the license fees that must accompany the application. The new section provides information to applicants and licensees about the procedures to be followed when applying for a license.

No comments were received regarding of the adoption of this section.

The new rule is adopted under Occupations Code, Section 2001.054 which authorizes the Commission to adopt rules to

enforce and administer the Bingo Enabling Act, under Government Code, Section 467.102 which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction, and under Occupations Code, Section 2001.051(b) which grants the Commission broad authority to exercise strict control and close supervision over all bingo conducted in Texas so that bingo is fairly conducted and the proceeds derived from bingo are used for an authorized purpose.

The new rule implements Occupations Code, Chapter 2001.

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 March 28, 2003.

TRD-200302081

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Effective date: April 17, 2003

Proposal publication date: February 14, 2003

For further information, please call: (512) 344-5113



#### **16 TAC §402.583**

The Texas Lottery Commission adopts new §402.583, relating to bonds without changes to the proposed text as published in the February 14, 2003, issue of the *Texas Register* (28 TexReg 1323) and will not be republished.

The new section identifies who must post a bond or other security, what forms of bonds or other security is acceptable, what a licensee must do if a surety cancels the bond, when the amount of bond or security may be increased by the commission, when a bond may be forfeited, when a bond may be released, and what amount of bond is required when a license is reinstated. The new section provides information to licensees about the requirements of a bond or other security.

No comments were received regarding adoption of this section.

The new rule is adopted under Occupations Code, Section 2001.054 which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, under Government Code, Section 467.102 which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction, and under Occupations Code, Section 2001.051(b) which grants the Commission broad authority to exercise strict control and close supervision over all bingo conducted in Texas so that bingo is fairly conducted and the proceeds derived from bingo are used for an authorized purpose.

The new rule implements Occupations Code, Chapter 2001.

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 March 28, 2003.

TRD-200302080

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Effective date: April 17, 2003

Proposal publication date: February 14, 2003

For further information, please call: (512) 344-5113



## **TITLE 22. EXAMINING BOARDS**

### **PART 5. STATE BOARD OF DENTAL EXAMINERS**

#### **CHAPTER 108. PROFESSIONAL CONDUCT SUBCHAPTER A. PROFESSIONAL RESPONSIBILITY**

##### **22 TAC §108.10**

The State Board of Dental Examiners (Board) adopts amendments to §108.10, concerning Reinstatement of Retired License without changes to the proposed text as published in the February 7, 2003, issue of the *Texas Register* (28 TexReg 1037). The text will not be republished.

The Board adopts the amendments in order to specify comprehensive license reinstatement requirements for dentists and dental hygienists who have engaged in active practice in Texas or another state or jurisdiction.

Changes at subsection (a) will provide reinstatement requirements for dentists or dental hygienists reinstating a retired license. These provisions specify requirements for those applicants who have been engaged in active practice in another state or jurisdiction and for those applicants who have not been practicing prior to the reinstatement request.

Changes at subsection (b) will require applicants to comply with all applicable provisions of the Dental Practice Act and Rules and Regulations of the board.

Changes at subsection (c) will require applicants who may have been under a board order at the time of the license retirement to comply with all conditions set forth in any board order that may have been in effect.

New subsections (d) and (e) replace former subsections (b) and (c).

No comments were received regarding the adoption of the amendments

The amendments are adopted under the authority of the Texas Government Code §2001.021 et seq.; Texas Civil Statutes, the Occupations Code §254.001 which provides the State Board of Dental Examiners the authority to adopt and enforce rules necessary to perform its duties, and §256.102 which provides that the Board shall adopt rules concerning retired status of license holders.

The amendment does not affect other statutes, articles, or codes.

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 March 27, 2003.

TRD-200302064  
Bobby Schmidt  
Executive Director  
State Board of Dental Examiners  
Effective date: April 16, 2003  
Proposal publication date: February 7, 2003  
For further information, please call: (512) 476-0972

◆ ◆ ◆  
**TITLE 28. INSURANCE**

**PART 1. TEXAS DEPARTMENT OF INSURANCE**

**CHAPTER 3. LIFE, ACCIDENT AND HEALTH INSURANCE AND ANNUITIES**

The Commissioner of Insurance adopts new §§3.1307, 3.1406, 3.4509 and 3.9101 - 3.9106, concerning the adoption by reference of the 2001 Commissioner's Standard Ordinary (CSO) Mortality Table. Section 3.9103 and §3.9106 are adopted with changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1603). Sections 3.1307, 3.1406, 3.4509, 3.9101, 3.9102, 3.9104 and 3.9105 are adopted without changes and will not be republished. A public hearing on the new sections was held on March 12, 2003.

The new sections are necessary to recognize, permit and prescribe the use of the 2001 CSO Mortality Table in determining minimum reserve liabilities and nonforfeiture benefits. Insurance Code Articles 3.28 and 3.44a authorize the commissioner to adopt any mortality table adopted by the National Association of Insurance Commissioners. The table was adopted by the National Association of Insurance Commissioners in December 2002. The table reflects increases in life expectancy since the adoption of the 1980 CSO Mortality Table.

Insurers may use the 2001 CSO Mortality Table only for new policies issued after May 1, 2003. Beginning January 1, 2009, insurers will be required to use the table for their insurance products issued after that date. The new table is expected to lower reserve levels for a number of products which use the new table versus reserve levels produced by the 1980 CSO Mortality Table which insurers are currently required to use. Term insurance reserves are estimated to be 30% lower in the aggregate. Whole life insurance reserves are estimated to be 10% to 15% lower in the aggregate. Universal life and variable life products are estimated to experience a reduction in reserves of 5.0% or less. The 2001 CSO Mortality Table is available from the Actuarial Division, Texas Department of Insurance, 333 Guadalupe, Austin, Texas or on the internet by accessing the department's website at [www.tdi.state.tx.us/company/ficso.html](http://www.tdi.state.tx.us/company/ficso.html). Section 3.9103 and 3.9106 were changed to reflect the correct website address where the table may be found and correct a typographical error.

Comments were received in support of the new sections. The department appreciates the support expressed for the sections.

USAA Life Insurance Company, The Northwestern Mutual Life Insurance Company, and the Texas Association of Life and Health Insurers commented in support of the new sections.

**SUBCHAPTER N. NONFORFEITURE STANDARDS FOR INDIVIDUAL LIFE INSURANCE IN EMPLOYER PENSION PLANS**  
**28 TAC §3.1307**

The new section is adopted under the Insurance Code Articles 3.28 and 3.44a, and §36.001. Article 3.28 provides for the use of any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation adopted by the commissioner for use in determining the minimum standard valuation for such policies. Article 3.44a provides that any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the 1980 CSO Mortality Table with or without Ten-Year Select Mortality Factors. Section 36.001 provides the commissioner may adopt rules to execute the duties and functions of the department as authorized by statute.

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 March 25, 2003.

TRD-200302014  
Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Effective date: April 14, 2003  
Proposal publication date: February 21, 2003  
For further information, please call: (512) 463-6327

◆ ◆ ◆  
**SUBCHAPTER O. SMOKER-NONSMOKER COMPOSITE MORTALITY TABLES**

**28 TAC §3.1406**

The new section is adopted under the Insurance Code Articles 3.28 and 3.44a, and §36.001. Article 3.28 provides for the use of any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation adopted by the commissioner for use in determining the minimum standard valuation for such policies. Article 3.44a provides that any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the 1980 CSO Mortality Table with or without Ten-Year Select Mortality Factors. Section 36.001 provides the commissioner may adopt rules to execute the duties and functions of the department as authorized by statute.

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 March 25, 2003.

TRD-200302015

Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Effective date: April 14, 2003  
Proposal publication date: February 21, 2003  
For further information, please call: (512) 463-6327



## SUBCHAPTER EE. VALUATION OF LIFE INSURANCE POLICIES

### 28 TAC §3.4509

The new section is adopted under the Insurance Code Articles 3.28 and 3.44a, and §36.001. Article 3.28 provides for the use of any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation adopted by the commissioner for use in determining the minimum standard valuation for such policies. Article 3.44a provides that any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the 1980 CSO Mortality Table with or without Ten-Year Select Mortality Factors. Section 36.001 provides the commissioner may adopt rules to execute the duties and functions of the department as authorized by statute.

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 March 25, 2003.

TRD-200302016  
Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Effective date: April 14, 2003  
Proposal publication date: February 21, 2003  
For further information, please call: (512) 463-6327



## SUBCHAPTER JJ. 2001 CSO MORTALITY TABLE

### 28 TAC §§3.9101 - 3.9106

The new sections are adopted under the Insurance Code Articles 3.28 and 3.44a, and §36.001. Article 3.28 provides for the use of any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation adopted by the commissioner for use in determining the minimum standard valuation for such policies. Article 3.44a provides that any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the 1980 CSO Mortality Table with or without Ten-Year Select Mortality Factors. Section 36.001 provides the commissioner may adopt rules to execute the duties and functions of the department as authorized by statute.

§3.9103. *2001 CSO Mortality Table.*

(a) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this subchapter, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after May 1, 2003 and before the date specified in subsection (b) of this section to which Insurance Code Article 3.28 §3(a)(iii) and Article 3.44a §(8)(e)(6) and §3.4505 of this title (relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

(b) Subject to the conditions stated in this subchapter, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which Insurance Code Articles 3.28 §3(a)(iii) and 3.44a §(8)(e)(6) and §3.4505 of this title (relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) are applicable.

(c) The minimum basis for computation of values related to extended term benefits will be the 2001 CSO Mortality Table pursuant to the requirements of this subchapter.

(d) The Commissioner of Insurance adopts by reference the 2001 CSO Mortality Table. The table is available from the Actuarial Division, Texas Department of Insurance, 333 Guadalupe, Austin, Texas or on the internet by accessing the department's website at [www.tdi.state.tx.us/company/ficso.html](http://www.tdi.state.tx.us/company/ficso.html).

### §3.9106. *Gender-Blended Tables.*

(a) For any ordinary life insurance policy delivered or issued for delivery in this state on and after May 1, 2003, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection.

(b) The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the National Association of Insurance Commissioners in December 2002. These blended tables are available from the Actuarial Division, Texas Department of Insurance, 333 Guadalupe, Austin, Texas or on the internet by accessing the department's website at [www.tdi.state.tx.us/company/ficso.html](http://www.tdi.state.tx.us/company/ficso.html).

(c) It shall not, in and of itself, be a violation of Insurance Code Article 21.21 for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

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 March 25, 2003.

TRD-200302017  
Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Effective date: April 14, 2003  
Proposal publication date: February 21, 2003  
For further information, please call: (512) 463-6327



CHAPTER 5. PROPERTY AND CASUALTY  
INSURANCE  
SUBCHAPTER D. FIRE AND ALLIED LINES  
INSURANCE  
DIVISION 8. UNDERSERVED AREAS FOR  
RESIDENTIAL PROPERTY INSURANCE

**28 TAC §5.3701**

The Commissioner of Insurance adopts new §5.3701, concerning the designation of the areas determined by the Commissioner of Insurance to be underserved for purposes of residential property insurance pursuant to the Texas Insurance Code Article 21.49A (FAIR Plan (Fair Access to Insurance Requirements Act)). The new section is adopted without changes to the proposed text as published in the *Texas Register* (28 TexReg 1366) and will not be republished.

The new section is necessary to designate all 254 counties of the State of Texas as the underserved areas for the FAIR Plan because it has been determined that residential property insurance is not reasonably available to a substantial number of owners of insurable property in these areas.

Several insurance companies who together write over 50% of the Texas homeowners insurance market are not currently writing new homeowners insurance policies. The largest writer of homeowners insurance in Texas with over 30% of the market, has not been writing new homeowners policies for over a year. Another large writer of homeowners insurance with approximately 20% of the homeowners market in force in Texas, is also not writing new homeowners policies. These insurers previously wrote new business in all areas of the state. Many other insurers have continued to maintain restrictions or limitations on writing homeowners insurance. According to statistics obtained from the Surplus Lines Stamping Office of Texas, from February 28, 2002 to February 28, 2003, there was a 184.4% increase in the homeowners premium written by surplus lines insurers, which indicates a significant increase in the writing of homeowners policies by surplus lines insurers. This increase is a clear indication that consumers are having difficulty obtaining or are finding it impossible to obtain homeowners insurance coverage through the voluntary market, and have had to obtain such coverage in the surplus lines market. In addition, approximately 5,000 homeowners insurance policies have been issued through the FAIR Plan from December 31, 2002 to March 19, 2003.

Considering all of these facts, it is clear that the consumers seeking new homeowners insurance coverage are facing difficulty in obtaining or finding it impossible to obtain homeowners insurance coverage through the voluntary market. This section is adopted to ensure that residential property insurance coverage is available to Texas residents. The adopted section designates all 254 counties of the State of Texas as the underserved areas for the FAIR Plan because it has been determined that residential property insurance is not reasonably available to a substantial number of owners of insurable property in these areas.

The Commissioner of Insurance finds that an expedited effective date of ten days after the filing date is necessary for the section because of imminent peril to the public safety and welfare. The FAIR Plan is currently issuing 220 new residential policies daily and this number is continually increasing. If the FAIR Plan is unable to issue policies because all 254 counties of the state are

not designated as underserved areas this will have a detrimental impact on the public health, safety and welfare.

The new section will increase availability of residential property insurance to a substantial number of owners of insurable property in underserved areas of the state.

No comments were received.

The new section is adopted under the Insurance Code Articles 21.49A and 5.35-3, and §36.001. Article 21.49A provides that underserved areas for the FAIR Plan shall be determined and designated by the Commissioner by rule using the standards specified in Article 5.35-3 §1. Article 5.35-3 §1 provides that in determining which areas will be designated as underserved, the Commissioner shall consider whether residential property insurance is not reasonably available to a substantial number of owners of insurable property in the underserved area and any other relevant factor as determined by the Commissioner. Insurance Code §36.001 authorizes the Commissioner of Insurance to adopt rules for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by statute.

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 March 24, 2003.

TRD-200301980

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: April 3, 2003

Proposal publication date: February 14, 2003

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

◆ ◆ ◆  
**TITLE 34. PUBLIC FINANCE**

**PART 6. TEXAS MUNICIPAL  
RETIREMENT SYSTEM**

**CHAPTER 127. MISCELLANEOUS RULES**

**34 TAC §127.7, §127.8**

The Texas Municipal Retirement System adopts new §127.7, concerning rollovers of plan distributions, and new §127.8, concerning plan limitations. Both of these new sections are adopted without changes to the proposed text as published in the January 17, 2003, issue of the *Texas Register* (28 TexReg 532) and will not be republished. These new rules were also adopted on an emergency basis (28 TexReg 529), effective from December 30, 2002 until April 29, 2003.

Section 127.7 is being added to specify the types of retirement plans and Individual Retirement Accounts that members receiving plan distributions from the Texas Municipal Retirement System are allowed to use for rollover purposes. The purpose of the new section is to enable the Texas Municipal Retirement System to properly process plan distributions in accordance with the Economic Growth and Tax Relief Act of 2001, Public Law 107-16 (June 7, 2001) ("EGTRA").

Section 127.8 is being added to specify the amount of compensation that can be taken into account in determining a person's retirement benefit and places certain restrictions on members depending on plan entry dates. The purpose of the new section is to enable the Texas Municipal Retirement System to properly account for a member's compensation in accordance with the EGTRA.

No comments were received regarding the proposed new rules.

These new rules are adopted pursuant to Texas Government Code, §855.102, which provides the Board of Trustees of the Texas Municipal Retirement System with the authority to adopt rules as necessary or desirable for the efficient administration of the system. The new rules are also adopted pursuant to Texas Government Code, §855.607, which authorizes the Board of Trustees of the Texas Municipal Retirement System to adopt rules necessary for the plan to be a qualified plan.

Texas Government Code, §§851.001(6) and 852.103 are affected by the new rules.

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 March 31, 2003.

TRD-200302121

Gary W. Anderson

Executive Director

Texas Municipal Retirement System

Effective date: April 20, 2003

Proposal publication date: January 17, 2003

For further information, please call: (512) 225-3715



## CHAPTER 129. DOMESTIC RELATIONS ORDERS

### 34 TAC §129.12

The Texas Municipal Retirement System adopts amendments to §129.12, concerning payments to alternative payees under a qualified domestic relations order, without changes to the proposed text as published in the January 17, 2003, issue of the *Texas Register* (28 TexReg 533) and will not be republished. This amendment was also adopted on an emergency basis (28 TexReg 530), effective from December 30, 2002 until April 29, 2003.

This rule is being amended to clarify that if payments to a disability retiree are suspended under the Texas Municipal Retirement System Act, payments will continue to an alternate payee under a qualified domestic relations order. This rule amendment ensures that payments to alternate payees under qualified domestic relations orders will continue as anticipated.

No comments were received on the proposed amendments.

The amendments are adopted pursuant to Texas Government Code, §804.003, which provides the Board of Trustees of the Texas Municipal Retirement System with the authority to adopt rules as necessary for the administration of domestic relations orders. The amendments are also adopted pursuant to Texas Government Code, §855.102, which provides the Board of Trustees of the Texas Municipal Retirement System with the

authority to adopt rules as necessary or desirable for the efficient administration of the system.

No other statute is affected by the adoption of the 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 March 31, 2003.

TRD-200302122

Gary W. Anderson

Executive Director

Texas Municipal Retirement System

Effective date: April 20, 2003

Proposal publication date: January 17, 2003

For further information, please call: (512) 225-3715



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 3. TEXAS YOUTH COMMISSION

#### CHAPTER 91. PROGRAM SERVICES

#### SUBCHAPTER D. HEALTH CARE SERVICES

#### 37 TAC §91.81

The Texas Youth Commission (TYC) adopts an amendment to §91.81, concerning Medical Consent, without changes to the proposed text as published in the February 21, 2003 issue of the *Texas Register* (28 TexReg 1616).

The justification for amending the section is the improved tracking of correspondence relating to consent for and notification of medical treatment of TYC youth.

The amendment will clarify that in all cases, emergency care will be given in life threatening situations, and attempts will be made to notify parents of the need for such care.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.045 Operations of Programs and Facilities, which provides the Texas Youth Commission with the authority to establish rules and procedures appropriate to the accomplishment of its responsibilities and functions.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302049

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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

◆ ◆ ◆  
**CHAPTER 93. YOUTH RIGHTS AND  
REMEDIES**

**37 TAC §93.33**

The Texas Youth Commission (TYC) adopts the repeal of §93.33, concerning Alleged Mistreatment, without changes to the proposed text as published in the February 21, 2003 issue of the *Texas Register* (28 TexReg 1618).

The justification for the repeal is to make room for a new rule.

The repeal will allow for the publication of a new rule that will establish a greater level of accountability and objectivity for investigators of alleged mistreatment incidents.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.045 Operations of Programs and Facilities, which provides the Texas Youth Commission with the authority to establish procedures to ensure the welfare of youth in its care.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302051

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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

◆ ◆ ◆  
**37 TAC §93.33**

The Texas Youth Commission (TYC) adopts new §93.33, concerning Alleged Mistreatment, without changes to the proposed text as published in the February 21, 2003 issue of the *Texas Register* (28 TexReg 1618).

The justification for the new rule is greater objectivity and accountability for investigators of alleged mistreatment incidents.

The new rule will provide for the investigation of allegations of abuse, neglect, or exploitation of youth in programs and facilities under Texas Youth Commission jurisdiction.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.045 Operations of Programs and Facilities, which provides the Texas Youth Commission with the authority to establish procedures to ensure the welfare of youth in its care.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302050

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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

◆ ◆ ◆  
**37 TAC §93.53**

The Texas Youth Commission (TYC) adopts an amendment to §93.53, concerning Appeal to Executive Director, without changes to the proposed text as published in the February 21, 2003 issue of the *Texas Register* (28 TexReg 1621).

The justification for amending the section is ensuring due process for parties wishing to review the findings of an alleged mistreatment investigation.

The amendment will clarify which matters may be directly appealed to the Executive Director. All complaints and requests for review related to alleged mistreatment investigations will be submitted to the office of general counsel.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.045, which provides the Texas Youth Commission with the authority to establish procedures for ensuring the welfare of youth in its care.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302052

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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

◆ ◆ ◆  
**CHAPTER 95. YOUTH DISCIPLINE  
SUBCHAPTER A. DISCIPLINARY  
PRACTICES**

**37 TAC §95.7**

The Texas Youth Commission (TYC) adopts an amendment to §95.7, concerning Reclassification Consequence, without changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1622) and will not be republished.

The justification for amending the section is consistent practice for enforcing program rules across all TYC facilities.

The amendment will update the designations for certain categories of rule violations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075 Determination of Treatment, which provides the Texas Youth Commission with the authority to establish rules of conduct and appropriate consequences for violations of program rules.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302057

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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



### 37 TAC §95.9

The Texas Youth Commission (TYC) adopts an amendment to §95.9, concerning Parole Revocation Consequence, with changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1622). Changes to the proposed text consist of minor grammatical corrections.

The justification for amending the section is consistent practice for enforcing program rules across all TYC facilities.

The amendment will clarify which rule violations result in parole revocation as a consequence, as well as update designations for categories of rule violations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075 Determination of Treatment, which provides the Texas Youth Commission with the authority to establish rules of conduct and appropriate consequences for violations of program rules.

The adopted rule implements the Human Resource Code, §61.034.

#### §95.9. *Parole Revocation Consequence.*

(a) Purpose. The purpose of this rule is to provide for the revocation of parole status as a disciplinary consequence for behavior that presents an unacceptable risk to the safety of persons and property. Parole revocation is considered a major consequence.

(b) Applicability.

(1) The due process necessary to effect this rule is found in (GAP) §95.51 of this title (relating to Level I Hearing Procedure).

(2) Additional procedures and restrictions are applied prior to any movement of a sentenced offender youth. See (GAP) §85.29 of this title (relating to Program Completion and Movement). Also see (GAP) §85.37 of this title (relating to Sentenced Offender Disposition).

(c) Explanation of Terms Used. A high-risk offense - is any category I violation which may result in a classification other than general offender or violator of Conduct Indicating a Need for Supervision (CINS) probation.

(d) Criteria and Disposition.

(1) Parole will be revoked if it is found at a level I hearing that a youth has:

(A) committed a high-risk offense;

(B) committed a felony; or

(C) committed one of the following category I rule violations as defined in (GAP) §95.3 of this title (relating to Rules of Conduct), and has previously been classified for a high-risk offense:

(i) Violate any Law of Texas or the United States.

(ii) Escape, Attempted Escape, or Abscond.

(iii) Injury to Self

(iv) Possession of a Weapon.

(v) Possession or Use of Substance

(vi) Refusing a Drug Screen

(vii) Participation in a Riot.

(viii) Two or more Failures to Comply with Written

Reasonable Request.

(2) Parole of a general offender or a violator of CINS probation is revoked if it is found at a level I hearing that the youth has committed one of the category I rule violations listed above; and

(A) the violation was committed, in whole or in part, within 90 days of imposition of a less severe disciplinary consequence; or

(B) the youth is a threat to the safety of persons or property.

(3) If extenuating circumstances are found incident to a high-risk offense, parole is revoked, but the high-risk classification may be waived pursuant to (GAP) §85.23 of this title (relating to Classification).

(4) If extenuating circumstances are found incident to any violation other than a high-risk offense, parole is not revoked. See extenuating circumstances discussed in (GAP) §85.23 of this title (relating to Classification).

(5) If criteria for revocation are not established at a level I hearing, the youth's parole is not revoked, but lesser disciplinary consequences may be imposed for any rule violation(s) proved at the hearing.

(e) Restrictions.

(1) A level I hearing is required in order to revoke a youth's parole status.

(2) When local authorities make a written request to defer an allegation to their jurisdiction for prosecution, Texas Youth Commission (TYC) will cancel the directive, unless a due process hearing will be scheduled on other allegation(s). A due process hearing on any allegation(s) shall be scheduled within seven days (excluding weekends and holidays).

(3) If a youth is on parole from another state and is being supervised by TYC under agreement with the other state, a parole revocation hearing is held by TYC and the youth returned to the sending



state, coordinated by the interstate compact administrator and general counsel.

(4) If a TYC parolee commits an offense in another state, the return of such youth is coordinated by the interstate compact administrator and the general counsel. A parole revocation hearing is coordinated by and held at the request of the assigned parole officer.

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 March 27, 2003.

TRD-200302058

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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



### 37 TAC §95.11

The Texas Youth Commission (TYC) adopts an amendment to §95.11, concerning Disciplinary Transfer/Assigned Minimum Length of Stay/Demotion of Phase Consequence, without changes to the proposed text as published in the February 21, 2003 issue of the *Texas Register* (28 TexReg 1623).

The justification for amending the section is consistent practice for enforcing program rules across all facilities.

The amendment) will clarify that a youth may be demoted one or more behavior phases as a disciplinary consequence for behavior that violates rules. Designations for categories of rule violations have been updated as well.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075 Determination of Treatment, which provides the Texas Youth Commission with the authority to establish rules of conduct and appropriate consequences for violations of program rules.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302053

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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



### 37 TAC §95.15

The Texas Youth Commission (TYC) adopts an amendment to §95.15, concerning Parole Minor Disciplinary Consequences,

without changes to the proposed text as published in the February 21, 2003 issue of the *Texas Register*(28 TexReg 1624).

The justification for amending the section is consistent practice for enforcing program rules across all TYC facilities.

The amendment will update designations for categories of rule violations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075 Determination of Treatment, which provides the Texas Youth Commission with the authority to establish rules of conduct and appropriate consequences for violations of program rules.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302054

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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



### 37 TAC §95.17

The Texas Youth Commission (TYC) adopts an amendment to §95.17, concerning Behavior Management Program, with changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1625). Changes to the proposed text consist of minor clarifications to the program eligibility criteria.

The justification for amending the section is clarification of the rule.

The amendment will correct a reference to another TYC rule relating to Level II Hearing procedures, and clarify precisely what constitutes eligible behavior for placement in the behavior management program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075 Determination of Treatment, which provides the Texas Youth Commission with the authority to establish special needs treatment programs and criteria for confinement under conditions which best serve the welfare of youth and protection of the public.

The adopted rule implements the Human Resource Code, §61.034.

§95.17. *Behavior Management Program.*

(a) Purpose. The purpose of this rule is to provide for a Texas Youth Commission (TYC) youth, assigned to a TYC operated institution, to be placed in the Behavior Management Program (BMP) and assigned a 90-day disciplinary maximum length of stay as a consequence

for behavior that violates rules. Assurance that the youth is sufficiently in control to be returned to general population is affirmed by compliance with the BMP. Disciplinary transfer and segregation with an assigned maximum length of stay is a major consequence.

(b) Applicability. This rule does not apply to:

(1) the use of the same or adjacent space when used specifically as security intake. See (GAP) §97.37 of this title (relating to Security Intake);

(2) the use of the same or adjacent space when used specifically as a security program. See (GAP) §97.40 of this title (relating to Security Program);

(3) the use of the same or adjacent space when used specifically as detention in a TYC institution. See (GAP) §97.43 of this title (relating to Institution Detention Program);

(4) the use of same or adjacent space when used specifically as temporary admission. See (GAP) §85.41 of this title (relating to Temporary Admission Awaiting Transportation);

(5) the aggression management program. See (GAP) §95.21 of this title (relating to Aggression Management Program).

(c) Explanation of Terms Used.

(1) Special Services Panel - a panel comprised of special services members that review the recommendation for admission to BMP made by the youth's caseworker.

(2) Program Review Panel - a three-person panel chaired by the assistant superintendent, which reviews BMP extension requests.

(3) Individual Behavior Management Plan (IBMP) - a plan developed for each youth in the BMP which consists of objectives which address the behavior or cluster of behaviors that prevent the youth from successfully participating in regular programming.

(4) Aggression Management Program (AMP) - a program designed for removing youth from the general population for dangerously aggressive behavior.

(5) Admissions, Review, and Dismissal (ARD) committee - a committee that makes decisions on educational matters of special education students.

(6) Individual Education Plan (IEP) - the prescribed plan by which education will be delivered to a special education student.

(d) Contract Care Program Restriction. TYC contract programs shall not develop a BMP having a specific disciplinary length of stay.

(e) Program Eligibility and Admission.

(1) Eligibility.

(A) Youth eligible for the BMP are youth who knowingly engage in, aid, or abet someone else to engage in one or more of the following behaviors:

(i) willful destruction of property of \$100 or more;

or

(ii) assault resulting in bodily injury; or

(iii) escape or attempted escape as defined in (GAP) §97.29 of this title (relating to Escape/Abscondence and Apprehension); or

(iv) intentionally participating in riotous conduct as defined in (GAP) §97.27 of this title (relating to Riot Control); or

(v) engaging in sexual assault, aggravated sexual assault, or inappropriate sexual contact other than just kissing; or

(vi) possessing any item defined as a weapon in the Penal Code or threatening others with use of an object which could be used as a weapon; or

(vii) threatening imminent bodily injury to others; or

(viii) possessing a controlled substance; or

(ix) engaging in self-harm; or

(x) chronic and substantial disruption of the routine of the facility program with ten or more security admissions or extensions to security intake or security program in a three month period or five or more security admissions or extensions in a 30-day period, without reduction in the frequency of the disruptive behaviors. Disruptive behavior is behavior that prevents or significantly interferes with others' ability to participate in scheduled activities and programs.

(B) Referral is made to a Special Services Panel and approved by the assistant superintendent based on a determination that the following criteria have been met:

(i) the youth poses a continuing risk for identified admitting behavior(s); and

(ii) when appropriate, less restrictive methods of documented intervention have failed and are unable to manage the risk; and

(iii) the mental status of the youth is assessed and there are no therapeutic contraindications for admission to the BMP.

(2) Due Process Hearing. If there is a finding of true with no extenuating circumstances in a level II hearing that the youth engaged in one of the behavioral criteria listed in paragraph (1)(A)(i) of this subsection, the youth is admitted to the BMP with an assigned 90-day disciplinary maximum length of stay. See (GAP) §95.55 of this title (relating to Level II Hearing Procedure).

(3) Appeal. The youth shall be notified in writing of his/her right to appeal to the executive director. See (GAP) §93.53 of this title (relating to Appeal to Executive Director). The pendency of an appeal shall not preclude implementation of the decision.

(4) Dispositions. Pursuant to a level II hearing herein, certain youth who are assessed a disposition under this rule may also be assigned a disciplinary minimum length of stay disposition but only if criteria have been met and if the youth was given notice of the specific disposition request. All policy and program requirements of (GAP) §95.11 of this title (relating to Disciplinary Transfer/Assigned Minimum Length of Stay Consequence) will apply to the assignment of such.

(5) A BMP length of stay runs concurrently with a youth's classification minimum length of stay, or any disciplinary assigned minimum length of stay.

(6) Families are notified of youth's admission to the BMP within 24 hours of the hearing.

(f) Program Completion.

(1) An IBMP must be developed for each youth. The plan will consist of objectives that address the behavior or cluster of behaviors that prevent the youth from successfully participating in regular programming. The plan will be explained to the youth and he/she will sign the plan in acknowledgment.

(2) A youth shall be released when one of the following occurs:

(A) youth has met specific performance objectives on the IBMP; or

(B) youth has completed his/her length of stay; or

(C) youth is transferred to the AMP pursuant (GAP) §95.21(c)(3) of this title (relating to Aggression Management Program).

(g) Program Extension.

(1) An extension of up to 30 days may be recommended by a Program Review Panel and approved by the superintendent if the following criteria have been met:

(A) youth's behavior does not comply with program; and

(B) an appropriate IBMP addressing the non-conforming behaviors of the youth has been developed and implemented; and

(C) the modified IBMP can be completed within 30 days; and

(D) the mental status of the youth was assessed and there are no therapeutic contraindications for continued confinement in the BMP.

(2) Reporting. A Program Review Panel Report must be completed and forwarded to the superintendent within ten working days following the hearing. The report shall include the panel's findings and explanation of the rationale for the findings. If the decision is appealed, the report should be expedited.

(3) Appeal. The youth shall be notified in writing of his/her right to appeal to the executive director. See (GAP) §93.53 of this title (relating to Appeal to Executive Director). The pendency of an appeal shall not preclude implementation of the decision.

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 March 27, 2003.

TRD-200302055

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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



## SUBCHAPTER B. DUE PROCESS HEARINGS PROCEDURES

### 37 TAC §95.55

The Texas Youth Commission (TYC) adopts an amendment to §95.55, concerning Level II Hearing Procedure, without changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1626) and will not be republished.

The justification for amending the section is clarification to the rule.

The amendment will make minor grammatical corrections for clarification only.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075 determination of Treatment, which provides the Texas Youth Commission with the authority to establish due process hearings for youth believed to have committed rule violations.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302056

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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



## CHAPTER 97. SECURITY AND CONTROL SUBCHAPTER A. SECURITY AND CONTROL

### 37 TAC §97.11

The Texas Youth Commission (TYC) adopts an amendment to §97.11, concerning Control of Unauthorized Items Seized, without changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1626) and will not be republished.

The justification for amending the section is consistent practice for enforcing program rules across TYC facilities and programs.

The amendment will update the designations for certain categories of rule violations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.045 Operation of Programs and Facilities, which provides the Texas Youth Commission with the authority to establish rules of conduct and appropriate consequences for violations of such rules.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302059

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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

◆ ◆ ◆  
**37 TAC §97.15**

The Texas Youth Commission (TYC) adopts an amendment to §97.15, concerning Drug Testing Youth, without changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1627) and will not be republished.

The justification for amending the section is consistent practice for enforcing program rules across all TYC facilities and programs.

The amendment will update designations for certain categories of rule violations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.0812, which provides the Texas Youth Commission with the authority to establish procedures for the completion of substance abuse treatment programs.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302060

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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

◆ ◆ ◆  
**37 TAC §97.41**

The Texas Youth Commission (TYC) adopts an amendment to §97.41, concerning Community Detention, without changes to the proposed text as published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1627) and will not be republished.

The justification for amending the section is to ensure that youth are present for hearings to determine whether rule violations have occurred and held accountable when violations are found to have occurred.

The amendment will clarify criteria for detaining youth in community detention facilities.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.093 Escape and Apprehension, which provides the Texas Youth Commission with the authority to apprehend and detain youth in TYC custody who have escaped or have been released under supervision and broken the conditions of release.

The adopted rule implements the Human Resource Code, §61.034.

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 March 27, 2003.

TRD-200302061

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: April 16, 2003

Proposal publication date: February 21, 2003

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

◆ ◆ ◆  
**PART 6. TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE**

**CHAPTER 163. COMMUNITY JUSTICE  
ASSISTANCE DIVISION STANDARDS**

**37 TAC §§163.21, 163.35, 163.39, 163.40**

The Texas Board of Criminal Justice adopts amendments to rules §§163.21, 163.35, 163.39, and 163.40 of the Standards for Community Supervision and Corrections Departments (CSCDs) without change to the proposed text as proposed in the February 7, 2003 issue of the *Texas Register* (28 TexReg 1054).

The purpose of the amendment to §163.21, Administration, is to provide clarifications for administrative manuals for CSCDs, expands the requirements for citizen involvement and volunteer services, and adds new language requiring CSCDs to provide services for victims. Additionally, standards have been developed to address the CSCDs' responsibility in developing policies and procedures that address the safety and needs of victims; collaboration with victims, victim advocates, and sexual assault task forces; transfer procedures, and the operation of specialized caseloads.

The purpose of the amendment to §163.35, Supervision, is to expand and clarify the language regarding the intrastate transfer process CSCDs must follow when transferring probationers to other jurisdictions within Texas.

The purpose of the amendment to §163.39, Residential Services, is to contain non-substantive changes for clarification purposes.

The purpose of the amendment to §163.40, Substance Abuse Treatment Standards is to provide clarifying language, adds requirements for cognitive-behavioral programs, and deletes references to physical plant requirements.

Two comments were received.

Comment: Commentator suggest §163.35(c)(10)(A) (Intrastate Transfers) be changed to allow for a courtesy supervision case to be supervised based on local CSCD policies due to financial constraints.

Response: The TBCJ agrees that defendants transferred into CSCDs should abide by local supervision policies; however, only the court retaining jurisdiction over a defendant has the authority to modify or alter a condition of supervision.

Comment: Commentator suggests that §163.40(b) (Substance Abuse Treatment) appears to require that local outpatient counseling programs follow the standards of treatment centers and this would cause local CSCD outpatient counseling to cease.

Response: The TBCJ has developed substance abuse standards which address different levels of treatment. If a CSCD operates an outpatient-counseling program, the program must comply with §163.40(w) Level IV (Outpatient Treatment). The program would not be required to follow the same standards as treatment centers.

The amendments are adopted under Texas Government Code, §509.003 and §509.006.

Cross Reference to Statutes: Texas Government Code §509.003 and §509.006.

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 March 28, 2003.

TRD-200302105

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

Effective date: April 17, 2003

Proposal publication date: February 7, 2003

For further information, please call: (512) 463-0422



### 37 TAC §163.36

The Texas Board of Criminal Justice adopts new rule §163.36 of the Standards for Community Supervision and Corrections Departments (CSCDs) without change to the proposed text as proposed in the February 7, 2003 issue of the *Texas Register* (28 TexReg 1071).

The purpose of the new rule §163.36, Mentally Impaired Offender Supervision, is to provide a new standard for caseloads relating to the supervision of Mentally Impaired Offenders. This standard addresses the development of policy and procedures, contact requirements, treatment referral process and coordination with other treatment providers, caseload size, violation procedures, collaboration with collateral sources, and transfer procedures.

One comment was received.

Comment: Commentator suggest §163.36 (Mentally Impaired Offender Supervision) requires a specialized caseload to implement the proposed standards and this requirement would impose a hardship for CSCDs.

Response: The new rule does not require CSCDs to implement specialized caseloads for the mentally impaired offender population.

The new rule is adopted under Texas Government Code, §509.003 and §614.013.

Cross Reference to Statutes: Texas Government Code §509.003 and §614.013.

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 March 28, 2003.

TRD-200302107

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

Effective date: April 17, 2003

Proposal publication date: February 7, 2003

For further information, please call: (512) 463-0422



### 37 TAC §163.38

The Texas Board of Criminal Justice adopts new rule §163.38 of the Standards for Community Supervision and Corrections Departments (CSCDs) without change to the proposed text as proposed in the February 7, 2003 issue of the *Texas Register* (28 TexReg 1071).

The purpose of the new rule §163.38, Sex Offender Supervision, is to provide standards for the supervision of the sex offender, a definition of a sex offender for supervision purposes, policy and procedure development in regards to contact standards, sex offender registration, DNA collection, violation procedures, treatment referral process, treatment participation requirements, team approach to supervision, sharing of information with appropriate agencies, and recommended caseload size.

One comment was received.

Comment: Commentator suggests §163.38 (Sex Offender Supervision) mandates a CSO to offender ratio of one to 45, which is not necessary and is an unfunded mandate.

Response: The new rule does not require CSCDs to implement this ratio for the Sex Offender population; however, if specialized caseloads are initiated by the CSCD, the recommended CSO to offender ratio is one to 45.

The new rule is adopted under Texas Government Code, §509.003.

Cross Reference to Statutes: Texas Government Code, §509.003.

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 March 28, 2003.

TRD-200302106

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

Effective date: April 17, 2003

Proposal publication date: February 7, 2003

For further information, please call: (512) 463-0422



## CHAPTER 195. PAROLE

### 37 TAC §195.51

The Texas Board of Criminal Justice adopts new rule §195.51 of the Standards for Community Supervision and Corrections Departments (CSCDs) without change to the text as proposed in

the February 7, 2003 issue of the *Texas Register* (28 TexReg 1073).

The purpose of the new rule is to enhance public safety by ensuring continuity in the supervision and treatment of sex offenders. There were no comments received.

The new rule is adopted under Texas Government Code, §492.013, which grants general rulemaking authority to the Board of Criminal Justice, and §508.112, which gives the Parole Division responsibility for supervision of releasees.

Cross Reference to Statutes: Texas Government Code, Chapter 508.112.

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 March 28, 2003.

TRD-200302108

Carl Reynolds

General Counsel

Texas Department of Criminal Justice

Effective date: April 17, 2003

Proposal publication date: February 7, 2003

For further information, please call: (512) 463-0422



## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 1. TEXAS DEPARTMENT OF HUMAN SERVICES**

#### **CHAPTER 77. EMPLOYMENT PRACTICES**

The Texas Department of Human Services (DHS) adopts the repeal of §§77.10-77.15; and adopts new §§77.1, 77.2, 77.11-77.17, and 77.31-77.44 without changes to the proposed text published in the January 24, 2003, issue of the *Texas Register* (28 TexReg 658) and will not be republished.

DHS undertook the repeals and new sections as a result of its review of Chapter 77 as mandated by the Government Code, §2001.039, and as part of its initiative to rewrite agency rules in question-and-answer format to make them easier for the public to understand.

DHS received no comments regarding adoption of either the repeals or the new sections.

#### **SUBCHAPTER A. INTRODUCTION**

##### **40 TAC §§77.1, 77.2**

The new sections are adopted under the Government Code, §656.048, which authorizes DHS to adopt rules relating to employee training and education.

The new sections implement the Government Code, §656.048.

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 March 25, 2003.

TRD-200302010

Paul Leche

General Counsel, Legal Services

Texas Department of Human Services

Effective date: April 14, 2003

Proposal publication date: January 24, 2003

For further information, please call: (512) 438-3734



#### **SUBCHAPTER A. EMPLOYEE TRAINING AND EDUCATION**

##### **40 TAC §§77.10 - 77.15**

The repeals are adopted under the Government Code, §656.048, which authorizes DHS to adopt rules relating to employee training and education.

The repeals implement the Government Code, §656.048.

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 March 25, 2003.

TRD-200302011

Paul Leche

General Counsel, Legal Services

Texas Department of Human Services

Effective date: April 14, 2003

Proposal publication date: January 24, 2003

For further information, please call: (512) 438-3734



#### **SUBCHAPTER B. EMPLOYEE TRAINING**

##### **40 TAC §§77.11 - 77.17**

The new sections are adopted under the Government Code, §656.048, which authorizes DHS to adopt rules relating to employee training and education.

The new sections implement the Government Code, §656.048.

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 March 25, 2003.

TRD-200302012

Paul Leche

General Counsel, Legal Services

Texas Department of Human Services

Effective date: April 14, 2003

Proposal publication date: January 24, 2003

For further information, please call: (512) 438-3734



#### **SUBCHAPTER C. EDUCATION ASSISTANCE PROGRAM**

##### **40 TAC §§77.31 - 77.44**

The new sections are adopted under the Government Code, §656.048, which authorizes DHS to adopt rules relating to employee training and education.

The new sections implement the Government Code, §656.048.

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 March 25, 2003.

TRD-200302013

Paul Leche

General Counsel, Legal Services

Texas Department of Human Services

Effective date: April 14, 2003

Proposal publication date: January 24, 2003

For further information, please call: (512) 438-3734



## PART 5. TEXAS VETERANS LAND BOARD

### CHAPTER 175. GENERAL RULES OF THE VETERANS LAND BOARD

#### SUBCHAPTER B. MORTGAGE FINANCING

##### 40 TAC §175.52

The Veterans Land Board of the State of Texas (board) adopts an amendment to Texas Administrative Code, Title 40, Part 5, Chapter 175, §175.52 related to Borrower's Eligibility and Number of Loans without changes as published in the February 7, 2003, issue of the *Texas Register* (28 TexReg 1166) and will not be republished. The adopted amendment creates a new subsection, §175.52(d), for the land mortgage program. The purpose of the amendment is to provide for the conversion of existing Land Contracts for Sale and Purchase to Land Mortgage Loans. The amendment is required by Texas Natural Resources Code §§161.501 through 161.513 relating to Purchase of Land Secured by Mortgage, Deed of Trust, or Other Lien on Land.

The present method of financing the purchase by a Texas veteran is by a contract of sale and purchase and has been used since the inception of the Veterans Land Board. Chapter 175, Subchapter B related to Mortgage Financing contains rules governing the new method of financing the purchase of land by eligible Texas veterans using a mortgage. The adopted amendment, related to the conversion of contracts to mortgages, will allow purchasers to convert their contracts for sale and purchase to a mortgage loan. The conversion will replace one set of security documents with another. Financing with a mortgage gives the purchasers advantages over financing with a contract for sale and purchase.

The adopted 175.52(d) authorizes the chairman to establish the procedures and requirements for conversion of contracts to mortgages under the new veterans land mortgage program.

No comments were received regarding the proposed amendment.

The amendments to this section are adopted under the Natural Resources Code, Title 7, Chapter 161, §§161.063, 161.503,

161.504, 161.506, 161.508, 161.511 and 161.513 which authorizes the Board to adopt rules that it considers necessary and advisable for the Veterans Land Program and the Veterans Land Mortgage Program.

Texas Natural Resources Code §§161.221 to 161.230 and 161.501 to 161.513 are affected by this action.

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 March 31, 2003.

TRD-200302120

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Effective date: April 20, 2003

Proposal publication date: February 7, 2003

For further information, please call: (512) 305-9129



##### 40 TAC §175.61, §175.62

The Veterans Land Board of the State of Texas (board) adopts Texas Administrative Code, Title 40, Part 5, Subchapter B §175.61 related to Delinquencies, Acceleration and Foreclosures and §175.62 related to Trustee's Sale without changes to the text as published in the February 7, 2003, issue of the *Texas Register* ( 28 TexReg 1167) and will not be republished. The purpose of the adopted new rules is to provide fair notice to all parties of the board's procedures for delinquency, acceleration, foreclosure and post foreclosure measures. The adopted new rules are required by Texas Natural Resources Code §§161.501 through 161.513 relating to Purchase of Land Secured by Mortgage, Deed of Trust, or Other Lien on Land.

The land mortgage program is subject to the Texas Property Code regarding procedures for foreclosure and to the Texas Business and Commerce Code regarding filing and priority of security instruments. Other state and federal laws also apply to mortgages issued under the board's land mortgage program. The legal procedures for foreclosure are specified in other laws and these adopted rules do not purport to affect any legally required procedure for mortgages, notes, deeds of trust or foreclosures.

Adopted new §175.61, states that the board, under the new veterans land mortgage program, will follow the foreclosure procedures according to the terms of the note and deed of trust for each loan or any other lien document associated with each loan, and according to state and federal law, as applicable.

Adopted new §175.62, provides for the board's procedures at any trustee's sale of a foreclosed mortgage loan, and for disposition of land by the board after foreclosure and purchase by the board.

No comments were received regarding the proposed new rules.

The new sections are adopted under the Natural Resources Code, Title 7, Chapter 161, §§161.063, 161.319, 161.503, 161.504, 161.506, 161.508, 161.511 and 161.513 which authorizes the Board to adopt rules that it considers necessary and advisable for the Veterans Land Program and to provide for Land Mortgage Program foreclosure and for resale of land.

Texas Natural Resources Code §§ 161.319 and 161.501 to 161.513 are affected by this action.

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 March 31, 2003.

TRD-200302115

Larry L. Laine

Chief Clerk, Deputy Commissioner

Texas Veterans Land Board

Effective date: April 20, 2003

Proposal publication date: February 7, 2003

For further information, please call: (512) 305-9129



## PART 8. CHILDREN'S TRUST FUND OF TEXAS COUNCIL

### CHAPTER 201. COUNCIL ADMINISTRATION: POLICIES AND PROCEDURES

#### 40 TAC §201.2, 201.4, 201.5, 201.8 - 201.10

The Texas Department of Protective and Regulatory Services (PRS) adopts the repeal of Chapter 201, Council Administration: Policies and Procedures, consisting of §§201.2, 201.4, 201.5, and 201.8 - 201.10, without changes to the proposal published in the December 6, 2002, issue of the *Texas Register* (27 TexReg 11497).

Effective September 1, 2001, the Children's Trust Fund of Texas Council was transferred to PRS. As a result, PRS is repealing Chapter 201, and adopting new Children's Trust Fund rules in Chapter 704, Prevention and Early Intervention. New Chapter 704 is adopted in this issue of the *Texas Register*.

The repeals will function by replacing the repealed rules with new rules that will be easier to comply with and will be consistent with other agency requirements.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The repeals implement the Human Resources Code, §40.029.

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 March 28, 2003.

TRD-200302082

C. Ed Davis

Deputy Director, Legal Services (PRS)

Children's Trust Fund of Texas Council

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



## CHAPTER 202. FUNDED PROGRAM AWARDS AND CONTRACTS

### 40 TAC §§202.1 - 202.8, 202.10 - 202.18

The Texas Department of Protective and Regulatory Services (PRS) adopts the repeal of Chapter 202, Funded Program Awards and Contracts, consisting of §§202.1 - 202.8 and §§202.10 - 202.18, without changes to the proposal published in the December 6, 2002, issue of the *Texas Register* (27 TexReg 11498).

Effective September 1, 2001, the Children's Trust Fund of Texas Council was transferred to PRS. As a result, PRS is repealing Chapter 202, and adopting new Children's Trust Fund rules in Chapter 704, Prevention and Early Intervention. New Chapter 704 is adopted in this issue of the *Texas Register*.

The repeals will function by replacing the repealed rules with new rules that will be easier to comply with and will be consistent with other agency requirements.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The repeals implement the Human Resources Code, §40.029.

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 March 28, 2003.

TRD-200302083

C. Ed Davis

Deputy Director, Legal Services (PRS)

Children's Trust Fund of Texas Council

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



## PART 19. TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES

### CHAPTER 701. COMMUNITY INITIATIVES

The Texas Department of Protective and Regulatory Services (PRS) adopts the repeal of Chapter 701, Community Initiatives, consisting of §§701.100 - 701.103, 701.201, 701.203, 701.205, 701.207, 701.209, 701.211, 701.213, 701.215, 701.217, 701.219, 701.221, 701.223, 701.225, 701.271, and 701.272, without changes to the proposal published in the December 6, 2002, issue of the *Texas Register* (27 TexReg 11498).

Community Initiatives, the former name of the division, has been changed to Prevention and Early Intervention. Chapter 701 is repealed so the chapter can be renamed and restructured. New Chapter 704, Prevention and Early Intervention, is adopted in this issue of the *Texas Register*.



The repeals will function by replacing the repealed rules with new rules that will be easier to comply with and will be consistent with other agency requirements.

No comments were received regarding adoption of the repeals.

## SUBCHAPTER A. SERVICES TO AT-RISK YOUTH (STAR) PROGRAM

### 40 TAC §§701.100 - 701.103

The repeals are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The repeals implement the Human Resources Code, §40.029.

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 March 28, 2003.

TRD-200302084

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



## SUBCHAPTER B. COMMUNITIES IN SCHOOLS

### 40 TAC §§701.201, 701.203, 701.205, 701.207, 701.209, 701.211, 701.213, 701.215, 701.217, 701.219, 701.221, 701.223, 701.225, 701.271, 701.272

The repeals are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The repeals implement the Human Resources Code, §40.029.

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 March 28, 2003.

TRD-200302085

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



## CHAPTER 702. GENERAL ADMINISTRATION SUBCHAPTER E. MEMORANDUM OF UNDERSTANDING WITH OTHER STATE AGENCIES

The Texas Department of Protective and Regulatory Services (PRS) adopts new §702.413 with changes to the proposed text published in the December 6, 2002, issue of the *Texas Register* (27 TexReg 11499). The repeal of §702.413 is adopted without changes and will not be republished.

The justification for the repeal and new section is to update the memorandum of understanding (MOU) between PRS and the Texas Education Agency concerning the Communities In Schools program.

The sections will function by ensuring the rule includes the updated MOU.

No comments were received regarding adoption of the section. However, PRS is adopting new §702.413 with minor changes to correct typographical errors.

### 40 TAC §702.413

The repeal is adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The repeal implements the Human Resources Code, §40.029, and the Texas Family Code, §264.755.

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 March 28, 2003.

TRD-200302086

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



### 40 TAC §702.413

The new section is adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The new section implements the Human Resources Code, §40.029, and the Texas Family Code, §264.755.

*§702.413. Memorandum of Understanding (MOU) Concerning the Communities In Schools Program.*

(a) Purpose. This memorandum of understanding (MOU) is a mutual agreement between the Texas Education Agency (TEA) and the Texas Department of Protective and Regulatory Services (PRS), established pursuant to the Texas Family Code, Chapter 264, Subchapter I, Communities In Schools Program, §264.755. The purpose of this agreement is to define specific responsibilities of the TEA and PRS that will maximize the effectiveness of the Communities In Schools program.

(b) Participation.

(1) The PRS's responsibilities under this agreement shall be as follows:

(A) participate in regular meetings to discuss strategies to enhance the CIS program;

(B) ensure that districts and campuses that operate the CIS program include information about the program in the campus or district improvement plan;

(C) share participant data, within the parameters of federal law and each agency's confidentiality and data collection policies;

(D) safeguard the confidentiality of any participant information and/or data provided by TEA;

(E) develop student performance measures and program measures, which will relate to keeping students in school;

(F) encourage local businesses to participate in local CIS programs;

(G) provide a liaison and administrative support to the Community In Schools State Advisory Council (CISSAC) as per HB 1574;

(H) reimburse CISSAC members for travel expenses from the CIS State Office operating budget;

(I) replicate the CIS program into non-served areas of the state; and

(J) provide financial and operating reports as requested by TEA.

(2) The TEA's responsibilities under this agreement shall be as follows:

(A) provide a liaison to the CISSAC as per HB 1574;

(B) transfer the appropriated state Compensatory Education funds each fiscal year of the biennium to PRS;

(C) designate a CIS liaison that will assist in the implementation of the memorandum of understanding and participate in regular meetings to discuss strategies to enhance the CIS program;

(D) provide participant data and other information needed from the Public Education Information Management System and other sources to assist in evaluating the effectiveness of the CIS program in preventing students from dropping out of school, within the parameters of federal law and the TEA's confidentiality, student information sharing and data collection policies;

(E) clarify requirements and procedures for school districts and local CIS programs pertaining to sharing information;

(F) safeguard the confidentiality of any participant information and/or data provided by CIS;

(G) provide information about CIS to the education community throughout the state;

(H) provide information to the CIS state office about educational programs at TEA;

(I) coordinate and include CIS in any agency programs, services, conferences, and trainings related to at-risk youth when appropriate, and;

(J) encourage local districts to partner with CIS.

(c) Terms of the MOU.

(1) This MOU shall be adopted by rule by PRS and TEA and will be effective upon adoption.

(2) The MOU may be considered for expansion, modification or amendment at any time upon the mutual agreement of the Executive Director of PRS and the Commissioner of TEA.

(3) The MOU shall be reviewed jointly and, if necessary, updated prior to the close of each fiscal year.

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 March 28, 2003.

TRD-200302087

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437

## CHAPTER 704. PREVENTION AND EARLY INTERVENTION SERVICES

The Texas Department of Protective and Regulatory Services (PRS) adopts new Chapter 704, Prevention and Early Intervention Services, consisting of §§704.1, 704.3, 704.201, 704.203, 704.205, 704.207, 704.401, 704.403, 704.405, 704.407, 704.409, 704.411, 704.601, 704.603, 704.801, and 704.803. New §§704.207, 704.403, and 704.411 are adopted with changes to the proposed text published in the December 6, 2002, issue of the *Texas Register* (27 TexReg 11501). Sections 704.1, 704.3, 704.201, 704.203, 704.205, 704.401, 704.405, 704.407, 704.409, 704.601, 704.603, 704.801, and 704.803 are adopted without changes to the proposed text and will not be republished.

The justification for the new chapter is to rename and restructure the rules to include general division rules and appropriate program-specific rules, and to eliminate redundant or unnecessary rules. The chapter also includes new rules for the Children's Trust Fund, which was transferred to PRS in the last legislative session. The chapter is written in question and answer format, and uses other plain language techniques. Also in this issue of the *Texas Register*, PRS is adopting the repeal of Chapter 701, Community Initiatives; and Children's Trust Fund rules 40 TAC Chapter 201, Council Administration: Policies and Procedures; and 40 TAC Chapter 202, Funded Program Awards and Contracts.

The new sections will function by providing rules that will be easier to understand and comply with, and will be consistent with other PRS requirements.

No comments were received during the public comment period regarding adoption of the sections; however, members of the public testified regarding §704.411 at the Board's open meeting on March 28, 2003. In addition, the Communities In Schools State Advisory Committee requested clarification on §704.411. PRS is adopting §704.207 with a change to correct the website address, correcting a typographical error in §704.403, and revising the text of §704.411 as follows: Should additional funds for the CIS program be provided to PRS by the legislature, once any necessary replication has been addressed, these funds may be made available to CIS providers for program expansion through such processes as PRS deems appropriate. Similarly, if other funds are available, these funds may be allocated through such processes as PRS deems appropriate.

## SUBCHAPTER A. PURPOSE AND DEFINITIONS

### 40 TAC §704.1, §704.3

The new sections are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The new sections implement the Human Resources Code, §40.029, and the Texas Family Code, Chapter 265.

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 March 28, 2003.

TRD-200302088

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



## SUBCHAPTER C. PREVENTION AND INTERVENTION PRIMARY RESPONSIBILITIES

### 40 TAC §§704.201, 704.203, 704.205, 704.207

The new sections are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The new sections implement the Human Resources Code, §40.029, and the Texas Family Code, Chapter 265.

*§704.207. How can a member of the public obtain more information on specific PEI initiatives or funding opportunities?*

PEI procurements are posted on the Texas Marketplace ([www.marketplace.com](http://www.marketplace.com)), where the entire procurement package may be downloaded, including the Request for Proposals (RFP), budget pages, certification forms, and any clarifications. Hard copies of RFPs may also be requested from PRS after they are released. Information on PEI programs and initiatives may be accessed on the agency's website at: [http://www.tdprs.state.tx.us/Prevention\\_and\\_Early\\_Intervention/About\\_Prevention\\_and\\_Early\\_Intervention/default.asp](http://www.tdprs.state.tx.us/Prevention_and_Early_Intervention/About_Prevention_and_Early_Intervention/default.asp)

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 March 28, 2003.

TRD-200302089

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



## SUBCHAPTER E. COMMUNITIES IN SCHOOLS

### 40 TAC §§704.401, 704.403, 704.405, 704.407, 704.409, 704.411

The new sections are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The new sections implement the Human Resources Code, §40.029, and the Texas Family Code, Chapter 264, Subchapter I.

*§704.403. What are the roles and responsibilities of PRS and Texas Education Agency (TEA) with respect to the CIS program?*

These responsibilities are defined in a Memorandum of Understanding (MOU) between PRS and TEA, per Texas Family Code, Chapter 264, Subchapter I, §264.755. The text of the MOU is found in §702.413 of this title (relating to Memorandum of Understanding Concerning the Communities In Schools (CIS) Program).

*§704.411. How will additional or other funds be made available to CIS programs?*

Should additional funds for the CIS program be provided to PRS by the legislature, once any necessary replication has been addressed, these funds may be made available to CIS providers for program expansion through such processes as PRS deems appropriate. Similarly, if other funds are available, these funds may be allocated through such processes as PRS deems appropriate.

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 March 28, 2003.

TRD-200302090

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: May 1, 2003

Proposal publication date: December 6, 2002

For further information, please call: (512) 438-3437



## SUBCHAPTER G. INFANT MORTALITY PREVENTION AND EDUCATION PROGRAM

### 40 TAC §704.601, §704.603

The new sections are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The new sections implement the Human Resources Code, §40.029 and §40.0523.

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 March 28, 2003.

TRD-200302091

C. Ed Davis  
Deputy Director, Legal Services  
Texas Department of Protective and Regulatory Services  
Effective date: May 1, 2003  
Proposal publication date: December 6, 2002  
For further information, please call: (512) 438-3437



## SUBCHAPTER I. CHILDREN'S TRUST FUND

### 40 TAC §704.801, §704.803

The new sections are adopted under the Human Resources Code, §40.029, which authorizes the department to adopt rules that facilitate the implementation of department programs.

The new sections implement the Human Resources Code, §40.029.

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 March 28, 2003.

TRD-200302092

C. Ed Davis  
Deputy Director, Legal Services  
Texas Department of Protective and Regulatory Services  
Effective date: May 1, 2003  
Proposal publication date: December 6, 2002  
For further information, please call: (512) 438-3437



## PART 20. TEXAS WORKFORCE COMMISSION

### CHAPTER 847. PROJECT RIO EMPLOYMENT ACTIVITIES AND SUPPORT SERVICES

The Texas Workforce Commission (Commission) adopts new Chapter 847 relating to Project Re-Integration of Offenders (Project RIO) employment activities and support services, which includes Subchapter A, General Provisions, §847.1-847.3; Subchapter B, Project RIO Job Seeker Responsibilities, §847.11-847.12; Subchapter C, Project RIO Services, §§847.21-847.22; Subchapter D, Project RIO Employment Activities, §847.31; Subchapter E, Project RIO Support Services, §847.41; and Subchapter F, Expenditure of Funds, §847.51, with changes to the proposed text as published in the January 3, 2003, issue of the *Texas Register* (28 TexReg 32). The text will be republished.

The purpose of Project RIO is to provide a statewide employment referral program designed to reintegrate into the labor force persons sentenced to a state jail or correctional institution, and persons committed to a Texas Youth Commission facility. Furthermore, Project RIO helps reduce recidivism by providing linkage between services offered after release and services provided while incarcerated.

The Project RIO standards and guidelines, set forth in this chapter, address the roles and responsibilities of Local Workforce Development Boards (Boards) to ensure that Project RIO employment activities and support services are available statewide

through the Texas Workforce Centers, consistent with 40 TAC Chapter 801 relating to the One-Stop Service Delivery Network. Project RIO employment activities and support services are provided to adult and youth offenders before release by the agency partners, which include the Texas Department of Criminal Justice (TDCJ) and the Texas Youth Commission (TYC).

TDCJ is the agency that manages the overall operations of the state's prison, parole, and state jail systems. The agency also provides funding, training, and certain oversight of community supervision. The mission of the TDCJ is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.

TYC is the state's juvenile corrections agency charged with protecting the public and controlling the commission of unlawful acts by youth committed to the agency by confining them under conditions that emphasize their positive development, accountability for their conduct, and discipline training.

Post-release employment activities and support services are provided through the Texas Workforce Centers, and are designed to provide ex-offenders with employment activities and support services that promote employment and meet the needs of Texas employers, in order to help reduce recidivism. The provisions in this chapter are intended to implement and be consistent with Texas Labor Code, Chapter 306; Texas Government Code §2308.312; and the Commission's Memorandum of Understanding with the TDCJ and the TYC.

The One-Stop Service Delivery Network, as set forth in 40 TAC Chapter 801, Subchapter B, is the vehicle for providing integrated services that are streamlined, empower individuals, provide universal access to services, increase accountability for service delivery, and provide a strong role for Boards in coordinating services at the local level to maximize the benefits to individuals and employers.

The Texas Workforce Centers, part of the One-Stop Service Delivery Network, are based on a partnership among the Boards, the service providers, the Commission, and others, including but not limited to the TDCJ and the TYC. The Boards utilize a competitively procured Texas Workforce Center operator for the provision of employment activities and support services. The Project RIO employment and training services are a required service that must be accessible through the Texas Workforce Centers, pursuant to the Texas Government Code §2308.312 and Texas Labor Code, Chapter 302.

Part of the Commission's innovative system of workforce training and services throughout the State of Texas is the Project RIO employment activities and support services. The Boards currently plan and oversee a broad array of workforce programs, including WIA Adult and Youth services. These programs offer opportunities to provide additional core and intensive services, such as comprehensive and specialized assessments or diagnostic testing, case management, short-term prevocational training, and vocational skills training, when appropriate, for Project RIO participants. The services under WIA Youth provide many opportunities for Project RIO - Youth to strengthen their awareness of and connections to employment, including summer employment and paid and unpaid work experiences, such as internships and job shadowing. In addition, WIA Youth offers tutoring, study skills training and other dropout prevention strategies, occupational skills training, as appropriate, and leadership development opportunities such as community service, with adult

mentoring for the period of participation as well as subsequently for a total of 12 months.

Another significant opportunity for broadening the array of services to Project RIO participants includes a more active integration of Project RIO and Food Stamp Employment and Training (FSE&T) services. The provision of food stamps is recognized in the current Project RIO statute as an important support service for Project RIO job seekers. By encouraging Boards to seek applications for food stamps for a greater number of Project RIO job seekers, Boards can draw down additional FSE&T funds. The Commission supports the use of FSE&T funds to build a stronger network of services for Project RIO job seekers.

One of the primary goals of the Commission is to meet the needs of Texas employers for the development of a highly skilled and productive workforce. As part of this goal, the Commission strives to prepare, place, and retain individuals in employment, and meet the education and skills needs of workers of this state. It is a goal for the Commission that all participants in Project RIO employment activities and support services successfully secure employment.

Project RIO is a legislatively created joint undertaking intended to help reduce recidivism by assisting ex-offenders in securing meaningful employment after release. Success in Project RIO has largely been a product of a high level of interagency cooperation among the correctional and workforce development agencies. Specifically, the TDCJ and the TYC, along with the Commission, cooperate to provide full integration of Project RIO employment activities and support services. The Commission anticipates that the service delivery, through coordination with the Boards and use of the Texas Workforce Centers, will strengthen the partnerships with local TDCJ and TYC contacts in each local workforce development area (workforce area) to improve and enhance services and yield greater success for Project RIO job seekers. The Commission also anticipates that the one-stop model will provide more direct coordination of local services with the local partners, which will enhance the levels of coordination for the benefit of Project RIO job seekers.

Project RIO employment activities and support services are provided to adult and youth offenders in TDCJ's Institutional and State Jail Divisions, and TYC facilities. Employment activities and support services provided in these settings focus on better equipping offenders to secure employment after release.

Upon release, the majority of Project RIO job seekers have a supervising parole officer at the TDCJ or the TYC. The supervising parole officers make referrals to Project RIO. The Boards must ensure that the parole officer is informed of the status of the Project RIO job seeker's progress in securing employment.

Some ex-offenders may be released into the community with no supervision because they have fully discharged their sentence. This situation commonly occurs with State Jail ex-offenders and, on occasion, with individuals who fully discharge their sentences in prison. These individuals may become aware of Project RIO while incarcerated and may volunteer for participation.

Project RIO services for youth have shown success in providing early intervention and diversion services. The Commission anticipates that local partnerships formed under WIA to address the needs of youth more comprehensively will enhance these services.

The Commission also recognizes that Fidelity Bonding services are a valuable employer incentive for Project RIO job seekers.

To ensure that this placement tool continues to be offered in a cost-efficient fashion, the Commission, through the Commission's Project RIO Department, will continue to obtain the necessary bonds and make them available for use in placing Project RIO job seekers.

Resources to support the Board's Project RIO oversight and management are anticipated to be distributed among the workforce areas based on factors such as those that recognize the potential service populations, the existing referral patterns, and the past entered employment rate applicable to the workforce area. Services available through the One-Stop Service Delivery Network for Project RIO job seekers may be funded with Project RIO funds or through a combination of other funds used for employment and training activities and services. Where applicable, other funds may include FSE&T funds or other funds for which the individuals may be eligible.

Multi-Agency Coordination. The policy concepts approved by the Commission were shared with the agency partners prior to the rule proposal. A draft of the proposed rules was circulated to the agency partners. Agency partner staff expressed general agreement with the proposed rules and preamble, and requested clarifications regarding a number of points. The TYC representative specifically referenced the state law requirement that youth who are released from a TYC facility, and have not yet obtained a General Equivalency Diploma (GED), must obtain the GED within 45 days of release. Likewise, the need to provide basic skills development, such as math and reading, may be critical for their post-release employment success. The Commission agrees with the majority of clarifications requested and has modified the rules accordingly.

Public comments on the proposed rules were received from the Coastal Bend Workforce Development Board; three individuals; and one agency partner, the Windham School District, part of the TDCJ. Some commenters agreed with the rules, some disagreed with certain provisions within the rules, and some did not state whether they were for or against the rules. Several commenters made recommendations for changes to the proposed language. The comment summaries and responses are as follows.

Comment: One commenter suggested coordinating Project RIO services more closely with the FSE&T funds to maximize the federal match capability of state General Revenue funds and to further reach the goals of both Project RIO and FSE&T services.

Response: The Commission agrees and will require application for food stamp benefits for Project RIO participation. The Commission recognizes that coordinating Project RIO and FSE&T funding sources will result in leveraging the return on state General Revenue dollars. For example, "job search" activities for Project RIO participants may be funded through FSE&T funds, to the extent that the job seeker meets the FSE&T eligibility criteria.

Comment: One commenter supports Project RIO and commented that taxpayers pay too much for incarcerating criminals, while little or no training is available to help these individuals return to society. The commenter conveyed that with Project RIO, these individuals will be able to help themselves improve their lives.

Response: The Commission appreciates the commenter taking the time to express support for Project RIO.

Comment: One commenter expressed concern regarding the reliability of contract administration of state and federal programs

and cited past audit reports as the basis of the concern. The commenter further suggested that the Commission not privatize the administration of state and federally funded programs until full resolution of all audit issues for a period of three years.

Response: The Commission agrees that accountability is important. The Commission would clarify that its monitoring rules contained in 40 TAC Chapter 800 apply to the Board's coordination of Project RIO services and activities. The Commission disagrees with the commenter's request to postpone implementation. In addition, only one of the audits cited by the commenter pertained to the Commission, the Boards, or their contractors. The law directs the Boards to contract for service delivery, and performance and accountability are incorporated into every contract. Furthermore, the Commission recognizes the superior benefits for employers and job seekers when services are coordinated to the maximum extent possible in the Texas Workforce Centers. The Commission's action to move forward with the implementation of these rules is based in part on the goal of ensuring that Project RIO job seekers are able to access services on a statewide basis. The Commission also anticipates that a cost savings will be realized through more closely connecting the delivery of Project RIO services with other services available through the Texas Workforce Centers. The Commission anticipates that services to Project RIO job seekers will be improved and expanded.

Comment: One commenter suggested including information in the preamble of this chapter that reflects the overarching purpose of Project RIO.

Response: The Commission agrees that the preamble should include the overarching purpose of Project RIO; however, it does not see a need to amend the rules because the preamble language tracks the language of the existing statute.

Comment: One commenter stated that the resource distribution to the Boards should not be based only on the number of clients served, but also on the entered employment rate at the end of the previous program year.

Response: The Commission agrees that the entered employment rate is an appropriate factor for consideration, in addition to the historical service populations and the existing referral patterns. The Commission has clarified the distribution methodology in §847.1(c).

Comment: Regarding §847.2, one commenter suggested expanding the definition of the TDCJ to include additional information on its mission.

Response: The Commission agrees that it is important to communicate TDCJ's mission to ensure understanding of our agency partner's role. The Commission believes, however, that this information is more appropriate in the preamble rather than the rules. The Commission will also include a statement of TYC's mission in the preamble.

Comment: One commenter suggested revising language regarding the funds distribution to reflect that services be provided to Project RIO job seekers based on the availability of funds. Specifically, the commenter suggested language to incorporate into §847.3(a), §847.3(d)(4), §847.3(d)(6), and §847.41.

Response: The Commission disagrees that funds are not sufficient to serve Project RIO job seekers. The Commission also would emphasize that services available through the One-Stop Service Delivery Network for Project RIO job seekers may be funded with Project RIO funds or through a combination of other

appropriate funding sources. Specifically, these services may include services funded with FSE&T funds or other funds that may assist the individuals with securing employment.

Comment: In §847.3(e), one commenter requested that the word "monitoring" be substituted with "management or supervision."

Response: The Commission agrees with clarifying this provision and has added the words "oversight and" before "monitoring."

Comment: In §847.3(e)(2), one commenter asked the meaning of the word "intervention."

Response: The Commission agrees that clarification is needed and has replaced the word "intervention" with "referrals to support services."

Comment: One commenter suggested that the wording of the goal be modified to specifically define "appropriate employment" as a job that directly relates to participants' training and skills, and considers their conviction, current supervision, and housing status.

Response: The Commission agrees with the comment that clarification is needed regarding what constitutes appropriate employment and has modified the rule at §847.31 to add additional clarifications.

Comment: One commenter asked whether the Memorandum of Understanding referenced under §847.41(b) would bind the Boards to anything that is not currently being done at the local level by TWC staff.

Response: The Memorandum of Understanding referenced in §847.41(b) contains existing statutory requirements for serving Project RIO job seekers pursuant to Texas Government Code §2308.312, as adopted in 1997.

For information about the Texas Workforce Commission, please visit our web page at [www.texasworkforce.org](http://www.texasworkforce.org).

## SUBCHAPTER A. GENERAL PROVISIONS

### 40 TAC §§847.1 - 847.3

The new rules are adopted under Texas Labor Code §301.061, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission activities and services; Texas Labor Code, Chapter 306, and particularly §306.003, which requires the Commission to administer the project; and Texas Labor Code §306.006, which states the Project RIO director's duties to set standards and guidelines for the operation of the project.

Texas Labor Code, Title 4, and particularly Chapter 301 and Chapter 302, will be affected by the new rules.

#### §847.1. Purpose.

(a) Purpose. The purpose of Project RIO is to provide a statewide employment referral program designed to reintegrate into the labor force persons sentenced to a Texas Department of Criminal Justice (TDCJ) State Jail Division facility or the Institutional Division and persons committed to the Texas Youth Commission (TYC).

(b) Scope of Rules. The Project RIO standards and guidelines, set forth in this chapter, address the roles and responsibilities of Boards to ensure that Project RIO employment activities and support services are available statewide through the Texas Workforce Centers consistent with 40 TAC Chapter 801 relating to the One-Stop Service Delivery Network. Project RIO employment activities and support services are provided to adult and youth offenders before release by the TDCJ

and the TYC. Post-release employment activities and support services are provided through the Texas Workforce Centers, and are designed to provide ex-offenders with employment activities and support services that promote employment, meet the needs of Texas employers, and help reduce recidivism. The provisions in this chapter are intended to be consistent with Texas Labor Code, Chapter 306, Texas Government Code §2308.312, and the Memorandum of Understanding with the TDCJ and the TYC.

(c) Funds Distribution. The Commission intends, to the greatest extent possible, to support and expand Project RIO services by leveraging the General Revenue appropriation for Project RIO and federal FSE&T funds. These funds will be distributed based on three factors, the historical service populations, the existing referral patterns, and the prior years' entered employment rates applicable to the local workforce development area (workforce area).

#### §847.2. Definitions.

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

(1) Project RIO job seeker--an individual involved with the Texas criminal or juvenile justice systems that may include the following:

(A) adults who were formerly confined by the TDCJ Institutional Division, who are within one year after their release from incarceration, and are currently under or within one year of completion of their term of supervision by the TDCJ Parole Division;

(B) adults who were formerly confined in a TDCJ State Jail facility and who are within one year after their release from incarceration; and

(C) adjudicated youth ages 16 through 21, seeking employment activities and support services, who were formerly confined in a TYC facility.

(2) Job Seeker Responsibility Agreement--an agreement between the Project RIO job seeker and the Texas Workforce Center operator or the Board's designated service provider. This agreement outlines the Project RIO job seeker's responsibilities for continued enrollment in Project RIO activities.

(3) TDCJ--Texas Department of Criminal Justice, which includes the Institutional, Parole, and State Jail Divisions, is the state agency that manages the overall operations of the state's prison, parole, and state jail systems.

(4) TYC--Texas Youth Commission, which is the state's juvenile corrections agency, manages the overall operations of the state's youth facilities.

(5) Food Stamp Employment and Training (FSE&T)--the activities and support services that assist food stamp recipients in entering employment through participation in allowable job search, training, education, or workfare activities that promote self-sufficiency.

#### §847.3. General Board Responsibilities.

(a) Role of Boards. A Board shall ensure that individuals referred by the TDCJ and the TYC as Project RIO job seekers participate in Project RIO employment activities and support services, and other workforce activities and support services as appropriate. The employment activities and support services, as defined in this chapter, should meet the needs of local employers, prepare Project RIO job seekers to compete in the labor market, and assist ex-offenders in locating employment.

(b) Board Planning. A Board shall develop, amend, and modify its Integrated Plan to incorporate and coordinate the design

and management of the delivery of Project RIO employment activities and support services with the delivery of other workforce employment, training, and educational services identified in Texas Government Code §2308.251 *et seq.*, Texas Government Code §2308.312 *et seq.*, as well as other employment and training services included in the One-Stop Service Delivery Network as set forth in Chapter 801 of this title. The Texas Workforce Commission's (Commission) intent is to assist Project RIO job seekers with securing employment as quickly as possible; however, Project RIO - Youth may need basic skills training and education to secure employment. Specifically, Boards shall consider integration with WIA Youth services or other funding sources, as appropriate, for assisting Project RIO - Youth with obtaining the basic General Equivalency Diploma (GED) or basic skills training.

(c) Board Coordination. The Boards shall coordinate with the following entities to ensure the transition to employment of Project RIO job seekers:

(1) TDCJ - Parole Supervising Offices. A Board shall coordinate the provision of Project RIO employment activities and support services with the referring Parole Division supervising officer. This coordination shall ensure that the TDCJ Parole Offices are made aware of the results of the initial referral for Project RIO services, as well as periodic updates on program participation status as determined appropriate for the individual.

(2) TDCJ - Institutional Division. A Board shall coordinate the provision of Project RIO employment activities and support services with the TDCJ Institutional Division by utilizing the data and resources developed by the TDCJ Institutional Division Project RIO component prior to the offender's release. This coordination shall ensure that the TDCJ Institutional Division is made aware of the results of the initial referral for Project RIO services, as well as periodic updates on program participation status as determined appropriate for the individual.

(3) TDCJ - State Jail Division. A Board shall coordinate the provision of Project RIO employment activities and support services with the TDCJ State Jail Division by utilizing the data and resources developed by the State Jail Project RIO component prior to the offender's release. This coordination shall ensure that the TDCJ State Jail Division is made aware of the results of the initial referral for Project RIO services, as well as periodic updates on program participation status as determined appropriate for the individual.

(4) TYC Offices. A Board shall coordinate the provision of Project RIO employment activities and support services with the referring TYC parole and contracted parole officer. This coordination shall ensure that the TYC Offices are made aware of the results of the initial referral for Project RIO services, as well as periodic updates on program participation status as determined appropriate for the individual.

(5) Other Partners. For the purposes of ensuring that Project RIO job seekers have the necessary support services available to them to enable successful reentry into the labor force, a Board shall develop cooperative agreements and service arrangements meeting the requirements of the Texas Labor Code §306.007(a).

(d) Service Delivery Strategies. A Board shall develop a Project RIO Service Delivery Strategy that fully incorporates and ensures the following elements:

(1) the efficient delivery and linkage of Project RIO employment activities and support services within the workforce area's

One-Stop Service Delivery Network with other employment and training services funded through the Texas Workforce Center, in particular WIA Adult and Youth services and Food Stamp Employment and Training (FSE&T);

(2) the employment documents secured by the TDCJ Institutional Division, State Jail Division, or the TYC Project RIO are properly routed to the ex-offender;

(3) a point of contact for the TDCJ Parole Division and the TYC to facilitate access to information regarding the Project RIO job seeker's progress toward securing employment and related participation information;

(4) the outreach of Project RIO job seekers at TDCJ Parole Division and TYC facilities;

(5) the participation of the One-Stop Service Delivery Network in job fairs/career days held in TDCJ facilities;

(6) the use of reporting and document management systems related to Project RIO participation as required by the Commission;

(7) all performance standards, as developed by the Commission, are met; and

(8) the performance of any other duties, as required by the Commission, necessary to implement the intent of Texas Labor Code, Chapter 306.

(e) Access to Project RIO Employment Activities and Support Services. A Board shall ensure that the oversight and monitoring of program requirements and participant activities occur on an ongoing basis, as determined appropriate by the Board, and consist of the following:

(1) tracking and reporting, as required by the Commission, of employment activities and support services, including appropriate data relating to referrals, placements, specialized on-the-job training, and completion of training, such as GED completion, college credit and noncredit course accomplishments, or other data, as applicable;

(2) determining and arranging for any referrals to support services needed to assist the Project RIO job seeker in complying with Project RIO employment activities to address barriers to employment; and

(3) ensuring progress toward achieving the goals and objectives in the Project RIO job seeker's Individual Employment Plan, as set forth in §847.22 of this chapter, and the job seeker Responsibility Agreement, as set forth in §847.3(i) of this section.

(f) TDCJ Notice. A Board shall ensure that notification to the TDCJ Parole Division is made in a timely manner if a job seeker fails to comply with the job seeker Responsibility Agreement as set forth in §847.3 of this chapter.

(g) Employer Notice. A Board shall ensure that employers are informed at the time of the employment referral of the Project RIO job seeker's status as an ex-offender and the availability of Work Opportunity Tax Credits and Fidelity Bonding services.

(h) Youth Confidentiality. A Board shall ensure that employment referrals for adjudicated youth are made in accordance with the confidentiality requirements set forth in state statutes, state rules, and Commission policies.

(i) Job Seeker Responsibility Agreement. Boards shall ensure that the job seeker Responsibility Agreement is signed by the Project RIO job seeker and the Texas Workforce Center operator, or

the Board's designated service provider, and contains language indicating that the job seeker:

(1) is ready and able to seek employment;

(2) will comply with all service requirements as outlined in the Individual Employment Plan;

(3) will report for employment interviews at the scheduled appointment time(s); and

(4) will notify the Texas Workforce Center operator, or the Board's designated service provider, of employment.

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 March 27, 2003.

TRD-200302042

John Moore

Assistant General Counsel

Texas Workforce Commission

Effective date: April 16, 2003

Proposal publication date: January 3, 2003

For further information, please call: (512) 463-2573



## SUBCHAPTER B. PROJECT RIO JOB SEEKER RESPONSIBILITIES

### 40 TAC §847.11, §847.12

The new rules are adopted under Texas Labor Code §301.061, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission activities and services; Texas Labor Code, Chapter 306, and particularly §306.003, which requires the Commission to administer the project; and Texas Labor Code §306.006, which states the Project RIO director's duties to set standards and guidelines for the operation of the project.

Texas Labor Code, Title 4, and particularly Chapter 301 and Chapter 302, will be affected by the new rules.

*§847.11. Job Seeker Responsibilities.*

Project RIO job seekers shall:

(1) complete and sign an application for food stamp benefits through the Texas Department of Human Services, unless the job seeker has a drug conviction on or after August 22, 1996;

(2) sign the job seeker Responsibility Agreement;

(3) participate in employment activities as specified in §847.22 and as described in §847.31 of this chapter;

(4) attend scheduled Project RIO appointments;

(5) notify the Texas Workforce Center operator, or the Board's designated service provider, when starting work on any job;

(6) participate in or receive support services as described in §847.22 and §847.41 of this chapter, necessary to enable the Project RIO job seekers to work or participate in employment activities, including counseling, treatment, and vocational or physical rehabilitation;

(7) be free of outstanding warrants and not in pre-revocation status; and



(8) be drug-free and comply with other terms or conditions of parole.

*§847.12. Job Seeker Failure to Comply.*

Project RIO job seekers referred by the TDCJ Parole Division, who fail to meet the requirements of the Individual Employment Plan and job seeker Responsibility Agreement, may be deemed ineligible for Project RIO employment activities and support services, and such participation status shall be reported to the TDCJ Parole Division. Failure to comply, as determined by the Texas Workforce Center operator, or the Board's designated service provider, includes but is not limited to:

- (1) failing to report for two scheduled interviews;
- (2) turning down a position of employment that is consistent with the skills possessed by the Project RIO job seeker;
- (3) quitting an employment activity without cause; or
- (4) being terminated from a job for misconduct.

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 March 27, 2003.

TRD-200302043

John Moore

Assistant General Counsel

Texas Workforce Commission

Effective date: April 16, 2003

Proposal publication date: January 3, 2003

For further information, please call: (512) 463-2573



## SUBCHAPTER C. PROJECT RIO SERVICES

### 40 TAC §847.21, §847.22

The new rules are adopted under Texas Labor Code §301.061, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission activities and services, Texas Labor Code, Chapter 306, and particularly §306.003, which requires the Commission to administer the project; and Texas Labor Code §306.006, which states the Project RIO director's duties to set standards and guidelines for the operation of the project.

Texas Labor Code, Title 4, and particularly Chapter 301 and Chapter 302, will be affected by the new rules.

*§847.21. Job Seeker Assessment.*

(a) A Board shall ensure that initial and ongoing assessments are performed to determine the employability and retention needs of Project RIO job seekers.

(b) Assessments shall include evaluations of strengths and potential barriers to securing and retaining employment, such as:

- (1) information identified in the assessments provided by agency partners, which include background information relating to education and vocational skills training obtained while incarcerated, employment history, academic achievements, and past skills attainments;
- (2) other skills and abilities, employment, and educational history in relation to employers' workforce needs in the local labor market;
- (3) support services needs; and

(4) family circumstances that may affect participation, including the existence of domestic violence, substance abuse, and mental illness, or the need for parenting skills training, which, if identified, may require coordination through the parole or contracted parole officer, as one of the factors considered in evaluating employability.

(c) Assessments shall result in the development of an Individual Employment Plan, as described in §847.22 of this chapter.

*§847.22. Job Seeker Individual Employment Plan.*

Boards shall ensure that the Individual Employment Plan:

- (1) incorporates information provided by the referring agency partner, including any individual employment planning provided while in a TDCJ or TYC facility;
- (2) identifies and coordinates the provision of services available through the Texas Workforce Centers;
- (3) is based on assessments, as described in this chapter;
- (4) contains any prevocational goals established for Project RIO - Youth participants while in a TYC facility;
- (5) contains employment goals to meet the needs of the local labor market;
- (6) allows Project RIO job seekers to find and secure employment that requires their skills;
- (7) meets the needs of employers by linking and matching the skills of Project RIO job seekers to the job-skills requirements of the employers;
- (8) includes strategies for addressing barriers identified in the assessment; and
- (9) is signed by the Project RIO job seeker.

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 March 27, 2003.

TRD-200302044

John Moore

Assistant General Counsel

Texas Workforce Commission

Effective date: April 16, 2003

Proposal publication date: January 3, 2003

For further information, please call: (512) 463-2573



## SUBCHAPTER D. PROJECT RIO EMPLOYMENT ACTIVITIES

### 40 TAC §847.31

The new rule is adopted under Texas Labor Code §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission activities and services; Texas Labor Code, Chapter 306, and particularly §306.003, which requires the Commission to administer the project; and Texas Labor Code §306.006, which states the Project RIO director's duties to set standards and guidelines for the operation of the project.

Texas Labor Code, Title 4, and particularly Chapter 301 and Chapter 302, will be affected by the new rule.

§847.31. *Employment Activities for Project RIO Job Seekers.*

(a) Boards shall ensure that employment activities are provided for Project RIO job seekers, as determined by the Texas Workforce Center operator, or the Board's designated service provider, which may include the provision of:

(1) activities set forth in 40 TAC Chapter 813 relating to FSE&T activities;

(2) job search and job readiness services, which incorporate the following:

(A) information and referral to employment opportunities;

(B) job-skills assessment;

(C) counseling;

(D) occupational exploration, including information on local emerging and demand occupations;

(E) interviewing skills and practice interviews;

(F) assistance with applications and resumes; and

(G) guidance and motivation for development of positive work behaviors necessary for the labor market.

(b) Boards shall ensure that referrals to employment opportunities are based on the Project RIO job seeker's assessment, training, skills, and conditions of release. The referrals to jobs may be restricted to certain available employment based on:

(1) recommendations from the agency partners, including the applicable parole officer or contracted parole officer;

(2) considerations of factors that may increase the likelihood of success of the individual in retaining employment; or

(3) consideration of factors that may help reduce the likelihood of recidivism.

(c) Boards shall ensure that other employment and training activities available through the One-Stop Service Delivery Network and paid for with funds other than Project RIO are considered and provided as deemed appropriate by the Texas Workforce Center operator, or the Board's designated service provider, in order to maximize the opportunities for Project RIO job seekers to secure employment.

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 March 27, 2003.

TRD-200302045

John Moore

Assistant General Counsel

Texas Workforce Commission

Effective date: April 16, 2003

Proposal publication date: January 3, 2003

For further information, please call: (512) 463-2573



## SUBCHAPTER E. PROJECT RIO SUPPORT SERVICES

### 40 TAC §847.41

The new rule is adopted under Texas Labor Code §301.061, which provides the Texas Workforce Commission with the

authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission activities and services, Texas Labor Code, Chapter 306, and particularly §306.003; which requires the Commission to administer the project; and Texas Labor Code §306.006, which states the Project RIO director's duties to set standards and guidelines for the operation of the project.

Texas Labor Code, Title 4, and particularly Chapter 301 and Chapter 302, will be affected by the new rule.

### §847.41. *Provision of Project RIO Support Services.*

(a) A Board shall ensure that support services, which address barriers to employment or participation in employment services, are provided to a Project RIO job seeker as determined by the Board's policies and Individual Employment Plans, and the Texas Workforce Center operator, or the Board's designated service provider.

(b) A Board shall ensure that referrals to support services as specified in the Memorandum of Understanding referenced in Texas Labor Code §306.004, §306.005, and §306.007 are made for Project RIO job seekers.

(c) A Board shall ensure that referrals are made, as determined appropriate by the Texas Workforce Center operator, or the Board's designated service provider, to other available support services, including low-income housing, application for food stamp benefits, low-cost medical assistance, substance abuse treatment, counseling, vocational or physical rehabilitation, and other services.

(d) A Board shall ensure that hiring incentives are made available for Project RIO job seekers, to include:

(1) Work Opportunity Tax Credits screening and conditional certification; and

(2) Fidelity Bonding services, which are available through the Commission.

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 March 27, 2003.

TRD-200302046

John Moore

Assistant General Counsel

Texas Workforce Commission

Effective date: April 16, 2003

Proposal publication date: January 3, 2003

For further information, please call: (512) 463-2573



## SUBCHAPTER F. EXPENDITURE OF FUNDS

### 40 TAC §847.51

The new rule is adopted under Texas Labor Code §301.061, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission activities and services; Texas Labor Code, Chapter 306, and particularly §306.003 that requires the Commission to administer the project; and Texas Labor Code §306.006, which states the Project RIO director's duties to set standards and guidelines for the operation of the project.

Texas Labor Code, Title 4, and particularly Chapter 301 and Chapter 302, will be affected by the new rule.

§847.51. *Use of Funds.*

Boards shall ensure that monies made available for Project RIO employment activities and support services pursuant to this chapter are used solely for the purpose of providing employment activities and support services specified in this chapter.

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 March 27, 2003.

TRD-200302047

John Moore

Assistant General Counsel

Texas Workforce Commission

Effective date: April 16, 2003

Proposal publication date: January 3, 2003

For further information, please call: (512) 463-2573

◆ ◆ ◆  
**TITLE 43. TRANSPORTATION**

**PART 1. TEXAS DEPARTMENT OF TRANSPORTATION**

**CHAPTER 31. PUBLIC TRANSPORTATION**

The Texas Department of Transportation (department) adopts amendments to §§31.1, 31.3, 31.11, 31.13, 31.16, 31.21, 31.22, 31.26, 31.31, and 31.36, 31.42 - 31.50, 31.55, 31.57, 31.60 - 31.63, and 31.65, and new §31.40 and §31.41, concerning public transportation. Section 31.31 is adopted with changes to the proposed text as published in the January 3, 2003, issue of the *Texas Register* (28 TexReg 38). Sections 31.1, 31.3, 31.11, 31.13, 31.16, 31.21, 31.22, 31.26, 31.36, 31.40 - 31.50, 31.55, 31.57, 31.60 - 31.63, and 31.65 are adopted without changes to the proposed text as published in the January 3, 2003, issue of the *Texas Register* and will not be republished.

**EXPLANATION OF ADOPTED AMENDMENTS AND NEW SECTIONS**

In recent months the department has drafted a manual to assist with the administration of public transportation functions carried out by the department and the entities to which it grants funds.

The amendments include the addition of the allocation formula for federal Section 5307 funds and revisions of the allocation formula for federal Section 5303 funds. Changes in language are made to enhance readability and clarity, to improve grammar, to update citation forms, and to be more consistent with the Code Construction Act, Government Code, Chapter 311.

Section 31.3 is amended to add one new definition, to eliminate a definition no longer used in Chapter 31, to clarify and expand existing definitions, and to conform definitions more closely to existing practice, federal standards, and state law.

Former §31.3(1) is deleted to eliminate the definition of "accident," which is no longer used in Chapter 31. "Incident" will be used in place of "accident."

Renumbered §31.3(23) is amended to redefine "incident" to conform to federal standards.

Renumbered §31.3(25) is amended to redefine "injury" to conform to federal standards.

Renumbered §31.3(26) is amended to redefine "investigation" to reflect that it is used only in relation to rail accidents.

Renumbered §31.3(35) is amended to remove unnecessary language and references to terms that are not used in the rules.

New §31.3(40) is added to define "property damage," a component in the definition of "incident." The new definition conforms to comparable federal terminology.

Section 31.11(d) is added to establish that the Texas Transportation Commission (commission) will reallocate funds that are returned to it and that the reallocation will be made under the discretionary program. This avoids the possibility of unused funding.

Section 31.11(e) is amended to clarify which of the department's organizational units should receive an application for funds.

Section 31.13(c) is amended to provide that applications for funds should be submitted to the districts rather than to the Public Transportation Division.

Section 31.16(c)(3)(A) and (B) are added to provide additional detail explaining the criteria used in allocating Section 5309 funds for replacing vehicles and for replacing other equipment. The added information conforms to current department practice and is included to provide the public with additional information.

Former §31.21(c)(1) is deleted because this function is now handled by the department's Transportation Planning and Programming Division in conjunction with applications for other transportation funding.

Renumbered §31.21(c)(1)(B) and (C) are amended to parallel federal requirements more closely.

Renumbered §31.21(c)(2) is amended to provide additional information about the manner in which the state's Section 5303 funding application is submitted to the Federal Transit Administration.

Section 31.22(c) is amended to permit local share requirements to be met with in-kind contributions. This will provide local entities with greater flexibility in meeting the local share requirements.

Section 31.22(d) is added to provide additional information about the manner in which the state's Section 5313 funding application is submitted to the Federal Transit Administration.

Section 31.26 is amended to address the department's role in allocating Section 5307 funds and the manner in which those funds are allocated to designated recipients.

Section 31.26(c) is added to explain the function of the added subsections.

Section 31.26(d) is added to explain the department's role in allocating Section 5307 funds.

Section 31.26(e) is added to set forth the formula that the department will use in allocating Section 5307 funds to designated recipients. This addition provides additional detail that is consistent with the department's preexisting practices.

Section 31.31(c)(4) is amended by deleting the requirement that contracts for Section 5310 funds include performance goals and management objectives. Experience has shown that these items have not been useful to the department or to subrecipients.

Section 31.31(j)(1) is amended to provide further detail and explanation of the planning and development process.

Section 31.36(b)(3) and (g)(4) is amended to delete the requirement for Section 5311 recipients to establish performance goals and management objectives. Experience has shown that these items have not been useful to the department or to subrecipients.

New §31.40 and §31.41 are added to clarify that all recipients of state and federal funds must adhere to federal requirements for public involvement and reliance on private mass transportation companies. These requirements have always applied to recipients of federal funds. Applying them to recipients of state funds will ensure that all designated recipients are treated equally.

Section 31.43(c) is amended to clarify the organizational unit in the department to which notice must be given. It is also amended to adjust the threshold amount for purchases so that it will correspond to the comparable state requirement.

Section 31.44(b) and (c) is amended to adjust the threshold amount for purchases so that it will correspond to the comparable state requirement. Section 31.44(b)(1)(A) is also amended to clarify that requests for proposals are covered, in addition to competitive bids.

Subsection (c)(2) is amended to add that the department will provide subrecipients with assistance in generating documentation for procurements.

Section 31.48 is amended throughout to substitute "incident" for "accident." This change conforms to current federal and transit industry standards.

Section 31.48(b)(5) is also amended to eliminate the requirement of monthly operations reports. Experience has shown that quarterly reports are adequate, while monthly reports are unnecessarily burdensome.

Section 31.48(b)(5)(A)(iv) and (b)(5)(B)(iv) is amended to substitute a more complete explanation for the term "road calls." This change clarifies the coverage of these sections without significantly changing that coverage.

Section 31.48(b)(5)(B)(i) and (ii) is amended to use the term operating expense in place of the term cost to conform to the federal standard for this reporting requirement.

Former §31.48(b)(6) is deleted to eliminate the requirement that all transit operators develop annual performance goals and management objectives. Experience has shown that these items have not been useful to the department or to subrecipients.

Section 31.48(c)(2)(B) is amended to name the federal oversight agency that is now responsible for drug and alcohol compliance. In addition, a reference to the department's monitoring of subrecipients is removed because the department is not charged with this responsibility.

Section 31.48(d)(1) and (2) is amended to permit the department to terminate funding contracts if minor deficiencies are not corrected after reasonable notice. If a contract is terminated for uncorrected minor deficiencies, the subrecipient will not be eligible for financial assistance for two years. The amendment also replaces the cumbersome contested case process with a less formal appeal to the commission. These changes will enhance the responsiveness and flexibility of the department's response to contract violations while continuing to ensure that subrecipients have reasonable opportunities to correct problems before definitive action is taken.

Section 31.50(c) is amended to establish a date for data to be provided to the department regarding transit inventory and to provide additional detail about the kind of data that must be provided. This amendment will reduce confusion over the nature of the reporting requirement.

Section 31.55(b) is amended to require the recording of liens on the titles of property purchased with state or federal funds. This amendment protects the public investment in public transportation and implements federal and state requirements regarding the use of public funds.

Section 31.61(a) is amended to establish a deadline for submitting a system safety program plan to the department.

Section 31.61(b) is amended to allow a transit agency to notify the department of rail accidents and unacceptable hazardous conditions by electronic mail. This will provide transit agencies with more flexibility in reporting.

Section 31.61(c) is amended to establish a deadline for a transit agency to submit audit forms to the department.

Section 31.63(a) and (b) are deleted because the confidentiality of information is governed exclusively by the Public Information Act, Government Code, Chapter 552.

Section 31.65 is amended to establish that the deadline for submitting the security system program portion of the safety plan is the same as the deadline for submitting the rest of the system safety program plan. This will facilitate review of the plan by the department.

#### COMMENTS

No oral or written comments were received on the proposed amendments and new sections. However, the department is making two nonsubstantive corrections.

Section 31.31(g)(1)(B)(i) is amended to reference the United States Census Bureau instead of the state data center. The state data center does not report the level of detail necessary for calculating allocations in this program.

Section 31.31(j)(1)(F) and (G) are amended to correct the names of the Transportation Improvement Program and the Statewide Transportation Improvement Program.

#### SUBCHAPTER A. GENERAL

##### 43 TAC §31.1, §31.3

STATUTORY AUTHORITY: Transportation Code, §§201.101, 455.005, and 456.026.

CROSS REFERENCE TO STATUTE: Transportation Code, Chapters 201, 455, and 456.

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 March 28, 2003.

TRD-200302068

Richard D. Monroe

General Counsel

Texas Department of Transportation

Effective date: April 17, 2003

Proposal publication date: January 3, 2003

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

◆        ◆        ◆

## SUBCHAPTER B. STATE PROGRAMS

### 43 TAC §31.11, §31.13

STATUTORY AUTHORITY: Transportation Code, §§201.101, 455.005, and 456.026.

CROSS REFERENCE TO STATUTE: Transportation Code, Chapters 201, 455, and 456.

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 March 28, 2003.

TRD-200302069

Richard D. Monroe

General Counsel

Texas Department of Transportation

Effective date: April 17, 2003

Proposal publication date: January 3, 2003

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

◆        ◆        ◆

## SUBCHAPTER C. FEDERAL PROGRAMS

### 43 TAC §§31.16, 31.21, 31.22, 31.26, 31.31, 31.36

STATUTORY AUTHORITY: Transportation Code, §§201.101, 455.005, and 456.026.

CROSS REFERENCE TO STATUTE: Transportation Code, Chapters 201, 455, and 456.

§31.31. *Section 5310 Grant Program.*

(a) Purpose. The Federal Transit Act, codified at 49 USC §5310(a)(2), authorizes the Secretary of the United States Department of Transportation to make capital grants or loans for the provision of transportation services meeting the special needs of the elderly and persons with disabilities. The department has been designated by the governor to administer the Section 5310 program.

(b) Goal and objectives. The department's goal in administering the Section 5310 program is to promote the availability of professional, cost-effective, efficient, and coordinated passenger transportation services to the elderly and persons with disabilities using the most efficient combination of financial and other resources. To achieve this goal, the objectives of the department are to:

(1) promote the development and maintenance of a network of transportation services for the elderly and persons with disabilities throughout the state, in partnership with local stakeholders;

(2) promote and encourage local participation in decision-making;

(3) fully integrate the Section 5310 program with other federal, state, and local resources and programs that are designed to serve similar populations;

(4) improve the efficiency, effectiveness, and safety of Section 5310 transit systems through the provision of technical assistance and the establishment of performance goals and management objectives; and

(5) include private sector operators in the overall plan to provide transportation services for the elderly and persons with disabilities.

(c) Department role. The department acts as the designated recipient for all Section 5310 funds appropriated to the state. As the administering agency, the department will:

(1) develop application materials and disseminate information to prospective applicants and other interested parties;

(2) develop evaluation criteria and select projects for funding, with input from local entities and local individuals in accordance with the standards set forth in subsection (j) of this section;

(3) prepare the state's annual program of projects and funding application and submit that material to the FTA for approval;

(4) negotiate and execute contracts with local Section 5310 recipients;

(5) prepare requests for federal reimbursement and process payment requests from Section 5310 recipients;

(6) monitor and evaluate the progress of ongoing transportation operations, including compliance with federal regulations and coordination of services; and

(7) provide technical assistance to Section 5310 recipients to aid them in improving and coordinating transit services.

(d) Eligible recipients. Existing rural and urban transit districts and metropolitan transit authorities will be the primary recipients of funds from this program for their respective service areas. For those areas not covered by transit providers, or in cases where the existing provider is not willing and able to provide the transportation, the director may choose an alternative primary recipient. Private, nonprofit organizations and associations are eligible to receive Section 5310 funds as secondary recipients. Local public bodies approved by the state to coordinate transportation services, as selected in subsection (i) of this section, and any public body that certifies to the selecting entity that nonprofit organizations in the area are not readily available to carry out the services, may also receive Section 5310 funds as secondary recipients. Examples of local public bodies approved by the state to coordinate transportation services are a county agency on aging and a public transit provider that the state has identified as the lead agency to coordinate transportation services funded by multiple federal or state human service programs.

(e) Eligible assistance categories. The following categories of expenses are eligible for federal reimbursement under the Section 5310 program.

(1) State administrative expenses. The department will use up to 10% of the annual federal program apportionment to defray its expenses incurred for the administration of the Section 5310 program. The department must provide a 20% match for any federal administrative monies.

(2) Capital expenses.

(A) Eligible recipients, as defined in subsection (d) of this section, may use program funds for the purchase of capital items. Eligible items include, but are not limited to:

(i) buses;

(ii) vans or other paratransit vehicles;

(iii) radios and communication equipment;

(iv) vehicle shelters;

(v) wheelchair lifts and restraints;

(vi) vehicle rehabilitation, remanufacture, or overhaul, if done with the concurrence of the department;

- (vii) microcomputer hardware and software;
- (viii) initial component installation costs;
- (ix) vehicle procurement, testing, inspection, and acceptance costs;
- (x) vehicle extended warranties that do not exceed industry standards;
- (xi) the lease of equipment, provided that the local recipient, with the concurrence of the department, determines a lease is more cost effective than the purchase of equipment after considering management efficiency, availability of equipment, staffing capabilities and guidelines on capital leases as contained in 49 CFR Part 639;
- (xii) the acquisition of transportation services under a contract, lease, or other arrangement;
- (xiii) the acquisition of preventive maintenance services and vehicle parts associated with preventive maintenance services, with the concurrence of the department;
- (xiv) transit-related intelligent transportation systems; and
- (xv) the introduction of new technology, through innovative and improved products, into mass transportation.

(B) When a subrecipient chooses to include the acquisition of transportation services under a contract, lease or other arrangement, both capital and operating costs associated with the contracted services are eligible expenses. User-side subsidies are considered one form of eligible arrangement. The department, as the recipient, has the option to decide whether to provide funding for these acquired services. Funds may be requested for contracted services covering a period of more than one year.

(C) Based on funding availability, federal funds may be used to defray up to 80% of the cost of eligible capital expenditures. The federal share may increase to up to 90% for incremental costs related to compliance with the Clean Air Act in areas of air quality non-attainment or with the Americans with Disabilities Act of 1990, with concurrence from the department. Eligibility standards for the higher federal share are defined in FTA Circular 9070.1E, or its latest version. The local subrecipient must provide a 20% or 10% cash match at the time the equipment is delivered or the services are received.

(f) Local share requirements. The local share required under subsection (e)(2) of this section must be provided from sources other than federal funds except when authorized by federal law.

(g) Funding distribution.

(1) Formula basis. The balance of the annual Section 5310 federal apportionment, after the state administrative expenses described in subsection (e)(1) of this section are set aside, will be allocated to districts on a formula basis as follows.

(A) 25% of the total available funds will be distributed equally among the districts.

(B) 75% of the total available funds will be allocated as follows.

(i) The population of the elderly and persons with disabilities in each district will be calculated by using the latest census figures for counties available from the United States Census Bureau.

(ii) Each district's subtotal of the population of the elderly and persons with disabilities will then be divided by the state total of that population to determine the district's formula allocation.

(2) Allocation.

(A) Preliminary formula allocations for the next fiscal year will be announced by the department no later than January 1.

(B) Final allocations will be announced within 30 days of the federal apportionment to the state.

(C) Upon completion of the project selection procedures described in subsection (i) of this section, if a district does not need the entire allocation, the commission or the executive director will distribute the balance to the remaining districts in accordance with paragraph (1)(B) of this subsection or to individual projects identified in subsection (i)(1) of this section.

(h) Application requirements. A prospective applicant must submit an application for Section 5310 grant funds to the appropriate district office on the forms and at the time specified by the department. The application must document the need and demand for passenger transportation services for the elderly and persons with disabilities.

(i) Project selection. The district office will consult with all local parties, including any existing MPOs. Up to 10% of a district's annual allocation or suballocation may be reserved for contingencies or unidentified projects in keeping with the Category C allowances in the program of projects that is described in subsection (k) of this section. Project selection will be as follows.

(1) The district office will select projects in priority order as described in subsection (j) of this section, including up to five reserve projects should additional funding be made available, based on the following criteria:

(A) the demonstrated need for capital equipment, examples of which include, but are not limited to, a needs assessment that documents the demand for new services, a vehicle inventory that establishes the need for replacement of older equipment, dispatcher logs that document requests for service that cannot be met with existing equipment, and purchase of service contracts that substantiate the need for additional vehicles;

(B) the applicant's financial and managerial capability to maintain and operate the equipment, examples of which include, but are not limited to, audited financial statements and review letters from grantor agencies;

(C) the applicant's efforts to coordinate services and related activities with other local entities, examples of which include, but are not limited to, contracts that outline purchase of service agreements, shared maintenance or dispatching functions, and joint training initiatives; and

(D) evidence of local support for the proposal, examples of which include, but are not limited to, resolutions by local governing bodies and endorsement letters from other organizations or individuals.

(2) Upon receipt of the applications selected for funding from the district offices, the director, or the director's designee, will review all funding requests for completeness and compliance with all statutory and program administrative requirements. The department will negotiate a contract with the selected local entities and organizations to implement the projects selected for funding.

(j) Transportation planning and development for the elderly and persons with disabilities.

(1) Planning and development process. In urbanized and nonurbanized areas each district will establish, after consultation with

local stakeholders, a local planning and development process. The local planning and development process will result in a three-year transit development plan, updated annually, that will demonstrate and include:

- (A) a process for public involvement;
- (B) the identification and evaluation of service delivery resources;
- (C) the promotion of a transportation network;
- (D) the evaluation of the efficiency and effectiveness of the transportation network;
- (E) the creation of the district-wide program of transit projects;
- (F) recommendations for projects to be included in local Transportation Improvement Programs; and
- (G) the selection of projects in nonurbanized areas for inclusion into the Statewide Transportation Improvement Program.

(2) Annual report. Each district will submit an annual report to the Public Transportation Division no later than October 1st. The October 1st report will include an annual program of projects prioritizing projects selected for funding and information related to the project selection process.

(k) Program of projects. Upon completion of the evaluation and selection of projects, the department will prepare a program of projects as described in FTA Circular 9070.1E, or its latest version. Projects listed in category A of the program of projects are those that have met all statutory and administrative requirements for project approval and for which contracts will be issued upon receipt of federal grant approval. A selected project that is not yet complete will be listed in category B and a contract will not be issued until all requirements are met. Up to 10% of the annual federal apportionment may be listed as a program reserve in category C. Projects advance to the next category in the program until all listings are in category A.

(l) Vehicle leasing. Vehicles acquired under the Section 5310 program may be leased to other entities such as local public bodies or agencies, other private non-profit agencies, or private for-profit operators. The lessee shall operate the vehicles on behalf of the Section 5310 recipient and provide the transportation services as described in the original grant application.

(m) Meal delivery. Section 5310 program subrecipients may coordinate and assist in providing meal delivery services for homebound persons on a regular basis if meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers. Section 5310 funds shall not be used to purchase special vehicles to be used solely for meal delivery or to purchase specialized equipment such as racks or heating or refrigeration units related to meal delivery. Vehicles shall not be altered to accommodate meal deliveries.

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 March 28, 2003.  
TRD-200302070

Richard D. Monroe  
General Counsel  
Texas Department of Transportation  
Effective date: April 17, 2003  
Proposal publication date: January 3, 2003  
For further information, please call: (512) 463-8630

◆ ◆ ◆

## SUBCHAPTER D. PROGRAM ADMINISTRATION

### 43 TAC §§31.40 - 31.49

STATUTORY AUTHORITY: Transportation Code, §§201.101, 455.005, and 456.026.

CROSS REFERENCE TO STATUTE: Transportation Code, Chapters 201, 455, and 456.

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 March 28, 2003.

TRD-200302071  
Richard D. Monroe  
General Counsel  
Texas Department of Transportation  
Effective date: April 17, 2003  
Proposal publication date: January 3, 2003  
For further information, please call: (512) 463-8630

◆ ◆ ◆

## SUBCHAPTER E. PROPERTY MANAGEMENT STANDARDS

### 43 TAC §§31.50, 31.55, 31.57

STATUTORY AUTHORITY: Transportation Code, §§201.101, 455.005, and 456.026.

CROSS REFERENCE TO STATUTE: Transportation Code, Chapters 201, 455, and 456.

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 March 28, 2003.

TRD-200302072  
Richard D. Monroe  
General Counsel  
Texas Department of Transportation  
Effective date: April 17, 2003  
Proposal publication date: January 3, 2003  
For further information, please call: (512) 463-8630

◆ ◆ ◆

## SUBCHAPTER F. RAIL SAFETY OVERSIGHT PROGRAM

### 43 TAC §§31.60 - 31.63, 31.65

STATUTORY AUTHORITY: Transportation Code, §§201.101, 455.005, and 456.026.

CROSS REFERENCE TO STATUTE: Transportation Code, Chapters 201, 455, and 456.

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 March 28, 2003.

TRD-200302073

Richard D. Monroe

General Counsel

Texas Department of Transportation

Effective date: April 17, 2003

Proposal publication date: January 3, 2003

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





# 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 THE INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96 ADOPTION OF AMENDMENTS TO THE TEXAS AUTOMOBILE RULES AND RATING MANUAL, NEW ENDORSEMENT TE 99 87, EXCLUSION OF ACTS OF TERRORISM AS DEFINED IN THE FEDERAL TERRORISM RISK INSURANCE ACT OF 2002, AND NEW ENDORSEMENT TE 99 88, CAP ON LOSSES FROM ACTS OF TERRORISM PURSUANT TO THE FEDERAL TERRORISM RISK INSURANCE ACT OF 2002

The Commissioner of Insurance is adopting amendments proposed by Staff to the Texas Automobile Rules and Rating Manual (the Manual), by adding new Endorsement TE 99 87, Exclusion of Acts of Terrorism as Defined in the Federal Terrorism Risk Insurance Act of 2002, and new Endorsement TE 99 88, Cap on Losses from Acts of Terrorism Pursuant to the Federal Terrorism Risk Insurance Act of 2002. The purposes of these amendments are to provide a possible option for commercial automobile policyholders with respect to the terrorism risk insurance coverage that is required to be made available by insurers pursuant to the Terrorism Risk Insurance Act of 2002 (the federal Act), and to disclose to commercial automobile policyholders that the Texas Department of Insurance-promulgated commercial automobile policy forms containing coverage for acts of terrorism are subject to the cap on liability for payment for insured losses pursuant to the federal Act. Staff's petition (Ref. No. A-0203-04-I) was published in the February 28, 2003 issue of the *Texas Register* (28 TexReg 1901).

An insurer may offer Endorsement TE 99 87, Exclusion of Acts of Terrorism as Defined in the Federal Terrorism Risk Insurance Act of 2002, to each applicant or insured regarding the commercial automobile policies named in the endorsement.

Endorsement TE 99 88, Cap on Losses from Acts of Terrorism Pursuant to the Federal Terrorism Risk Insurance Act of 2002, may be attached to the promulgated commercial automobile policies that provide terrorism insurance coverage.

Commissioner's Bulletin No. B-0074-02, concerning the federal Act, sets forth in pertinent part:

The Act preserves the Texas Department of Insurance's (Department) jurisdiction and regulatory authority over rates and forms except for

the period from the date of enactment of the Act through December 31, 2003, rates and forms for certain terrorism coverage shall not be subject to prior approval or a waiting period. However, it should be noted that this exception to Texas' filing laws applies only to coverage that is applicable to losses covered under the Federal program. As a means of providing policyholders with an option respecting the coverage made available under the Act, the Department will consider endorsements excluding coverage for acts of terrorism as defined by the Act. The Act preserves the Department's authority to disapprove any rates pertaining to such losses if it finds them to be excessive, inadequate or unfairly discriminatory.

To the extent that the promulgated commercial automobile policies provide coverage for acts of terrorism and in accord with Insurance Code Article 5.06, there is a need to promulgate the endorsements as a means of providing policyholders a possible option with respect to the coverage made available under the federal Act and to inform policyholders that such coverage is subject to caps on losses as provided in the federal Act.

The Commissioner of Insurance has jurisdiction over this matter pursuant to Insurance Code Articles 5.06, 5.10, 5.96, and 5.98.

This notification is made pursuant to Insurance Code Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Consistent with Insurance Code Article 5.96(h), the Department will notify all insurers writing automobile insurance of this adoption by letter summarizing the Commissioner's action.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the Manual is amended as described herein, and the amendments are adopted to become effective on the 15th day after publication of the notification of the Commissioner's action in the *Texas Register*.

TRD-200302175

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: April 2, 2003



# 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.

---

## Agency Rule Review Plan--Revised

Texas Council on Workforce and Economic Competitiveness

### Title 40, Part 22

TRD-200302076

Filed: March 28, 2003

16 TAC §65.70. Responsibilities of the Licensee/Certificate Holder/Registrant

16 TAC §65.80. Fees

16 TAC §65.90. Sanctions

16 TAC §65.100. Technical Requirements

TRD-200302159

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: April 2, 2003

## Proposed Rule Reviews

Texas Department of Licensing and Regulation

### Title 16, Part 4

The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal, Title 16, Texas Administrative Code, Chapter 65, Boilers. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

As required by Texas Government Code, §2001.039, any questions or written comments pertaining to this rule review may be submitted to Chris Kadas, General Counsel, P. O. Box 12157, Austin, Texas 78711, facsimile-(512) 475-2872, or by e-mail, [chris.kadas@license.state.tx.us](mailto:chris.kadas@license.state.tx.us). The deadline for comments is thirty days after publication in the *Texas Register*.

Any proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001.

16 TAC §65.1. Authority

16 TAC §65.10. Definitions

16 TAC §65.20. Licensing/Certification/Registration Requirements

16 TAC §65.30. Exemptions

16 TAC §65.50. Reporting Requirements

16 TAC §65.60. Responsibilities of the Department

16 TAC §65.65. Boiler Board

## Railroad Commission of Texas

### Title 16, Part 1

The Railroad Commission of Texas files this notice of intention to review §3.68, (commonly called Statewide Rule 73), relating to Pipeline Connection; Cancellation of Certificate of Compliance; Severance. In a separate but concurrent rulemaking, the Commission proposes the repeal of §3.68 and new §3.73 with the same title. The Commission proposes the repeal and new section in order to have the commonly-used Statewide Rule number match with the Texas Administrative Code number. In the concurrent rulemaking, the Commission proposes some new wording to clarify Commission intent and to establish requirements and a procedure for the cessation of pipeline services from wells or leases when the pipeline operator is unable to obtain written consent for cessation from the well or lease operator. The Commission will accept comments regarding whether the reason for readopting the provisions of §3.68 under the new rule number §3.73 continues to exist.

Comments on the review 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.html](http://www.rrc.state.tx.us/rules/commentform.html); or by electronic mail to [rulescoordinator@rrc.state.tx.us](mailto:rulescoordinator@rrc.state.tx.us). The Commission will accept comments for 60 days after publication in the *Texas Register* and should refer to Oil and Gas Docket No. 20- 0234023. 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 David Cooney, assistant director, Environmental Section, Office of General Counsel, at (512) 463-6977. The status of Commission rulemakings in progress is available at [www.rrc.state.tx.us/rules/proposed.html](http://www.rrc.state.tx.us/rules/proposed.html).

Issued in Austin, Texas, on March 25, 2003.

TRD-200302048  
Mary Ross McDonald  
Deputy General Counsel  
Railroad Commission of Texas  
Filed: March 27, 2003



Texas State Soil and Water Conservation Board

**Title 31, Part 17**

The State Soil and Water Conservation Board proposes the re-adoption of agency rules, under Title 31, Part 17, Chapter 517, Financial Assistance, Chapter 518, General Procedures, Chapter 519, Technical Assistance, Chapter 520, Elections, Chapter 521, Agricultural Water Conservation and Chapter 523, Agricultural and Silvicultural Water

Quality Management, Chapter 525, Audit Requirements for SWCDs, in accordance with Article IX, section 167 of the Appropriation's Act.

The Board's reason for adopting the rules contained in these chapters continues to exist.

Comments on the proposals may be submitted to James M. Moore, Executive Director, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503 or facsimile 254/773-3311.

TRD-200302132  
James M. Moore  
Executive Director  
Texas State Soil and Water Conservation Board  
Filed: April 1, 2003



# TABLES & 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.

Figure: 4 TAC §21.21(1)(B)

## GRAPEFRUIT SIZES AND JUICE REQUIREMENTS IN CUBIC CENTIMETERS

[Seedless:]

Size	Diam.	1 Frt.	2 Frt.	3 Frt.	4 Frt.	5 Frt.
126	3 1/2	150	300	450	600	750
96	3 3/4	180	360	540	720	900
80	4	195	390	585	780	975
70	4 1/8	200	400	600	800	1000
64	4 1/4	205	410	615	820	1025
54	4 1/2	220	440	660	880	1100
46	4 3/4	235	470	705	940	1175
36	5	250	500	750	1000	1250
28	5 1/4	265	530	795	1060	1325

[Seeded:]

[126]	[3 1/2]	[140]	[280]	[420]	[560]	[700]
[96]	[3 3/4]	[165]	[330]	[495]	[660]	[825]
[80]	[4]	[175]	[350]	[525]	[700]	[875]
[70]	[4 1/8]	[180]	[360]	[540]	[720]	[900]
[64]	[4 1/4]	[200]	[400]	[600]	[800]	[1000]
[54]	[4 1/2]	[220]	[440]	[660]	[880]	[1100]
[46]	[4 3/4]	[235]	[470]	[705]	[940]	[1175]
[36]	[5]	[250]	[500]	[750]	[1000]	[1250]
[28]	[5 1/4]	[265]	[530]	[795]	[1060]	[1325]

Figure: 10 TAC §80.54(g)

**SITE PREPARATION NOTICE**

**FAILURE TO PREPARE THE SITE PROPERLY BEFORE INSTALLING YOUR MANUFACTURED HOME MAY INVALIDATE YOUR WARRANTY AND MAY CAUSE PROBLEMS WITH YOUR HOME.**

**IF YOU ARE ACQUIRING LAND FOR A MANUFACTURED HOME AND WILL NOT HAVE THE ABILITY TO OVERSEE SITE PREPARATION YOURSELF, BE SURE THAT YOUR AGREEMENT WITH THE PARTY PROVIDING THE LAND COVERS THEIR RESPONSIBILITIES FOR SITE PREPARATION.**

If you are acquiring a manufactured home you need to be sure that the site is properly prepared **BEFORE the home is installed**. If you will be having your home installed in a rental community, you should first be sure that the community has prepared the site properly and assumed that responsibility. If you are acquiring a manufactured home that is already installed, you should satisfy yourself that the site was properly prepared first.

Site Preparation includes AT LEAST the following: (1) selecting a site where the home will not be affected by rising or running water, as in the case of heavy rains, (2) grading the site, as needed, so that the land slopes away from the home, (3) making sure that the site will not create puddles or moisture build-up under the home by filling any depressions and, as needed, providing for drainage, (4) clearing away any plants, stumps, or debris on the site where the home will be placed, and (5) installing any required vapor retarder barrier (and, if such a barrier is to be installed, trimming any grasses or other organic materials to a suitable height, not greater than 8”).

If your retailer is providing skirting, the retailer must also provide and install any required vapor retarder barrier and insure that there is adequate ventilation under the home. If the retailer is not providing these things, you should be sure that you have provided for any required vapor retarder barrier and that you have provided adequately for ventilation under the home.

**FAILURE TO PREPARE THE SITE PROPERLY AND/OR FAILURE TO TAKE APPROPRIATE MEASURES TO GUARD AGAINST MOISTURE BUILD-UP MAY CAUSE SERIOUS PROBLEMS WITH YOUR MANUFACTURED HOME INCLUDING, BUT NOT LIMITED TO, MOISTURE IN THE HOME, DE-LAMINATION OF FLOOR DECKING, BUCKLING OF WALLS AND FLOORS, WARPAGE THAT WILL MAKE DOORS AND WINDOWS NOT OPERATE PROPERLY, FAILURE OF ANCHORS TO HOLD THE HOME AS INTENDED, AND EVEN SERIOUS STRUCTURAL DAMAGE.**

\_\_\_\_\_  
purchaser/homeowner signature

\_\_\_\_\_  
purchaser/homeowner signature

\_\_\_\_\_  
type or print name

\_\_\_\_\_  
type or print name

\_\_\_\_\_  
date

\_\_\_\_\_  
date

Figure: 10 TAC §80.54(h)(3)

**FOOTER CONFIGURATIONS**

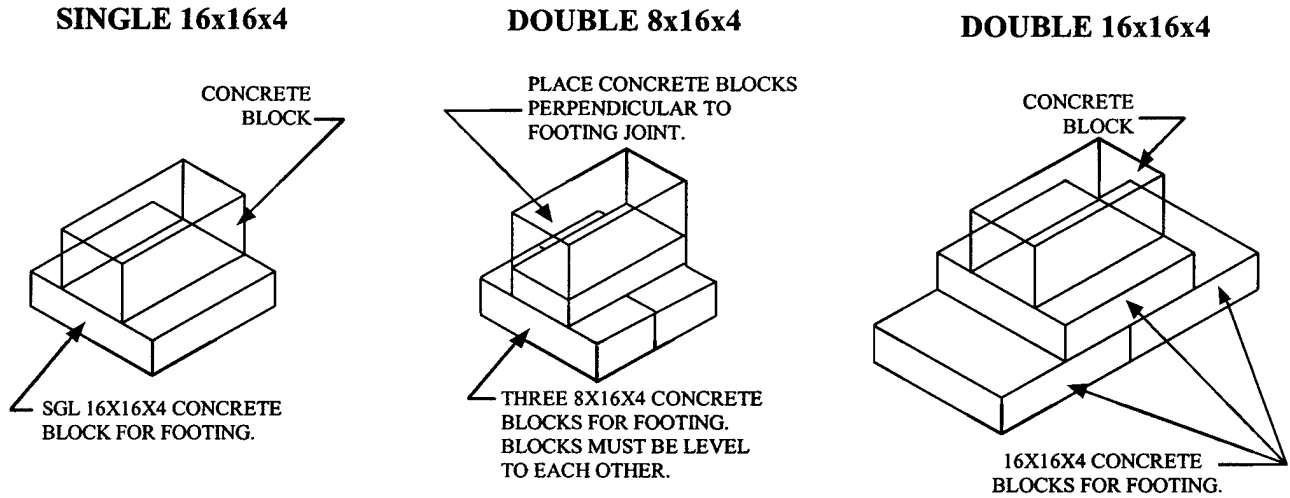


Figure: 10 TAC §80.54(h)(4)

**TABLE 3A: FOOTER CAPACITIES (LBS)**

-----Soil Bearing Capacity-----

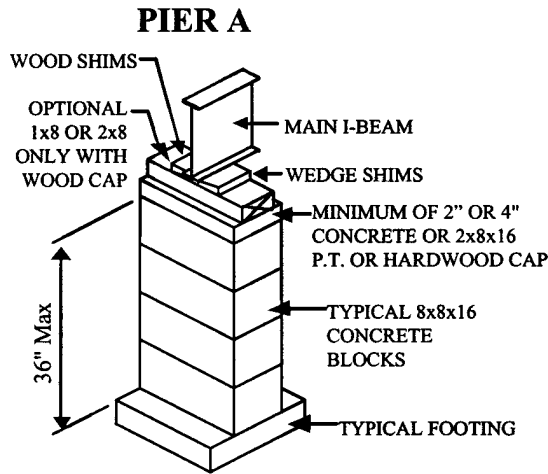
Footer size	1000psf	1500psf	2000psf	2500psf	3000psf	3500psf	4000psf
16x16x4	1700	2700	3500	4400	5300	6100	7000
20x20x4	2700	4100	5500	6900	8300	9400	11000
16x32x4	3500	5200	6800	8600	10400	12000	14000
24x24x4	4000	6000	8000	10000	12000	14000	16000

**Notes:**

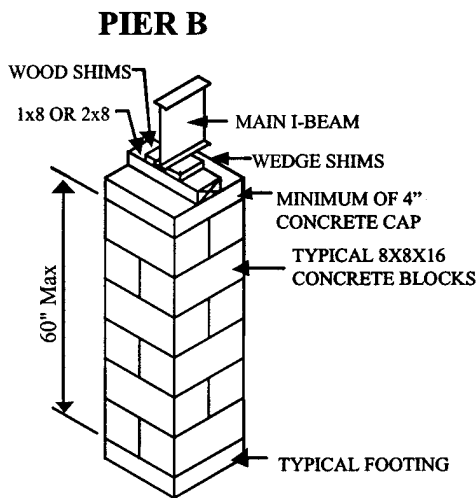
- 1) 8x16x4 footers may be used for perimeter and/or exterior door supports. Capacity is half that of the tabulated values for a 16x16x4 footer. For double 8x16x4 footers use the 16x16x4 row.
- 2) Footers of material other than concrete may be used if approved by the department and the listed capacity and area is equal to or greater than the footer it replaces. Concrete footers of sizes not listed may be used as long as their size is equal to or greater than the size listed.
- 3) Footers with loads greater than 10,000 lbs. require a double stacked pier.
- 4) All poured concrete is minimum 2500 psi at 28 days.
- 5) Actual footer dimensions may be 3/8 inch less than the nominal dimensions for solid concrete footers conforming to the specifications in ASTM C90-99a, Standard Specification for Loadbearing Concrete Masonry Units.

Figure: 10 TAC §80.54(h)(6)

**PIER DESIGN (SINGLE & MULTI-SECTION STACK)**



Pier A: Single stack of open cell, 8x8x16 concrete blocks. Maximum height is 36 inches as measured from the top of the footer to the top of the last concrete block. Concrete blocks are installed with their lengths perpendicular to the main I-Beam. Open cells must be vertical and in alignment.



Pier B: Interlocked double stack of open cell 8x8x16 concrete blocks. The maximum height is 60 inches as measured from the top of the footer to the top of the last concrete block. The pier is capped with a minimum 16x16x4 concrete cap. Open cells must be vertical and in alignment. Each course of open cell blocks must be perpendicular to the previous course.

**Note:**

- 1) Open cell and solid concrete blocks shall meet ASTM-C90-99a, Standard Specification for Loadbearing Concrete Masonry Units.
- 2) Support system components are to be undamaged and installed in a manner to accomplish the purpose intended.
- 3) Either wood caps or shims must be used between I-Beam and concrete.

Figure: 10 TAC §80.54(h)(6)(B)

**TABLE 3B: PIER LOADS (LBS) AT TABULATED SPACINGS  
(WITHOUT PERIMETER SUPPORTS)**

----- maximum pier spacing -----

Unit Width(ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
<b>12 Wide</b>	1725	2150	2600	3000	3400
<b>14 wide</b>	2000	2500	3000	3500	4000
<b>16 Wide</b>	2350	2900	3500	4100	4700

**Note:** 18 ft. wides require perimeter blocking per table 3C.

**Example:** Determine maximum pier spacing for a 16 ft. wide x 76 ft. long single section with a soil bearing capacity of 1500 psf. Footer size to be used is a single 16x16x4 precast concrete footer.

**Step 1:** In table 3A look up the maximum load for a single 16x16x4 pad set on 1500 psf soil.  
Answer = 2700 psf

**Step 2:** In table 3B in the column for 16 ft. wide, find the on-center spacing (o.c.) load equal to or less than the footer capacity of 2700 lbs found in table 3A.  
The 4ft column shows minimum capacity of 2350 lbs.

**Answer:** Therefore, for a 16 ft. wide and a soil bearing capacity of 1500 psf using 16x16x4 footers the maximum pier spacing is 4 ft. o.c.



Figure: 10 TAC §80.54(h)(6)(C)

**TABLE 3C: PIER LOADS (LBS) AT TABULATED SPACINGS  
(WITH PERIMETER SUPPORTS)**

----- maximum I-Beam pier spacing -----					
Unit width (ft)	4 ft o.c.	6 ft o.c.	8 ft o.c.	10 ft o.c.	12 ft o.c.
12 Wide	750	1150	1500	1900	2300
14 Wide	1050	1600	2100	2600	3100
16 Wide	1200	1800	2400	3000	3600
18 Wide	1450	2150	2850	3600	4300

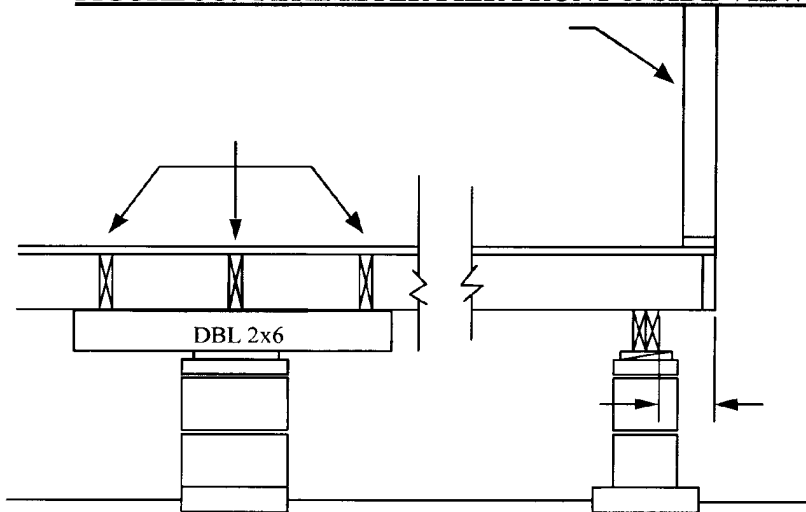
**Note:** Maximum I-Beam pier spacing is 8 ft. o.c. for 8" I-Beam, 10 ft. o.c. for 10" I-Beam and 12 ft. o.c. for 12" I-Beam or the resultant maximum spacing based on soil bearing and footer size per Table 3A, whichever is less.

----- maximum perimeter pier spacing -----					
Unit width (ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1000	1200	1500	1700	1900
14 Wide	1100	1400	1650	1900	2200
16 Wide	1300	1600	1900	2250	2500
18 Wide	1600	2000	2300	2700	3000

**Example:** Determine maximum I-Beam pier spacing for a 16 ft. wide with 12" I-Beam, perimeter blocking and 1500 psf soil bearing capacity.  
**Step 1:** From Table 3A, the maximum load for a 16x16x4 at 1500 psf soil is 2700 lbs.  
**Step 2:** From Table 3C, the I-Beam pier load @ 10 ft. o.c. is 3000 lbs ==> no good  
the I-Beam pier load @ 8 ft. o.c. is 2400 lbs ==> ok  
I-Beam pier spacing is at 8 ft. o.c.  
**Step 3:** The perimeter pier load @ 8ft. o.c. is 2500 lbs ==>>> ok  
Perimeter pier spacing is at 8 ft. o.c.

**FIGURE 3C: PERIMETER PIER FRONT & SIDE VIEW**



**Notes:**

- 1) Perimeter pier may be inset from edge of floor up to 8". The 2x6 brace may be omitted if the front face of a perimeter pier is flush with the perimeter joist and the perimeter pier supports the intersection of an interior joist and perimeter joist.
- 2) Dbl 2x6 are min. #3 Yellow Pine or pressure treated Spruce-Pine, nailed together with min. 16d nails 2-rows at maximum 8" o.c.
- 3) 2x6 brace must span at least two (2) but not more than three (3) floor joists.

Figure: 10 TAC §80.54(h)(7)

### TYPICAL MULTI-SECTION PIER LAYOUT

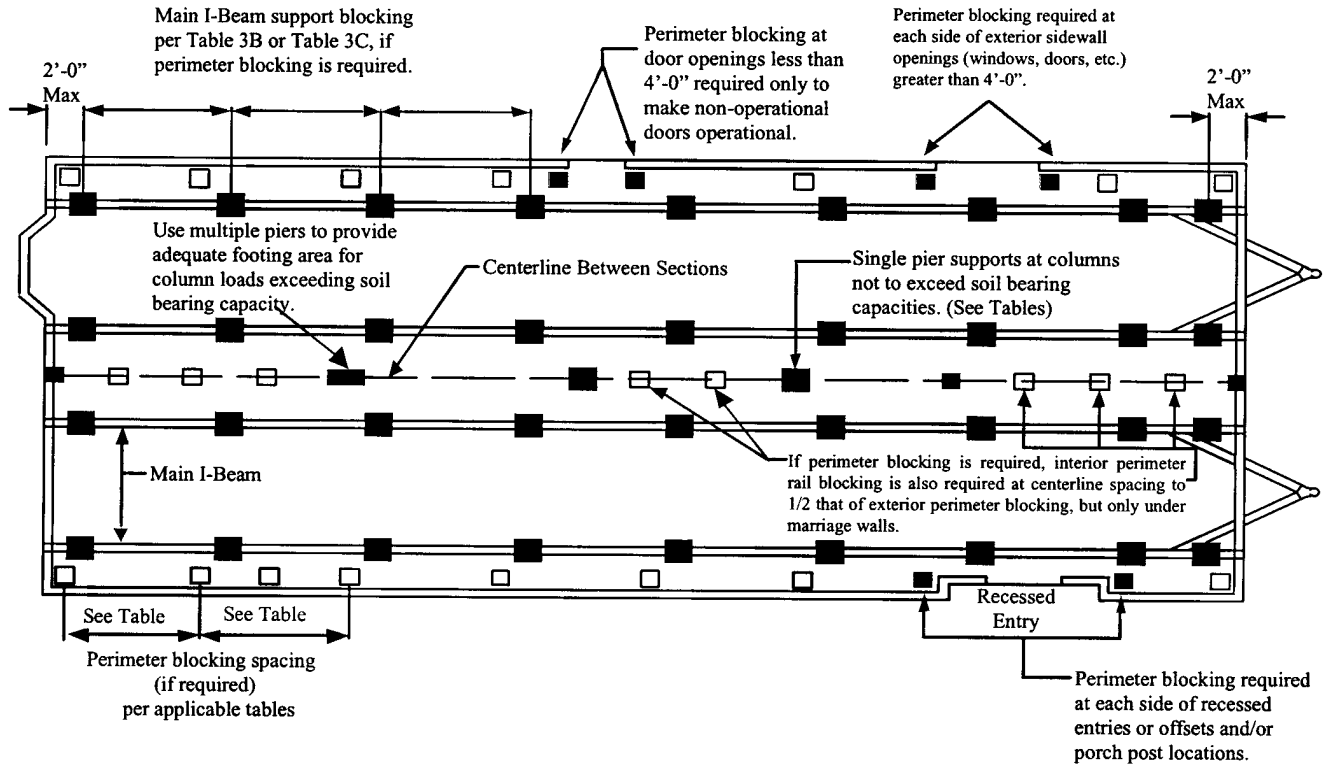
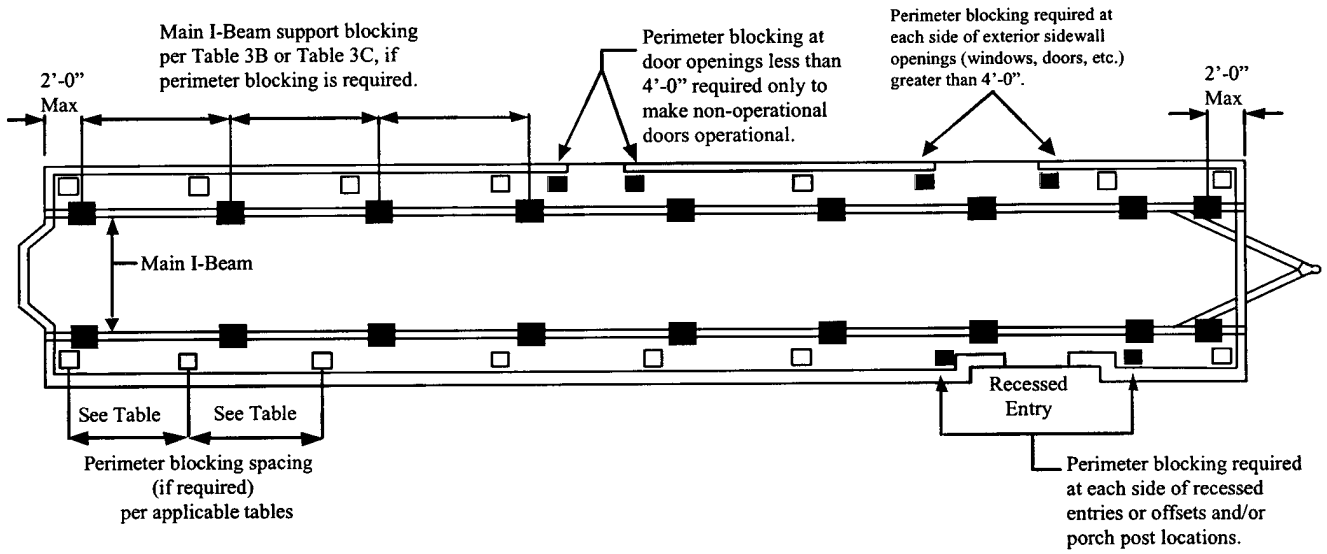


Figure: 10 TAC §80.54(h)(8)

**TYPICAL SINGLE SECTION PIER LAYOUT**



**Figure: 10 TAC §80.54(h)(9)(A)**

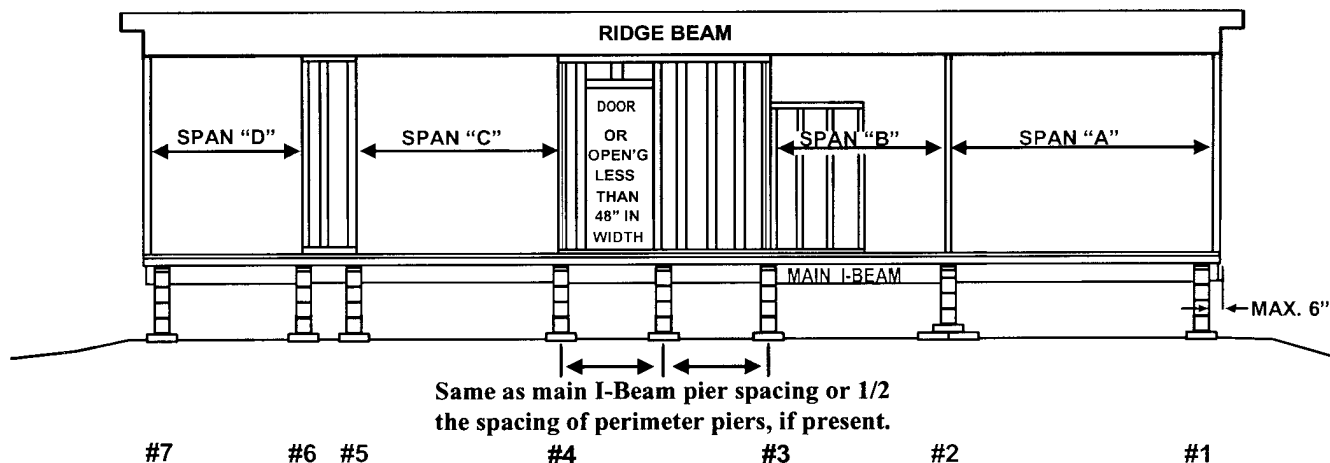
**DETERMINING COLUMN LOAD**

To determine the column load for Column #1 at the endwall look up Span "A" in Table 3D. To determine the column load for Column #2, look up the combined distance of both Span "A" and Span "B".

To determine the column load for Column #3 look up Span "B" in the table.  
(NOTE: Mating line walls not supporting the beam must be included in the span distance.)

To determine the loads for Columns #4 and #5 look up Span "C". For Columns #6 and #7 look up load for span "D".

**MARRIAGE LINE ELEVATION**



**Figure: 10 TAC §80.54(h)(9)(D)**

**TABLE 3D: MATING LINE COLUMN LOADS (LBS)**

Span in feet	-----Unit width in feet (nominal)-----		
	12 Wide	14 Wide	16 Wide
4	720	840	960
6	1080	1260	1440
8	1440	1680	1920
10	1800	2100	2400
12	2160	2520	2880
14	2520	2940	3360
16	2880	3360	3840
18	3240	3780	4320
20	3600	4200	4800
22	3960	4620	5280
24	4320	5040	5760
26	4680	5460	6240
28	5040	5880	6720
30	5400	6300	7200
32	5760	6720	7680
34	6120	7140	8160
36	6480	7560	8640

**Note:** If actual span is not shown use next higher tabulated span.

**NOTICE OF INSTALLATION AFFIDAVIT (FORM T)**

HUD Label or Texas Seal # (s): \_\_\_\_\_ Serial # (s): \_\_\_\_\_

New: ( ) Used: ( ) Manufacturer Name: \_\_\_\_\_ License No. \_\_\_\_\_

Manufacturer Address, City & State: \_\_\_\_\_

Home Size - Width / Length: \_\_\_\_\_ X \_\_\_\_\_ Weight \_\_\_\_\_ Date of Manufacture: \_\_\_\_/\_\_\_\_/\_\_\_\_ Model / Name: \_\_\_\_\_

Legal Description (use additional page if necessary):

Lot \_\_\_\_\_ Block \_\_\_\_\_ Survey \_\_\_\_\_ City \_\_\_\_\_ County \_\_\_\_\_ Vol \_\_\_\_\_ Pg \_\_\_\_\_

Name of property owner IF OTHER THAN THE CONSUMER: \_\_\_\_\_

**Draw A Map To Provide Directions To Home On The Other Side Of This Page**

Consumer: \_\_\_\_\_ Actual Installation Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Wind Zone on Data Plate: I ( ) II ( ) III ( )

Mailing Address: \_\_\_\_\_ ZIP: \_\_\_\_\_

Site Address: \_\_\_\_\_ Within City Limits of \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone Numbers: Home (\_\_\_\_) \_\_\_\_\_ Work: (\_\_\_\_) \_\_\_\_\_

	Name	Address	License #	Expiration Date	Phone #
Retailer					
Installer					

Is installation part of sales contract of used home?  
Yes ( ) No ( ) Not Applicable ( )

Does retailer or installer provide skirting?  
Yes ( ) No ( )

- The home has been installed in accordance with:
- ( ) 1. Manufacturer's Home Installation Instructions
  - ( ) 2. State Generic Standards
  - ( ) 3. State Pre-approved Foundation System (Provide Reference to DMH Approval Letter)
  - ( ) 4. Custom Designed Foundation System (Provide a copy of the approved drawing for this system and a reference, if applicable, to any drawing previously submitted.)

**INDICATE APPROPRIATE METHOD:**

( ) **Method A: INSTALLED ON PROPERTY NOT OWNED BY THE CONSUMER.** THE \$20 INSPECTION REPORTING FEE MAY BE COMBINED WITH THE TITLE TRANSACTION FEES TO THE DEPARTMENT.

( ) **Method B: INSTALLED AS REAL PROPERTY** (re: Vernon's 5221f, sec.19A). THE RETAILER MUST FILE THIS NOTICE IN THE PUBLIC LAND RECORDS OF THE COUNTY IN WHICH THE HOME IS INSTALLED. THE RETAILER MUST PROVIDE A COPY OF THIS NOTICE TO THE DEPARTMENT WITH THE TITLE WORK, OR SEPARATELY IF NO TRANSFER OF OWNERSHIP APPLIES, ALONG WITH THE PAYMENT OF THE \$100 INSPECTION REPORTING FEE.

This home has been installed in accordance with the standards of the Department, and satisfies the lending requirements of ( ) FHA, ( ) FNMA, or ( ) FHLMC for long term mortgage loans or FHA insurance. As of the date of creation of this form, August 28, 2002, an installation to "State Generic Standards" met the requirements of FNMA.

If the installation is to State Generic Standards and that is the Installer's basis for indicating that the installation met FNMA's long term mortgage loan requirements, the Installer is responsible for making sure that this is still acceptable to FNMA at the time of installation. If the installation is on any other basis than FNMA/State Generic, the Installer must maintain documentation to substantiate the determination that the requirements of the method indicated were, in fact, met, and the Division may require that such documentation be made available for inspection.

I verify that I am a licensed retailer or installer, that I am responsible for the installation described, and that the information supplied is true and correct.

\_\_\_\_\_  
Signature (Retailer/Installer) Printed Name and Title

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Signature of Notary) (seal)

**DRAW MAP BELOW**



Figure: 10 TAC §80.137(a)(2)

Texas Department of Housing and Community Affairs  
**DIVISION OF MANUFACTURED HOUSING**  
 P. O. BOX 12489 Austin, Texas 78711-2489  
 (800) 500-7074, (512) 475-2200 FAX (512) 475-1109  
 Pursuant to the Texas Manufactured Housing Standards Act, Tex. Rev. Civ. Stat. Ann. Article 5221f  
 Internet Address: www.tdhca.state.tx.us

**DOWN PAYMENT VERIFICATION AFFIDAVIT (Required)**

<b>BLOCK 1: Home Information (Must be completed.)</b>			
Manufacturer Name:		License #:	
Manufacturer's Address/City/State/Zip			
Model:	Total Sq. Ft.:	Date of Manufacture:	
<i>Label/Seal Number</i>	<i>Complete Serial Number</i>	<i>Weight</i>	<i>Size</i>
Section One:			
Section Two:			
Section Three:			
Wind Zone:	Thermal Zone:	Roof Load Zone:	
<b>BLOCK 2: Retailer and Consumer Information</b>			
Retailer Name:		License #:	
Retailer's Address/City/State/Zip			
Salesperson's Name:		License #:	
Consumer(s) Name			
Deposit Amount: \$			
<b>BLOCK 3: SWORN STATEMENT (Notarization Required)</b>			
<p>The Retailer, the Salesperson, and the Consumer(s), under being first duly sworn, do hereby state as follows:</p> <p>The Manufactured Home is to be sold to the Consumer(s) by the Retailer in a transaction that is being handled by the Salesperson and will be subject to financing. Any creditor that will be providing such financing requires that the source of any Down Payment being provided by the Consumer(s) be verified.</p> <p>1. The Retailer, the Salesperson, and the Consumer(s) have verified that the Down Payment has been actually received by the Retailer and that it came from (check one below):</p> <p style="margin-left: 40px;"> <input type="checkbox"/> money on deposit in an account owned by the Consumer(s)  <input type="checkbox"/> a <i>bona fide</i> gift to the Consumer(s) from _____, with no obligation for the Consumer(s) to repay all or part thereof.  <input type="checkbox"/> a loan to the Consumer(s) from _____  <input type="checkbox"/> Other (describe): _____                 </p> <p>2. The Retailer, the Salesperson, and the Consumer(s) each verify and confirm that no portion of the Down Payment was provided or will be provided by the Retailer or the Manufacturer or by a rebate from either of them.</p> <p>3. The <b>Consumer</b> hereby verifies that the <u>amount of the down payment is the true amount noted on my retail installment contract.</u></p> <p>I (We) certify that the statements set forth herein above are true and correct.</p>			
_____ <i>Consumer</i>		_____ <i>Consumer</i>	
_____ <i>Retailer's Authorized Representative</i>		_____ <i>Salesperson</i>	
Sworn and subscribed before me this _____ day of _____			
		(month)	(year)
_____ <i>Signature of Notary</i>		<b>SEAL</b>	
_____ <i>Printed Name of Notary</i>			



Figure: 10 TAC §80.137(a)(3)

Texas Department of Housing and Community Affairs  
**DIVISION OF MANUFACTURED HOUSING**  
 P. O. BOX 12489 Austin, Texas 78711-2489  
 (800) 500-7074, (512) 475-2200 FAX (512) 475-1109  
 Pursuant to the Texas Manufactured Housing Standards Act, Tex. Rev. Civ. Stat. Ann. Article 5221f  
 Internet Address: www.tdhca.state.tx.us

**COVENANT DISCLOSURE AFFIDAVIT (Required)**

<b>BLOCK 1: Home Information (Must be completed.)</b>			
Manufacturer Name:		License #:	
Manufacturer's Address/City/State/Zip			
Model:	Total Sq. Ft.:	Date of Manufacture:	
<i>Label/Seal Number</i>	<i>Complete Serial Number</i>	<i>Weight</i>	<i>Size</i>
Section One:			
Section Two:			
Section Three:			
<b>BLOCK 2: Retailer and Consumer Information</b>			
Retailer Name:		License #:	
Retailer's Address/City/State/Zip			
Salesperson's Name:		License #:	
Consumer(s) Name			
Deposit Amount:		Dollars	\$
<b>BLOCK 3: SWORN STATEMENT (Notarization Required)</b>			
The undersigned, being first duly sworn, does hereby state:			
<p>1) This Affidavit is given in my capacity as the duly authorized officer or representative of the holder of the following license from the Division of Manufactured Housing of the Texas Department of Housing and Community Affairs (the "Department"):</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">License Type                      License Number</p>			
<p>2) As required by the Texas Manufactured Housing Standards Act, Texas Rev. Civil Statutes Ann. Art. 5221f (the "Act") and 10 TAC Chapter 80, the rules that implement the Act (the "Rules") I have provided to the above-described consumer, in connection with the above-described transaction, all disclosures required by the Act and the Rules, including:</p> <p style="margin-left: 40px;">( ) The notice required by Section 21(a) of the Act, provided as a single document not attached to or included with any other disclosure;</p> <p style="margin-left: 40px;">( ) The information required by Section 21(b)(1) of the Act; and</p> <p style="margin-left: 40px;">( ) A statement of the consumer's responsibilities, if any, as required by Section 21(b)(2) of the Act.</p>			
<p>Each of these disclosures was provided to the consumer(s) at the time or times required; specifically, the notice required by Section 21(a) was provided prior to the completion of any credit application, and the disclosures required by Sections 21(b)(1) and (2) were provided prior to the transfer of title (or, if title was not transferred, prior to any other sale, assignment, or conveyance).</p> <p>I certify that the statements set forth herein above are true and correct.</p>			
_____ <i>Name of duly authorized officer or representative</i>		_____ <i>Signature of duly authorized officer or representative</i>	
Sworn and subscribed before me this _____ day of _____			
(month)		(year)	
_____ <i>Signature of Notary</i>		<b>SEAL</b>	
_____ <i>Printed Name of Notary</i>			

## **Attachments to Covenant Disclosure Affidavit**

As required by Section 21(b)(2) of the Texas Manufactured Housing Standards Act (the "Act"), you (the consumer) are hereby advised of the following important matters relating to the purchase of a manufactured home:

**• Property Taxes:**

- ( ) Because the home will, in accordance with Section 19A of the Act, be classified and taxed as real property, you will be responsible for the payment of *ad valorem* taxes on the home. If you fail to pay these taxes, you may lose your home. If you do not pay these taxes on a timely basis, you may incur additional interest and/or penalties.
- ( ) Because the home will be installed in a manufactured home park or on property that is owned by someone other than the consumer, it will not be classified and taxed as real property.

**• Paying to maintain nearby private roads:**

- ( ) There are private roads near to where your home will be located, and you will be required to pay your assessed share of the costs of maintaining these roads. Failing to pay such assessed costs may result in a lien being placed on your home and if that lien is not satisfied, you may lose your home. Failure to pay these assessed costs on time may result in the incurring of additional interest and/or penalties.
- ( ) There are no private roads near your home for which you will be financially obligated.

**• Maintaining a contract for an on-site sewage disposal system:**

- ( ) The site for your home has an on-site sewage disposal system. It is your responsibility to maintain it.
- ( ) The site for your home utilizes a shared on-site sewage disposal system and you will be billed for your share of the cost of the upkeep and operation of the system.
- ( ) The site for your home does not have an on-site sewage disposal system or share access to one. There is no sewer system available for connection. Therefore, you will need to install and maintain an on-site sewage disposal system.

- ( ) The site for your home has a connection to an off-site sewage system. You will be billed for your usage.

• **Obtaining property damage insurance as required by a lienholder:**

- ( ) It is our understanding that your purchase of the home is not being financed. Therefore, there will be no lienholder. If you subsequently encumber your home, a new lienholder may require that you maintain property damage insurance.
- ( ) The purchase of your home is being financed by \_\_\_\_\_. You should review your loan documents and, as necessary, contact them to be sure that you are obtaining all insurance coverages that they may require, including property damage insurance, and that they are provided with any necessary proof of insurance.

• **Obtaining mortgage insurance required by a lienholder:**

- ( ) It is our understanding that your purchase of the home is not being financed. Therefore, there will be no lienholder. If you subsequently encumber your home, a new lienholder may require that you maintain mortgage insurance.
- ( ) The purchase of your home is being financed by \_\_\_\_\_. You should review your loan documents and, as necessary, contact them to be sure that you are obtaining all insurance coverages that they may require, including mortgage insurance, and that they are provided with any necessary proof of insurance.

• **Furnishing, PRIOR TO INSTALLATION, a legible copy of your lease or rental agreement and the address where the home will be located:**

- ( ) You own, and therefore will not be leasing, the site on which the home will be installed. Therefore, you do not need to provide a copy of a lease. You do, however, need to confirm, PRIOR TO INSTALLATION, the physical address at which the home will be located.
- ( ) Since you will be leasing or renting the site on which the home will be installed, you will need, PRIOR TO INSTALLATION, to provide a LEGIBLE copy of the entire lease AND you will need to confirm the physical address at which the home will be located.

Figure: 10 TAC §80.137(a)(4)

# Estimate for Reassigned Warranty Work

## Part I – Labor and Materials

1) Number of item on inspection report and description of proposed correction:

Estimated time:

Hourly rate:

Itemized cost of materials:

2) Number of item on inspection report and proposed correction:

Estimated time:

Hourly rate:

Itemized cost of materials:

3) Number of item on inspection report and proposed correction:

Estimated time:

Hourly rate:

Itemized cost of materials:

The undersigned represents that:

- (1) the actual costs for labor charged to the Texas Department of Housing and Community Affairs, Division of Manufactured Housing and/or the Homeowner's Recovery Fund will not exceed the actual number of hours expended, rounded to the nearest quarter of an hour increment, times the hourly rate specified above;
- (2) the actual costs for materials charged to Texas Department of Housing and Community Affairs, Division of Manufactured Housing and/or the Homeowner's Recovery Fund will not exceed the costs actually charged to the undersigned and such costs do not exceed the costs at which the undersigned is able to obtain such materials for its own account; and
- (3) the hourly rate being charged by the undersigned does not exceed the normal hourly rate at which the specified individuals customarily provide their services.
- (4) If the work to be performed involves any repair or alteration that would require DAPIA approval, such approval has been obtained and a copy of such approval, together with all DAPIA-approved drawings relating thereto, is attached.

## **Part II – Other Costs and Expenses**

### **Travel**

Starting location (must be the closer of the nearest office to the site of the re-assigned warranty work or the in-state service center for the licensee)

Estimated round-trip mileage:

Mileage is reimbursable at the greater of the rate of \$0.35 per mile, not to exceed \$75.00 per day. Or the State of Texas approved rates from time to time in effect for reimbursement of state employees' travel expenses.

Itemized list of any other travel costs:

### **Lodging**

Name, location, and rate (actual cost not to exceed the rate approved for reimbursement of State of Texas employees)

Reimbursement for overnight lodging is to include the actual room rate and any applicable taxes but does not include any long distance telephone calls, entertainment, food, or beverages. Reimbursement may not exceed the State of Texas approved rates for reimbursement of state employees' lodging.

**Meals**

Reimbursement for meals shall not exceed the greater of \$30.00 per day or the State of Texas approved rate for reimbursement of state employees' meals while traveling. Alcoholic beverages are not subject to reimbursement.

**Administrative and oversight costs**

Provide an explanation of the necessary administrative services, including the number of hours required and the hourly rate of each person providing such services. Administrative services may not exceed 20% of the total estimate.

This estimate submitted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name of Licensee: \_\_\_\_\_

License number: \_\_\_\_\_

\_\_\_\_\_  
Signature of licensee or duly authorized  
Officer or Representative

\_\_\_\_\_  
Printed Name of licensee or duly authorized  
Officer or Representative

Figure: 16 TAC §25.193(c)

$\frac{(\sum \text{NWTR} * \text{NL} - \sum \text{BWTR} * \text{NL} * \text{BL}) * \text{ALLOC}}{\text{BD}}$	
Where:	<p><math>\sum</math> NWTR is the <u>summation of any new wholesale transmission rates of TSPs, rate approved by the commission by order or pursuant to commission rules, since the DSP's last rate case;</u></p>
	<p><math>\sum</math> BWTR is the <u>summation of the base wholesale transmission rates of the TSPs represented in the NWTR, rate used to develop the retail transmission charges of the DSP, charge in the DSP's distribution service provider's last rate case;</u></p>
	<p>NL is the <u>DSP's individual 4CP distribution service provider's load component of based on the total ERCOT 4CP load information used to develop the NWTR and is from the previous calendar year;</u></p>
	<p><del>BL is the distribution service provider's load based on the 4 CP information used to develop the BWTR in the distribution service provider's last rate case.</del></p>
	<p>ALLOC is the class allocator approved by the commission to allocate the transmission revenue requirement among classes in the distribution service provider's last rate case, unless otherwise ordered by the commission; and,</p>
	<p>BD is each class' annual billing determinant (kWh, or kW, or kVa) for the previous calendar year.</p>

# 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.

## Texas Department on Aging

Request for Proposals--Aging Texas Well Community Preparedness

### BACKGROUND AND RESEARCH FOCUS

The Texas Department on Aging (TDoA) is soliciting proposals for a one time only grant to assess and develop community capacity to prepare for an aging population in Texas. The grant will require a 25% cash or in-kind match. TDoA will award a maximum funding level of \$15,000 for each award. This is the second posting of this grant project.

### ELIGIBILITY REQUIREMENTS

This Request for Proposals (RFP) invites applications from government, public, private, and non-profit entities who reside in one of the following 14 Area Agency on Aging regions not previously awarded a grant under this program: (see **Appendix A for Regional Map**).

**Ark-Tex** (Counties Served: Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, Titus),

**Dallas County**

**Tarrant County**

**North Texas** (Counties Served: Archer, Baylor, Clay, Cottle, Foard, Hardeman, Jack, Montague, Wichita, Wilbarger, Young),

**Houston-Galveston** (Counties Served: Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Liberty, Matagorda, Montgomery, Walker, Allier, Wharton),

**South Texas** (Counties Served: Jim Hogg, Starr, Webb, Zapata),

**Middle Rio Grande** (Counties Served: Dimmit, Edwards, Kinney, LaSalle, Maverick, Real, Uvalde, Val Verde, Zavala),

**Permian Basin** (Counties Served: Andrews, Borden, Crane, Dawson, Ector, Gaines, Glasscock, Howard, Loving, Martin, Midland, Pecos, Reeves, Terrell, Upton, Ward, Winkler),

**Concho Valley** (Counties Served: Coke, Concho, Crockett, Irion, Kimble, Mason, Mculloch, Menard, Reagan, Schleicher, Sterling, Sutton, Tom Green),

**South Plains** (Counties Served: Bailey, Cochran, Crosby, Dickens, Floyd, Garza, Hale, Hockley, King, Lamb, Lubbock, Lynn, Motley, Terry, Yoakum),

**East Texas** (Counties Served: Anderson, Camp, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rains, Rusk, Smith, Upshur, Van-Zandt, Wood),

**Lower Rio Grande** (Counties Served: Cameron, Hidalgo, Willacy),

**Rio Grande** (Counties Served: Hardin, Jefferson, Orange),

**West Central Texas** (Counties Served: Brown, Callahan, Coleman, Comanche, Eastland, Fisher, Haskell, Jones, Kent, Knox, Mitchell, Nolan, Runnels, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton).

The proposed project need not address the entire AAA region. Project proposal may address a specific political or geographic unit within a AAA region, such as a city, a town, county or groups of cities, towns, or counties. If the Applicant Agency is not the AAA, the proposal must indicate how the applicant will partner with the AAA to meet project objectives.

### AWARD INSTRUMENT AND RESPONSIBILITY

The award will be a grant contract. Responsibility for the planning, direction, and execution of the proposed project may be shared among collaborating organizations, but is ultimately the sole responsibility of the Applicant Agency.

### PROJECT PERIOD

The total project period for grants awarded pursuant to this RFP may not exceed twelve (12) months, and must be concluded by August 31, 2004.

### TERMS

TDoA will award a maximum funding level of \$15,000 for each award. A cash or in-kind match of 25% is required to be met by selected applicant. Funds available under this RFP may not be used for the funding of direct services or to hire employees. Funds may be used to contract for facilitation services or to pay for other necessary services or expenses as allowed by the applicable OMB Circular. Grant funds will be awarded to cover one project per AAA region (see Appendix A for Regional Map).

### AUTHORITY

The Texas Department on Aging has the statutory authority to extend and expand services for the aged by coordinating the interest and efforts of local communities in studying the special problems of the aged. TDoA is also responsible for conducting long range planning activities regarding issues that affect older Texans. TDoA serves as the single state agency responsible for meeting the objectives of the federal Older Americans Act and is the state's visible advocate and steward for a full range of services and opportunities that allow older Texans to live healthy, dignified and independent lives.

### SCOPE OF THE WORK

Texas community leaders continue to strive to develop better outcomes regarding the multitude of issues and challenges they face in meeting the needs of older adults. This goal becomes increasingly challenging as the population of older adults increases. The general framework for this challenge is called Aging Texas Well (ATW), an initiative and guiding philosophy where Texans prepare for aging in all aspects of life and that state and local social infrastructure facilitates aging well throughout the lifespan. In order to mobilize Texas communities toward ATW preparedness, TDoA encourages communities to build their capacity to meet the current and future needs of a growing aging population.

We are asking communities to take a holistic approach to aging preparedness, for both the community and the aging individuals living in it, by looking beyond health and human services to the entire system and infrastructure involved in meeting the ATW Benchmarks that include spirituality, physical and mental health, social engagement, financial



and legal preparedness, employment, education, volunteerism, recreation, housing, transportation, caregiving, health care, protections, and community supports (see Appendix B). This system may include, but is not limited to, organizational resources, existing and potential collaboration among partners, community motivation, economic factors, and political climate.

Community preparedness relies on information regarding local assets, resources, and activities, as well as barriers or emerging needs. Effective programs depend not only on the community's interest in making the investment needed, but also the capability to do so. The capacity-building activities funded by this grant must improve each Texas community's ability to:

Clearly understand the context in which older adults and families live and the issues they want to address,

Locate hidden strengths or underutilized resources that could be developed,

Design effective collaborative strategies that respond to important issues facing older adults and their families,

Determine which resources could contribute to comprehensive strategies and how they should be utilized,

Empower older adults and community members by giving them a role in designing and implementing these strategies.

Community preparedness will be evaluated based on ATW Benchmarks as defined by the Declaration of Objectives stated in the Older Americans Act (see list in Appendix B). Each grantee community must develop strategies that outline how these ATW Benchmarks can be met using the resources and talents of older individuals and families, as well as public and private entities that exist in the community.

## **REQUIRED CONTENTS OF THE APPLICATION**

To facilitate review and evaluation, applications must address the topics listed below and adhere to the following format:

### **I. Cover Letter**

The proposal must include a cover letter that provides: 1) the identification of the Applicant Agency and project contact person (name, address, phone, fax, e-mail, name of director or agency head); 2) identification of the applicant's geographical region of the state in accordance with the 13 Area Agency on Aging boundaries listed in Eligibility Requirements section above (See Appendix A for Regional Map); and 3) amount of grant funds applied for in response to this RFP for the 12-month grant period (August 15, 2003 to August 15, 2004).

### **II. Project Summary**

The project summary should be a brief description of the current capacity of the community that is the subject of the proposal to prepare for its aging population, the overall project vision and goals, and the planned project activities, and a description of the geographical boundaries of the community.

### **III. Proposal Narrative**

A key component of this grant is the assessment of community preparedness. Therefore, if the information requested below is not known at this time, provide a description of how the information will be obtained as part of this project (e.g., key informant interviews, community surveys, focus groups).

The proposal narrative must discuss each of the five (5) content areas outlined below (Older Adults in Region, Community Infrastructure,

Core Leadership, Partnership History and Current Status, Consumer Inclusion) as they relate to community preparedness. The Proposal Narrative does not require a definitive or exhaustive description for these content areas; however, applicants must provide adequate descriptions of existing systems. Proposals should describe how the project will address and/or expand each content area.

#### **(a) Older Adults in Region**

Provide a description of the population of adults age 60 and older in your geographic region including socio-demographic characteristics (age, racial/ethnic distribution).

#### **(b) Community Infrastructure**

Describe your community's infrastructure, including strengths and weaknesses of the system.

#### **(c) Core Leadership**

Describe the individuals and organizations that make key decisions in your community.

#### **(d) Partnership History and Current Status**

Provide a list of key partners in your community (e.g., Area Agency on Aging, public agencies, private organizations, individuals, advocacy groups).

#### **(e) Consumer Inclusion**

Include a description of specific activities that are or will be designed to ensure participation of older adults and family caregivers.

## **IV. Work Plan**

Applicants must develop a detailed workplan that outlines the specific activities that would be used to:

Assess the strengths, weaknesses, opportunities, and threats of the community's existing services and resources to prepare for ATW

Identify areas for improvement and determine which of these should receive priority attention

Develop strategies to bring about desired change in ATW Benchmarks (see Appendix B).

Identify measures of success for these efforts

Strengthen partnerships among public, non-profit and private organizations including business, civic leaders, and consumers

Develop deliverables that include

-Developing the community's vision for ATW,

-Specifying the short-term and long-range activities that would bring about changes that are essential to achieving ATW preparedness benchmarks (see Appendix B), and

-Identifying state, local and national policy recommendations on improving community preparedness (i.e., action plan).

TDoA may use the workplan to evaluate whether the grantee meets the objectives of ATW preparedness. The workplan must address the three key components of the project: 1) assessment of community preparedness, 2) development and capacity building planning activities, and 3) process for identifying local, state, and federal policy recommendations that support the capacity of the community to meet the needs of older Texans. Applicant must include a timeline outlining how it will conduct these activities over the 12-month duration of the project.

Describe any past efforts to address each component of the project. For example, if the community has recently completed an assessment of community preparedness (i.e., environmental scan), the project efforts

may be focused on capacity building and policy recommendations. In this case, describe how the existing assessment would be used to enhance capacity building planning activities.

#### **V. Applicant Agency**

Provide a description of the Applicant Agency including the primary function, a description of funding sources, and experience in project management demonstrating the agency's capacity to act as administrator, fiscal manager and program supervisor. Describe partnership building experience and available resources to build capacity in the community. If Applicant Agency is not the Area Agency on Aging (AAA), the applicant must describe plans to partner with the AAA to meet project objectives.

#### **VI. Biographical Sketch**

Include a brief biographical sketch for the Applicant Agency Executive Director and Project Manager. Include a brief biographical sketch for any community leaders who will play a significant role in project implementation. Biographical sketches should include name, role and level of involvement in the project, summary of interest and expertise, education (if relevant), and current and/or relevant past employment, volunteer or other community responsibilities and involvement.

#### **VII. Budget and Budget Narrative**

Prepare a budget based on the project workplan including a detailed list of expenditures and a narrative for each item to enable reviewers to link the requested funding with the specific elements of the proposed project. Budgets may not exceed the \$15,000 maximum grant funding. A description of the source of the 25% minimum cash or in-kind match is required. Please detail any other resources that will support the project including local funds. The Grantor may require budget adjustments prior to approval of an application.

#### **FINAL DELIVERABLES**

Final deliverables will include the following four (4) items:

**Evidence of Community Capacity Building Planning** provided in a detailed summary of project activities and achievements. This activity summary should include a description of the activities performed in the implementation of the project workplan. Demonstrate how each community preparedness activity is linked to achieving the ATW Benchmarks (see Appendix B). Grantees will be required to submit quarterly reports of activities and progress toward workplan objectives.

An **Environmental Scan** that describes the following five (5) components in detail:

(1) **Older Adults in Region** Provide a description of the population of adults age 60 and older in your geographic region including socio-demographic characteristics (age, racial/ethnic distribution). Describe (if any) specific segment of the population you have targeted in your community and reasons for selecting this group. Describe the unique characteristics of your region (urban/rural characteristics). Include a description of any unique access barriers experienced by older residents of your community. Define the region encompassed by the project using either a political entity or geographic boundaries (e.g., city, county, Council of Government region).

(2) **Community Infrastructure** Describe your community's infrastructure, with respect to meeting the unique needs of older adults, including strengths and weaknesses of the system. Identify current linkages among services that exist or are in development (e.g., linkages may include inter-agency collaborations and sharing of information, jointly sponsored initiatives). Describe the current stage of development of your community. Indicate how grant funds have enhanced existing activities.

(3) **Core Leadership** Describe the individuals and organizations that make key decisions in your community. Describe the roles and responsibilities of these decision-makers regarding finances, operations, and aging policy. Provide other examples of typical decisions made by this group. Describe how the grantee has work with these leaders to achieve project objectives.

(4) **Partnership History and Current Status** Provide a list of key partners in your community (e.g., Area Agency on Aging, public agencies, private organizations, individuals, advocacy groups). Describe the working history between these key community partners and how they collaborate to meet the needs of older adults. Discuss the background, evolution, and composition of these community partnerships including when members began working together (if available). Describe specific accomplishments achieved by these partners working as a group including both current partnerships and earlier collaborative efforts of any subsets of the current group. Focus on improvements in the lives of older adults and changes to the system infrastructure. Include barriers overcome and anticipated changes in these processes as a result of this grant.

(5) **Consumer Inclusion** Include a description of specific activities that exist or those that will be designed to ensure participation of older adults and family caregivers in preparation activities.

An **Action Plan** must be submitted that outlines the community's vision for ATW, short-term and long-range strategies that would bring about the changes that are essential to achieving ATW preparedness benchmarks (see Appendix B).

Submit **local, state, and national policy recommendations** to support community capacity for ATW.

#### **WRITTEN MATERIALS**

The proposal must include a list of materials it intends to create with project funds, shall describe the purpose for the materials, and shall state where the materials will be distributed. Written materials created with project funds must contain a statement acknowledging the financial support of TDoA. The materials shall be submitted for approval of content prior to being printed for distribution to ensure that the materials are not inconsistent with project objectives.

The proposer shall retain ownership of intellectual property rights in any written materials developed through this project, except to the extent provided by the Uniform Grant Management Standards adopted by the Governor's Office of Budget and Planning, and Federal OMB circulars, as applicable.

If TDoA does not obtain intellectual property rights according to the provisions cited above, the proposer, by entering into a contract with TDoA, grants to TDoA a royalty-free, perpetual, irrevocable, worldwide license to reproduce and distribute copies of the materials created with funds provided under this project.

#### **DISPUTE RESOLUTION**

(1) The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used as further described herein, by the TDoA and the contractor to attempt to resolve any claim for breach of contract made by the contractor:

A contractor's claim for breach of contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the contractor shall submit written notice, as required by subchapter B, to Mary Sapp, Executive Director. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of the TDoA and the contractor

otherwise entitled to notice under the parties' contract. Compliance by the contractor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the TDoA if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by the TDoA nor any other conduct of any representative of the TDoA relating to the contract shall be considered a waiver of sovereign immunity to suit.

The submission, processing and resolution of the contractor's claim is governed by the published rules adopted by the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.

Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the contractor, in whole or part.

#### **PROPOSAL REQUIREMENTS**

Proposals must comply with all rules and statutes relating to grant awards in the State of Texas. Late or unsigned proposals will not be considered under any circumstances. The person submitting the proposal must have the authority to bind the organization in a contract.

TDoA reserves the right to accept or reject all or any part of a proposal and award the grant to the proposal that best serves the interests of the state.

#### **CERTIFICATION AND ASSURANCES**

Proposers are required to supply assurances and or submit certifications that demonstrate compliance with relevant state and federal laws and TDoA reporting requirements (Appendix C).

#### **REVIEW OF APPLICATIONS AND CRITERIA FOR SELECTION**

Acceptable applications will be referred to a technical panel for evaluation and scoring. To assist in the preparation of the application, established criteria for review are provided below. The panel will consist of TDoA staff and possibly staff from other State agencies. Applicants will be mailed written notification of the final award decision by July 14, 2003. Failure to provide the required information with the application will automatically disqualify the proposal from consideration for the award in connection with this RFP.

**Evaluation and grant award will be based on the following criteria** (weighted values in parenthesis):

Evidence that the applicant agency has given serious thought and consideration to how the project will conduct activities to address the domains of community assessment, capacity building, and the development of policy recommendations (20%);

Evidence that project objectives are clearly linked to ATW Benchmarks (see Appendix B) (20%);

Evidence of applicant agency's capacity to act as project administrator; evidence of collaboration between community partners, specifically the Area Agency on Aging; and the ability to identify and utilize resources to build capacity in the community (20%);

Submission of well-developed work plan and timeline (20%);

A budget and justification that is appropriate for the scope and quality needed for successful completion of the project (20%).

#### **VALIDATION OF OFFERS**

Prior to award of the grant, TDoA must be assured that the selected applicant has the resources with the required experience to successfully perform under the contract, and that these resources will be available during the term of the contract. If during the evaluation process, TDoA is not assured of an applicant's ability to perform under the grant, TDoA may request from the selected applicant any information which it deems necessary to aid in determining whether the applicant has the experience to perform the contract, or in determining whether the applicants proposal is unacceptable to TDoA.

TDoA reserves the right to negotiate with applicants as well as the right to refuse any and all proposals submitted.

#### **APPLICATION SUBMISSION**

The application must be received in the TDoA office no later than 5:00 p.m. on June 13, 2003. Applications must be received in hard-copy format either hand-delivered, mailed through the U.S. Postal Service or a commercial delivery service. No facsimiles will be accepted. Applications received after 5:00 p.m. on June 13, 2003 will be deemed late applications and will automatically be disqualified from consideration.

An original, plus (5) five copies of the paper application should be sent directly to: Beth Stalvey, Ph.D., Office of Public Policy & Information, Texas Department on Aging, PO Box 12786, Austin, TX 78711

Physical Address for Commercial Delivery: Texas Department on Aging, Brown Heatly Building, 4th Floor, Suite 4300, 4900 North Lamar Blvd., Austin, TX 78751

#### **NOTIFICATION OF AWARD**

All applicants will be notified by the TDoA contact person concerning the award of a contract. The selected applicant will receive a contract to sign from TDoA. The award of a grant to the selected applicant is contingent upon execution of the grant contract provided by TDoA.

#### **RFP REVIEW AND AWARD SCHEDULE**

RFP announcement - March 31, 2003

Applications due to TDoA by - June 13, 2003

Notification of Award - July 14, 2003

Final Deliverables Due - August 15, 2004

By signing and submitting a grant application, the Applicant Agency certifies and warrants its compliance with the statements and requirements contained in Appendix D.

Questions regarding this RFP may be directed to Beth Stalvey at (512) 424-6871.

APPENDIX A

AAA REGIONS



**APPENDIX B  
AGING TEXAS WELL BENCHMARKS**

**Older Americans Act**

U.S. Code Title 42 Public Health and Welfare  
Chapter 35 Programs for Older Americans

**Sec. 3001. Congressional Declaration of Objectives**

“The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, of the several States and their political subdivisions, and of Indian tribes to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

- (1) An adequate income in retirement in accordance with the American standard of living.
- (2) The best possible physical and mental health which science can make available and without regard to economic status.
- (3) Obtaining and maintaining suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.
- (4) Full restoration services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes, including support to family members and other persons providing voluntary care to older individuals needing long-term care services.
- (5) Opportunity for employment with no discriminatory personnel practices because of age.
- (6) Retirement in health, honor, dignity - after years of contribution to the economy.
- (7) Participating in and contributing to meaningful activity within the widest range of civic, cultural, education and training and recreational opportunities.
- (8) Efficient community services, including access to low-cost transportation, which provide a choice in supported living arrangements and social assistance in a coordinated manner and which are readily available when needed, with emphasis on maintaining a continuum of care for vulnerable older individuals.
- (9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.
- (10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in the planning and operation of community-based services and programs provided for their benefit, and protection against abuse, neglect, and exploitation.”

**APPENDIX C  
CERTIFICATION AND ASSURANCES**

Signing an application with a false statement is a material breach of contract and shall void the submitted application or any resulting contracts, and the applicant shall be removed from all bid lists. By signature affixed on the application, the applicant certifies that:

1. The applicant has not given, offered to give, nor intends to give at anytime hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted application.
2. The applicant is not currently delinquent in the payment of any franchise tax owed the State of Texas.
3. Neither the applicant nor the firm, corporation, partnership, or institution represented by the applicant, or anyone acting for such firm, corporation or institution has violated the antitrust laws of Texas or the Federal antitrust Laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.
4. The applicant has not received compensation for participation in the preparation of the specifications for this RFP.
5. The Texas Family Code provides a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under this contract. Under Family Code, Section 231.006, relating to child support, the applicant certifies that the individual or business entity named in this application is eligible to receive the specified payment and acknowledges that this contract may be terminated and/or payment may be withheld if this certification is inaccurate.
6. If applicable, the application must include the name and Social Security Number of each person with at least 25 percent ownership of the business entity submitting the proposal. Bidders that have pre-registered this information on the GSC Centralized Master Bidders list have satisfied this requirement, if not pre-registered, complete the following (if more than one to report, please make copies of this form):

Enter name above, and Social Security Number below									
				-					

7. Under Section 2155.004 Government Code (relating to collection of state and local sales and use taxes) the applicant certifies that the individual or business entity named in this proposal is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.
8. The applicant shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract.
9. The applicant affirms that it has not been debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension." The applicant affirms that it has not been found in a judicial or state agency administrative proceeding to be guilty of unfair business practices.
10. The applicant affirms that funds received under this proposal are subject to the limitations and reporting requirements as are required of state agencies under the statutes listed in 2001 General Appropriations Act, Art. 6.13.
11. The applicant shall comply with Age Discrimination in Employment Act of 1967 (29 USC 621, et. seq.).

TRD-200302158  
Gary Jessee  
Director of the Office of AAA Support and Operations  
Texas Department on Aging  
Filed: April 2, 2003

◆ ◆ ◆  
**Office of the Attorney General**

**Texas Clean Air Act Enforcement Action Settlement Notice**

Notice is hereby given by the State of Texas of the following proposed settlement of an enforcement lawsuit under the Texas Clean Air Act. Before the State may settle a judicial enforcement action, pursuant to §7.110 of the Texas Water Code, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Case Title and Court: *State of Texas v. Huntsman Petrochemical Corporation*. To be filed in the district court of Travis County, Texas.

Nature of Defendant's Operations: Huntsman Petrochemical Corporation owns and operates an Aromatics and Olefins petrochemical production plant at the intersection of State Highway 73 and Savannah Avenue in Port Arthur, Texas. This plant is the subject of this proposed settlement.

Proposed Agreed Final Judgment: The proposed Agreed Final Judgment provides for the payment of a civil penalty in the amount of \$9,072,474, and attorney's fees in the amount of \$375,000, for a total amount of \$9,447,474. The attorney's fees will be paid within 30 days of the signing of the judgment by the court. The civil penalty will be paid as follows: (1) \$850,000 to be paid within 30 days of the signing of the judgment by the court, (2) \$1,000,000 to be paid within 1 year of the signing of the judgment by the court, (3) \$1,650,000 to be paid within 2 years of the signing of the judgment by the court, (4) \$2,000,000 to be paid within 3 years of the signing of the judgment by the court, (5) \$2,000,000 to be paid within 4 years of the signing of the judgment by the court, and (6) \$1,572,474 to be deferred subject to the successful completion of a supplemental environmental project described below.

Huntsman may receive a credit up to \$1,572,474 for the costs associated with a supplemental environmental project involving the installation and operation of an air quality monitoring system at the subject plant. The system will include two gas chromatograph monitors to determine the concentrations of benzene and six other volatile organic compounds in the air at the perimeter of the plant. This equipment shall be operated for 11 calendar quarters.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment and Supplemental Environmental Project should be reviewed. Requests for copies of these documents and written comments on them should be directed to David Preister, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78111-2548, (512) 463-2012, facsimile (512) 320-0052. Written comments must be received within 30 days of publication of this notice to be considered.

For information regarding this publication, contact A.G. Younger, Agency Liaison, at 512-463-2110.

TRD-200302134

Nancy S. Fuller  
Assistant Attorney General  
Office of the Attorney General  
Filed: April 1, 2003

◆ ◆ ◆  
**Central Texas Regional Mobility Authority**

**Notice of Receipt of Unsolicited Proposal for Services Related to Development of the US 183-A Turnpike and Invitation for Competing Proposals**

On or about February 28, 2003, the Central Texas Regional Mobility Authority ("CTRMA") received a detailed unsolicited proposal for the provision of services related to the development of the US 183-A turnpike project in Williamson County. On March 26, 2003, the Board of Directors of the CTRMA authorized the publication of a notice announcing receipt of the proposal and inviting the submission of competing proposals.

The CTRMA has promulgated and adopted "Policies and Procedures Governing Procurements of Goods and Services by the CTRMA" (the "Procurement Policies"). Section 9 of the Procurement Policies addresses the submission of unsolicited proposals for private participation in turnpike projects or the provision of services related to a turnpike project. Section 9.2 of the Procurement Policies governs the submission and processing of unsolicited proposals, and requires publication of notice that an unsolicited proposal was received if the CTRMA Board of Directors desires to further evaluate the unsolicited proposal. As noted previously in this notice, the CTRMA Board of Directors expressed this desire on March 26, 2003. Copies of the Procurement Policies are available from the Contact Person listed in this notice.

**Description of the Proposal.** The detailed unsolicited proposal received on February 28, 2003, is for the provision of various preconstruction services related to US 183-A, including services related to financial analysis and assistance (excluding investment banking, underwriting and traffic and revenue engineering services), procurement, review and analysis of project design, and services related to preparing the project for a design/build procurement if such authorization is granted by the Legislature, or for a design/bid/build procurement if such authorization is not granted by the Legislature. The proposal also offers construction management services and toll operation services for five (5) years pursuant to separate contractual arrangements. The proposal does not include the provision of any construction services, and is not itself a proposal for an exclusive development agreement or a design/build contract.

**Submission of Competing Proposals.** Interested parties or consortia are invited to submit competing proposals within forty-five (45) days of the date of publication of this notice in the *Texas Register*. Competing proposals must be detailed (as defined in the Procurement Policies) and must be submitted in conformance with the Procurement Policies and the procedures set forth in this Notice. Failure by a prospective proposer to submit a competing proposal, together with the proper non-refundable and nonnegotiable proposal review fee in the amount of five thousand dollars (\$5,000) within the 45-day period following the date of publication of this notice in the *Texas Register*, shall preclude such proposal from consideration by the CTRMA. The proposal review fee shall be submitted in the form of a check made payable to the CTRMA. The CTRMA will not grant requests to extend the 45-day period; and the receipt of one or more competing proposals during such period will not trigger the posting or publication of a new notice or the commencement of any new 45-day period unless a proposal is received which is materially different from the unsolicited proposal and the CTRMA Board of Directors desires to independently pursue that proposal. All

proposals submitted in response to this notice should be as thorough and detailed as possible.

**Pre-Proposal Conference.** There will be pre-proposal conference on April 22, 2003 for interested parties. Attendance is not a condition of submitting a competing proposal. The purpose of the conference will be to respond to questions concerning the US 183-A project and the process for submitting competing proposals, as well as questions about the subject matter of the proposal to the extent such questions can be answered without comprising the confidentiality of proprietary or competitive information contained in the proposal. The pre-proposal conference will be held at 3 pm (CST) at the offices of Locke Liddell & Sapp, LLP, 100 Congress Avenue, Suite 300, Austin Texas, 78701.

The CTRMA reserves all rights available to it by law and in its Procurement Policies in administering this process, including without limitation, the right in its sole discretion to: reject any and all proposals, including the initial unsolicited proposal or competing proposals, at any time; terminate evaluation of any and all proposals at any time; suspend, discontinue or terminate negotiations with any proposer at any time prior to the actual authorized execution of an agreement by all parties; negotiate with a proposer without being bound by any provision in its proposal; or request or obtain additional information about any proposal(s).

Under no circumstances shall the CTRMA, or any of its agents, representatives, consultants, directors, officers or employees be liable for, or otherwise obligated to reimburse, the costs incurred by proposers, whether or not selected for negotiations, in developing proposals or in negotiating agreements.

Any and all information the CTRMA makes available to proposers shall be as a convenience to the proposer and without representation or warranty of any kind. Proposers may not rely upon any oral responses to inquiries.

If a proposer has a question regarding this notice or the Procurement Policies that is not raised at the pre-proposal conference described in this notice, the proposer shall submit the question in writing to the person indicated in this notice. Requests for copies of the Procurement Policies do not need to be in writing. In submitting any proposal, the proposer shall be deemed to have unconditionally and irrevocably consented and agreed to the foregoing provisions and all other provisions of this notice and the Procurement Policies.

**Contacts:** Questions concerning this notice should be submitted in writing to C. Brian Cassidy, Locke Liddell & Sapp LLP, 100 Congress Avenue, Suite 300, Austin, Texas 78701. Requests for copies of the Procurement Policies can be made by phone to (512) 305-4855.

**Submittals:** Parties submitting competing proposals pursuant to this notice must provide nine (9) copies which must be received by the CTRMA by 5:00 p.m. C.S.T. on the forty-fifth day following publication of this notice in the *Texas Register* (or the first business day thereafter if the 45th day is a weekend or legal holiday). Proposals shall be submitted to the Central Texas Regional Mobility Authority, c/o C. Brian Cassidy, Locke Liddell & Sapp LLP, 100 Congress Avenue, Suite 300, Austin, Texas 78701. Facsimile and/or e-mail submissions are not permitted.

TRD-200302190

Brian Cassidy

Acting General Counsel

Central Texas Regional Mobility Authority

Filed: April 2, 2003

◆ ◆ ◆  
**Coastal Coordination Council**

## Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period for these activities extends 30 days from the date published on the Coastal Coordination Council web site. Requests for federal consistency review were deemed administratively complete for the following projects(s) during the period of March 21, 2003, through March 27, 2003. The public comment period for these projects will close at 5:00 p.m. on May 2, 2003.

### FEDERAL AGENCY ACTIONS:

**Applicant:** City of Corpus Christi, Director of Engineering Services; **Location:** The proposed project sites are located at (1) Sunfish Island, approximately 4,800 feet due north from the Corpus Christi Marina (CCM), between the CCM and the Corpus Christi Ship Channel in Corpus Christi Bay, adjacent to the offshore breakwaters; and (2) McGee Beach approximately 3,550 feet south of the CCM on South Shoreline Boulevard. The project sites can be located on the U.S.G.S. quadrangle map entitled: Corpus Christi, Texas. Approximate UTM Coordinates: Zone 14; Easting: 658700 and Northing: 3076700 (Sunfish Island); and Easting: 658250 and Northing 3074500 (McGee Beach). **Project Description:** The applicant proposes to restore Sunfish Island by filling approximately 15.5 acres of open water adjacent to the island. The project will require approximately 99,500 cubic yards of fill material that would be obtained by hydraulically dredging an area in Corpus Christi Bay approximately 0.4 miles east of Shoreline Boulevard and north of the CCM. Containment dikes would be provided at Sunfish Island to contain hydraulically placed fill and to minimize turbidity in adjacent waters. Return water from this portion of the project will flow over a weir and return to the CCM. Rock breakwaters will be placed by dragline barge once fill operations are completed to protect the island from erosion. The breakwaters will be located along the south of the island and in the gap in the existing breakwater and will cover a combined area of approximately 1.4 acres. Equipment access would be made via a channel (850 feet long, 80 feet wide, and -6 to -8 feet deep) that would be incorporated in the borrow area for the McGee Beach part of the project. The channel and surrounding borrow area would not be refilled. The applicant also proposes to place 180,000 cubic yards of material, obtained hydraulically from two sites in Corpus Christi Bay near the CCM, onto 24 acres along McGee Beach as a beach nourishment project. No shoreline protection will be placed along McGee Beach and return water will flow directly into Corpus Christi Bay. The purpose of the project is to protect Sunfish Island as an important migratory shorebird rookery and to maintain McGee Beach as an important recreational attraction that also provides additional protection to the Corpus Christi Seawall. CCC Project No.: 03-0090-F1; Type of Application: U.S.A.C.E. permit application #22909 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §125-1387). **NOTE:** The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

**Applicant:** Neumin Production Co.; **Location:** The proposed project is located in E/2 State Tract 99 in San Antonio Bay, approximately 2.5 miles southwest of Seadrift, Calhoun County. The project sites can



be located on the U.S.G.S. quadrangle map entitled: Mosquito Point, Texas. Approximate UTM Coordinates: Zone 14; Easting: 721500 and Northing: 3137000. Project Description: The applicant proposes to install, operate, and maintain structures and equipment necessary for oil and gas drilling, production, and transportation activities for Well No. 3. Such activities include installation of a typical marine barge and keyway, a production structure with attendant facilities, a drilling pad, and a 4-inch-diameter pipeline to their existing Well No. 2. The bay bottom at the proposed site is comprised of soft, deep mud; therefore, approximately 4,500 cubic yards of shell, gravel, or crushed rock would be placed on 27,000 square feet of bay bottom to construct a drilling pad. The proposed products pipeline would be 1.0250 feet long and would be installed by jetting, diskings, or plowing a 2-foot-wide by 3-foot-deep trench. Up to 5 feet would be installed by jetting, diskings, or plowing a 2-foot-wide by 3-foot-deep trench. Up to 5 feet of bay bottom on either side of the trench would be temporarily affected. Surveys conducted in the project area determined that no seagrasses or oysters would be impacted by these activities. Deep-water access is available from the Gulf Intracoastal Waterway to the site; therefore, no dredging for channels is proposed. CCC Project No.: 03-0095-F1; Type of Application: U.S.A.C.E. permit application #22989 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §125-1387). NOTE: The consistency review for this project may be conducted by the Texas Railroad Commission as part of its certification under §401 of the Clean Water Act.

Applicant: Engineered Explosive Services; Location: The proposed project is located in and adjacent to the Sabine River, within the right-of-way for Interstate Highway 10 (IH 10), east of the City of Orange, in Orange County, Texas and Calcasieu Parish, Louisiana. The project sites can be located on the U.S.G.S. quadrangle map entitled: Echo, Texas. Approximate UTM Coordinates: Zone 15; Easting: 432464; and Northing: 3332907. Project Description: The applicant proposes to demolish the support structures for the old IH 10 Bridge over the Sabine River using explosives. The structure will be removed to 5 feet above the waterline by mechanical means. Blast shafts will be drilled into the remaining structures down to 4 feet below the mudline and the structures demolished with two explosive blasts. Approximately 1,320 cubic yards of concrete will be temporarily discharged into the river and will be removed by clam bucket. Divers will cut up the remaining steel and pilings above the mudline for subsequent removal. The work will require approximately 7 days to complete and waterway traffic will need to be interrupted twice for 8-10 minutes during the detonations. The applicant has requested to utilize this method to reduce risk to the divers and complete demolition expediently. CCC Project No.: 03-0096-F1; Type of Application: U.S.A.C.E. permit application #22978 is being evaluated under §10 of the River and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §125-1387). NOTE: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

Applicant: Atofina Petrochemical, Inc.; Location: The proposed project is located in the Neches River, approximately 1 mile upstream of the Highway 87 bridge in Port Arthur, Jefferson County. The project sites can be located on the U.S.G.S. quadrangle map entitled: Port Arthur North, Texas. Approximate UTM Coordinates: Zone 15; Easting: 415218; and Northing: 3316691. Project Description: The applicant proposes to widen an existing pipe rack by installing four 14-inch diameter steel pilings, increasing the total width of the pipe rack by 13 feet, 9 inches, from 26 feet, 6 inches wide to 40 feet, 3 inches wide. No other pipe rack dimensions will change. CCC Project No.: 03-0102-F1; Type of Application: U.S.A.C.E. permit application

#17841(03) is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403).

#### FEDERAL AGENCY ACTIVITIES:

Applicant: U.S. Department of the Interior, Minerals Management Service; Location: Western Gulf of Mexico Planning Area (WPA); 35.9 million acres located 8 to 357 kilometers offshore in water depths ranging from 8 to 3,100 meters. Project Description: The proposed activity is Lease Sale 187, planned for August 2003. Lease Sale 187 will be the second Western Planning Area sale scheduled under the proposed Outer Continental Shelf Oil and Gas Leasing Program: 2002-2007 (5-year program). Sale 187 will offer for lease all unleased blocks in the WPA, with the exception of whole and partial blocks within the Flower Garden Banks National Marine Sanctuary-High Island Area (Blocks A-375, A-398, A-401, A-502, and A-513) and Garden Banks Area (Block 135), Mustang Island Area, Blocks 793, 799, and 816, which are used by the U.S. Navy for training, and whole and partial blocks within the 1.4 nautical mile buffer zone along the continental shelf boundary established in 2001 by treaty between the United States and Mexico. Due to military considerations, Mustang Island Area, Blocks 59, 147, 228, 602, 732, 733, 734, 775, 790, 791, 798, 821, and 822 will also carry a multiuse stipulation. CCC Project No.: 03-0097-F2; Type of Application: The Minerals Management Service regulates all Outer Continental Shelf (OCS) operations under provisions of the OCS Lands Act, regulations at 30 CFR Part 250, and special lease stipulations.

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Coastal Coordination Council for review.

Further information on the applications listed above may be obtained from Ms. Diane P. Garcia, Council Secretary, Coastal Coordination Council, P.O. Box 12873, Austin, Texas 78711-2873, or [diane.garcia@glo.state.tx.us](mailto:diane.garcia@glo.state.tx.us). Comments should be sent to Ms. Garcia at the above address or by fax at 512/475-0680.

TRD-200302185

Larry L. Laine

Chief Clerk/Deputy Land Commissioner

Coastal Coordination Council

Filed: April 2, 2003

### 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 Sections 303.003, 303.005, and 303.009, Tex. Fin. Code.

The weekly ceiling as prescribed by Sec. 303.003 and Sec. 303.009 for the period of 04/07/03 - 04/13/03 is 18% for Consumer <sup>1</sup>/Agricultural/Commercial <sup>2</sup>/credit thru \$250,000.

The weekly ceiling as prescribed by Sec. 303.003 and Sec. 303.009 for the period of 04/07/03 - 04/13/03 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by Sec. 303.005<sup>3</sup> for the period of 04/01/03 - 04/30/03 is 18% for Consumer/Agricultural/Commercial/credit thru \$250,000.

The monthly ceiling as prescribed by Sec. 303.005 for the period of 04/01/03 - 04/30/03 is 18% 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.

TRD-200302151

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: April 1, 2003



## Deep East Texas Council of Governments

### Request for Qualifications for Regional Hazard Mitigation Plan

Request for Qualifications for Regional Hazard Mitigation Plan Deep East Texas Council of Governments (DETCOG) is serving as the lead agency for collaboration among local Offices of Emergency Management in Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity and Tyler counties to compile a comprehensive regional plan that evaluates the nature, and extent of vulnerability of the tri-county region as it relates to natural hazards such as hurricanes, tornadoes, storms, high water, fire, drought, snow storms, wild land fires, etc and which complies with state and federal mitigation plan requirements within the established time frame. To achieve this objective, DETCOG is facilitating the procurement of a consultant to develop the Deep East Texas Regional Mitigation Plan (DETRMP).

Creating the DETRMP will consist of the following major tasks:

1) providing guidance, technical assistance and leadership to local jurisdictions to procure the data necessary for the hazard analysis, Annex P and mitigation Action Plan for their respective communities.

2) aggregating the individual local jurisdiction components into a comprehensive regional Hazard Mitigation Plan that is acceptable to the Federal Emergency Management Agency (FEMA) and the Texas Division of Emergency Management (DEM).

Submitting the individual components and comprehensive Deep East Texas Regional Mitigation Plan to DETCOG in written and electronic format. Specific FEMA Requirements include:

The Deep East Texas Regional Mitigation Plan shall contain the following:

P-1. Identify local, state and federal legal authorities pertinent to the subject of the annex, in addition to those cited in the Basic Plan.

P-2. Include a purpose statement that describes the reason for development of the annex.

P-3. Define terms and explain acronyms and abbreviations used in the annex.

P-4. Include a situation statement related to the subject of the annex.

P-5. Include a list of assumptions that influence hazard mitigation operations.

P-6. Describe the mitigation process and pre and post-disaster operations of local hazard mitigation program.

P-7. Describe the purpose, desired composition, and organization of the local hazard mitigation team.

P-8. Describe the interaction and coordination between the local hazard mitigation team and the state hazard mitigation team.

P-9. Describe how local hazard analysis will be developed, maintained and distributed and how those who need access to it can obtain it.

P-10. Describe the relationship between the state and local hazard analysis and the uses of those documents.

P-11. Describe how the local Mitigation Action Plan will be developed, maintained, and distributed and how those who need access to it can obtain it.

P-12. Describe the relationship and consistency between the state and local hazard mitigation plans.

P-13. Describe the interaction and coordination between the local hazard mitigation team, the local hazard analysis, and the local hazard mitigation plan.

P-14. Describe and depict the organization of the local hazard mitigation team to include all agencies/organizations that provide representatives to them.

P-15. Identify by position the individual responsible to serve as the local mitigation coordinator.

P-16. Identify the specific mitigation tasks and responsibilities of the Hazard Mitigation Coordinator.

P-17. Identify the general mitigation tasks and responsibilities shared by all team members.

P-18. Assign responsibility for the development, annual review, update and distribution of the local Hazard Mitigation Action Plan.

P-19. Assign responsibility for the development, annual review, update, and distribution of the local Mitigation Action Plan.

P-20. Assign responsibility for coordinating with and assisting the state hazard mitigation team during post-disaster action.

P-21. Identify the lines of succession for the HMC and the HMT.

P-22. Identify the policies on reporting and the maintenance of records concerning mitigation actions.

P-23. Specify the individual(s) by position responsible for developing and maintaining the annex.

P-24. Identify references pertinent to the content of the annex.

P-25. Identify the current local Hazard Analysis.

P-26. Identify the current local Mitigation Action Plan.

P-27. Include a list of agencies assigned to the HMT.

P-28. Include a Hazard Mitigation Team Report format and instructions for filing the report.

P-29. Define area covered by mitigation action plan and explain relationship to area(s) covered by hazard analysis and emergency management plans.

P-30. Identify political sub-divisions within the area.

P-31. Identify river basis, watersheds, and reservoirs that affect area.

P-32. Include discussion of geography, population, industries, and trends concerning future population, economic growth, and land use/development in the area.

P-33. Identify communities designated for special consideration because of minority or economically disadvantaged populations. Explain state and/or federal designations for each identified community.

P-34. Identify date of current hazard analysis and explain scheduled review process.

P-35. Identify past emergencies and disasters affecting the area. List hazards, occurrence dates, and consequences.

P-36. Identify hazards (natural hazards and other hazards) that cause the area to be vulnerable and at risk and describe quantitative (in terms of existing and estimated numbers and types) vulnerability, risk and potential dollar losses from each identified hazard to the following:

P-36.01. People

P-36.02. Housing Units

P-36.03. Critical Facilities

P-36.04. Special Facilities

P-36.05. Infrastructure and Lifelines

P-36.06. Hazmat Facilities; and

P-36.07. Commercial Facilities

P-37. Identify membership and functions of Hazard Mitigation Team

P-38. Identify active public-private partnerships and discuss the opportunities provided and their participation in development, implementation and maintenance of the mitigation action plan and other activities to reduce vulnerabilities and risk in the area.

P-39. Describe actions to share information, invite active participation, and coordinate plan development, implementation and maintenance with neighboring local governments.

P-40. Describe public involvement and participation in the development and implementation of the mitigation action plan. Include explanation of how public comments were invited and provided.

P-41. Identify actions and methods used to inform, educate and involve the public in vulnerability and risk reduction activities.

P-42. Identify and assess the effectiveness of previously implemented mitigation measures and of current mitigation-related policies, plans, practices and programs to include the following:

P-42.01. Hazard Mitigation Grant Program (HMGP) projects

P-42.02. Public Assistance (PA) program projects

P-42.03. Corps of Engineers studies, plans and projects

P-42.04. Plans, studies, and projects that received federal funding from the Texas Water Development Board (TWDB)

P-42.05. Actions and projects that received federal funding from Project Impact (PI), the Pre-Disaster Mitigation (PDM) program, or annual Property Protection-Mitigation (PP-M) program

P-42.06. Current master drainage, and storm water management plans

P-42.07. Current comprehensive, and capital improvement plans

P-42.08. Current building and fire codes. Identify date and type of codes in use and describe inspection/permit process, number and qualifications of inspection/permit process, number and qualifications of inspectors, and number of building starts and inspections conducted during last twelve month period

P-42.09. Findings/results of Building Code Effectiveness Grading Report (BCEGS). Include date of report and score received.

P-42.10. Current floodplain management ordinance(s) court order(s). Identify dates adopted and explain inspection/permit process, numbers and qualifications of floodplain administrators and staff, number of inspections and permits approved and the number and an explanation for why permit variances were allowed during the last twelve month period; and

P-42.11. Community Assistance Visit (CAV) report(s), Flood Insurance Studies and other technical assistance reports/findings. Identify type and date of current floodplain maps, repetitive loss category, and participation in the Community Rating System (CRS).

P-43. Describe mitigation goals and long-term strategy. Explain relationship and conformance with state mitigation goals and strategies, and the National Flood Insurance Program (NFIP).

P-44. Identify a prioritized listing of proposed mitigation actions that are consistent with the local hazard analysis, and provide details concerning what benefits will be achieved, who will accomplish the action, estimated costs, how it will be funded and an implementation and work schedule.

P-45. Identify dates and documentation of approval, adoption and implementation maintenance commitment by authorized official(s) of all political jurisdictions that participated in the plan development process and are covered by the mitigation action plan.

P-46. Include requirements for conducting and reporting an annual review and updating the mitigation action plan at least every five years. Describe actions to involve the public in the plan update process.

P-47. Identify the mitigation action plan title, area covered, date adopted, and locations where current copies are available for review.

P-48. Identify the impact of emergencies and disasters that occurred during the year. Impact to floodplains, repetitive loss areas and an assessment of effectiveness of previous and on going mitigation measures.

P-49. Identify prioritized list of proposed mitigation actions from mitigation action plan and discuss implementation problems and recommended solutions.

P-50. Identify and discuss any new mitigation measures to be added to mitigation action plan.

P-51. Identify name, phone, fax and e-mail address of person(s) that conducted the review and date prepared and submitted to DEM. Contact: Van Bush, Project Manager, DETCOG, 274 E. Lamar, Jasper, Texas 75751, vbush@detcog.org, (409) 384-5704, extension 265. Closing Dates: If your firm is interested and qualified to provide professional services to conduct the work necessary for the DETRMP, please contact Van Bush via letter or e-mail addressed to Van Bush, 274 E. Lamar, Jasper, Texas 75751, vbush@detcog.org. All responding firms will receive a complete Request for Qualifications package. Final proposals will be due by 5 PM, CST, April 17, 2003.

Proposals will be reviewed by a technical committee based on Consultant Selection Criteria included in the Request for Qualifications package mailed to interested parties.

TRD-200302128

Van Bush

Director of Emergency Preparedness Task Force

Deep East Texas Council of Governments

Filed: March 31, 2003

## **Texas Commission on Environmental Quality**

### **Enforcement Orders**

An agreed order was entered regarding FAST FABRICATORS, INC., Docket No. 2000-1287- AIR-E on March 24, 2003 assessing \$6,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting DARREN REAM, Staff Attorney at (817)588-5878, Texas

Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding JAMIL SAYFI DBA FARMERS TRAVEL CENTER, Docket No. 2002-0206-MLM-E on March 24, 2003 assessing \$92,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting LISA LEMANCZYK, Staff Attorney at (512)239-5935, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding OFFICE CREEK CORPORATION DBA ARTIC BEER AND WINE, Docket No. 2002-0301-PST-E on March 24, 2003 assessing \$21,000 in administrative penalties with \$4,200 deferred.

Information concerning any aspect of this order may be obtained by contacting TODD HUDDLESON, Enforcement Coordinator at (512)239-1105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding OCCIDENTAL CHEMICAL CORPORATION, Docket No. 2002-0436-AIR-E on March 24, 2003 assessing \$6,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting KATHARINE HODGINS, SEP Coordinator at (512)239-6122, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LEWIS MCCREARY AND JEFF KORICANEK DBA KORICANEK POULTRY FARM, Docket No. 2002-0550-AGR-E on March 24, 2003 assessing \$6,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting EDWARD MODEROW, Enforcement Coordinator at (361)825-3288, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JIM HUBBLE AND JUDY HUBBLE DBA JUDY K'S KOUNTRY KITCHEN, Docket No. 2002-0939-PWS-E on March 24, 2003 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting KENT HEATH, Enforcement Coordinator at (512)239-4575, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JIM HOGG COUNTY, Docket No. 2002-0382-MSW-E on March 24, 2003 assessing \$12,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting KATHARINE HODGINS, SEP Coordinator at (512)239-6122, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JARVIS ENTERTAINMENT GROUP, INC. DBA TOMBALL BOWLING CENTER, Docket No. 2002-0974-PWS-E on March 24, 2003 assessing \$1,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting JOHN MEAD, Enforcement Coordinator at (512)239-6010, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding INDUSTRIAL PIPE AND PLASTICS OF TEXAS, INC., Docket No. 2002-0795-AIR-E on March 24, 2003 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting REBECCA CLAUSEWITZ, Enforcement Coordinator at (210)403-4012, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF WEATHERFORD, Docket No. 2001-1171-MSW-E on March 24, 2003 assessing \$13,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting KATHARINE HODGINS, SEP Coordinator at (512)239-6122, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding VARCO, L.P. DBA TUBOSCOPE VETCO INTERNATIONAL, INC., Docket No. 2002-0497-AIR-E on March 24, 2003 assessing \$8,250 in administrative penalties with \$1,650 deferred.

Information concerning any aspect of this order may be obtained by contacting KATHARINE HODGINS, SEP Coordinator at (512)239-6122, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding VALENCE OPERATING COMPANY, Docket No. 2002-0373-AIR-E on March 24, 2003 assessing \$11,250 in administrative penalties with \$2,250 deferred.

Information concerning any aspect of this order may be obtained by contacting KATHARINE HODGINS, SEP Coordinator at (512)239-6122, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TEXPENN, INC., Docket No. 2002-0780-MSW-E on March 24, 2003 assessing \$250 in administrative penalties with \$50 deferred.

Information concerning any aspect of this order may be obtained by contacting A. SUNDAY UDOETOK, Enforcement Coordinator at (512)239-0739, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RENFAIRE WATER SUPPLY, INC., Docket No. 2001- 1475-PWS-E on March 24, 2003 assessing \$9,438 in administrative penalties with \$8,838 deferred.

Information concerning any aspect of this order may be obtained by contacting MICHAEL MEYER, Enforcement Coordinator at (512)239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FIELDER BURNETT DBA PONDEROSA MOBILE HOME COMPLEX, Docket No. 2002-0802-PWS-E on March 24, 2003 assessing \$1,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting RONNIE KRAMER, Enforcement Coordinator at (806)468-0512, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF PASADENA, Docket No. 2002-0701-MWD-E on March 24, 2003 assessing \$5,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting SHEILA SMITH, Enforcement Coordinator at (512)239-

1670, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding THOMAS AND SHERRY NICKELS, Docket No. 2002-0961-OSS-E on March 24, 2003 assessing \$250 in administrative penalties with \$50 deferred.

Information concerning any aspect of this order may be obtained by contacting MICHAEL MEYER, Enforcement Coordinator at (512)239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MARTA CABALLERO DBA CABALLERO'S SEPTIC CLEANING, Docket No. 2002-1231-SLG-E on March 24, 2003 assessing \$800 in administrative penalties with \$160 deferred.

Information concerning any aspect of this order may be obtained by contacting SANDRA ALANIS, Enforcement Coordinator at (956)430-6044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BEST FRIEND'S TREASURES, INC. DBA BFT FAMILY TRAILER PARK, Docket No. 2002-0889-PWS-E on March 24, 2003 assessing \$1,563 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting SHAWN STEWART, Enforcement Coordinator at (512)239-6684, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BECK-REIT & SONS CONSTRUCTION COMPANY, LTD., Docket No. 2002-0215-EAQ-E on March 24, 2003 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting MALCOLM FERRIS, Enforcement Coordinator at (210)403-4061, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ARTHUR BAYER DBA BAYER WATER SYSTEM, Docket No. 2002-0782-PWS-E on March 24, 2003 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting JOHN MEAD, Enforcement Coordinator at (512)239-6010, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BARGAS, INC., Docket No. 2002-0648-MSW-E on March 24, 2003 assessing \$250 in administrative penalties with \$50 deferred.

Information concerning any aspect of this order may be obtained by contacting GARY SHIPP, Enforcement Coordinator at (806)796-7092, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ARC COMMUNITIES 8 LLC DBA ALEDO ESTATES MANUFACTURED HOME COMMUNITY, Docket No. 2002-0715-PWS-E on March 24, 2003 assessing \$563 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting CHERYL THOMPSON, Enforcement Coordinator at (817)588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AMERIPOL SYPOL CORPORATION, Docket No. 2002-0645-IHW-E on March 24, 2003 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting STEVEN LOPEZ, Enforcement Coordinator at (512)239-1896, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AES DEEPWATER, INC., Docket No. 2002-0612-AIR-E on March 24, 2003 assessing \$6,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting CARL SCHNITZ, Enforcement Coordinator at (512)239-1892, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MARIA ISABEL SOLIS FORMERLY DBA THE GOLDMINE, Docket No. 2002-0102-PST-E on March 24, 2003 assessing \$11,000 in administrative penalties with \$10,400 deferred.

Information concerning any aspect of this order may be obtained by contacting SANDRA ALANIS, Enforcement Coordinator at (956)430-6044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GARCIA GRAIN TRADING CORPORATION, Docket No. 2002-0836-AIR-E on March 24, 2003 assessing \$3,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting JAIME GARZA, Enforcement Coordinator at (956)430-6030, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EQUISTAR CHEMICALS, L.P., Docket No. 2002-0863-AIR-E on March 24, 2003 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting TRINA GRIECO, Enforcement Coordinator at (713)767-3607, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding UNITED SERVICES AUTOMOBILE ASSOCIATION, Docket No. 2002-0321-AIR-E on March 24, 2003 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting REBECCA CLAUSEWITZ, Enforcement Coordinator at (210)403-4012, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DARNELL & DICKSON CONSTRUCTION, INC., Docket No. 2002-0339-PST-E on March 24, 2003 assessing \$18,500 in administrative penalties with \$3,700 deferred.

Information concerning any aspect of this order may be obtained by contacting GARY SHIPP, Enforcement Coordinator at (806)796-7092, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DYNEGY MIDSTREAM SERVICES, L.P., Docket No. 2001-1331-AIR-E on March 26, 2003 assessing \$34,900 in administrative penalties with \$6,980 deferred.

Information concerning any aspect of this order may be obtained by contacting JUDY FOX, Enforcement Coordinator at (817)588-5825,

Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ESCONDIDO CREEK ESTATES, INC., Docket No. 2002-0885-PWS-E on March 24, 2003 assessing \$1,150 in administrative penalties with \$230 deferred.

Information concerning any aspect of this order may be obtained by contacting EDWARD MODEROW, Enforcement Coordinator at (361)825-3288, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FIVE STAR TRANSPORTATION, L.P., Docket No. 2002-0869-PWS-E on March 24, 2003 assessing \$938 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting SHAWN STEWART, Enforcement Coordinator at (512)239-6684, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 23, Docket No. 2002-0876-MWD-E on March 24, 2003 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting CATHERINE SHERMAN, Enforcement Coordinator at (713)767-3624, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GB BIOSCIENCES CORPORATION, Docket No. 2002-0346-IHW-E on March 24, 2003 assessing \$6,250 in administrative penalties with \$1,250 deferred.

Information concerning any aspect of this order may be obtained by contacting KATHARINE HODGINS, SEP Coordinator at (512)239-6122, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GOODYEAR TIRE AND RUBBER COMPANY, Docket No. 2002-0879-AIR-E on March 24, 2003 assessing \$34,000 in administrative penalties with \$6,800 deferred.

Information concerning any aspect of this order may be obtained by contacting LAURA CLARK, Enforcement Coordinator at (409)899-8760, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TIMOTHY P. RICHARDSON DBA INTEGRITY TREE CARE AND LANDSCAPING, Docket No. 2002-0634-AIR-E on March 24, 2003 assessing \$2,500 in administrative penalties with \$1,900 deferred.

Information concerning any aspect of this order may be obtained by contacting CAROLYN LIND, Enforcement Coordinator at (903)535-5145, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HUFF BROUS MCDOWELL & MONTESI MANAGEMENT, INC., Docket No. 2002-0857-PWS-E on March 24, 2003 assessing \$3,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting JUDY FOX, Enforcement Coordinator at (817)588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CONOCO, INC., Docket No. 2002-0767-AIR-E on March 24, 2003 assessing \$41,575 in administrative penalties with \$8,315 deferred.

Information concerning any aspect of this order may be obtained by contacting GEORGE ORTIZ, Enforcement Coordinator at (915)698-6106, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DIAMOND SHAMROCK REFINING COMPANY, L.P., Docket No. 2002-0181-AIR-E on March 24, 2003 assessing \$149,125 in administrative penalties with \$29,825 deferred.

Information concerning any aspect of this order may be obtained by contacting KATHARINE HODGINS, SEP Coordinator at (512)239-6122, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JUAN R. GARZA DBA CIRCLE PALMS, Docket No. 2002-0083-PST-E on March 24, 2003 assessing \$25,000 in administrative penalties with \$16,000 deferred.

Information concerning any aspect of this order may be obtained by contacting SANDRA ALANIS, Enforcement Coordinator at (956)430-6044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding VALLEY BY PRODUCTS, INC., Docket No. 2001-1172-MLM-E on March 24, 2003 assessing \$46,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting JOHN SUMNER, Staff Attorney at (915)620-6118, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SOUTHERN LIVESTOCK, INC., Docket No. 2002-0900-MWD-E on March 24, 2003 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting EDWARD MODEROW, Enforcement Coordinator at (361)825-3288, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200302150

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 1, 2003



#### 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. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director (ED) 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 **May 12, 2003**. 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 a proposed DO is inappropriate, improper,

inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or 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. 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 May 12, 2003**. 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, comments on the DOs should be submitted to the commission in **writing**.

(1) COMPANY: Bert Dickens, Inc. dba Vista Ranch Water Supply; DOCKET NUMBER: 2001- 1562-PWS-E; TCEQ ID NUMBER: 0750039; LOCATION: three miles south of Smithville, two miles east of State Highway 95 on Zapalac Road, Fayette County, Texas; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(A), by failing to submit well completion data, 30 TAC §290.43(e), by failing to provide a lock for the gate on the fence around the ground storage tank and an intruder-resistant fence around the pressure tank; 30 TAC §290.41(c)(3)(O), by failing to provide an intruder-resistant fence around the well; 30 TAC §290.41(c)(3)(N), by failing to install a meter at each well site; 30 TAC §290.41(c)(3)(P), by failing to provide an all weather access road to the wells; 30 TAC §290.41(c)(3)(K), by failing to seal wellheads and pump bases and provide screened well casing vents; 30 TAC §290.44(h)(1)(A) and Texas Health and Safety Code (THSC), §341.033, by failing to install backflow prevention devices where an actual or potential contamination hazard exists; 30 TAC §290.46(d)(2)(A), by failing to maintain a free chlorine residual of 0.2 milligrams per liter; 30 TAC §290.46(f)(2), by failing to make the water system's operating records accessible during the investigation; 30 TAC §290.42(e)(2), by failing to disinfect water before storage; 30 TAC §290.42(j), by failing to use a treatment chemical which conforms to American National Standards Institute/National Sanitation Foundation; 30 TAC §290.46(n)(2), by failing to make available an accurate, up-to-date map of the distribution system; 30 TAC §290.46(t), by failing to provide a system ownership sign; 30 TAC §290.46(r), by failing to maintain a minimum water pressure of 35 pounds per square inch; 30 TAC §290.42(e)(7), by failing to house the hypochlorination solution containers in a secure enclosure; 30 TAC §290.43(c)(3), by failing to provide the ground storage tank with a properly constructed overflow; 30 TAC §290.43(c)(4), by failing to provide the ground storage tank with a liquid level indicator; 30 TAC §290.43(c)(6), by failing to ensure the storage tank is tight against leakage; 30 TAC §290.44(c), by failing to install required size transmission lines; and 30 TAC §290.44(a)(4), by failing to locate water lines a minimum of 24 inches below ground surface; PENALTY: \$14,563; STAFF ATTORNEY: Shannon Strong, Litigation Division, MC 175, (512) 239-6201; REGIONAL OFFICE: Austin Regional Office, 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(2) COMPANY: Dorothy A. Essex dba Oak Hill Acres Mobile Home Subdivision; DOCKET NUMBER: 2000-0830-PWS-E; TCEQ ID NUMBER: 0150156; LOCATION: 29042 Blueberry Lane, Marion, Bexar County, Texas; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §291.101(a) and TWC, §13.242(a), by failing to obtain from the commission a certificate of convenience and necessity before rendering retail water service to the public, 30 TAC §290.46(e)(1) and THSC, §341.033(a), by failing to operate the system

at all times under the direct daily supervision of a competent water works operator holding a Grade "D" or higher operator's certificate of competency; 30 TAC §290.45(b)(1)(B)(iii) and THSC, §341.0315(c), by failing to provide two or more service pumps having a total capacity of 2.0 gallons per connection; 30 TAC §290.45(b)(1)(B)(iv) and THSC, §341.0315(c), by failing to provide a pressure tank capacity of 20 gallons per connection; 30 TAC §290.44(d)(4), by failing to provide accurate metering devices at each service connection for the accumulation of water usage data; 30 TAC §290.46(f)(3)(E)(iv), by failing to keep on file and make available for commission review copies of customer service inspection certificates; 30 TAC §290.41(c)(1)(F), by failing to secure a sanitary control easement covering all property within 150 feet of the well; 30 TAC §290.46(n), by failing to provide a map of the distribution system; 30 TAC §290.46(n)(3), by failing to keep on file and make available for commission review a copy of the well log; 30 TAC §290.46(f), by failing to keep on file and make available for commission review records of ground storage and pressure tank inspections; 30 TAC §290.41(c)(3)(J), by failing to provide a concrete sealing block surrounding the well that extends at least three feet from the well casing in all directions with a minimum thickness of six inches and sloped to drain away from the well head; 30 TAC §290.41(c)(3)(N), by failing to install a flow meter on the well pump discharge line; 30 TAC §290.43(c)(6), by failing to maintain all water storage facilities in a water tight condition; THSC, §341.036(g), by failing to provide a ground storage tank constructed to prevent the entrance of dirt, insects, and surface seepage; 30 TAC §290.43(c)(2), by failing to provide a roof hatch cover on the ground storage tank that overlaps the raised curbing at least two inches and in a downward position and failing to keep the roof hatch locked; 30 TAC §290.117(c), by failing to conduct lead and copper sampling; and 30 TAC §290.51, by failing to pay public health service fees; PENALTY: \$2,501; STAFF ATTORNEY: Darren Ream, Litigation Division, MC R-4, (817) 588-5878; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(3) COMPANY: Leland Duncan dba Duncan's Full Service; DOCKET NUMBER: 2002-0843- PST-E; TCEQ ID NUMBER: 27008; LOCATION: 501 East 1st Street, Idalou, Lubbock County, Texas; TYPE OF FACILITY: underground storage tanks; RULES VIOLATED: 30 TAC §334.49(a) and THSC, §26.3475(d), by failing to install a corrosion protection system to protect each of the underground storage tank (UST) systems from corrosion; 30 TAC §334.50(a)(1)(A) and TWC, §26.3475, by failing to provide an approved method of release detection capable of detecting a release from any portion of the UST systems; 30 TAC §37.815(a) and (b), by failing to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases; 30 TAC §334.7(d)(1)(A) and (B), by failing to provide written notice to the TCEQ of any changes or additional information concerning the UST systems; 30 TAC §334.47(a)(2), by failing to permanently remove from service within 60 days any existing UST systems that were not brought into timely compliance with upgrade requirements; and 30 TAC §334.22(a), by failing to timely pay annual facility UST fees; PENALTY: \$9,975; STAFF ATTORNEY: Robin Chapman, Litigation Division, MC 175, (512) 239-0497; REGIONAL OFFICE: Lubbock Regional Office, 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(4) COMPANY: Miracle Wash, Inc. dba Miracle Wash and Detail; DOCKET NUMBER: 2001- 1159-PST-E; TCEQ ID NUMBER: 48556; LOCATION: 5134 Weber Road, Corpus Christi, Nueces County, Texas; TYPE OF FACILITY: car wash with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate the required financial responsibility for taking

corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; 30 TAC §34.50(b)(1)(A) and TWC, §26.3475, by failing to monitor USTs for releases at a frequency of at least once every month; and 30 TAC §334.54(b)(2), by failing to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons; PENALTY: \$5,400; STAFF ATTORNEY: Alfred Okpohworho, Litigation Division, MC R-12, (713) 422-8918; REGIONAL OFFICE: Corpus Christi Regional Office, 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(5) COMPANY: U.S. Stone Inc.; DOCKET NUMBER: 2000-0982-AIR-E; TCEQ ID NUMBER: 93-8502-E; LOCATION: 2914 South Highway 101, Bridgeport, Wise County, Texas; TYPE OF FACILITY: rock crushing plant; RULES VIOLATED: 30 TAC §101.20, THSC, §382.085(b), 40 Code of Federal Regulations (CFR) §60.7(a), and TCEQ Agreed Order Number 1999-0966-AIR-E, Ordering Provision Number 2.a.i., by failing to submit written notification to the ED indicating the date of initial start up; 30 TAC §101.20, THSC, §382.085(b), 40 CFR §60.8 and §60.11(e)(1), and TCEQ Agreed Order Number 1999-0966-AIR-E, Ordering Provision Number 2.b., by failing to conduct an opacity observation as well as the initial performance test to verify the standards for particulate matter were satisfied; and 30 TAC §116.110(a), THSC, §382.085(b), and TCEQ Agreed Order Number 1999-0966-AIR-E, Ordering Provision Number 2.a.ii., by failing to satisfy all conditions for exempt rock crushing facilities by installing a rock crusher with a rated capacity greater than 200 tons per hour and by failing to maintain records of the actual production rate; PENALTY: \$5,625; STAFF ATTORNEY: James Biggins, Litigation Division, MC R-13, (210) 403-4017; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-200302154

Paul C. Sarahan

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: April 1, 2003



#### Notice of Opportunity to Comment on Settlement Agreements 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. Section 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. Section 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 **May 12, 2003**. Section 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 the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within 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. 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 May 12, 2003**. 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, §7.075 provides that comments on an AO should be submitted to the commission in **writing**.

(1) COMPANY: Bayou Incorporated dba Bayou Food Store; DOCKET NUMBER: 2000-0952- PWS-E; TCEQ ID NUMBER: 0840171; LOCATION: Highway 146 1/2 mile south of Farm-to-Market Road 517, San Leon, Galveston County, Texas; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.109(c) and Texas Health and Safety Code (THSC), §341.033(d), by failing to collect and submit routine monthly water samples for bacteriological analysis; 30 TAC §290.109(c)(3), by failing to collect and submit repeat water samples for bacteriological analysis following a total coliform-positive sample; 30 TAC §290.109(c)(2)(F), by failing to collect and submit additional routine samples for bacteriological analysis following a total coliform-positive sample; and 30 TAC §290.109(g), by failing to provide public notice of the failure to conduct required sampling; PENALTY: \$3,000; STAFF ATTORNEY: Ben DeLeon, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: City of Llano; DOCKET NUMBER: 2002-0020-PWS-E; TCEQ ID NUMBER: 1500001; LOCATION: 203 West Haynie, Llano, Llano County, Texas; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.46(1), by failing to flush all dead end mains at monthly intervals or more frequently as required; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the reliability and general appearance of the system's facilities and equipment; 30 TAC §290.46(e)(2), by failing to have a certified Class "C" surface water operator on duty when the surface water plant is in operation or provide the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown devices and alarms to summon the operator to ensure that the water produced continues to meet the commission's drinking water standards; 30 TAC §290.46(r), by failing to operate the water system to provide a minimum pressure of 35 pounds per square inch throughout the distribution system under normal operating conditions; 30 TAC §290.42(d)(2), by failing to provide flow measuring devices to measure the recycled decant water; 30 TAC §290.44(h)(1)(A), by failing to provide, at any residence or establishment where an actual or potential contamination hazard exists, additional protection at the meter in the form of an air gap or backflow prevention assembly; and 30 TAC §290.42(e)(6), by failing to provide adequate ventilation for all enclosures in which gas chlorine is being stored or fed; PENALTY: \$10,750; STAFF ATTORNEY: Shannon Strong, Litigation Division, MC 175, (512) 239-6201; REGIONAL OFFICE: Austin Regional Office, 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(3) COMPANY: The City of Socorro; DOCKET NUMBER: 2001-1335-AIR-E; TCEQ ID NUMBER: EE-1399-W; LOCATION: Quail Mesa and Mankato, Socorro, El Paso County, Texas; TYPE OF FACILITY: maintenance of the city streets of Quail Mesa and Mankato; RULES VIOLATED: 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to adequately control dust emission from the streets; PENALTY: \$2,500; STAFF ATTORNEY: Diana



Grawitch, Litigation Division, MC 175, (512) 239-0939; REGIONAL OFFICE: El Paso Regional Office, 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(4) COMPANY: Duke Energy Field Services, L.P.; DOCKET NUMBER: 2001-1384-AIR-E; TCEQ ID NUMBER: JC-0067-H; LOCATION: 428 County Road 200, Brookeland, Jasper County, Texas; TYPE OF FACILITY: natural gas plant; RULES VIOLATED: 30 TAC §§101.20, 122.143(4), 122.145(1)(A) - (C) and (2)(A) - (C), 122.146(5)(D), 122.514(b)(1) and (2) and (c)(5), 40 Code of Federal Regulations (CFR) §60.487(a) and §60.636(a), and THSC, §382.085(b), by failing to submit semiannual reports for volatile organic compounds applicable to fugitive monitoring to the executive director for each six-month period after permit issuance within 30 days after the end of the reporting period; and 30 TAC §§122.46(1), 122.143(4), 122.514(b)(1) and (2), and THSC, §382.085(b), by failing to certify compliance with the terms and conditions of Title V Permit (O-00768); PENALTY: \$18,750; STAFF ATTORNEY: John Sumner, Litigation Division, MC R-7, (915) 620-6118; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

TRD-200302153

Paul C. Sarahan

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: April 1, 2003



#### Notice of Water Rights Application

Notice mailed March 27, 2003.

Application No. 12-4355B; City of Marlin, P.O. Box 980, Marlin, Texas 76661, applicant, seeks an extension of time to commence and complete construction of a dam and reservoir authorized in Certificate of Adjudication No. 12-4355, as amended, pursuant to Texas Water Code 11.122 and Texas Commission on Environment Quality Rules 30 TAC 295.1, et seq. Certificate of Adjudication No. 12-4355, as amended, authorizes the Applicant, to maintain two existing dams and reservoirs (New Marlin Reservoir and Marlin City Lake) on Big Sandy Creek in the Brazos River Basin, in Falls County, Texas and impound therein no more than 3,135 acre-feet of water and 791 acre-feet of water, respectively. Owner is also authorized to construct/modify Soil Conservation Service Dam, SCS Site No. 19, on Brushy Creek and impound therein no more than 6,560 acre/feet of water. The Certificate, as amended, authorizes the City of Marlin to divert and use no more than 4,000 acre-feet of water per year from New Marlin Reservoir and/or Brushy Creek Reservoir for municipal purposes, no more than 2,000 acre-feet of water per year from the Brazos River for municipal purposes, no more than 2,000 acre-feet of water per year from the Brazos River for industrial purposes, and to use the water impounded in all the lakes for recreational purposes. Water diverted from the Brazos River may be stored in the lakes for subsequent diversion and use. Marlin City Lake is authorized for municipal use as a sedimentation basin. The City of Marlin seeks authorization to extend the date by which the commencement of construction and modification of the dam and reservoir forming Brushy Creek Reservoir must occur from the current date of April 19, 1998 to May 8, 2004. The applicant also seeks to extend the authorized completion date of Brushy Creek Reservoir from April 19, 2003 to May 8, 2009. The original commencement and completion dates for the project were April 19, 1991 and April 19, 1996. The applicant has indicated as reasons for the delay of commencement of construction and the need for an extension: 1) difficulties in obtaining required acreage, including negotiation and delay in condemnation

hearings; 2) change in management of the Water Control and Improvement District; and resultant delays from merger and change of ownership and 3) change in City Management. The application was received on May 17, 2002 and additional information was received on September 5, 2002, October 11, 2002, and November 7, 2002. The application was determined to be administratively complete and filed on January 2, 2003. 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

A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in an application.

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 web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

TRD-200302149

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 1, 2003



#### Proposed Enforcement 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 (the Code), §7.075, which requires that the commission may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 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 **May 12, 2003**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withhold approval of an AO if a comment discloses facts or considerations that indicate the proposed AO is inappropriate, improper, inadequate, or

inconsistent with the requirements of the Code, the Texas Health and Safety Code (THSC), and/or the Texas Clean Air Act (the Act). Additional notice is not required if changes to an AO 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) 239-1864 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 May 12, 2003**. 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, §7.075 provides that comments on the AOs should be submitted to the commission in **writing**.

(1) COMPANY: Richard Alonso dba Alonso Inspections; DOCKET NUMBER: 2002-1159- AIR-E; IDENTIFIER: Enforcement Identification Number 18590; LOCATION: Dallas, Dallas County, Texas; TYPE OF FACILITY: vehicle safety and emission certification station; RULE VIOLATED: 30 TAC §114.50(d)(1) and THSC, §382.085(b), by allowing the issuance of a vehicle inspection report without conducting all of the required pollution emissions control tests; PENALTY: \$625; ENFORCEMENT COORDINATOR: Judy Fox, (817) 588-5800; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Jewel Alt dba Alt Dairy Farm; DOCKET NUMBER: 2002-1364-AGR-E; IDENTIFIER: Water Quality Permit Number 04108; LOCATION: Hico, Hamilton County, Texas; TYPE OF FACILITY: dairy; RULE VIOLATED: 30 TAC §321.31(a), §321.39(f)(19)(A), (C), (D), and (F), Water Quality Permit Number 04108, and the Code, §26.121, by failing to prevent the discharge or drainage of irrigated wastewater, by allowing irrigation with wastewater when the ground was saturated, failing to manage irrigation practices, and failing to maintain the control berm; PENALTY: \$4,644; ENFORCEMENT COORDINATOR: Merrilee Gerberding, (512) 239- 4490; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751- 0335.

(3) COMPANY: Robert Bader and Cindy Bader; DOCKET NUMBER: 2002-0661-MLM-E; IDENTIFIER: Air Account Number MJ-0058-A and Unauthorized Site Number 455130037; LOCATION: Hondo, Medina County, Texas; TYPE OF FACILITY: private property; RULE VIOLATED: 30 TAC §111.201 and THSC, §382.085(b), by conducting unauthorized outdoor burning of municipal solid waste (MSW) and 30 TAC §330.5(a), by conducting unauthorized disposal of MSW; PENALTY: \$1,900; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(4) COMPANY: Cambs Marine Service, L.L.C.; DOCKET NUMBER: 2002-0953-AIR-E; IDENTIFIER: Air Account Number JE-0901-Q; LOCATION: near Winnie, Jefferson County, Texas; TYPE OF FACILITY: chemical storage yard; RULE VIOLATED: 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to prevent the discharge of one or more air contaminant; 30 TAC §106.8(c)(4) and THSC, §382.085(b), by failing to maintain records of the vapor pressure of the material stored at the site; 30 TAC §106.4(c) and THSC, §382.085(b), by failing to maintain the required emission control equipment; and 30 TAC §116.110(a) and THSC, §382.085(b) and §382.0515(a), by failing to obtain a permit or permit by rule for two storage tanks; PENALTY: \$7,350; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512)

239-2134; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(5) COMPANY: Chemicals Incorporated; DOCKET NUMBER: 2002-1417-IWD-E; IDENTIFIER: Texas Pollutant Discharge Elimination System (TPDES) Permit Number 03713-000; LOCATION: near Baytown, Chambers County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 03713-000, and the Code, §26.121, by failing to comply with effluent limits; PENALTY: \$4,350; ENFORCEMENT COORDINATOR: Kimberly McGuire, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6) COMPANY: Nasim Shakeeb dba Clark Road Mobil; DOCKET NUMBER: 2002-1409-AIR- E; IDENTIFIER: Air Account Number DB-5358-M; LOCATION: Duncanville, Dallas County, Texas; TYPE OF FACILITY: vehicle safety/emission certification station; RULE VIOLATED: 30 TAC §114.50(d) and THSC, §382.085(b), by failing to properly conduct a vehicle emissions inspection test; PENALTY: \$575; ENFORCEMENT COORDINATOR: Carl Schnitz, (512) 239- 1892; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: Robert Lavern dba Cottonwood Creek Mobil Home Park; DOCKET NUMBER: 2002-0402-MSW-E; IDENTIFIER: Enforcement Identification Number 17726; LOCATION: Lancaster, Dallas County, Texas; TYPE OF FACILITY: mobile home park; RULE VIOLATED: the Code, §26.121, by failing to prevent unauthorized discharges of raw sewage; the Code, §26.039(b), by failing to report an unauthorized discharge as soon as possible; and 30 TAC §290.51(a)(3), by failing to pay public health service fees; PENALTY: \$11,200; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5800; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: Diamond Shamrock Refining Company, L.P.; DOCKET NUMBER: 2002- 1233-AIR-E; IDENTIFIER: Air Account Number LK-0009-T; LOCATION: Three Rivers, Live Oak County, Texas; TYPE OF FACILITY: petroleum refinery; RULE VIOLATED: 30 TAC §101.20(3), §116.115(c), Air Permit Number 19108/PSD-TX331M1, and THSC, §382.085(b), by failing to test the utility boiler associated with emission point B-009; PENALTY: \$1,840; ENFORCEMENT COORDINATOR: Edward Moderow, (361) 825-3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(9) COMPANY: Environmental Care, Inc.; DOCKET NUMBER: 2002-1368-PST-E; IDENTIFIER: Petroleum Storage Tank (PST) Facility Identification Number 0071805; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: landscaping; RULE VIOLATED: 30 TAC §334.8(c)(4)(B) and (5)(A)(i) and the Code, §26.346(a) and §26.3467(a), by failing to submit an underground storage tank (UST) registration and self-certification form and make available to a common carrier a valid, current delivery certificate; PENALTY: \$1,440; ENFORCEMENT COORDINATOR: Rebecca Johnson, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10) COMPANY: Juan J. Garza; DOCKET NUMBER: 2002-1374-MSW-E; IDENTIFIER: Unauthorized Tire Site Number COT0004; LOCATION: Kingsville, Kleberg County, Texas; TYPE OF FACILITY: unauthorized tire site; RULE VIOLATED: 30 TAC §328.57(c)(1) and (3), by failing to obtain a scrap tire transporter registration and failing to transport tires to an authorized site; 30 TAC §328.60(a), by failing to obtain a scrap tire storage site registration; and 30 TAC §328.63(c), by failing to obtain a scrap tire facility registration;

PENALTY: \$2,400; ENFORCEMENT COORDINATOR: Edward Moderow, (361) 825-3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(11) COMPANY: Harris County Municipal Utility District Number 166; DOCKET NUMBER: 2003-0011-MWD-E; IDENTIFIER: Water Quality Permit Number 12474-001; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 12474-001, and the Code, §26.121, by failing to comply with permitted effluent limits for total suspended solids (TSS); PENALTY: \$2,400; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(12) COMPANY: King Fuels, Inc.; DOCKET NUMBER: 2002-1325-PST-E; IDENTIFIER: Regulated Entity Number 103004602; LOCATION: Friendswood, Galveston County, Texas; TYPE OF FACILITY: fuel distributor; RULE VIOLATED: 30 TAC §334.5(b)(1)(A), by failing to ensure that an owner has a valid, current delivery certificate; PENALTY: \$800; ENFORCEMENT COORDINATOR: Trina Grieco, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(13) COMPANY: City of Kingsville; DOCKET NUMBER: 2002-0336-MWD-E; IDENTIFIER: Water Quality Permit Number 0010696-002; LOCATION: Kingsville, Kleberg County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1) and (5), Water Quality Permit Number 0010696-002, and the Code, §26.121, by failing to comply with permit limits, failing to ensure that the facility collection, treatment, and disposal systems are properly operated and maintained, failing to comply with permitted effluent limits for TSS, ammonia-nitrogen, and fecal coliform, and failing to prevent the unauthorized discharge of untreated waste; PENALTY: \$8,750; ENFORCEMENT COORDINATOR: Edward Moderow, (361) 825-3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(14) COMPANY: Lower Valley Water District; DOCKET NUMBER: 2002-1042-PWS-E; IDENTIFIER: Public Water Supply Number 0710154; LOCATION: Clint, El Paso County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: THSC, §341.033(c), by failing to test the water from the facility; and 30 TAC §290.109(c)(2), (f)(3), and (g), §290.122(c), and THSC, §341.033(d), by failing to collect and submit the required number of routine monthly water samples, exceeding the maximum contaminant level for total coliform bacteria, and failing to provide public notification of the sampling deficiencies; PENALTY: \$4,928; ENFORCEMENT COORDINATOR: Subhash Jain, (512) 239-5867; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(15) COMPANY: Clinton Lynn; DOCKET NUMBER: 2002-1251-MWD-E; IDENTIFIER: Regulated Entity Number 102717634; LOCATION: New Baden, Robertson County, Texas; TYPE OF FACILITY: rental property; RULE VIOLATED: the Code, §26.121(a), by failing to prevent the unauthorized discharge of raw domestic sewage; PENALTY: \$760; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(16) COMPANY: Bill L. Dover Company, Inc. dba Newton Jiffy Market; DOCKET NUMBER: 2003-0120-PST-E; IDENTIFIER: PST Facility Identification Number 0071924; LOCATION: Newton, Newton County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(2)(A)(i)(III) and the Code, §26.3475(a), by failing to test the line leak detectors;

PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Laura Clark, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(17) COMPANY: Hoang Van Nguyen dba Nick's Grocery; DOCKET NUMBER: 2002-0976-PST-E; IDENTIFIER: PST Facility Identification Number 0047601; LOCATION: Beaumont, Jefferson County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to provide property release detection; 30 TAC §37.815(a)(1) and (b)(1), by failing to demonstrate the required financial responsibility for taking corrective action; 30 TAC §334.49(a) and the Code, §26.3475(d), by failing to have corrosion protection for the UST system; 30 TAC §334.7(d)(3), §334.8(c)(4)(B) and the Code, §26.346(a), by failing to ensure that the UST registration and self-certification form is fully and accurately completed; and 30 TAC §334.54(c)(2), by failing to ensure that any residue from stored regulated substances which remain in a temporarily out of service UST, shall not exceed 2.5 centimeters at the deepest point and not exceed 0.3% by weight of the system at full capacity; PENALTY: \$600; ENFORCEMENT COORDINATOR: John Barry, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(18) COMPANY: Orange County Water Control and Improvement District No. 1; DOCKET NUMBER: 2002-0877-MWD-E; IDENTIFIER: TPDES Permit Number 10875-008; LOCATION: Vidor, Orange County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10875-008, and the Code, §26.121, by failing to meet permitted effluent limitations; PENALTY: \$4,800; ENFORCEMENT COORDINATOR: Terry Murphy, (512) 239-5025; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(19) COMPANY: Paul Peters dba Peters Auto Sales; DOCKET NUMBER: 2002-1208-AIR-E; IDENTIFIER: Regulated Entity Number 102843190; LOCATION: Wylie, Collin County, Texas; TYPE OF FACILITY: used car lot; RULE VIOLATED: 30 TAC §114.20(c)(2) and THSC, §382.085(b), by allegedly offering for sale to the general public a vehicle with missing or inoperable vehicle emission control devices; PENALTY: \$320; ENFORCEMENT COORDINATOR: Jorge Ibarra, (817) 588-5800; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: Petroleum Wholesale, Inc. dba Sunmart #435; DOCKET NUMBER: 2002-1158-PST-E; IDENTIFIER: PST Facility Identification Number 0045465; LOCATION: Conroe, Montgomery County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.241 and THSC, §382.085, by failing to install a Stage II vapor recovery system; PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Rebecca Johnson, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(21) COMPANY: Sebastian Cotton and Grain, Ltd.; DOCKET NUMBER: 2003-0105-AIR-E; IDENTIFIER: Air Account Number HN-0137-I and Regulated Entity Identification Number RN100840537; LOCATION: Progreso, Hidalgo County, Texas; TYPE OF FACILITY: grain elevator; RULE VIOLATED: 30 TAC §116.115(c), Permit Number 24808, and THSC, §382.085(b), by failing to equip all loadout devices with drop socks; PENALTY: \$510; ENFORCEMENT COORDINATOR: Jaime Garza, (956) 425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(22) COMPANY: Southern Wild Game, Inc.; DOCKET NUMBER: 2002-1100-MLM-E; IDENTIFIER: Enforcement Identification

Number 18402; LOCATION: near Devine, Frio County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: the Code, §26.121, by failing to obtain a permit prior to discharging industrial wastewater; and 30 TAC §335.5(a), by failing to record in the Frio county deed records the on-site landfilling of animal carcasses in unlined trenches; PENALTY: \$6,300; ENFORCEMENT COORDINATOR: Malcolm Ferris, (210) 490-3096; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(23) COMPANY: Thousand Trails, Incorporated; DOCKET NUMBER: 2002-1156-MWD-E; IDENTIFIER: Water Quality Permit Number 0014396-001; LOCATION: Gordonville, Grayson County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.63(a), §305.125(2), and the Code, §26.121, by failing to renew their permit; PENALTY: \$13,650; ENFORCEMENT COORDINATOR: Jorge Ibarra, (817) 588-5800; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(24) COMPANY: Trinity Bay Conservation District; DOCKET NUMBER: 2002-1354-MWD-E; IDENTIFIER: TPDES Permit Number 10851-001; LOCATION: Winnie, Chambers County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10851-001, and the Code, §26.121, by failing to comply with permitted effluent limits for ammonia-nitrogen and TSS; PENALTY: \$7,860; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(25) COMPANY: City of Weslaco; DOCKET NUMBER: 2002-0664-MSW-E; IDENTIFIER: MSW Permit Number 697; LOCATION: Weslaco, Hidalgo County, Texas; TYPE OF FACILITY: MSW transfer station; RULE VIOLATED: 30 TAC §330.5(a) and (e)(5), by failing to meet the requirements of the general prohibitions and failing to prohibit the disposal of refrigerators, freezers, air conditioners, and any other items containing chlorinated fluorocarbon; 30 TAC §330.150(2) and (5), by failing to comply with the recordkeeping requirements, and failing to prohibit the unloading of waste in unauthorized areas; 30 TAC §328.23 and THSC §371.103(a) and (b), by failing to comply with the general requirements of Subchapter D relating to used oil filter management and recycling; and 30 TAC §324.7 and 40 Code of Federal Regulations §279.22(c), by failing to clearly label or mark used oil containers with the words "used oil"; PENALTY: \$10,750; ENFORCEMENT COORDINATOR: Sandra Hernandez Alanis, (956) 425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(26) COMPANY: Western Gas Resources, Inc.; DOCKET NUMBER: 2003-0090-AIR-E; IDENTIFIER: Air Account Number PE-0195-L; LOCATION: Fort Stockton, Pecos County, Texas; TYPE OF FACILITY: natural gas compressor station; RULE VIOLATED: 30 TAC §122.146(2) and THSC, §382.085(b), by failing to timely submit the annual Title V compliance certification; and 30 TAC §122.145(2)(C) and THSC, §382.085(b), by failing to submit the deviation report; PENALTY: \$4,000; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(27) COMPANY: Western Gas Resources, Inc.; DOCKET NUMBER: 2003-0074-AIR-E; IDENTIFIER: Air Account Number PE-0127-K; LOCATION: Fort Stockton, Pecos County, Texas; TYPE OF FACILITY: natural gas compressor station; RULE VIOLATED: 30 TAC §122.146(2) and THSC, §382.085(b), by failing to timely submit the annual Title V compliance certification; PENALTY: \$1,600; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670;

REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(28) COMPANY: Majid Asadifar dba Westwood Auto Parts; DOCKET NUMBER: 2002-1330-OSS-E; IDENTIFIER: On-Site Sewage Facility Permit Number 079072; LOCATION: Houston, Fort Bend County, Texas; TYPE OF FACILITY: on-site sewage; RULE VIOLATED: 30 TAC §285.7(c)(2) and THSC, §366.0515(d), by failing to submit a copy of a new maintenance contract to the permitting authority; PENALTY: \$190; ENFORCEMENT COORDINATOR: Subhash Jain, (512) 239-5867; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

TRD-200302130

Paul C. Sarahan

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: April 1, 2003

## ◆ ◆ ◆ General Land Office

### Notice of Approval of Coastal Boundary Survey

Pursuant to §33.136 of the Texas Natural Resources Code, notice is hereby given that Jerry Patterson, Commissioner of the General Land Office, approved a coastal boundary survey, submitted by William W. Green, conducted in May of 2000, locating the following shoreline boundary:

Survey in Galveston County, a portion of the Texas Gulf Coast shoreline on Bolivar Peninsula at Caplen Shores located three miles west of Rollover Pass.

For a copy of this survey or more information on this matter, contact Ben Thomson, Director of the Survey Division, Texas General Land Office by phone at 512-463-5212, email [ben.thomson@glo.state.tx.us](mailto:ben.thomson@glo.state.tx.us), or fax 512-463-5098.

TRD-200302184

Larry L. Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: April 2, 2003

## ◆ ◆ ◆ Golden Crescent Workforce Development Board

### Public Notice

The Golden Crescent Workforce Development Board announces the availability of newly developed policies regarding the following topics for public review and comment beginning April 11, 2003, and ending at 5 p.m. on May 11, 2003:

The newly approved customized training waiver under the Workforce Investment Act (WIA) that allows Boards to use a sliding scale employer match of 10 to 50 percent for customized training.

The newly approved waiver under the WIA that allows Older Youth (19-21) and Out-of-School Youth to select training providers from the Eligible Training Providers List; and Availability of Individual Training Accounts for Older Youth and Out-of-School Youth.

The newly approved waiver under the WIA that eliminates the 20 percent limit on transfer of funds between the Adult and Dislocated Worker programs.

The policies can be viewed at the Golden Crescent Workforce Center at one of the following locations:

<http://www.gcworkforce.org>

The Texas Register

120 S. Main #501, Victoria, TX

1800 S. Highway 35 #H, Pt. Lavaca, TX

1137 N. Esplanade, Cuero, TX

329 W. Franklin, Goliad, TX

427 St. George #101, Gonzales, TX

903 S. Wells, Edna, TX

414 N. Texana #B, Hallettsville, TX

All persons wishing to comment on the policies may do so at one of the addresses above or fax comments to (361) 573-0225 no later than 5 p.m. on May 11, 2003. Any future corrections or changes to this notice and/or the policies may be found at <http://www.gcworkforce.org>.

The GCWC is an equal opportunity organization.

Auxiliary aides or services are available upon request to those individuals with disabilities.

TRD-200302131

Laura G. Sanders

Executive Director

Golden Crescent Workforce Development Board

Filed: April 1, 2003

◆ ◆ ◆  
**Office of the Governor**

**Notice of Application and Priorities for the Federal Edward Byrne Formula Grant Program**

The Criminal Justice Division (CJD), Office of the Governor, is preparing its application for a 2003 grant under the federal Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program. The estimated allocation for Texas will be \$32.2 million.

CJD proposes to use the funds to support the priorities outlined in the 2002 update to the *Multi-Year Strategy for Drug and Violent Crime*

*Control*. Those priorities are: (1) enhance counter-terrorism programs by providing planning, training, and resources; (2) coordinate efforts and leverage resources to disrupt the manufacturing, sale, distribution and trafficking of illegal drugs; and (3) reduce the demand for drugs in coordination with a network of prevention and treatment programs.

Comments on the application or the priorities may be submitted to Judy Switzer at the Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, [jswitzer@governor.state.tx.us](mailto:jswitzer@governor.state.tx.us), (512) 463-7879. Comments must be received in CJD or postmarked no later than 30 days from the date of publication of this announcement in the Texas Register.

TRD-200302152

David Zimmerman

Assistant General Counsel

Office of the Governor

Filed: April 1, 2003

◆ ◆ ◆  
**Texas Department of Health**

**Correction of Error**

The Texas Department of Health adopted final rules 25 TAC, Chapter 295, Subchapter C, Texas Asbestos Health Protection, (TRD-200301629). The rules were published in the March 21, 2003, issue of the *Texas Register* (28 TexReg 2549) to become effective March 27, 2003.

On page 2569, §295.32(2), the comma after "formerly" should be deleted.

On page 2592, §295.59(b)(4), the word "in" should be inserted after "...described" and before "the references...".

TRD-200302065

◆ ◆ ◆  
**Licensing Actions for Radioactive Materials**

The Texas Department of Health has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Fort Worth	David F Corral MD PA	L05650	Fort Worth	00	03/25/03
McKinney	Raytheon Company	L05632	McKinney	00	03/21/03

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Amarillo	Amarillo Medical Specialists LLP	L05525	Amarillo	02	03/31/03
Aransas Pass	North Bay General Hospital	L03446	Aransas Pass	24	03/31/03
Arlington	Metropex Hematology Oncology Associates	L03211	Arlington	67	03/18/03
Arlington	Pet Scans of America Corp	L05487	Arlington	01	03/19/03
Austin	Motorola	L05347	Austin	05	03/18/03
Austin	Austin Nuclear Pharmacy Inc	L05591	Austin	01	03/19/03
Austin	Columbia St Davids Healthcare System LP	L03273	Austin	50	03/25/03
Baytown	San Jacinto Methodist Hospital	L02388	Baytown	39	03/19/03
Beaumont	Lifeshare Blood Centers	L04884	Beaumont	08	03/19/03
Borger	Conocophillips Company	L02480	Borger	38	03/28/03
Brownsville	Columbia Valley Regional Medical Center	L02274	Brownsville	33	03/21/03
Brownwood	Heart of Texas Internal Medicine Assoc PA	L05006	Brownwood	09	03/31/03
Burnet	Daughters of Charity Health Serv of Austin	L03515	Burnet	26	03/26/03
Carthage	East Texas Medical Center Carthage	L02540	Carthage	30	03/25/03
College Station	College Station Hospital LP	L02559	College Station	47	03/19/03
Dallas	Alliance Imaging Inc	L05336	Dallas	06	03/20/03
Dallas	Texas Oncology PA	L04878	Dallas	23	03/27/03
Denison	Texoma Heart Group	L05208	Denison	06	03/25/03
Edinburg	McAllen Hospitals LP	L04262	Edinburg	12	03/25/03
El Paso	Providence Memorial Hospital	L02353	El Paso	74	03/17/03
El Paso	Tenet Hospitals Limited	L02365	El Paso	45	03/19/03
El Paso	Biotech Pharmacy Incorporated	L05335	El Paso	06	03/31/03
Fort Worth	Heart Center of North Texas PA	L05338	Fort Worth	04	03/19/03
Fort Worth	Harris Methodist Fort Worth	L01837	Fort Worth	85	03/27/03
Houston	Lark Technologies Inc	L04387	Houston	14	03/20/03
Houston	Syncor Advanced Isotopes LLC	L05536	Houston	04	03/19/03
Houston	Houston Cyclotron Partners LP	L05585	Houston	01	03/26/03
Houston	Gammatron Inc	L02148	Houston	15	03/26/03
Irving	McAllen PET Imaging Center LLC	L05460	Irving	04	02/27/03
Longview	Longview Diagnostic Imaging LTD	L05621	Longview	01	03/20/03
Lubbock	Radiation Oncology of the South Plains PA	L05484	Lubbock	01	03/14/03
Lubbock	Radiation Oncology of the South Plains PA	L05418	Lubbock	05	03/17/03
Mesquite	Baylor Medical Center – Mesquite	L04914	Mesquite	12	03/26/03
Mount Pleasant	DX Imaging LTD	L05445	Mount Pleasant	04	03/18/03
Orange	RTPS Acquisition Company LLC	L05204	Orange	08	03/20/03

CONT. AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Pasadena	Celanese LTD Clear Lake Plant	L01130	Pasadena	56	03/24/03
Pittsburg	Southwestern Electric Power Company	L02008	Pittsburg	16	03/21/03
Plano	Columbia Medical Ctr of Plano Subsidiary LP	L02032	Plano	63	03/27/03
Port Arthur	S K Rao MD PA	L05415	Port Arthur	03	03/27/03
Port Arthur	Christus St Mary Hospital	L01212	Port Arthur	71	03/17/03
San Angelo	San Angelo Hospital LP	L02487	San Angelo	34	03/24/03
San Antonio	The University of Texas Health Science Center at San Antonio	L01279	San Antonio	92	03/18/03
San Antonio	VHS San Antonio Partners LP	L00455	San Antonio	117	03/21/03
San Antonio	Cardiovascular Associates of San Antonio PA	L04996	San Antonio	05	03/27/03
San Antonio	VHS San Antonio Partners LP	L00455	San Antonio	118	03/25/03
Sweeny	Conocophillips Company	L00337	Sweeny	41	03/18/03
Taylor	Johns Community Hospital	L03657	Taylor	23	03/19/03
Taylor	Johns Community Hospital	L03657	Taylor	24	03/24/03
Temple	Wilsonart International	L02857	Temple	18	03/18/03
Throughout Tx	Cardinal Health	L03398	Amarillo	31	03/19/03
Throughout Tx	Global X-Ray & Testing Corp	L03663	Aransas Pass	90	03/27/03
Throughout Tx	Applied Standards Inspection Inc	L03072	Beaumont	75	03/21/03
Throughout Tx	Texas Oncology PA	L05606	Fort Worth	01	03/25/03
Throughout Tx	Kellogg Brown & Root Inc	L03391	Houston	29	03/20/03
Throughout Tx	D-Arrow Inspection	L03816	Houston	72	03/19/03
Throughout Tx	Washington Group International Inc	L02662	Houston	89	03/27/03
Throughout Tx	Mandes Inspection & Testing Services Inc	L05220	Houston	31	03/28/03
Throughout Tx	ERM Enviroclean-Southwest LLC	L05080	Houston	02	03/27/03
Throughout Tx	ERM Southwest Inc	L02936	Houston	16	03/27/03
Throughout Tx	H & G Inspection Company Inc	L02181	Houston	159	03/27/03
Throughout Tx	Spectro Analytical Instruments Inc	L02788	Marble Falls	41	03/28/03
Throughout Tx	Turner Industrial Technical LLC	L05417	Nederland	05	03/20/03
Throughout Tx	Turner Industrial Technical LLC	L05417	Nederland	06	03/24/03
Throughout Tx	Sivalls Inc	L02298	Odessa	31	03/21/03
Throughout Tx	Texas Gamma Ray LLC	L05561	Pasadena	16	03/20/03
Throughout Tx	Fugro South Inc	L04322	Pasadena	66	03/19/03
Throughout Tx	Texas Gamma Ray LLC	L05561	Pasadena	17	03/24/03
Throughout Tx	Raba-Kistner Consultants Inc	L01571	San Antonio	49	03/18/03
Throughout Tx	Schlumberger Technology Corporation	L00764	Sugar Land	85	03/28/03
Throughout Tx	Blazer Inspection Inc	L04619	Texas City	32	03/26/03
Throughout Tx	Apex Geoscience Inc	L04929	Tyler	13	03/27/03
Wharton	South Texas Medical Clinics PF	L05163	Wharton	09	03/27/03

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Abilene	Abilene Cardiology Consultants PA	L04315	Abilene	26	03/26/03
The Woodlands	CB&I Constructors Inc	L01902	The Woodlands	58	03/26/03

**TERMINATIONS OF LICENSES ISSUED:**

Location	Name	License #	City	Amendment #	Date of Action
Throughout Tx	Tierra Testing and Consulting Inc	L04822	San Antonio	08	03/18/03

**LICENSE AMENDMENT DENIED:**

Location	Name	License #	City	Amendment #	Date of Action
Round Rock	US Ecology Inc	L05518	Round Rock		03/17/03

In issuing new licenses, amending and renewing existing licenses, or approving exemptions to Title 25 Texas Administrative Code (TAC), Chapter 289, the Texas Department of Health (department), Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with 25 TAC, Chapter 289 in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the new, amended, or renewed license (s) or the issuance of the exemption (s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable requirements of 25 TAC, Chapter 289. In granting termination of licenses, the department has determined that the licensee has properly decommissioned its facilities according to the applicable requirements of 25 TAC, Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC, Chapter 289.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), Texas Department of Health, 1100 West 49<sup>th</sup> Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

TRD-200302171  
 Susan K. Steeg  
 General Counsel  
 Texas Department of Health  
 Filed: April 2, 2003

Susan K. Steeg  
 General Counsel  
 Texas Department of Health  
 Filed: April 2, 2003



**Notice of Agreed Order with Everest Exploration, Inc.**

On March 4, 2003, the director of the Bureau of Radiation Control (bureau), Texas Department of Health, approved the settlement agreement between the bureau and Everest Exploration, Inc. (licensee-L03626) of Corpus Christi. Payment of annual fees by the licensee is suspended for one year, and the bureau's action to revoke the license is suspended for the same period, provided the licensee continues to make substantial progress in complying with the Agreed Order of February 25, 2002.

A copy of all relevant material is available, by appointment, for public inspection Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays). Contact Chrissie Toungate, Custodian of Records, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189, by calling (512) 834-6688, or by visiting the Exchange Building, 8407 Wall Street, Austin, Texas.

TRD-200302164



**Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Healthmont of Texas I, LLC, dba Dolly Vinsant Memorial Hospital**

Notice is hereby given that the Bureau of Radiation Control (bureau), Texas Department of Health (department), issued a notice of violation and proposal to assess an administrative penalty to Healthmont of Texas I, LLC, doing business as Dolly Vinsant Memorial Hospital, (registrant-M00751) of Dallas. A total penalty of \$5,000 is proposed to be assessed the registrant for alleged violations of 25 Texas Administrative Code, §289.230.

A copy of all relevant material is available, by appointment, for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200302168



Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 2, 2003

◆ ◆ ◆  
Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Memorial Hermann Executive Wellness Program, dba B. J. Margaret Bradshaw Wellness Center

Notice is hereby given that the Bureau of Radiation Control (bureau), Texas Department of Health (department), issued a notice of violation and proposal to assess an administrative penalty to Memorial Hermann Executive Wellness Program, doing business as B. J. Margaret Bradshaw Wellness Center, (registrant-R26892) of Houston. A total penalty of \$5,000 is proposed to be assessed the registrant for alleged violations of 25 Texas Administrative Code, §289.226.

A copy of all relevant material is available, by appointment, for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200302166  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 2, 2003

◆ ◆ ◆  
Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Richard C. Wood, D.C., dba Wood Chiropractic Clinic

Notice is hereby given that the Bureau of Radiation Control (bureau), Texas Department of Health (department), issued a notice of violation and proposal to assess an administrative penalty to Richard C. Wood, D.C., doing business as Wood Chiropractic Clinic, (registrant-R17195) of White Oak. A total penalty of \$4,000 is proposed to be assessed the registrant for alleged violations of 25 Texas Administrative Code, §289.227.

A copy of all relevant material is available, by appointment, for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200302165  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 2, 2003

◆ ◆ ◆  
Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Scott and White Memorial Hospital and Scott, Sherwood and Brindley Foundation, dba Scott and White Memorial Hospital

Notice is hereby given that the Bureau of Radiation Control (bureau), Texas Department of Health (department), issued a notice of violation and proposal to assess an administrative penalty to Scott

and White Memorial Hospital and Scott, Sherwood and Brindley Foundation, doing business as Scott and White Memorial Hospital, (registrant-M00273) of Temple. A total penalty of \$5,000 is proposed to be assessed the registrant for alleged violations of 25 Texas Administrative Code, §289.230.

A copy of all relevant material is available, by appointment, for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200302169  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 2, 2003

◆ ◆ ◆  
Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on Wetz Chiropractic Center, P.C.

Notice is hereby given that the Bureau of Radiation Control (bureau), Texas Department of Health (department), issued a notice of violation and proposal to assess an administrative penalty to Wetz Chiropractic Center, P.C. (registrant-R16191) of Humble. A total penalty of \$6,000 is proposed to be assessed the registrant for alleged violations of 25 Texas Administrative Code, §289.227.

A copy of all relevant material is available, by appointment, for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200302170  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 2, 2003

◆ ◆ ◆  
Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation on William J. Langeland, D.C., dba Porter Chiropractic Center

Notice is hereby given that the Bureau of Radiation Control (bureau), Texas Department of Health (department), issued a notice of violation and proposal to assess an administrative penalty to William J. Langeland, D.C., doing business as Porter Chiropractic Center, (registrant-R15317) of Porter. A total penalty of \$4,000 is proposed to be assessed the registrant for alleged violations of 25 Texas Administrative Code, §289.227.

A copy of all relevant material is available, by appointment, for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200302167  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: April 2, 2003

◆   ◆   ◆

## Texas Health and Human Services Commission

### Request for Proposals

Pursuant to Chapter 2254, Subchapter B, Texas Government Code, the Health and Human Services Commission (HHSC) announces that it is amending Request for Proposals (RFP) #529-03-217 for consulting services. HHSC is revising the RFP to delete the requirements relating to: (1) Electronic Data Processing (EDP) Audits of the Texas Medicaid and Children's Health Insurance Program (CHIP) administrative contracts' systems requirements, and (2) the Medicaid and CHIP performance audit requirements. The revised RFP will achieve the following goals: (1) assist with the management of the operations transition to the new Medicaid Claims/Primary Care Case Management Administrator, and (2) assess the new vendor's operational readiness to assume operations. The revised RFP will be posted with the Texas Marketplace: <http://www.marketplace.state.tx.us> on or about March 27, 2003. The full content of the revised RFP will be available on the HHSC website: <http://www.hhsc.state.tx.us/Medicaid/index.html> on or about March 26, 2003.

The successful respondent will be expected to begin performance of the contract on or after May 1, 2003. Parties interested in submitting a proposal may contact Sharon Drane, Contract Manager, Health and Human Services Commission, 12555 Riata Vista, Austin, Texas 78727, telephone number: (512) 794-5182, regarding the request. Sharon Drane will be HHSC's sole point-of-contact for purposes of this procurement.

To be considered, all proposals must be received at the foregoing address in the issuing office on or before 3:00 p.m. Central Time on April 7, 2003. Proposals received after this time and date will not be considered.

Evaluation and Award Procedure: All proposals will be subject to evaluation based on the evaluation 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.

The anticipated schedule of events is as follows:

Final RFP Release Date - February 12, 2003

Vendor Conferences - February 25, 2003 and March 3, 2003

Letter of Intent Due - February 25, 2003

Vendor Questions Due - March 3, 2003

Revised RFP Release Date - March 26, 2003

Vendor Proposals Due - April 7, 2003

Anticipated Contract Award - April 30, 2003

Anticipated Contract Start Date - May 1, 2003

TRD-200302063

Steve Aragon

General Counsel

Texas Health and Human Services Commission

Filed: March 27, 2003

◆   ◆   ◆

## Texas Department of Housing and Community Affairs

### Notice of Public Hearing

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Department") at 507 Sabine Street, Room 436, Austin, Texas, at 12:00 noon on May 12, 2003, with respect to (i) a plan of financing (the "Plan") that includes issues of single family mortgage revenue refunding tax-exempt commercial paper notes (the "Future Notes"), the first of which is to be issued within one year of the date of the hearing described below and the last of which is to be issued no later than December 31, 2007, and (ii) an issue of tax-exempt residential mortgage revenue bonds (the "Bonds") to be issued in an aggregate face amount of not more than \$85,000,000.

The Future Notes will be issued by the Department in a maximum aggregate face amount not to exceed \$75,000,000 at any given time. The proceeds of the Future Notes will be used to refund certain single family mortgage revenue bonds of the Department and thereby to facilitate recycling prepayments of single family residential mortgage loans made to eligible very low, low and moderate income first-time home buyers with the proceeds of such single family mortgage revenue bonds. Only prepayments of mortgage loans financed with proceeds of tax-exempt mortgage revenue bonds issued within ten years from the date of receipt of the prepayments will be eligible for the recycling program. The proceeds of the Future Notes may also be used to refund unexpended proceeds of certain single family mortgage revenue bonds previously issued by the Department.

A portion of the proceeds of the Bonds will be used to make single family residential mortgage loans. A portion of the proceeds of the Bonds will be used to refund all or a portion of the Department's outstanding Residential Mortgage Revenue Bonds, Series 2002B, thereby making funds available to make additional single family residential mortgage loans. All of such single family residential mortgage loans will be made to eligible very low, low and moderate income first-time home buyers for the purchase of homes located within the State of Texas, and are expected to be in an aggregate estimated amount of \$85,000,000.

For purposes of the Department's mortgage loan finance programs, eligible borrowers generally will include individuals and families whose family income does not exceed, (i) for families of three or more persons, 115% (140% in certain targeted areas) of the area median income, and (ii) for individuals and families of two persons, 100% (120% in certain targeted areas) of the area median income. The Department anticipates setting aside approximately 30% of the funds made available for borrowers of very low income (60% of area median income) for approximately one year. In addition, substantially all of the borrowers under the programs will be required to be persons who have not owned a principal residence during the preceding three years. Further, residences financed with loans under the programs will be subject to certain other limitations, including limits on the purchase prices of the residences being acquired. All the limitations described in this paragraph are subject to revision and adjustment from time to time by the Department pursuant to applicable federal law and Department policy.

All interested parties are invited to attend such public hearing to express their views with respect to the Department's mortgage loan finance program and the issuance of the Future Notes and the Bonds. Questions or requests for additional information may be directed to Matt Pogor at the Texas Department of Housing and Community Affairs, 507 Sabine Street, 8th Floor, Austin, Texas 78701; (512) 475-3987.

Persons who intend to appear at the hearing and express their views are invited to contact Matt Pogor in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Matt Pogor prior to the date scheduled for the hearing.

TDHCA WEBSITE: [www.tdhca.state.tx.us/hf.htm](http://www.tdhca.state.tx.us/hf.htm) Individuals who require auxiliary aids for the hearing should contact Gina Esteves,

ADAResponsible Employee, at (512) 475-3943, or Relay Texas at 1-800-735-2989 at least two days before the scheduled hearing so that appropriate arrangements can be made.

This notice is published and the above-described hearing is to be held in satisfaction of the requirements of State law and Section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the public approval prerequisite to the exclusion from gross income for federal income tax purposes of interest on the Future Notes and the Bonds.

TRD-200302173

Edwina P. Carrington

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 2, 2003

◆ ◆ ◆  
**Houston-Galveston Area Council**

**Request for Proposals**

The Houston-Galveston Area Council (H-GAC) is requesting proposals to conduct an access management and traffic mobility study for the FM 1960 corridor from west of SH 249 to east of IH 45 in Harris County (about 7.1 miles). The purpose of the study is to identify short-term transportation improvements to improve traffic flow and reduce motorist delay. The study will collect sufficient information to measure and evaluate a range of viable short-term improvement concepts, as well as address cost-benefit and cost-effectiveness of various solutions. The study shall conclude with the identification of a list of recommended improvements and ways to implement them, including time frame and funding sources.

A Pre-Proposal Conference is scheduled at **3 p.m. on Monday, April 14, 2003**, at H-GAC in Conference Room A on the second floor. Submittals are due by **3 p.m. on Tuesday, May 7, 2003**. Twelve (12) typewritten, bound/stapled and signed copies of the proposal are required. Late proposals will **NOT** be accepted.

The Request for Proposal packet can be downloaded from the H-GAC Transportation Department Web site at [www.h-gac.com/HGAC/Home/RFP/default.htm](http://www.h-gac.com/HGAC/Home/RFP/default.htm).

Interested firms may also obtain the packet at the H-GAC offices at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, or by contacting Jerry L. Bobo at 713-993-4571. All questions regarding the Request for Proposals can be sent to the attention of Jerry L. Bobo by email to [jerry.bobo@h-gac.com](mailto:jerry.bobo@h-gac.com), faxed to 713-993-4508, or mailed to the Houston-Galveston Area Council, P.O. Box 22777, Houston, TX 77227-2227.

TRD-200302129

Alan Clark

MPO Director

Houston-Galveston Area Council

Filed: April 1, 2003

◆ ◆ ◆  
**Request for Proposals**

The Houston-Galveston Area Council (H-GAC) is requesting proposals to conduct an access management and traffic mobility study for the FM 518 corridor from US 288 in Brazoria County to SH 146 in Galveston County. The purpose of the study is to identify short-term transportation improvements to improve traffic flow and reduce motorist delay. The study will collect sufficient information to measure and evaluate a range of viable short-term improvement concepts, as well as address cost-benefit and cost-effectiveness of various solutions. The

study shall conclude with the identification of a list of recommended improvements and ways to implement them, including time frame and funding sources.

Submittals are due by **3 p.m. on Tuesday, April 15, 2003**. Twelve (12) typewritten, bound/stapled and signed copies of the proposal are required. Late proposals will **NOT** be accepted.

The Request for Proposal packet can be downloaded from the H-GAC Transportation Department Web site at [www.h-gac.com/HGAC/Home/RFP/default.htm](http://www.h-gac.com/HGAC/Home/RFP/default.htm). Interested firms may also obtain the packet at the H-GAC offices at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, or by contacting Jerry L. Bobo at 713-993-4571. All questions regarding the Request for Proposal can be sent to the attention of Jerry L. Bobo by email to [jerry.bobo@h-gac.com](mailto:jerry.bobo@h-gac.com), faxed to 713-993-4508, or mailed to the Houston-Galveston Area Council, P.O. Box 22777, Houston, TX 77227-2227.

TRD-200302181

Alan Clark

MPO Director

Houston-Galveston Area Council

Filed: April 2, 2003

◆ ◆ ◆  
**Texas Department of Insurance**

**Company Licensing**

Application to change the name of UNDERWRITERS INDEMNITY COMPANY to LEXON INSURANCE COMPANY, a domestic fire and/or casualty company. The home office is in Houston, Texas.

Any objections must be filed with the Texas Department of Insurance, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-200302177

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: April 2, 2003

◆ ◆ ◆  
**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 for admission to Texas of Healthspring Management, Inc., a foreign third party administrator. The home office is Nashville, Tennessee.

Application for admission to Texas of Total Administrative Services Corporation, a foreign third party administrator. The home office is Madison, Wisconsin.

Application for admission to Texas of Disability Management Alternatives, LLC, a foreign third party administrator. The home office is Salem, Massachusetts.

Application for incorporation in Texas of Abercrombie, Simmons & Gillette, Inc., a domestic third party administrator. The home office is Houston, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Matt Ray, MC 107-1A, 333 Guadalupe, Austin, Texas 78701.

TRD-200302178  
Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: April 2, 2003

◆ ◆ ◆  
**Texas Lottery Commission**

Instant Game No. 379 "Cool 7's"

1.0 Name and Style of Game.

A. The name of Instant Game No. 379 is "COOL 7'S". The play style in Game 1 is "key number match with auto win". The play style in Game 2 is "row, column, diagonal". The play style in Game 3 is "match 3 with auto win". The play style in Game 4 is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 379 shall be \$7.00 per ticket.

1.2 Definitions in Instant Game No. 379.

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 - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, \$1.00, \$2.00, \$5.00, \$7.00, \$10.00, \$11.00, \$27.00, \$77.00, \$100, \$1,000, \$7,000, \$70,000, 7 SYMBOL, X SYMBOL, [ ] SYMBOL.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each 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. 379 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
7	DBL
7	
X	
[ ]	
\$1.00	ONE\$
\$2.00	TWO\$
\$5.00	FIVE\$
\$7.00	SEVEN\$
\$10.00	TEN\$
\$11.00	ELEVEN
\$27.00	TWY SVN
\$77.00	SVTY SVN
\$100	ONE HUND
\$1,000	ONE THOU
\$7,000	SVN THOU
\$70,000	70 THOU
7	DBL
7	DBL

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Figure 2: GAME NO. 379 - 1.2E

CODE	PRIZE
SVN	\$7.00
ELV	\$11.00
SVT	\$17.00

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) 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 format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$7.00, \$11.00, \$17.00.

H. Mid-Tier Prize - A prize of \$27.00, \$47.00, \$77, \$177, \$577.

I. High-Tier Prize - A prize of \$7,000, \$70,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A thirteen (13) digit number consisting of the three (3) digit game number (379), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 000 and end with 074 within each pack. The format will be: 379-0000001-000.

L. Pack - A pack of "COOL 7'S" Instant Game tickets contain 75 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 000 and back of 074, while the other fold will show the back of ticket 000 and front of 074.

M. 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.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "COOL 7'S" Instant Game No. 379 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 "COOL 7'S" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) play symbols. In Game 1, if the player matches any of the Your Numbers to the Lucky Number, the player will win the prize shown for that number. If the player gets a "7" symbol, the player will win double that prize automatically. In Game 2, if the player gets three Xs or [ ]s in any one row, column or diagonal the player will win the prize shown. If the player gets three "7" symbols in any one row, column or diagonal the player will win double that prize automatically. In Game 3, if the player gets 3 like amounts the player will win that amount. If the player gets 2 like amounts and a "7" symbol, the player will win double that amount automatically. In Game 4, if the player matches any of the Your Numbers to either Winning Number, the player will win the prize shown for that number. If the player gets a "7" symbol the player will win double that prize automatically. 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, 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;
  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 will not have identical play data, spot for spot.

B. Although not all prizes can be won in each game, all prize symbols may be used in non-winning locations.

C. Game 1: No duplicate non-winning prize symbols.

D. Game 1: No duplicate non-winning Your Number play symbols.

E. Game 1: No prize amount in a non-winning spot will correspond with the Your Number play symbol (i.e. 5 and \$5).

F. Game 1: The "7" doubler symbol will only appear on intended winners as dictated by the prize structure.

G. Game 2: Every ticket will contain at least 4 "X" or O symbols and 1 "7" symbol.

H. Game 2: This game may only win once.

I. Game 2: When the prize is \$7 on non-winning games, there will never be two 7's in positions 2 and 4 or two 7's in positions 7, 8 and 9 of the tic-tac-toe grid.

J. Game 3: No four or more of a kind.

K. Game 3: No three or more pairs.

L. Game 3: The "7" doubler symbol will only appear on intended winners as dictated by the prize structure.

M. Game 3: The "\$7.00" prize symbol will only appear on tickets where it contributes to the win.

N. Game 4: No duplicate non-winning prize symbols.

O. Game 4: No duplicate non-winning Your Number play symbols.

P. Game 4: No duplicate Winning Number play symbols.

Q. Game 4: No prize amount in a non-winning spot will correspond with the Your Number play symbol (i.e. 5 and \$5).

R. Game 4: The "7" doubler symbol will only appear on intended winners per the prize structure.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "COOL 7'S" Instant Game prize of \$7.00, \$11.00, \$17.00, \$27.00, \$47.00, \$77.00, \$177, or \$577, 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, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$47.00, \$77.00, \$177, or \$577 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 "COOL 7'S" Instant Game prize of \$7,000 or \$70,000, 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 "COOL 7'S" 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 risk of sending a ticket remains with the claimant. 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 Department of Human Services 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 "COOL 7'S" 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 more than \$600 from the "COOL 7'S" 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. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

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 therefor, 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 therefor, 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 therefor. 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 6,115,050 tickets in the Instant Game No. 379. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 379 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$7	897,035	6.82
\$11	366,697	16.68
\$17	285,436	21.42
\$27	81,534	75.00
\$47	81,534	75.00
\$77	31,601	193.51
\$177	14,664	417.01
\$577	1,836	3,330.64
\$7,000	12	509,587.50
\$70,000	6	1,019,175.00

\*The number of actual winners may vary based on sales, distribution, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.47. The individual odds of winning for a particular prize level may vary based on sales, distribution, 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. 379 without advance notice, at which point no further tickets in that game may be sold.

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. 379, 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-200302163  
 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: April 2, 2003



Instant Game No. 383 "Crossword"

1.0 Name and Style of Game.

A. The name of Instant Game No. 383 is "CROSSWORD". The play style is "extended play puzzle".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 383 shall be \$3.00 per ticket.

1.2 Definitions in Instant Game No. 383.

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 - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, and blackened square.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each 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. 383 - 1.2D

PLAY SYMBOL	CAPTION
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	
K	
L	
M	
N	
O	
P	
Q	
R	
S	
T	
U	
V	
W	
X	
Y	
Z	

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Figure 2: GAME NO. 383 - 1.2E

CODE	PRIZE
THR	\$3.00
FIV	\$5.00
TEN	\$10.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly

within the Serial Number. The remaining nine (9) 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 format will be : 0000000000000.

G. Low-Tier Prize - A prize of \$3.00, \$5.00, \$10.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$100 or \$500.

I. High-Tier Prize - A prize of \$5,000 or \$35,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (383), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 000 and end with 124 within each pack. The format will be: 383-0000001-000.

L. Pack - A pack of "CROSSWORD" Instant Game tickets contain 125 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of one (1). There will be two (2) fanfold configurations for this game. Configuration A will show the front of ticket 000 and the back of ticket 124. Configuration B will show the back of ticket 000 and the front of ticket 124.

M. 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.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "CROSSWORD" Instant Game No. 383 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 "CROSSWORD" Instant Game is determined once the latex on the ticket is scratched off to expose 139 (one hundred thirty-nine) play symbols. The player must scratch off all 18 (eighteen) boxed squares in the YOUR LETTERS to reveal 18 letters. For each of the 18 letters revealed in YOUR LETTERS, the player must scratch the same letter each time it is found in the CROSSWORD. For example, if the letter E is revealed in your letters, the player must scratch all E's in the CROSSWORD. There are three (3) small letters above and beside the your letters that appear under the latex on the ticket. These are smaller in size than your letters and are not your letters to be used in playing the game. If the player has scratched three (3) or more complete words in the crossword, the player will win the corresponding prize found in the prize legend on the back of the ticket. Only one prize can be claimed per ticket. The player must then scratch the corresponding letters found in the CROSSWORD puzzle. A "word" must contain at least three letters. A "word" cannot be formed by linking letters diagonally or by reading the letters from the bottom to top. Letters combined to form a complete "word" must appear in an unbroken horizontal or vertical string of letters in the CROSSWORD. An unbroken string of letters cannot be interrupted by a block space. Words within words are not eligible for a prize. Every single letter in the unbroken string must: (a) be revealed in YOUR LETTERS, and (b) be included to form a "word". The possible complete words for this ticket are shown on the CROSSWORD panel. Each possible complete word consists of three (3) or more letters and occupies an entire word space. Players must match all of the letters in a possible complete word in order to complete the word. If the letters revealed form three (3) or more complete words on the CROSSWORD panel each of which occupy a complete word space, the player will win the prize shown in the prize legend for forming that number of words. 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. One hundred thirty-nine (139) possible 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, 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;
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 139 (one hundred thirty-nine) possible 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 139 (one hundred thirty-nine) possible Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.
17. Each of the 139 (one hundred thirty-nine) possible 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. A ticket can only win once.

B. Adjacent tickets in a pack will not have identical patterns.

C. Each ticket consists of a Your Letters area and one crossword puzzle grid.

D. The crossword puzzle grid will be formatted with at least 109,000 configurations (i.e. puzzle layouts not including words).

E. All crossword puzzle grid configurations will be formatted within a grid that contains 11 spaces (height) by 11 spaces (width).

F. Each word will appear only once per ticket on the crossword puzzle grid.

G. Each letter will only appear once per ticket in the Your Letters play area.

H. Each Crossword Puzzle Grid will contain 19 (nineteen) words per puzzle per ticket made up of the following: a) 4 sets of 3-letter words; b) 5 sets of 4-letter words; c) 3 sets of 5-letter words; d) 3 sets of 6-letter words; e) 1 set of 7-letter words; f) 2 sets of 8-letter words; g) 1 set of 9-letter words.

I. There will be a minimum of three (3) vowels in the Your Letters play area.

J. The length of words found in the crossword puzzle grid will range from 3-9 letters.

K. Only words from the approved word list will appear in the crossword puzzle grid.

L. You will never find a word horizontally (in either direction), vertically (in either direction), or diagonally (in either direction) in the Your Letters play area that matches a word in the crossword puzzle grid.

M. Each crossword puzzle grid will have a maximum number of different grid formations with respect to other constraints. That is, for identically formatted crossword puzzles (i.e. the same grid), all "approved words" will appear in every logical (i.e. 3 letter word = 3 letter space) position, with regards to limitations caused by the actual letters contained in each word (i.e. will not place the word "ZOO" in a position that causes an intersecting word to require the second letter to be "Z", when in fact, there are no approved words with a "Z" in the second letter position).

N. No one (1) letter, with the exception of vowels, will appear more than nine (9) times in the crossword puzzle grid.

O. No ticket will match eleven (11) words or more.

P. Three (3) to ten (10) completed words will be revealed as per the prize structure on winning tickets.

Q. All non-winning tickets will contain a) one (1) completed word approximately 20% of the time; b) and two (2) completed words approximately 80% of the time.

R. Sixteen (16) to eighteen (18) Your Letters will open at least one (1) letter in the crossword puzzle grid.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "CROSSWORD" Instant Game prize of \$3.00, \$5.00, \$10.00, \$20.00, \$100, 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, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$100 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 "CROSSWORD" Instant Game prize of \$5,000 or \$35,000, 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 "CROSSWORD" 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 risk of sending a ticket remains with the claimant. 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 Department of Human Services 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 "CROSSWORD" 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 more than \$600 from the "CROSSWORD" 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. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

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 therefor, 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 therefor, 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 therefore. 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 2,934,750 tickets in the Instant Game No. 383. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 383 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$3	463,643	6.33
\$5	369,845	7.94
\$10	70,442	41.66
\$20	29,334	100.05
\$100	4,752	617.58
\$500	982	2,988.54
\$5,000	15	195,650.00
\$35,000	4	733,687.50

\*The number of actual winners may vary based on sales, distribution, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.13. The individual odds of winning for a particular prize level may vary based on sales, distribution, 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. 383 without advance notice, at which point no further tickets in that game may be sold.

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. 383, 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.

The following is a list of words approved by the Texas Lottery Commission for use in this game:

ACE	CAR	GUT	MAT	POP	TIE
ACT	CAT	GUY	MAY	PRO	TIP
ADD	COB	HAM	MET	PRY	TOE
ADO	COW	HAT	MID	PUT	TON
AFT	COY	HAY	MIX	RAG	TOO
AGE	CRY	HEM	MOB	RAM	TOP
AGO	CUB	HEN	MOO	RAN	TOT
AHA	CUE	HER	MOP	RAP	TOW
AID	CUP	HIM	MUD	RAT	TOY
AIM	CUT	HIP	MUG	RAW	TRY
AIR	DAB	HIS	NAB	RAY	TUB
ALL	DAY	HIT	NAP	RED	TUG
ALP	DEN	HOE	NET	RIB	TWO
AMP	DEW	HOG	NEW	RIG	URN
AND	DIG	HOP	NIL	RIM	USE
ANT	DIM	HOT	NOD	RIP	VAN
ANY	DIP	HOW	NOR	ROT	VAT
APE	DOG	HUB	NOT	ROW	VET
APT	DOT	HUE	NOW	RUB	VIA
ARC	DRY	HUG	NUT	RUG	WAG
ARM	DUB	HUM	OAF	RUN	WAX
ART	DUO	HUT	OAK	RUT	WAY
ASH	DYE	ICE	OAR	RYE	WEB
ASK	EAR	INK	OAT	SAW	WET
AWE	EAT	INN	ODD	SAY	WHO
AYE	EBB	IVY	OFF	SEA	WHY
BAD	EGG	JAB	OIL	SEE	WIG
BAH	EGO	JAR	OLD	SET	WIT
BAN	ELK	JAW	ONE	SEW	YAK
BAR	END	JAY	OPT	SHY	YEN
BAT	ERA	JIG	ORE	SIP	YES
BAY	EYE	JOB	OUR	SIR	YET
BED	FAN	JOG	OUT	SIT	YOU
BEE	FAR	JOY	OWE	SIX	ZAP
BEG	FEE	JUG	OWL	SKI	ZIP
BET	FEW	KEY	OWN	SLY	ZOO
BID	FEZ	KID	PAN	SON	ABLE
BIG	FIR	KIN	PAR	SOW	ACHE
BIN	FIT	KIT	PAW	SPA	ACID
BIT	FIX	LAB	PAY	SPY	ACRE
BOA	FOE	LAD	PEA	SUB	AFAR
BOG	FOG	LAG	PEG	SUM	AHOY
BOW	FOR	LAP	PEN	SUN	AIDE
BOY	FOX	LAW	PEP	TAB	AJAR
BUD	FRY	LEE	PET	TAG	AKIN
BUG	FUN	LEG	PIE	TAN	ALAS
BUS	FUR	LET	PIG	TAP	ALLY
BUY	GAG	LOW	PIN	TAR	ALOE
CAB	GAP	MAD	PIT	TEA	ALSO
CAN	GEM	MAN	PLY	TEE	ALTO
CAP	GET	MAP	POD	TEN	AMID

ANEW	BLOT	CITY	DECK	FACT	GEAR
ANTE	BLUE	CLAM	DEED	FADE	GIFT
ANTI	BLUR	CLAW	DEEM	FAIL	GIRL
AQUA	BOAT	CLAY	DEEP	FAIR	GIVE
ARCH	BODY	CLIP	DEER	FALL	GLAD
AREA	BOIL	CLUB	DENT	FAME	GLEE
ARID	BOLD	CLUE	DESK	FARE	GLOW
ATOM	BOLT	COAL	DIAL	FARM	GLUE
AUNT	BOND	COAT	DICE	FAST	GLUT
AURA	BOOK	COAX	DILL	FAWN	GNAT
AUTO	BOOT	CODE	DIME	FEAR	GOAL
AVID	BOSS	COIL	DIRE	FEED	GOAT
AWAY	BOTH	COIN	DIRT	FEEL	GOLF
AXIS	BOUT	COLD	DISH	FEET	GONE
AXLE	BOWL	COLT	DISK	FILE	GOOD
BABY	BRAG	COMB	DIVE	FILL	GOWN
BACK	BRAN	CONE	DOCK	FILM	GRAB
BAIL	BRIM	COOK	DOLL	FINE	GRAY
BAIT	BROW	COOL	DOME	FIRE	GREY
BAKE	BUCK	COPE	DONE	FISH	GRID
BALD	BULB	COPY	DOOR	FLAG	GRIN
BALK	BULK	CORD	DOVE	FLAP	GRIP
BALL	BULL	CORE	DOWN	FLAT	GROW
BAND	BUMP	CORK	DRAW	FLAW	GULF
BANK	BUNK	CORN	DROP	FLEA	GULL
BARE	BUNT	COST	DRUM	FLEE	GULP
BARK	BUOY	COVE	DUAL	FLEW	GUST
BARN	BURY	COZY	DUCK	FLIP	HAIL
BASE	BUSH	CREW	DUCT	FLOW	HAIR
BASH	BUSY	CRIB	DUEL	FOAM	HALF
BASS	CAGE	CROP	DUET	FOLD	HALL
BATH	CAKE	CROW	DULL	FOND	HALT
BEAD	CALF	CUBE	DUNE	FOOD	HAND
BEAK	CALL	CUFF	DUSK	FOOT	HARD
BEAM	CALM	CURB	DUST	FORK	HARE
BEAN	CAMP	CURE	DUTY	FORM	HARK
BEAR	CANE	CURL	EACH	FORT	HARP
BEAU	CAPE	CUTE	EARL	FOUR	HATS
BEEF	CARD	CYAN	EARN	FREE	HAUL
BEEP	CARE	DALE	EAST	FROG	HAVE
BEET	CARS	DAMP	EASY	FROM	HAWK
BELL	CART	DARE	ECHO	FUEL	HAYS
BELT	CASE	DARK	EDGE	FULL	HAZE
BEND	CAST	DART	EDIT	FUND	HAZY
BENT	CAVE	DASH	ELSE	FUSE	HEAL
BEST	CELL	DATA	EPIC	FUSS	HEAR
BIAS	CHAT	DATE	ETCH	GAIN	HEAT
BIKE	CHEF	DAWN	EVEN	GALA	HEEL
BILL	CHIN	DAZE	EXAM	GAME	HEIR
BIND	CHIP	DEAL	EXIT	GATE	HELD
BIRD	CITE	DEAN	FACE	GAZE	HELP

HERB	JUNE	LIST	MOCK	OXEN	QUIZ
HERD	JUNK	LIVE	MODE	PACE	RACE
HERE	JURY	LOAD	MOLD	PACK	RACK
HERO	JUST	LOAF	MOOD	PACT	RAFT
HIDE	KEEN	LOAN	MOON	PAGE	RAGE
HIGH	KEEP	LOCK	MORE	PAID	RAID
HIKE	KEYS	LOFT	MOSS	PALE	RAIL
HILL	KICK	LONG	MOST	PALM	RAIN
HINT	KIND	LOOK	MOTH	PARK	RAKE
HIRE	KING	LOOP	MOVE	PART	RAMP
HIVE	KITE	LOUD	MUCH	PASS	RARE
HOAX	KNEE	LOVE	MULE	PAST	RATE
HOLD	KNIT	LUCK	MUST	PATH	READ
HOLE	KNOT	LULL	MYTH	PAVE	REAL
HOME	KNOW	LURE	NAIL	PAWN	REAR
HOOD	LACE	LURK	NAME	PEAK	REED
HOOK	LACK	LUTE	NARY	PEAL	REEF
HOOP	LADY	LYNX	NEAR	PEAR	REEL
HOPE	LAIR	MADE	NEAT	PEER	RELY
HOSE	LAKE	MAIL	NEED	PICK	RENT
HOST	LAMB	MAIN	NEON	PIER	REST
HOURL	LAMP	MAKE	NEST	PILE	RICE
HOWL	LAND	MALL	NEXT	PINE	RICH
HUGE	LANE	MALT	NICE	PINK	RIDE
HULA	LARD	MANY	NICK	PINT	RING
HULL	LARK	MARK	NINE	PIPE	RINK
HUNT	LASH	MARS	NODE	PITA	RIPE
HUSH	LAST	MASK	NONE	PITY	RISE
HYPE	LATE	MAST	NOOK	PLAN	RISK
ICON	LAVA	MATH	NOON	PLAY	ROAD
IDEA	LAWN	MAZE	NORM	PLEA	ROAM
IDLE	LAZY	MEAL	NOSE	PLOT	ROAR
INCH	LEAD	MEET	NOTE	PLOW	ROBE
INTO	LEAF	MELT	NOUN	PLUM	ROCK
IOTA	LEAK	MEMO	NUMB	PLUS	ROLE
IRIS	LEAN	MEND	OATH	POEM	ROLL
IRON	LEAP	MENU	OBEY	POLL	ROOF
ITCH	LEFT	MESH	OBOE	POND	ROOM
ITEM	LEND	MESS	OKAY	PONY	ROOT
JACK	LESS	MICE	ONCE	POOL	ROPE
JADE	LEVY	MILD	ONLY	POSE	ROSE
JAZZ	LIFE	MILE	ONTO	POSH	RUBY
JEEP	LIFT	MILK	ONUS	POST	RUDE
JEST	LIKE	MILL	ONYX	POUR	RUIN
JIVE	LILY	MIND	OOZE	PULL	RULE
JOIN	LIMB	MINE	OPEN	PURE	RUNG
JOKE	LIME	MINK	OPUS	PURR	RUSH
JOLT	LINE	MINT	OUCH	PUSH	RUST
JUDO	LINK	MISS	OVAL	PUTT	SACK
JULY	LINT	MIST	OVEN	QUIP	SAGE
JUMP	LION	MOAT	OVER	QUIT	SAKE

SALE	SOCK	TENT	VARY	WOOL	ALERT
SALT	SODA	TERM	VASE	WORD	ALIAS
SAME	SOFA	TEST	VAST	WORK	ALIBI
SAND	SOFT	TEXT	VEAL	WORM	ALIEN
SAVE	SOIL	THAT	VENT	WORN	ALIGN
SCAN	SOLD	THAW	VERB	WRAP	ALIKE
SCAR	SOLE	THEN	VERY	WREN	ALIVE
SEAL	SOLO	THEY	VEST	YARD	ALLEY
SEAM	SOME	THIN	VETO	YARN	ALLOT
SEAT	SONG	THUS	VIEW	YAWN	ALLOW
SEED	SOON	TIDE	VINE	YEAR	ALLOY
SEEK	SORE	TIDY	VISA	YELL	ALOHA
SEEM	SORT	TIER	VOLT	YOGA	ALONE
SELF	SOUL	TILE	VOTE	YOLK	ALONG
SELL	SOUP	TILT	WADE	YORE	ALOOF
SEMI	SOUR	TIME	WAGE	YOUR	ALPHA
SEND	SPAN	TINT	WAIT	ZEAL	ALTER
SENT	SPIN	TINY	WAKE	ZERO	AMASS
SHED	SPOT	TIRE	WALK	ZEST	AMAZE
SHIN	STAR	TOAD	WALL	ZINC	AMBER
SHIP	STAY	TOIL	WAND	ZONE	AMIGO
SHOE	STEM	TOLD	WANT	ZOOM	AMINO
SHOP	STEP	TOLL	WARD	ABATE	AMISS
SHOW	STEW	TONE	WARM	ABIDE	AMONG
SHUT	STIR	TOOL	WARN	ABODE	AMPLE
SICK	STOP	TOSS	WARY	ABOUT	AMUSE
SIDE	SUCH	TOUR	WASH	ABOVE	ANGER
SIFT	SUIT	TOWN	WATT	ABYSS	ANGLE
SIGN	SURE	TRAP	WAVE	ACORN	ANGST
SILK	SURF	TRAY	WEAK	ACTOR	ANKLE
SILO	SWAN	TREE	WEAR	ACUTE	ANNEX
SING	SWAT	TRIM	WEEK	ADAGE	ANNOY
SINK	SWIM	TRIO	WEEP	ADAPT	ANTIC
SIZE	TACK	TRIP	WELD	ADEPT	ANVIL
SKEW	TACT	TROT	WELL	ADIEU	APART
SKIM	TAIL	TRUE	WEST	ADIOS	APPLE
SKIN	TAKE	TUBE	WHAT	ADMIT	APPLY
SKIP	TALE	TUCK	WHEN	ADOPT	APRON
SKIS	TALK	TUNA	WHIM	ADORE	ARENA
SLAP	TALL	TUNE	WIDE	ADULT	ARGUE
SLED	TAME	TURF	WIFE	AFFIX	ARISE
SLIM	TANK	TURN	WILD	AFTER	ARMOR
SLIP	TAPE	TUSK	WIND	AGAIN	AROMA
SLOW	TASK	TWIG	WING	AGENT	ARRAY
SMOG	TAXI	TWIN	WIPE	AGILE	ARROW
SNAP	TEAK	TYPE	WIRE	AGONY	ASCOT
SNOW	TEAM	UNDO	WISE	AGREE	ASHES
SNUG	TEAR	UNIT	WISH	AHEAD	ASIDE
SOAK	TEEN	URGE	WITH	AISLE	ASPEN
SOAP	TELL	USED	WOLF	ALARM	ASSET
SOAR	TEND	VAIL	WOOD	ALBUM	ATLAS



ATOLL	BLIND	CARRY	CONGA	EARLY	FORCE
ATTIC	BLINK	CARVE	CORAL	EARTH	FOUND
AUDIO	BLITZ	CATCH	COUCH	EIGHT	FRAIL
AUDIT	BLOCK	CAUSE	COUNT	ELBOW	FRAME
AVAIL	BLOOM	CEASE	COURT	EMCEE	FRANK
AVERT	BLUFF	CEDAR	COVER	EMPTY	FRESH
AVOID	BLUNT	CELLO	CRAFT	ENACT	FRONT
AWAIT	BLUSH	CHAIN	CRANE	ENJOY	FROST
AWAKE	BOARD	CHAIR	CRATE	ENTER	FROWN
AWARD	BOAST	CHALK	CRAVE	ENTRY	FRUIT
AWARE	BONUS	CHAOS	CRAWL	ENVOY	FUNNY
AWASH	BOOST	CHARM	CREEK	EQUAL	GAMES
AWFUL	BOOTH	CHART	CREST	ERASE	GIANT
AWOKE	BOUND	CHASE	CRISP	ERODE	GIVEN
AXIOM	BRACE	CHEAP	CROWD	ERROR	GLARE
AZURE	BRAID	CHECK	CROWN	ESSAY	GLASS
BACON	BRAIN	CHEER	CRUSH	EVADE	GLAZE
BADGE	BRAKE	CHESS	CRUST	EVENT	GLITZ
BAGEL	BRAND	CHIEF	CURVE	EVERY	GLOBE
BAKER	BRASS	CHILD	CYCLE	EXACT	GLOOM
BANJO	BRAVE	CHILI	DAILY	EXIST	GLORY
BARGE	BRAVO	CHILL	DAIRY	EXTRA	GLOSS
BARON	BRAWN	CHIME	DAISY	FABLE	GLOVE
BASIC	BREAD	CHIRP	DANCE	FACET	GOING
BASIL	BREAK	CHORD	DEBIT	FAINT	GOOSE
BASIN	BREED	CHORE	DECAL	FAULT	GORGE
BASIS	BRIAR	CHUTE	DECOY	FAUNA	GRACE
BATCH	BRICK	CIDER	DELAY	FEAST	GRADE
BATON	BRIEF	CIVIC	DELTA	FEIGN	GRAIN
BAYOU	BRING	CIVIL	DENIM	FEMUR	GRAND
BEACH	BROOK	CLAIM	DEPOT	FENCE	GRANT
BEARD	BROOM	CLASH	DEPTH	FETCH	GRAPE
BEECH	BROWN	CLASS	DEUCE	FEVER	GRAPH
BEGIN	BRUSH	CLEAN	DIARY	FIELD	GRASP
BEIGE	BUDDY	CLEAR	DIGIT	FINAL	GRASS
BEING	BUDGE	CLERK	DINER	FLAGS	GRAVY
BELOW	BUGLE	CLICK	DISCO	FLAIR	GREAT
BENCH	BUILD	CLIFF	DITCH	FLAKE	GREEN
BERET	BUILT	CLIMB	DODGE	FLAME	GREET
BERRY	BUNCH	CLOAK	DOUBT	FLARE	GRILL
BIRCH	BURST	CLOCK	DOUGH	FLASH	GRINS
BIRDS	CABIN	CLOSE	DOZEN	FLEET	GROOM
BISON	CABLE	CLOTH	DRAFT	FLOAT	GROUP
BLACK	CACHE	CLOUD	DRAIN	FLOCK	GUARD
BLAME	CADET	CLOWN	DRAMA	FLOOR	GUESS
BLAND	CAMEL	CLUES	DREAM	FLORA	GUEST
BLANK	CAMEO	COACH	DRESS	FLOSS	GUIDE
BLARE	CANAL	COAST	DRIFT	FLOUR	HABIT
BLAST	CANDY	COBRA	DRIVE	FLUID	HANDS
BLAZE	CANOE	COMET	DWELL	FLUTE	HANDY
BLEND	CARGO	COMIC	EAGLE	FOCUS	HAPPY

HARDY	JUROR	MEDIA	NOISY	PILOT	QUIRK
HASTE	KARAT	MELON	NOMAD	PINCH	QUITE
HATCH	KAYAK	MERCY	NORTH	PINTO	QUITS
HEARD	KNACK	MERGE	NOVEL	PITCH	QUOTA
HEART	KNEAD	MERIT	NUDGE	PIVOT	QUOTE
HEAVY	KNOCK	MERRY	NURSE	PIXEL	RADAR
HEDGE	KOALA	MESSY	NYLON	PIZZA	RADIO
HELLO	LABEL	METAL	OASIS	PLACE	RAISE
HINGE	LACES	METER	OCCUR	PLAID	RALLY
HIPPO	LADLE	MIDST	OCEAN	PLAIN	RANCH
HITCH	LAKES	MIGHT	OFFER	PLANE	RANGE
HOBBY	LAMBS	MILKY	OFTEN	PLANK	RAPID
HONEY	LAPEL	MIMIC	OLIVE	PLANT	RATIO
HONOR	LAPSE	MINCE	ONION	PLATE	RAVEN
HORSE	LARGE	MINED	OPERA	PLUMB	RAZOR
HOTEL	LASER	MINES	OPTIC	PLUME	REACH
HOUND	LATCH	MINOR	ORBIT	PLUSH	REACT
HOUSE	LATER	MIRTH	ORDER	PLUTO	READY
HUMAN	LAUGH	MITER	OTHER	POINT	RECAP
HUMID	LAYER	MIXED	OTTER	POLAR	REFER
HUMOR	LEAFY	MODEM	OUGHT	POLKA	REGAL
HUNCH	LEARN	MOIST	OUNCE	POPPY	REIGN
HURRY	LEASE	MONEY	OUTDO	PORCH	RELAX
HUTCH	LEASH	MONTH	OZONE	POUCH	RELAY
HYDRO	LEAST	MOODY	PAIS	POUND	RELIC
HYPER	LEAVE	MOOSE	PAINT	POWER	RENEW
IDEAL	LEDGE	MOTOR	PALMS	PRESS	REPLY
IDEAS	LEGAL	MOTTO	PANDA	PRICE	RESET
IGLOO	LEMON	MOUSE	PANEL	PRIDE	RETRY
IMAGE	LEVEL	MOUTH	PAPER	PRIME	REUSE
IMPLY	LEVER	MOVER	PARCH	PRINT	RHINO
INDEX	LIGHT	MOVIE	PARTY	PRIOR	RHYME
INFER	LILAC	MUDDY	PASTA	PRISM	RIDGE
INNER	LIMIT	MUNCH	PASTE	PRIZE	RIGHT
INPUT	LINEN	MURAL	PATCH	PROOF	RINSE
IRATE	LINGO	MUSIC	PATIO	PROSE	RISEN
IRONY	LIVID	NACHO	PAUSE	PROUD	RIVAL
ISSUE	LOBBY	NAIVE	PEACE	PUPIL	RIVER
ITEMS	LOCAL	NASAL	PEACH	PURSE	ROAST
IVORY	LODGE	NATAL	PEALS	PUTTY	ROBIN
JAUNT	LOGIC	NERVE	PEARL	QUAIL	ROBOT
JEANS	LOOSE	NEVER	PECAN	QUAKE	RODEO
JELLY	LOYAL	NEWER	PEDAL	QUART	ROTOR
JEWEL	LUCKY	NICHE	PENNY	QUEEN	ROUGH
JOIST	LUNAR	NIECE	PETAL	QUERY	ROUND
JOKER	LUNCH	NIGHT	PETTY	QUEST	ROUTE
JOLLY	LYRIC	NINES	PHASE	QUEUE	ROYAL
JOUST	MAUVE	NINTH	PHONE	QUICK	RULES
JUDGE	MAYBE	NOBLE	PHOTO	QUIET	RURAL
JUICE	MAYOR	NOBLY	PIANO	QUILL	SALAD
JUMBO	MEDAL	NOISE	PIECE	QUILT	SALON

SALVE	SINUS	SPOOL	SWARM	TRACE	VENUS
SATIN	SIREN	SPOON	SWEAT	TRACK	VERGE
SAUCE	SKATE	SPORT	SWEEP	TRADE	VERSE
SAUNA	SKIED	SPOUT	SWEET	TRAIL	VIDEO
SCALD	SKIES	SPRAY	SWIFT	TRAIN	VILLA
SCALE	SKILL	SQUAD	SWING	TRAIT	VINYL
SCARF	SLACK	SQUID	SWIRL	TRASH	VISIT
SCENE	SLANG	STACK	SWOON	TREAT	VISOR
SCENT	SLANT	STAFF	SYRUP	TREND	VITAL
SCOFF	SLASH	STAGE	TABLE	TRIAL	VIVID
SCOLD	SLATE	STAIN	TANGO	TRIBE	VOCAL
SCOOP	SLEEK	STAIR	TASTE	TRICK	VOGUE
SCOOT	SLEEP	STAKE	TEACH	TROOP	VOICE
SCORE	SLICE	STAMP	TEETH	TROUT	VOTER
SCOUT	SLICK	STAND	TEMPO	TRUCE	WAGON
SCRAP	SLIDE	STARE	TEMPT	TRUCK	WAIST
SCRUB	SLOOP	START	TENOR	TRUNK	WALTZ
SCUBA	SLOPE	STATE	TENSE	TRUST	WASTE
SEIZE	SMALL	STEAK	THANK	TRUTH	WATCH
SENSE	SMART	STEAM	THEIR	TULIP	WATER
SERVE	SMELL	STEEL	THEME	TWEAK	WAVER
SEVEN	SMILE	STEEP	THERE	TWEED	WEAVE
SHADE	SMOCK	STEER	THESE	TWINE	WEDGE
SHAKE	SNACK	STICK	THICK	TWIRL	WEIGH
SHALE	SNAIL	STILL	THING	TWIST	WHALE
SHALL	SNAKE	STING	THINK	UNCLE	WHARF
SHAME	SNEAK	STOCK	THIRD	UNDER	WHEAT
SHAPE	SNIFF	STOMP	THORN	UNFIT	WHEEL
SHARE	SNORE	STONE	THOSE	UNIFY	WHERE
SHARK	SNOWY	STORE	THREE	UNION	WHICH
SHARP	SOGGY	STORK	THROW	UNITY	WHILE
SHAVE	SOLAR	STORM	THUMB	UNTIE	WHIRL
SHAWL	SOLID	STORY	THUMP	UNTIL	WHITE
SHEEP	SOLVE	STOVE	TIDAL	UPPER	WHOLE
SHEER	SONAR	STRAP	TIGER	UPSET	WHOSE
SHEET	SONIC	STRAW	TIGHT	URBAN	WIDEN
SHELF	SORRY	STRAY	TIMID	USAGE	WIDTH
SHELL	SOUND	STRUT	TITLE	USHER	WINDY
SHIFT	SOUTH	STUCK	TOAST	USUAL	WORLD
SHINE	SPACE	STUDY	TODAY	USURP	WORRY
SHIRT	SPARE	STUFF	TOKEN	UTTER	WORTH
SHOAL	SPARK	STUNT	TOOTH	VAGUE	WOVEN
SHOCK	SPEAK	STYLE	TOPIC	VALET	WRECK
SHOES	SPEAR	SUAVE	TORCH	VALID	WRIST
SHORE	SPEED	SUEDE	TOTAL	VALOR	WRITE
SHORT	SPELL	SUGAR	TOTEM	VALUE	WRONG
SHRED	SPICE	SUITE	TOUCH	VALVE	YACHT
SHRUB	SPIKE	SUNNY	TOUGH	VAPOR	YEARN
SIEGE	SPILL	SUPER	TOWEL	VAULT	YIELD
SIGHT	SPLIT	SURGE	TOWER	VENOM	YOUNG
SINCE	SPOIL	SWAMP	TOXIC	VENUE	YOUTH

ZEBRA	APPEAL	BARTER	BUDGET	CIRCUS	DANCER
ABACUS	APPEAR	BASKET	BUFFET	CITRUS	DANGER
ABROAD	APPEND	BATTER	BURDEN	CLAUSE	DARING
ABRUPT	ARCADE	BATTLE	BUREAU	CLEVER	DAZZLE
ABSENT	ARCHER	BAUBLE	BURLAP	CLIENT	DEBATE
ABSORB	ARCTIC	BAZAAR	BURROW	CLINCH	DECADE
ACCENT	ARGENT	BEACON	BUSHEL	CLOSET	DECENT
ACCEPT	ARMADA	BEAGLE	BUTTER	CLOUDS	DECIDE
ACCESS	AROUND	BEAKER	BUTTON	CLOUDY	DECODE
ACCORD	ARREST	BEARER	CACTUS	CLOVER	DEDUCE
ACCRUE	ARRIVE	BEAUTY	CAMERA	COBWEB	DEFEAT
ACCUSE	ARTERY	BECAME	CAMPUS	COCOON	DEFINE
ACETIC	ARTIST	BECOME	CANADA	COFFEE	DEGREE
ACORNS	ASCEND	BEFORE	CANARY	COGNAC	DELUGE
ACROSS	ASHORE	BEHALF	CANCEL	COLLAR	DEMAND
ACTING	ASLEEP	BEHAVE	CANDID	COLONY	DENIAL
ACTION	ASPECT	BEHIND	CANDLE	COLUMN	DENTAL
ACTIVE	ASPIRE	BETTER	CANINE	COMEDY	DEPART
ACTUAL	ASSERT	BEWARE	CANOPY	COMMIT	DEPEND
ADJUST	ASSESS	BEYOND	CANVAS	COMMON	DEPICT
ADMIRE	ASSETS	BICEPS	CANYON	COMPEL	DERAIL
ADRIFT	ASSIGN	BILLOW	CARAFE	COMPLY	DERIVE
ADSORB	ASSIST	BINARY	CARBON	CONVEX	DESERT
ADVERB	ASSUME	BINDER	CAREER	CONVEY	DESIGN
ADVICE	ASSURE	BIONIC	CARPET	CONVOY	DESIRE
ADVISE	ASTUTE	BOILER	CARROT	COOKIE	DETACH
AERIAL	ATTACH	BORDER	CARTON	COPIER	DETAIL
AFFAIR	ATTAIN	BORING	CASHEW	COPPER	DETOUR
AFFECT	ATTEND	BORROW	CASTLE	CORNER	DEVICE
AFFIRM	ATTEST	BOTANY	CASUAL	CORRAL	DEVOTE
AFFORD	AUTUMN	BOTHER	CATTLE	COSMIC	DIESEL
AFLOAT	AVALON	BOTTLE	CAVERN	COTTON	DIGEST
AFRAID	AVENUE	BOTTOM	CELERY	COUGAR	DILUTE
AGENCY	AWHILE	BOUNCE	CELLAR	COUPLE	DINNER
AGENDA	AZALEA	BOVINE	CEMENT	COUPON	DIRECT
AGHAST	BABBLE	BOWLER	CENSUS	COURSE	DISHES
ALCOVE	BABOON	BRANCH	CENTER	COYOTE	DIVERT
ALLEGE	BADGER	BREACH	CEREAL	CRAFTY	DIVIDE
ALLIED	BAFFLE	BREATH	CHALET	CRATER	DOCTOR
ALLUDE	BAKERY	BREEZE	CHANCE	CRAVAT	DOLLAR
ALLURE	BALLET	BRIDGE	CHANGE	CRAYON	DOMAIN
ALMOND	BALLOT	BRIGHT	CHARGE	CREASE	DOMINO
ALMOST	BALSAM	BROACH	CHEESE	CREATE	DONATE
ALPINE	BAMBOO	BROKEN	CHOICE	CREDIT	DONKEY
AMBUSH	BANANA	BROKER	CHOOSE	CRITIC	DOSAGE
AMULET	BANDIT	BRONZE	CHORAL	CROCUS	DRAGON
ANTHEM	BANKER	BROWSE	CHORES	CRUISE	DREAMS
ANTLER	BANTER	BRUNCH	CHORUS	CRUNCH	DUPLEX
APATHY	BARBER	BUBBLE	CHROME	CURFEW	DURING
APIARY	BARLEY	BUCKET	CINEMA	CUSTOM	EASILY
APPALL	BARREL	BUCKLE	CIRCLE	DAMAGE	EDITOR

EFFECT	FLAWED	HEATER	JERSEY	LISTEN	MISHAP
EFFORT	FLEECE	HECKLE	JESTER	LITTLE	MISSSES
EITHER	FLIGHT	HECTIC	JIGGLE	LIVING	MISTED
EMERGE	FLORAL	HEIGHT	JIGSAW	LIZARD	MITTEN
EMPIRE	FLOWER	HELIUM	JINGLE	LOCATE	MOBILE
ENAMEL	FLYING	HELMET	JOCKEY	LOCKER	MODERN
ENCODE	FOLLOW	HERMIT	JOKING	LOTION	MODEST
ENCORE	FOREST	HIATUS	JOVIAL	LOUNGE	MODIFY
ENDURE	FORGET	HIKING	JOYFUL	LOVELY	MODULE
ENERGY	FORMAL	HOBBLE	JOYOUS	LUMBER	MOMENT
ENGINE	FORMAT	HOCKEY	JUGGLE	LUXURY	MONKEY
ENIGMA	FORMER	HOLLOW	JUMBLE	MAGNET	MORROW
ENOUGH	FOSSIL	HONEST	JUNGLE	MAMMAL	MORTAR
ENSIGN	FREEZE	HORNET	JUNIOR	MANAGE	MOTION
ENTAIL	FRIEND	HUDDLE	KARATE	MANNER	MOTIVE
ENTIRE	FROLIC	HUMANE	KENNEL	MANUAL	MURMUR
ENTITY	FROZEN	HUMBLE	KERNEL	MARBLE	MUSCLE
EQUITY	FRUGAL	HUNGER	KETTLE	MARGIN	MUSEUM
ERASER	FUNNEL	HUNGRY	KINDLY	MARINE	MUSKOX
ERRAND	FUSION	HURDLE	KITTEN	MARKER	MUSLIN
ESCAPE	FUTURE	HUSTLE	KNIGHT	MARKET	MUSSEL
ESTATE	GADGET	HYPHEN	LABELS	MARLIN	MUTINY
ESTEEM	GALAXY	ICICLE	LACTIC	MAROON	MUTUAL
EXCEED	GARDEN	IMMUNE	LADDER	MARVEL	MYRIAD
EXCESS	GATHER	IMPACT	LADIES	MASCOT	MYRTLE
EXCUSE	GAZEBO	IMPEDE	LAGOON	MASTER	MYSELF
EXHALE	GENIUS	IMPORT	LARGER	MATRIX	MYSTIC
EXPAND	GENTLE	IMPOSE	LARYNX	MATTER	NAPKIN
EXPECT	GLIDER	INCHES	LATELY	MATURE	NARROW
EXPERT	GLOBAL	INCOME	LATEST	MEADOW	NATION
FABRIC	GLOOMY	INDEED	LAUNCH	MEDIUM	NEEDLE
FACADE	GLOSSY	INDOOR	LAWFUL	MELLOW	NEGATE
FACIAL	GOBLET	INFANT	LAWYER	MELODY	NEPHEW
FACTOR	GOGGLE	INFORM	LAYOUT	MEMBER	NETTLE
FALCON	GOLDEN	INNING	LEADER	MEMORY	NEURAL
FAMILY	GOLFER	INSECT	LEAGUE	MERLIN	NEURON
FAMOUS	GOSSIP	INSIDE	LEAVES	METEOR	NEWTON
FARMER	GOVERN	INSIST	LEDGER	METHOD	NIBBLE
FASTEN	GRAPES	INTACT	LEEWAY	METRIC	NICELY
FASTER	GROUND	INTEND	LEGACY	METTLE	NICKEL
FATHER	GROWTH	INTERN	LEGEND	MIDDLE	NIMBLE
FAUCET	GUITAR	INVEST	LENDER	MIDWAY	NIMBLY
FEEDER	GYPSUM	INVITE	LENGTH	MIGHTY	NIMBUS
FELINE	HAMLET	IODINE	LESSON	MINGLE	NOBODY
FIDDLE	HAMMER	ISLAND	LETTER	MINNOW	NORMAL
FIGURE	HAMPER	ITALIC	LIGHTS	MINTED	NOTARY
FILLER	HANDLE	ITSELF	LIKELY	MINUET	NOTICE
FILTER	HANGAR	JACKET	LILIES	MINUTE	NOTIFY
FINGER	HAPPEN	JAGUAR	LINEAR	MIRAGE	NOTING
FINISH	HARBOR	JARGON	LINGER	MIRROR	NOTION
FLAMES	HEALTH	JAUNTY	LIQUID	MISFIT	NOVICE

NOZZLE	PENCIL	PURIFY	RELATE	SAILOR	SIGNAL
NUANCE	PEOPLE	PURPLE	RELIEF	SALAMI	SILICA
NUGGET	PEPPER	PURSUE	RELISH	SALARY	SILVER
NUMBER	PERMIT	PUZZLE	REMAIN	SALINA	SIMPLE
NUZZLE	PERSON	PYTHON	REMARK	SALINE	SINGLE
OBJECT	PERUSE	QUAINT	REMEDY	SALTED	SISTER
OBTAIN	PHRASE	QUARRY	REMIND	SALUTE	SIZZLE
OCTAVE	PHYSIC	QUARTZ	REMOTE	SAMPLE	SKETCH
OFFICE	PICKED	QUENCH	REMOVE	SANDAL	SKIING
OFFSET	PICKLE	QUICHE	RENOWN	SATIRE	SLALOM
OLIVER	PICNIC	QUIVER	RENTAL	SATURN	SLEEVE
OMELET	PIECED	RABBIT	REPAIR	SAVORY	SLEIGH
ONWARD	PIGEON	RACKET	REPEAT	SCARCE	SLEUTH
OPAQUE	PILLAR	RADISH	REPLAY	SCHEME	SLIGHT
OPTION	PILLOW	RADIUM	REPORT	SCHOOL	SLOGAN
ORANGE	PILOTS	RADIUS	RERUNS	SCORCH	SLOWLY
ORCHID	PIRATE	RAFFLE	RESCUE	SCRAPE	SNAZZY
ORIGIN	PISTON	RAISIN	RESIDE	SCREAM	SNEEZE
ORIOLE	PLANET	RAMBLE	RESIST	SCREEN	SOCCER
OUTFIT	PLAQUE	RANDOM	RESORT	SCRIBE	SOCIAL
OUTING	PLASMA	RANGER	RESTED	SCRIPT	SODIUM
OUTLAW	PLEASE	RAPIDS	RESULT	SCROLL	SOFTEN
OUTPUT	PLEDGE	RAPPEL	RESUME	SCYTHE	SOFTER
OUTRUN	PLURAL	RASCAL	RETAIL	SEARCH	SOFTLY
OUTSET	POCKET	RATHER	RETIRE	SEASON	SOLEMN
OXYGEN	PODIUM	RATING	RETURN	SEATED	SOMBER
OYSTER	POETRY	RATTLE	REVEAL	SECOND	SONNET
PACIFY	POLICE	RAVINE	REVIEW	SECRET	SOOTHE
PACKED	POLICY	REALLY	REWARD	SECURE	SORROW
PADDLE	POLISH	REASON	REWIND	SEESAW	SOURCE
PAJAMA	POLITE	REBATE	RHYTHM	SELDOM	SPARSE
PALACE	POLLEN	RECALL	RIBBON	SELECT	SPEECH
PALLET	PONIES	RECENT	RIDDLE	SENATE	SPIDER
PAMPER	POODLE	RECESS	RIPPLE	SENIOR	SPIRAL
PANTRY	POPLAR	RECIPE	RITUAL	SENSOR	SPIRIT
PARADE	POROUS	RECORD	ROBUST	SEQUEL	SPLASH
PARCEL	PORTER	REDEEM	ROCKET	SERENE	SPLINT
PARDON	POSSUM	REDUCE	RODENT	SERIES	SPOKEN
PARENT	POTATO	REFILL	ROSTER	SESAME	SPONGE
PARLOR	POWDER	REFINE	ROTATE	SETTLE	SPORTS
PARROT	PREFER	REFLEX	RUDDER	SHADOW	SPRAIN
PASTEL	PREFIX	REFORM	RUFFLE	SHAGGY	SPREAD
PASTRY	PRETTY	REFUEL	RUNNER	SHELVE	SPRING
PATENT	PROFIT	REFUGE	RUNOFF	SHIELD	SPRINT
PATROL	PROMPT	REFUND	RUNWAY	SHIVER	SPROUT
PAUPER	PROPER	REFUSE	RUSSET	SHOULD	SPRUCE
PAYOUT	PUBLIC	REGAIN	RUSTLE	SHOVEL	SQUALL
PEAKED	PUDDLE	REGARD	SACHET	SHOWER	SQUARE
PEANUT	PULLEY	REGION	SADDLE	SHRIMP	SQUASH
PEBBLE	PUPPET	REGRET	SAFARI	SHRINK	SQUEAK
PEDDLE	PURELY	REJECT	SAFELY	SIERRA	SQUEAL

SQUINT	TARGET	UNGLUE	WASHER	ALFALFA	ATTEMPT
SQUIRE	TARTAN	UNIQUE	WEALTH	ALGEBRA	ATTRACT
STABLE	TATTOO	UNLESS	WEASEL	ALLERGY	AUCTION
STAPLE	TENANT	UNLIKE	WICKER	ALMANAC	AUDIBLE
STATIC	TENDER	UNLOAD	WILLOW	ALMONDS	AUDITOR
STATUE	TENDON	UNLOCK	WINDOW	ALREADY	AVERAGE
STATUS	TENNIS	UNPACK	WINTER	ALUMNUS	AVIATOR
STEADY	TENURE	UNPLUG	WISDOM	AMAZING	AVOCADO
STEREO	THANKS	UNTIDY	WITHIN	AMIABLE	AWESOME
STITCH	THEORY	UNWIND	WOBBLE	AMMONIA	AWKWARD
STORMY	THESIS	UNWRAP	WONDER	AMNESIA	AWNINGS
STRAIN	THIRST	UPDATE	WORTHY	AMPLIFY	BACKLOG
STRAIT	THREAD	UPHILL	WRENCH	AMUSING	BAGGAGE
STREAK	THRIFT	UPLIFT	WRITER	ANAGRAM	BALANCE
STREAM	THRILL	UPRISE	YELLOW	ANALOGY	BALCONY
STREET	THROAT	UPROAR	YONDER	ANALYST	BALLOON
STRIDE	THRONE	UPSIDE	ZENITH	ANALYZE	BANDAGE
STRIKE	TICKET	UPWARD	ZIGZAG	ANARCHY	BANQUET
STRING	TICKLE	URGENT	ZIPPER	ANATOMY	BARBELL
STRIVE	TIMBER	USEFUL	ZODIAC	ANCIENT	BARGAIN
STROBE	TISSUE	UTMOST	ABANDON	ANDROID	BAROQUE
STROLL	TOFFEE	UTOPIA	ABDOMEN	ANGUISH	BARRIER
STRONG	TOMATO	VACANT	ABILITY	ANIMATE	BATTERY
STRUCK	TONGUE	VACATE	ABOLISH	ANNUITY	BEANBAG
STUCCO	TONSIL	VACUUM	ABSENCE	ANOMALY	BEARING
STUDIO	TOPEKA	VALLEY	ACADEMY	ANOTHER	BECAUSE
STURDY	TOPPLE	VANISH	ACCLAIM	ANSWERS	BEDPOST
SUBDUE	TOUCAN	VANITY	ACCOUNT	ANTENNA	BEDROCK
SUBLET	TOWARD	VELVET	ACHIEVE	ANTIQUA	BEEHIVE
SUBMIT	TRANCE	VENDOR	ACQUIRE	ANTONYM	BELATED
SUBTLE	TRAVEL	VERIFY	ACREAGE	ANXIETY	BELLBOY
SUBURB	TREATY	VERTEX	ACROBAT	ANXIOUS	BENEATH
SUBWAY	TREMOR	VESSEL	ACTRESS	ANYBODY	BENEFIT
SUDDEN	TRENCH	VIALE	ADDRESS	APOLOGY	BEQUEST
SUMMER	TRIVIA	VICTOR	ADJOURN	APPAREL	BESIDES
SUMMIT	TROPHY	VIOLET	ADMIRAL	APPEASE	BESIEGE
SUNDAE	TUMBLE	VIOLIN	ADVANCE	APPLAUD	BETWEEN
SUNSET	TUNNEL	VIRTUE	ADVERSE	APPLIES	BICYCLE
SUPERB	TURKEY	VISION	AEROBIC	APPOINT	BILLION
SUPPER	TURNIP	VISUAL	AEROSOL	APRICOT	BIOLOGY
SUPPLY	TURTLE	VOLLEY	AFFLICT	AQUATIC	BISCUIT
SURREY	TUXEDO	VOLUME	AGAINST	ARCHAIC	BLANKET
SURVEY	TWELVE	VOYAGE	AGELESS	ARRANGE	BLATANT
SWITCH	TWENTY	WAFFLE	AGILITY	ARRIVAL	BLOSSOM
SYMBOL	TYCOON	WAITER	AGITATE	ARTICLE	BLUNDER
SYSTEM	TYPIST	WALLET	AILMENT	ARTISAN	BOBSLED
TACKLE	UMPIRE	WALNUT	AIMLESS	ASHAMED	BOLSTER
TACTIC	UNABLE	WALRUS	AIRFARE	ASPHALT	BONANZA
TAILOR	UNEASY	WANDER	AIRLINE	ASSURED	BONFIRE
TALENT	UNFAIR	WARDEN	AIRPORT	ASTOUND	BOOSTER
TAMPER	UNFOLD	WARMTH	ALCHEMY	ATHLETE	BOREDOM

BOULDER	CHRONIC	COOKIES	DISCUSS	FEATHER	GRIDDLE
BOUQUET	CIRCUIT	CORDIAL	DISMISS	FEATURE	GRIZZLY
BOWLING	CITIZEN	CORONET	DISPLAY	FEDERAL	GROCERY
BRACKET	CLASSIC	COUNTER	DISPUTE	FEELING	GUITARS
BREATHE	CLEANER	CURIOUS	DISTANT	FERTILE	GYMNAST
BREVITY	CLEANSE	CURTAIN	DISTILL	FICTION	HABITAT
BRISTLE	CLIMATE	CUSHION	DISTORT	FINANCE	HAIRCUT
BROTHER	CLUSTER	CYCLIST	DISTURB	FINESSE	HAIRPIN
BUFFALO	CLUTTER	CYCLONE	DIVERGE	FISSION	HALOGEN
BUILDER	COASTAL	DAMSELS	DIVERSE	FIXTURE	HAMMOCK
BULLPEN	COCONUT	DANCING	DIVIDED	FLANNEL	HAMSTER
CABARET	COLLECT	DECEIVE	DOLPHIN	FLATTEN	HARMONY
CABBAGE	COLLEGE	DECIBEL	DOORWAY	FLORIST	HARNESS
CABINET	COLLIDE	DECIMAL	DORMANT	FOOLISH	HARVEST
CABOOSE	COMBINE	DECLARE	DRESSER	FOREIGN	HEALTHY
CADENCE	COMFORT	DECLINE	DRIZZLE	FOREVER	HEATHER
CALCIUM	COMMAND	DEFAULT	DYNAMIC	FORGIVE	HEIRESS
CALORIE	COMMEND	DEFENSE	DYNASTY	FORMULA	HELPFUL
CALVARY	COMMENT	DEFLECT	EARDRUM	FORTUNE	HELPING
CALYPSO	COMMUNE	DEFROST	ECLIPSE	FORWARD	HERRING
CANTEEN	COMPACT	DEGREES	ECONOMY	FOUNDER	HERSELF
CANYONS	COMPANY	DELIGHT	EDITION	FRAGILE	HEXAGON
CAPITAL	COMPARE	DELIVER	EDUCATE	FRANTIC	HICKORY
CAPSULE	COMPASS	DENSITY	ELEGANT	FREEDOM	HISTORY
CAPTAIN	COMPETE	DENTIST	ELEMENT	FREEWAY	HOBBIES
CAPTION	COMPLEX	DEplete	ELEVATE	FREIGHT	HOLIDAY
CAPTIVE	COMPUTE	DEPOSIT	ELLIPSE	FRIGATE	HONESTY
CARAMEL	CONCEAL	DEPRIVE	ELUSIVE	FUNERAL	HOPEFUL
CAREFUL	CONCEDE	DERRICK	EMERALD	FURIOUS	HORIZON
CARIBOU	CONCEPT	DESCEND	EMOTION	GALLERY	HOSTESS
CARRIER	CONCERN	DESCENT	ENCLOSE	GARNISH	HOUSTON
CARTOON	CONCERT	DESERVE	ENQUIRY	GENERAL	HOWEVER
CASCADE	CONCISE	DESKTOP	ENTROPY	GENERIC	HUSBAND
CATALOG	CONDUCT	DESPITE	EQUINOX	GENUINE	HYDRANT
CAUTION	CONDUIT	DESSERT	ERRATIC	GEOLOGY	HYGIENE
CEILING	CONFIRM	DESTINY	ESSENCE	GESTURE	ICEBERG
CENTRAL	CONFORM	DEVELOP	EVENING	GIRAFFE	IMAGINE
CENTURY	CONFUSE	DEWDROP	EXAMINE	GLACIAL	IMITATE
CERTAIN	CONNECT	DIAGRAM	EXAMPLE	GLACIER	IMMENSE
CERTIFY	CONSENT	DIALECT	EXHAUST	GLASSES	IMPRESS
CHAMBER	CONSIST	DIAMOND	EXPENSE	GLIMMER	IMPRINT
CHANNEL	CONSOLE	DICTATE	EXPLAIN	GLIMPSE	IMPROVE
CHAPTER	CONSULT	DIFFUSE	EXPRESS	GOLFING	IMPULSE
CHARADE	CONSUME	DIGITAL	EXTREME	GONDOLA	INCLUDE
CHARIOT	CONTACT	DIGNIFY	FACTORS	GOODBYE	INDOORS
CHARTER	CONTAIN	DIGNITY	FACTORY	GORILLA	INERTIA
CHASSIS	CONTENT	DILEMMA	FACULTY	GRADUAL	INFLATE
CHATTER	CONTEST	DIPLOMA	FANFARE	GRAMMAR	INHABIT
CHEETAH	CONTEXT	DISCARD	FARTHER	GRANOLA	INHERIT
CHICKEN	CONTOUR	DISCERN	FASHION	GRAPHIC	INQUIRE
CHIMNEY	CONVENE	DISCORD	FATIGUE	GRAVITY	INSPECT



INSPIRE	MAJESTY	NEMESIS	PARSLEY	PREFACE	RAVIOLI
INSTALL	MANAGER	NEPTUNE	PARSONS	PRELUDE	READOUT
INSTANT	MANDATE	NERVOUS	PARTIAL	PREMIUM	REALIGN
INSTEAD	MANNERS	NETWORK	PARTNER	PRETEND	REALISM
INSTILL	MANSION	NEUTRAL	PASSAGE	PRETZEL	REALITY
IRONING	MARBLES	NOMINAL	PASSIVE	PREVAIL	REALIZE
ISOLATE	MARQUEE	NOMINEE	PASTURE	PREVENT	REALTOR
ITALICS	MASONRY	NONSTOP	PATIENT	PREVIEW	REASONS
ITEMIZE	MASSIVE	NOSTRIL	PATRIOT	PRIMARY	REBOUND
JEWELER	MAXIMUM	NOTABLE	PATTERN	PRINTER	REBUILD
JEWELRY	MEANING	NOTHING	PAUSING	PRIVATE	RECEIPT
JOGGING	MEASURE	NOURISH	PAYLOAD	PROBLEM	RECEIVE
JUGGLER	MEDIATE	NOVELTY	PEACOCK	PROCEED	RECITAL
JUNIPER	MEDICAL	NUMERAL	PELICAN	PROCESS	RECLAIM
JUSTIFY	MEETING	NURSERY	PENALTY	PROCURE	RECLINE
KETTLES	MENTION	OATMEAL	PERCENT	PRODUCE	RECOVER
KEYHOLE	MERCURY	OBSCURE	PERFECT	PRODUCT	RECRUIT
KINGDOM	MERMAID	OBSERVE	PERFORM	PROFILE	RECTIFY
KNEECAP	MESSAGE	OBVIOUS	PERFUME	PROGRAM	RECYCLE
LACKING	METEORS	OCTAGON	PERHAPS	PROJECT	REFEREE
LANDING	MIGRATE	OCTOBER	PERPLEX	PROMISE	REFINED
LANTERN	MILEAGE	OCTOPUS	PERSIST	PRONOUN	REFLECT
LASTING	MINERAL	ODYSSEY	PHANTOM	PROTECT	REFRAIN
LAUNDRY	MINIMAL	OFFENSE	PIANIST	PROTEIN	REFRESH
LECTURE	MINIMUM	OPERATE	PICCOLO	PROVERB	REFUSAL
LEISURE	MINUTES	OPINION	PICTURE	PROVIDE	REGIMEN
LENGTHY	MIRACLE	OPTICAL	PIGMENT	PROWESS	REGULAR
LENIENT	MISSILE	ORCHARD	PILLOWS	PRUDENT	REJOICE
LEOPARD	MISSING	OREGANO	PINBALL	PUDDING	RELAPSE
LETTUCE	MISSION	ORGANIC	PIONEER	PUMPKIN	RELEASE
LEXICON	MISTAKE	OSTRICH	PIRATES	PUPPIES	RELIEVE
LIBERTY	MITTENS	OUTDOOR	PITCHER	PURPOSE	REMARKS
LIBRARY	MIXTURE	OUTLOOK	PLANNED	PURRING	REMNANT
LICENSE	MOISTEN	OUTPOST	PLASTER	PURSUIT	REMODEL
LIONESS	MOLLUSK	OUTRAGE	PLASTIC	PUZZLED	RENEWAL
LIQUIDS	MONITOR	OUTSIDE	PLATEAU	PYRAMID	REPLACE
LITERAL	MONSOON	OVERALL	PLATOON	QUALIFY	REPLICA
LOBSTER	MOORING	OVERJOY	PLIABLE	QUALITY	REPTILE
LOGGING	MORaine	OXIDIZE	PLUMAGE	QUARTER	REQUEST
LOOMING	MORNING	PACIFIC	POLYGON	QUARTET	REQUIRE
LOTTERY	MUFFLER	PACKAGE	POMPOUS	QUICKLY	RESERVE
LOVABLE	MUNDANE	PADDOCK	POPCORN	QUIETLY	RESIDUE
LOYALTY	MUSICAL	PADLOCK	POPULAR	RACCOON	RESOLVE
LOZENGE	MUSKRAT	PAGEANT	PORTAGE	RADIATE	RESPECT
LUGGAGE	MUSTANG	PAJAMAS	PORTRAY	RADICAL	RESPOND
LULLABY	MUSTARD	PANCAKE	POSTAGE	RAILWAY	RESTFUL
MACHINE	MYSTERY	PANTHER	POSTURE	RAINBOW	RESTORE
MAGENTA	NARRATE	PARADED	POWERED	RAMBLER	RETREAT
MAGICAL	NATURAL	PARADOX	PRAIRIE	RANCHER	REUNION
MAGNIFY	NECKTIE	PARASOL	PRECEDE	RANKING	REVENUE
MAILBOX	NEITHER	PARKING	PREDICT	RAPPORT	REVERSE

REVOLVE	SEVENTY	STYLISH	TRICEPS	VULTURE	AIRPLANE
REWRITE	SEVERAL	SUBSIDE	TRILOGY	WALLABY	AIRSPEED
RHUBARB	SHAMPOO	SUCCEED	TRIUMPH	WARNING	AIRTIGHT
ROASTED	SHATTER	SUCCESS	TRIVIAL	WASHING	ALLOCATE
ROMANCE	SHELTER	SUGGEST	TROLLEY	WAYBILL	ALPHABET
ROOFTOP	SHERIFF	SUMMARY	TROUBLE	WAYWARD	ALTITUDE
ROOSTER	SHIMMER	SUNBURN	TRUMPET	WEALTHY	ALUMINUM
ROSEBUD	SHUDDER	SUNDIAL	TUESDAY	WEATHER	AMBITION
ROUTINE	SHUFFLE	SUNDOWN	TUITION	WEDDING	AMORTIZE
ROWBOAT	SHUTTER	SUNRISE	TYPHOON	WEEKEND	ANACONDA
ROYALTY	SIBLING	SUPPORT	TYPICAL	WELCOME	ANALYSIS
RUNNING	SIGNIFY	SUPPOSE	UNAWARE	WESTERN	ANCESTOR
SALVAGE	SILENCE	SUPREME	UNCOVER	WHETHER	ANECDOTE
SANDALS	SILICON	SURFACE	UNDERGO	WHISKER	ANNOUNCE
SANDBAG	SINCERE	SURPLUS	UNICORN	WHISPER	ANTELOPE
SAPLING	SITTING	SUSPEND	UNIFORM	WHISTLE	ANYTHING
SARCASM	SIXTEEN	SUSTAIN	UNKNOWN	WICHITA	APPENDIX
SARDINE	SKIRTED	SWALLOW	UNUSUAL	WILDCAT	APPETITE
SAUSAGE	SKYDIVE	SWEATER	UPFRONT	WINNING	APPRAISE
SAWDUST	SKYLARK	SWIFTLY	UPGRADE	WISHFUL	APPROACH
SAWFISH	SLEIGHT	SYMPTOM	UPSTAGE	WITHOUT	APPROVAL
SAWMILL	SLUMBER	SYNONYM	UTENSIL	WITNESS	APTITUDE
SCALLOP	SMARTLY	TARNISH	UTILITY	WORKDAY	AQUARIUM
SCAMPER	SNIPPET	TEACHER	VACANCY	WRANGLE	ARACHNID
SCANNER	SNORKEL	TEDIOUS	VACCINE	WRAPPER	ARGUMENT
SCARLET	SNUGGLE	TENSION	VALIANT	ZILLION	ARMCHAIR
SCENTED	SOARING	TERRACE	VAMPIRE	ZOOLOGY	AROMATIC
SCIENCE	SOCIETY	TERRAIN	VANILLA	ABDICATE	ARPEGGIO
SCOOTER	SOLDIER	TERRIER	VARIETY	ABRASION	ARRANGED
SCRATCH	SOMEDAY	TEXTILE	VARIOUS	ABSOLUTE	ARROGANT
SCREECH	SOPRANO	THEATER	VARNISH	ABUNDANT	ARTIFACT
SCRUPLE	SPANIEL	THERMAL	VEHICLE	ACADEMIC	ARTISTIC
SCUTTLE	SPARKLE	THIRSTY	VENTURE	ACCIDENT	ASSEMBLE
SEAFOOD	SPARROW	THOUGHT	VERANDA	ACCOLADE	ASSEMBLY
SEAGULL	SPECIAL	THROUGH	VERBOSE	ACCOUNTS	ASTERISK
SEAPORT	SPINACH	THUNDER	VERDICT	ACCURACY	ASTEROID
SEASIDE	SPINDLE	TOASTER	VERSION	ACCURATE	ASTONISH
SEAWEED	SPONSOR	TONIGHT	VERTIGO	ACOUSTIC	ATHLETIC
SECTION	SQUEEZE	TOOLBOX	VIBRANT	ACQUAINT	ATLANTIC
SEGMENT	STADIUM	TORNADO	VICTORY	ADDENDUM	ATTITUDE
SEISMIC	STAMINA	TOURISM	VILLAGE	ADDITION	ATTORNEY
SELFISH	STANDBY	TOURIST	VINEGAR	ADEQUATE	AUDIENCE
SELLOUT	STAPLER	TRACTOR	VINTAGE	ADHESIVE	AUTOMATE
SELTZER	STARTLE	TRAFFIC	VIRTUAL	ADJACENT	AVIATION
SERIOUS	STATION	TRAGEDY	VISIBLE	ADMONISH	BACHELOR
SERVANT	STELLAR	TRAILER	VISITOR	ADVOCATE	BACKDROP
SERVICE	STOMACH	TRANSIT	VITAMIN	AEROBICS	BACKFIRE
SESSION	STORAGE	TRAPEZE	VOLCANO	AFFINITY	BACKPACK
SETBACK	STRANGE	TREETOP	VOLTAGE	AFFLUENT	BACKSPIN
SETTING	STRETCH	TREMBLE	VOUCHER	AIRBORNE	BACKWARD
SETTLER	STUDENT	TRIBUTE	VOYAGER	AIRCRAFT	BACKYARD

BACTERIA	CHAMPION	DARKROOM	ECONOMIC	GALACTIC	INSULATE
BAGPIPES	CHARCOAL	DAUGHTER	EGGPLANT	GENEROUS	INTENDED
BALLPARK	CHARISMA	DAYDREAM	ELDORADO	GEODESIC	INTERCOM
BALLROOM	CHECKERS	DAYLIGHT	ELECTION	GERANIUM	INTEREST
BANISTER	CHEERFUL	DECEMBER	ELECTRIC	GLORIOUS	INTERIOR
BARBECUE	CHESTNUT	DECIPHER	ELEPHANT	GLOSSARY	INTERNAL
BARRACKS	CHIPMUNK	DECISION	ELEVATOR	GOLDFISH	INTERVAL
BASEBALL	CINNAMON	DEDICATE	EMPHASIS	GRACEFUL	INTREPID
BASEMENT	CITATION	DEFIANCE	EMPLOYEE	GRADUATE	INTRIGUE
BATHROOM	CLARINET	DEFINITE	EMPLOYER	GRAPHICS	INVESTOR
BEGINNER	CLEARING	DELEGATE	ENGINEER	GRATUITY	IRRIGATE
BEHAVIOR	CODEWORD	DELICATE	ENQUIRER	GREENERY	IRRITATE
BEVERAGE	COHERENT	DELIVERY	ENTIRETY	GUARDIAN	JEALOUSY
BIRTHDAY	COINCIDE	DESCRIBE	ENTRANCE	GUIDANCE	JETLINER
BLACKOUT	COLESLAW	DESERVED	ENVELOPE	HANDBAGS	JUDGMENT
BLIZZARD	COLLAPSE	DESIGNER	EPILOGUE	HANDSOME	JUVENILE
BLUEBIRD	COLONIAL	DIAGNOSE	EQUALITY	HARDWARE	KANGAROO
BOATYARD	COLOSSAL	DIAGONAL	EQUATION	HARDWOOD	KEROSENE
BONAFIDE	COMMERCE	DIALOGUE	ESTIMATE	HAYSTACK	KINDNESS
BOOKCASE	COMPLAIN	DIAMETER	EVALUATE	HEADACHE	KNAPSACK
BOOKMARK	COMPLETE	DILIGENT	EVENTFUL	HEREDITY	LACROSSE
BOOKSHOP	COMPOUND	DIMINISH	EVERYDAY	HERITAGE	LAMINATE
BOOKWORM	COMPRESS	DIPLOMAT	EXERCISE	HILLSIDE	LANDLORD
BOULDERS	COMPUTER	DIRECTOR	EXPEDITE	HISTORIC	LANDMARK
BOUNDARY	CONCERTO	DISAGREE	EXTERIOR	HOLIDAYS	LANGUAGE
BOUTIQUE	CONCLUDE	DISASTER	EXTERNAL	HOLOGRAM	LANTERNS
BRACELET	CONCRETE	DISCOUNT	EYEGLASS	HOMEWORK	LATITUDE
BROCHURE	CONFETTI	DISCOVER	FABULOUS	HONEYBEE	LAUGHTER
BUILDING	CONFLICT	DISGUISE	FAMILIAR	HOSPITAL	LAWRENCE
BULLETIN	CONFOUND	DISKETTE	FAREWELL	HUMIDITY	LEAPFROG
BULLSEYE	CONQUEST	DISPATCH	FEEDBACK	HUMILITY	LEFTOVER
BUNGALOW	CONSERVE	DISPENSE	FESTIVAL	HYACINTH	LEMONADE
CALCULUS	CONSIDER	DISSOLVE	FILAMENT	HYDROGEN	LENGTHEN
CALENDAR	CONSTANT	DISTANCE	FIREWOOD	HYSTERIA	LEVERAGE
CALLIOPE	CONSUMER	DISTINCT	FLAGPOLE	ILLUSION	LICORICE
CALORIES	CONTINUE	DISTRACT	FLAMINGO	IMPOSING	LIFEBOAT
CAMPAIGN	CONTRACT	DISTRICT	FLOTILLA	INCIDENT	LIFETIME
CAMPFIRE	CONTRAST	DIVIDEND	FLOURISH	INCREASE	LIGAMENT
CANISTER	CONVERGE	DIVISION	FOOTBALL	INDIRECT	LIKEWISE
CAPACITY	CONVERSE	DOCUMENT	FORCEFUL	INDUSTRY	LINOLEUM
CARDINAL	CONVINCE	DOMESTIC	FORECAST	INFINITE	LIPSTICK
CAREFREE	COOKBOOK	DOMINANT	FOUNTAIN	INFINITY	LITERACY
CARELESS	CORRIDOR	DOMINION	FRACTION	INFORMAL	LITERARY
CARNIVAL	CRITICAL	DOUBTFUL	FRAGMENT	INFUSION	LOCATION
CARRIAGE	CROSSBAR	DOUGHNUT	FRECKLES	INNOCENT	LOGISTIC
CASSETTE	CUCUMBER	DOWNHILL	FREQUENT	INNOVATE	LOOPHOLE
CATAPULT	CUFFLINK	DOWNTOWN	FRESHMAN	INSECURE	LOWLANDS
CATEGORY	CUPBOARD	DRAWBACK	FRICTION	INSIGNIA	LUMINOUS
CAUSEWAY	CUSTOMER	DRESSING	FRIENDLY	INSTANCE	LUNCHEON
CAUTIOUS	CYLINDER	DRIVEWAY	FRONTIER	INSTINCT	MACARONI
CEREMONY	DAFFODIL	DWELLING	FUNCTION	INSTRUCT	MACKEREL

MAGAZINE	MOTHBALL	OVERHAUL	POSSIBLE	RELATIVE	SECRETLY
MAGICIAN	MOTORCAR	OVERTIME	POSTCARD	RELAXING	SECURITY
MAINLAND	MOTORIZED	OVERTURE	POSTPONE	RELEVANT	SEDATION
MAINTAIN	MOUNTAIN	OVERVIEW	PRACTICE	RELOCATE	SEDIMENT
MAJESTIC	MOVEMENT	PAMPHLET	PRECINCT	REMEMBER	SEMESTER
MAJORITY	MULBERRY	PANORAMA	PRECIOUS	REMINDER	SENSIBLE
MANDOLIN	MULTIPLE	PARABOLA	PRESENCE	REPHRASE	SENTENCE
MANEUVER	MULTIPLY	PARADIGM	PRESSURE	REPLACED	SEPARATE
MANICURE	MUSHROOM	PARADISE	PRESTIGE	REPORTER	SEQUENCE
MANIFEST	MUSTACHE	PARAFFIN	PREVIOUS	REPUBLIC	SERENADE
MANIFOLD	NAMESAKE	PARAKEET	PRIMROSE	RESEARCH	SHAMROCK
MARATHON	NAUTILUS	PARALLAX	PRIORITY	RESIDENT	SHEPHERD
MARGINAL	NAVIGATE	PARALLEL	PRISTINE	RESOLVED	SHERBERT
MARIGOLD	NECKLACE	PARKLAND	PRODUCER	RESONANT	SHILLING
MARINADE	NEEDLESS	PARTICLE	PROGRESS	RESOURCE	SHIPMATE
MARINATE	NEIGHBOR	PASSPORT	PROPERLY	RESPONSE	SHIPMENT
MARITIME	NEWCOMER	PASSWORD	PROPERTY	RESTLESS	SHIPYARD
MARRIAGE	NEWSCAST	PATIENCE	PROSPECT	RESTRAIN	SHOELACE
MATERIAL	NICKNAME	PAVEMENT	PROTOCOL	RESTRICT	SHOPPING
MATTRESS	NINETEEN	PAVILION	PROVINCE	RESTROOM	SHOULDER
MAVERICK	NINETIES	PEACOCKS	PULLOVER	REVIEWER	SHOWBOAT
MEANTIME	NITROGEN	PEDESTAL	PUNCTUAL	REVISION	SHOWERED
MECHANIC	NOBILITY	PEDICURE	PURCHASE	RHAPSODY	SHOWROOM
MEDICINE	NOBLEMAN	PEGBOARD	QUADRANT	RHETORIC	SHUTDOWN
MEDIOCRE	NOMINATE	PENDULUM	QUANTIFY	ROMANTIC	SIDELINE
MERCHANT	NONSENSE	PENGUINS	QUANTITY	ROTATION	SIDESTEP
MERCIFUL	NORMALLY	PERCEIVE	QUESTION	SAILBOAT	SIDEWALK
MERIDIAN	NORTHERN	PERIODIC	QUICKEST	SAILFISH	SIDEWAYS
MERINGUE	NOTARIZE	PERMEATE	QUOTIENT	SANCTITY	SIMPLIFY
METALLIC	NOVEMBER	PEROXIDE	RADIATOR	SANDWICH	SIMULATE
METAPHOR	NUISANCE	PERSONAL	RAILROAD	SANITARY	SINGULAR
MIDNIGHT	OBEDIENT	PERSUADE	RAINCOAT	SAPPHIRE	SLIGHTLY
MIDPOINT	OBLIVION	PETULANT	RAINDROP	SATURATE	SLIPPERY
MINIMIZE	OBSOLETE	PHARMACY	RAINFALL	SAWTOOTH	SNOWBALL
MINSTREL	OBSTACLE	PHEASANT	RATIONAL	SCABBARD	SNOWSHOE
MISCHIEF	OCCASION	PHONETIC	RAVENOUS	SCAFFOLD	SOCIABLE
MISPLACE	ODOMETER	PHYSICAL	REACTION	SCENARIO	SOFTBALL
MISSPELL	OFFICIAL	PINAFORE	REAPPEAR	SCHEDULE	SOFTWARE
MOCCASIN	OFFSHORE	PINNACLE	REASSIGN	SCHOONER	SOLIDIFY
MODERATE	OMISSION	PINPOINT	REASSURE	SCISSORS	SOLITARY
MODESTLY	OPERATOR	PIONEERS	RECENTLY	SCORPION	SOLITUDE
MOISTURE	OPPONENT	PIPELINE	RECKLESS	SCRABBLE	SOLSTICE
MOLASSES	OPTIMISM	PLATFORM	RECREATE	SCRAMBLE	SOLUTION
MOLECULE	ORDINARY	PLATINUM	REDEFINE	SCRIBBLE	SOMBRERO
MOLEHILL	ORNAMENT	PLEASANT	REFERRAL	SCRUTINY	SOMEBODY
MONARCHY	OUTBOUND	POPULACE	REGAINED	SCULPTOR	SOMETIME
MONOPOLY	OUTBREAK	PORPOISE	REGARDED	SEABOARD	SONGBOOK
MONOTONE	OUTDOORS	PORRIDGE	REGIONAL	SEACOAST	SORCERER
MONUMENT	OUTFIELD	PORTABLE	REGISTER	SEAHORSE	SOUTHERN
MORTGAGE	OVERCAST	PORTRAIT	REINDEER	SEASHORE	SOUVENIR
MOSQUITO	OVERCOAT	POSITION	RELATION	SEASONAL	SPACIOUS

SPECIFIC	THIRTEEN	WARDROBE	ARMSTRONG	CHILDHOOD	EDUCATION
SPECTRUM	THURSDAY	WARRANTY	ARROGANCE	CHOCOLATE	EMERGENCY
SPLENDID	TOBOGGAN	WHATEVER	ARROWHEAD	CLASSROOM	EMOTIONAL
SPLENDOR	TOGETHER	WHEREVER	ARTICHOKE	CLEARANCE	ENCHANTED
SPOONFUL	TOLERANT	WINDFALL	ASPARAGUS	CLOCKWISE	ENCOUNTER
SPORADIC	TOLERATE	WINDMILL	ASSISTANT	COMMITTEE	ENDURANCE
SPRINKLE	TOMORROW	WIRELESS	ASTROLOGY	COMMUNITY	ENTERTAIN
SQUADRON	TORTILLA	WITHDRAW	ASTRONAUT	COMPANION	EQUIPMENT
SQUIRREL	TRANQUIL	WORKLOAD	ASTRONOMY	COMPETENT	ESTABLISH
STALLION	TRANSFER	WORKSHOP	ATTENTION	COMPONENT	ESTIMATES
STAMPEDE	TRANSMIT	WRANGLER	AUTHORITY	CONCIERGE	ETIQUETTE
STANDARD	TRAVERSE	YOURSELF	AUTOGRAPH	CONDITION	EVAPORATE
STANDOFF	TREASURE	YOUTHFUL	AUTOMATIC	CONFIDENT	EVERGREEN
STRAIGHT	TRESPASS	ZUCCHINI	AVAILABLE	CONFUSING	EVERYBODY
STRAINER	TRIANGLE	ABSURDITY	BACKWARDS	CONNECTED	EXCELLENT
STRATEGY	TRICYCLE	ACCORDION	BADMINTON	CONSCIOUS	EXCLUSIVE
STRENGTH	TRILLION	ACROBATIC	BALLERINA	CONSONANT	EXECUTIVE
STRUGGLE	TROMBONE	ADMIRABLE	BANDSTAND	CONSTRUCT	EXHAUSTED
STUBBORN	TROPICAL	ADMISSION	BAROMETER	CONTAINER	EXISTENCE
STUDIOUS	TURNOVER	ADVANTAGE	BINOCULAR	CONTENDER	EXPANSION
STUNNING	TWEEZERS	ADVENTURE	BIOGRAPHY	CONTINENT	EXPENSIVE
SUBMERGE	ULTIMATE	ADVERSARY	BIOSPHERE	COROLLARY	EXPERTISE
SUBTRACT	UMBRELLA	ADVERTISE	BLEACHERS	CRANBERRY	EXTENSION
SUBURBAN	UNBROKEN	AEROSPACE	BLINDFOLD	CRITICISM	FANTASTIC
SUCCINCT	UNCOMMON	AESTHETIC	BLUEBERRY	CROCODILE	FINGERTIP
SUITABLE	UNDERCUT	AFFIDAVIT	BLUEGRASS	DANDELION	FLOWERPOT
SUITCASE	UNDERDOG	AFFILIATE	BLUEPRINT	DANGEROUS	FLUCTUATE
SUNLIGHT	UNDERSEA	AFTERMATH	BOOKSTORE	DEDICATED	FORBIDDEN
SUNSHINE	UNDERWAY	AFTERNOON	BOOMERANG	DEFICIENT	FORESIGHT
SUPERIOR	UNICYCLE	ALABASTER	BOULEVARD	DELICIOUS	FORGETFUL
SURPRISE	UNIVERSE	ALBATROSS	BREAKFAST	DEMOCRACY	FORTUNATE
SURROUND	UNLIKELY	ALGORITHM	BRIEFCASE	DEPARTURE	FOUNTAINS
SUSPENSE	UNSETTLE	ALLIGATOR	BRILLIANT	DESPERATE	FRAMEWORK
SWIMSUIT	UNSTABLE	AMBIGUOUS	BROADCAST	DETECTIVE	FRANCHISE
SYMMETRY	UPCOMING	AMBITIOUS	BULLDOZER	DETERGENT	FREQUENCY
SYMPATHY	VACATION	AMPERSAND	CAFETERIA	DETERMINE	FURNITURE
SYMPHONY	VAGABOND	AMPHIBIAN	CALCULATE	DIAGNOSIS	GATHERING
SYNDROME	VALIDATE	AMPLIFIER	CALIBRATE	DIFFERENT	GENERATOR
TACTICAL	VALUABLE	AMPLITUDE	CAPACITOR	DIFFICULT	GENTLEMAN
TANGIBLE	VANGUARD	ANCESTRAL	CAPTIVATE	DIGNIFIED	GEOMETRIC
TAPESTRY	VARIABLE	ANCHOVIES	CARDBOARD	DIMENSION	GOLDENROD
TEASPOON	VARIANCE	ANONYMOUS	CARPENTER	DIRECTION	GRATITUDE
TEENAGER	VELOCITY	ANTHOLOGY	CARTWHEEL	DISAPPEAR	GREATBEND
TELECAST	VERTEBRA	ANTIQUITY	CASSEROLE	DISCOVERY	GREYHOUND
TELEGRAM	VERTICAL	APARTMENT	CENTIPEDE	DISPENSER	GROCERIES
TENDENCY	VICINITY	APOLOGIZE	CERTITUDE	DOCTORATE	GUIDELINE
TERMINAL	VIGNETTE	APPETIZER	CHALLENGE	DORMITORY	GYMNASIUM
TERRIBLE	VINEYARD	APPLIANCE	CHAMPAGNE	DUPLICATE	GYMNASTIC
TERRIFIC	VIRTUOSO	AQUEDUCTS	CHARACTER	EARTHWORM	HAILSTORM
TEXTBOOK	VITALITY	ARBITRARY	CHECKLIST	ECCENTRIC	HAMBURGER
THEMATIC	WAITRESS	ARGONAUTS	CHEMISTRY	EDITORIAL	HANDSHAKE

HAPPENING	LEISURELY	NUTRITION	PRIMITIVE	RESISTANT	SOLITAIRE
HAPPINESS	LIBRARIAN	OBEDIENCE	PRINCETON	RESONANCE	SOMETHING
HARMONICA	LIFESTYLE	OBLIGATED	PRINCIPAL	RESPECTED	SOURDOUGH
HEADLIGHT	LIGHTNING	OBSESSION	PRIVILEGE	RESTRAINT	SOVEREIGN
HEADPHONE	LIMELIGHT	OCCUPANCY	PROCESSED	RIVERVIEW	SPACESHIP
HEARTBEAT	LIMESTONE	OLFACTORY	PROFESSOR	ROADBLOCK	SPAGHETTI
HIBERNATE	LIMOUSINE	OPTOMETRY	PROJECTOR	SADDLEBAG	SPEARMINT
HIERARCHY	LIVESTOCK	ORCHESTRA	PROMENADE	SAFEGUARD	SPECTATOR
HIGHLANDS	LOCKSMITH	OVERBOARD	PROMOTION	SAGEBRUSH	SPOKESMAN
HIGHLIGHT	LONGEVITY	OVERWHELM	PROOFREAD	SANDPAPER	SPOTLIGHT
HISTORIAN	LUMINANCE	PALLADIUM	PROVISION	SATELLITE	SPRINKLER
HONEYCOMB	LUXURIOUS	PANTOMIME	PROXIMITY	SATISFIES	STABILITY
HONEYMOON	MACHINERY	PAPERWORK	PUBLISHER	SATURATED	STAINLESS
HOROSCOPE	MAGNITUDE	PARACHUTE	PUPPETEER	SAXOPHONE	STALEMATE
HORSEBACK	MANHATTAN	PARAGRAPH	QUADRUPLE	SCAPEGOAT	STARLIGHT
HORSESHOE	MARGARINE	PARAMETER	QUALIFIED	SCARECROW	STATEMENT
HOURLASS	MARKETING	PARCHMENT	QUALITIES	SCORECARD	STEAMBOAT
HOUSEHOLD	MARMALADE	PARTITION	QUARTERLY	SCRIBBLER	STOCKINGS
HOUSEWORK	MARVELOUS	PARTRIDGE	QUICKSAND	SCRIMMAGE	STOPWATCH
HURRICANE	MCPHERSON	PASSENGER	QUOTATION	SCULPTURE	STOREROOM
HYDRAULIC	MEANWHILE	PATCHWORK	RACETRACK	SECESSION	STRATEGIC
HYPNOTIZE	MEDALLION	PEACETIME	RASPBERRY	SECLUSION	STREETCAR
IDENTICAL	MENAGERIE	PENINSULA	REARRANGE	SECRETARY	STRUCTURE
IMAGINARY	MESSANGER	PEPPERONI	REASONING	SECTIONAL	STYROFOAM
IMMEDIATE	METEORITE	PERENNIAL	RECEPTION	SEEDLINGS	SUBMARINE
IMPATIENT	MEZZANINE	PERISCOPE	RECIPIENT	SEEMINGLY	SUBSCRIBE
IMPLEMENT	MICROFILM	PERMANENT	RECOGNIZE	SELECTION	SUBSTANCE
IMPORTANT	MICROWAVE	PERPETUAL	RECOMMEND	SEMANTICS	SUNFLOWER
IMPROMPTU	MIDSUMMER	PERSEVERE	RECONCILE	SEMICOLON	SUPERVISE
IMPROVISE	MILLIPEDE	PETROLEUM	RECORDING	SENSATION	SURRENDER
IMPULSIVE	MILLSTONE	PHENOMENA	RECTANGLE	SENSITIVE	SYMBOLISM
INAUGURAL	MINCEMEAT	PHYSICIAN	RECYCLING	SENTIMENT	TANGERINE
INCENTIVE	MINIATURE	PINEAPPLE	REDUNDANT	SERIOUSLY	TECHNICAL
INCLUSION	MISTLETOE	PISTACHIO	REFERENCE	SHEEPSKIN	TECHNIQUE
INCORRECT	MODERNIZE	PLENTIFUL	REFLECTOR	SHELLFISH	TELEGRAPH
INFLUENCE	MONOLOGUE	PLUTONIUM	REGARDING	SHIPBOARD	TELEPHONE
INGENIOUS	MOONLIGHT	PNEUMATIC	REGULATOR	SHIPSHAPE	TELESCOPE
INGENUITY	MULTIPLEX	POLLUTION	REHEARSAL	SHIPWRECK	TEMPORARY
INSERTION	MUNICIPAL	POLYESTER	REINFORCE	SIDEBURNS	TENTATIVE
INSURANCE	MYTHOLOGY	PORCELAIN	REITERATE	SIGNATURE	TERRITORY
INTEGRITY	NECESSARY	PORCUPINE	REJECTION	SIMILARLY	TESTIMONY
INVENTIVE	NECESSITY	POTASSIUM	RELEVANCE	SIMULATED	THEREFORE
INVISIBLE	NEGOTIATE	POTENTIAL	RELUCTANT	SINCERELY	THESAURUS
IRREGULAR	NEWSPAPER	POTPOURRI	REMOVABLE	SITUATION	THRESHOLD
JELLYFISH	NIGHTFALL	PRECEDENT	RENEWABLE	SKETCHPAD	TIMETABLE
KNOWLEDGE	NOCTURNAL	PREEMPTED	REPRESENT	SLAPSTICK	TOOTHPICK
LABYRINTH	NONLINEAR	PRESENTLY	REQUISITE	SNOWFLAKE	TOUCHDOWN
LANDOWNER	NORTHEAST	PRESIDENT	RESEMBLES	SOCIALIZE	TRADEMARK
LANDSCAPE	NORTHWEST	PRETENDER	RESERVOIR	SOCIOLOGY	TRADITION
LAZYBONES	NOSTALGIA	PREVALENT	RESIDENCE	SOLICITOR	TRANSFORM
LEGENDARY	NUMERATOR	PRIMARILY	RESILIENT	SOLILOQUY	TRANSLATE

TRANSPORT	WALLPAPER				
TURQUOISE	WAREHOUSE				
UNANIMOUS	WEDNESDAY				
UNCERTAIN	WHIRLPOOL				
UNDECIDED	WHOLESALE				
UNDERLINE	WHOLESOME				
UNDERPASS	WONDERFUL				
UNIVERSAL	WORKHORSE				
UNWILLING	WORLDWIDE				
UTILITIES	WRESTLING				
VALENTINE	YARDSTICK				
VARIATION	YESTERDAY				
VEGETABLE	YOUNGSTER				
VENERABLE					
VENTILATE					
VERSATILE					
VESTIBULE					
VICTORIAN					
VIDEOTAPE					
VOLUNTARY					
VOLUNTEER					

TRD-200302162  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Filed: April 2, 2003

**Wednesday, May 7, 2003, 1:00 p.m.**

State Office of Administrative Hearings, William P. Clements Building,  
300 West 15th Street, 4th Floor  
Austin, Texas

**AGENDA**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the complaint of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs and Mark Collie dba Tucker Extreme Homes to hear alleged violations of Sections 6(m), 6(m)(1), and 6(m)(3) by refusing to refund a deposit given by consumer after receiving written notice requesting the deposit be refunded. SOAH 332-03-2531. Department MHD2003000297-RD.

Contact: Jim R. Hicks, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589, jhicks@tdhca.state.tx.us

TRD-200302179  
Bobbie Hill  
Executive Director  
Manufactured Housing Division  
Filed: April 2, 2003

**Notice of Administrative Hearing**

**Wednesday, May 14, 2003, 1:00 p.m.**

State Office of Administrative Hearings, William P. Clements Building,  
300 West 15th Street, 4th Floor  
Austin, Texas

**AGENDA**

**Manufactured Housing Division**

**Amended Notice of Administrative Hearing**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the complaint of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs and Jamie Lynn Grant dba Grant's Installing to hear alleged violations of Sections 7(b), 7(c), and 7(j)(6) of the Act and Sections 80.119(b), 80.119(f)(1), 80.123(b), and 80.123(c) of the Rules by selling/negotiating to sell two or more manufactured homes within a consecutive twelve month period, without obtaining, maintaining, or possessing a valid retailer's and/or broker's license, and by not properly submitting the Form T/Installation report with the Department or providing the installation warranty and site preparation notice to the consumer. SOAH 332-03-1746. Department MHD2003000235-UR and MHD2003000389-UR.

Contact: Jim R. Hicks, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589, jhicks@tdhca.state.tx.us

TRD-200302133  
Bobbie Hill  
Executive Director  
Manufactured Housing Division  
Filed: April 1, 2003

**Notice of Administrative Hearing**

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the complaint of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs and Chad C. Denton dba Georgetown Mobile Homes to hear alleged violations of Sections 14(f) and 14(j) of the Act and Sections 80.131(b) and 80.132(3) of the Administrative Rules by not properly complying with initial report and warranty orders and not submitting copies of completed work orders in a timely manner to the Division. SOAH 332-03-2558. Department MHD2002001550-W.

Contact: Jim R. Hicks, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589, jhicks@tdhca.state.tx.us

TRD-200302180  
Bobbie Hill  
Executive Director  
Manufactured Housing Division  
Filed: April 2, 2003

### Notice of Public Hearing

Notice is hereby given of a public hearing to be held by the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") at 9:00 a.m. on Tuesday, May 13, 2003 at 507 Sabine Street, 4th Floor Boardroom, Austin, Texas 78701. The public hearing is to accept comments on proposed amendments to §80.54, new §80.129, new §80.133, new §80.134, and new §80.137 to Title 10 Texas Administrative Code, Chapter 80 (West Pamphlet 2002) ("Rules"), concerning manufactured housing. The proposed new §80.129, §80.133, and §80.134 are published in the February 21, 2003, issue of the *Texas Register* (Volume 28, No. 8, Pages 1597 to 1601). The proposed amendments to §80.54 and new §80.137 will be published in the April 11, 2003, issue of the *Texas Register*.

All interested parties are invited to attend such public hearing to express their views with respect to the proposed and new manufactured housing rules. Questions or requests for additional information may be directed to Sharon S. Choate at the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, 507 Sabine Street, 10th Floor, Austin, Texas 78701, telephone (512) 475-2206, or email at schoate@tdhca.state.tx.us.

Persons who intend to appear at the hearing and express their views are invited to contact Sharon S. Choate in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their comments in writing to Sharon S. Choate prior to the date scheduled for the hearing. Written comments may be sent to the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, P. O. Box 12489, Austin, Texas 78711-2489 or comments may be faxed to (512) 475-4250.

This notice is published and the above described hearing is to be held in satisfaction of the requirements of the Texas Manufactured Housing Standards Act, Tex. Rev. Civ. Stat. Ann. art. 5221f (Vernon 2003) and 10 Texas Admin. Code (West Pamphlet 2002).

Individuals who require auxiliary aids for this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943, or Relay Texas at 1 (800) 735-2989 at least two days prior to the meeting so that appropriate arrangements can be made.

TRD-200302172  
Bobbie Hill  
Executive Director  
Manufactured Housing Division  
Filed: April 2, 2003

## Public Utility Commission of Texas

### Notice of Application for Amendment to Service Provider Certificate of Operating Authority

On March 24, 2003, Xspedius Management Company Switched Services, L.L.C. filed an application with the Public Utility Commission of Texas (commission) to amend its service provider certificate of operating authority (SPCOA) granted in SPCOA Certificate Number 60105. Applicant intends to (1) reflect a change in ownership/control, and (2) reflect a name change to Xspedius Communications.

The Application: Application of Xspedius Management Co. Switched Services, L.L.C. doing business as Xspedius Communications for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 27547.

Persons wishing to comment on the action sought should contact 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 no later than April 16, 2003. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 27547.

TRD-200302041  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 26, 2003

### Notice of Application for Discontinuance of Certain Services in Connection with a Service Provider Certificate of Operating Authority

On March 27, 2003, Focal Communications Corporation of Texas filed an application with the Public Utility Commission of Texas (commission) to discontinue certain services in connection with its service provider certificate of operating authority (SPCOA) granted in SPCOA Certificate Number 60232. Applicant intends to discontinue certain services in the State of Texas.

The Application: Application of Focal Communications Corporation of Texas to Discontinue Certain Services in Connection with its Service Provider Certificate of Operating Authority, Docket Number 27566.

Persons wishing to comment on the action sought should contact 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 no later than April 16, 2003. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 27566.

TRD-200302125  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 31, 2003

### Notice of Application for Relinquishment of a Service Provider Certificate of Operating Authority



On March 20, 2003, Seven Bridges Communications, L.L.C. filed an application with the Public Utility Commission of Texas (commission) to relinquish its service provider certificate of operating authority (SPCOA) granted in SPCOA Certificate Number 60439. Applicant intends to relinquish its certificate.

The Application: Application of Seven Bridges Communications, L.L.C. for Relinquishment of its Service Provider Certificate of Operating Authority, Docket Number 27523.

Persons wishing to comment on the action sought should contact 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 no later than April 16, 2003. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 27523.

TRD-200302040  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 26, 2003



#### Notice of Application for Service Area Exception in Jim Hogg County, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application filed on March 14, 2003, for a service area exception in Jim Hogg County, Texas.

Docket Style and Number: Application of Medina Electric Cooperative, Incorporated (Medina Electric) to Amend Certificated Service Area Boundaries for Service Area Exception - Jim Hogg County. Docket Number 27514.

The Application: On March 14, 2003, Medina Electric filed an application for a service area exception in order to serve one customer currently in an area singly certificated to Central Power and Light (CPL). The customer making the request for service is closer to the facilities of Medina Electric than to the facilities of CPL. CPL is in agreement with this service area exception provided that this service will not constitute any boundary change in CPL's single-certificated area and that Medina Electric agrees not to serve any other customers in CPL's single-certificated area from this line extension. The cost of the project is \$10,488. This application for service area exception is filed pursuant to the commission's Substantive Rule §25.101(b)(1)(B).

Persons wishing to comment on the action sought should contact 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 comments should reference Docket Number 27514.

TRD-200302127  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 31, 2003



#### Notice of Application for Waiver of Denial of Request for NXX Code

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on March 28, 2003, for waiver of denial by North American Numbering Plan Administrator (NANPA) of applicant's request for NXX codes.

Docket Title and Number: Application of AT&T Communications of Texas, L.P. for Waiver of Denial by Neustar of NXX Code Request in the Carrollton Rate Center. Docket Number 27572.

The Application: A customer of AT&T, has requested that AT&T provide a block of 4,000 consecutive numbers for its place of business in the Carrollton rate center. AT&T stated that its existing telephone resources cannot satisfy its customer's specific need for both the specific volume of numbers as well as for a block of 4,000 consecutive numbers. The NANPA denied AT&T's request based on practices designed to prohibit acquisition of unneeded numbering resources. AT&T seeks an exception to the application of NXX assignment guidelines. AT&T asks that the commission waive the NANPA's denial of AT&T's NXX assignment request and direct Neustar to provide AT&T the thousands-blocks in the Carrollton rate center as requested.

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at PO Box 13326, Austin, Texas, 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 11, 2003. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll-free at 1-800-735-2989. All comments should reference Docket Number 27572.

TRD-200302155  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 1, 2003



#### Public Notice of Amendment to Interconnection Agreement

On March 21, 2003, Southwestern Bell Telephone, L.P. doing business as SBC Texas and Sprint Spectrum doing business as Sprint PCS, collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2003) (PURA). The joint application has been designated Docket Number 27536. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing three copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 27536. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by April 23, 2003, and shall include:

1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;

2) specific allegations that the agreement, or some portion thereof:

a) discriminates against a telecommunications carrier that is not a party to the agreement; or

b) is not consistent with the public interest, convenience, and necessity; or

c) is not consistent with other requirements of state law; and

3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this action, or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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 telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 27536.

TRD-200302094

Rhonda G. Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: March 28, 2003



#### Public Notice of Amendment to Interconnection Agreement

On March 21, 2003, Southwestern Bell Telephone, L.P. doing business as SBC Texas and Sage Telecom of Texas, L.P., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2003) (PURA). The joint application has been designated Docket Number 27537. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing three copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 27537. As a part of the comments, an interested person may request

that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by April 23, 2003, and shall include:

1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;

2) specific allegations that the agreement, or some portion thereof:

a) discriminates against a telecommunications carrier that is not a party to the agreement; or

b) is not consistent with the public interest, convenience, and necessity; or

c) is not consistent with other requirements of state law; and

3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this action, or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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 telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 27537.

TRD-200302096

Rhonda G. Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: March 28, 2003



#### Public Notice of Amendment to Interconnection Agreement

On March 27, 2003, Southwestern Bell Telephone, L.P. doing business as SBC Texas and State Discount Telephone, L.L.C., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2003) (PURA). The joint application has been designated Docket Number 27562. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing three copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the

applicants. The comments should specifically refer to Docket Number 27562. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by April 29, 2003, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this action, or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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 telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 27562.

TRD-200302104  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 28, 2003



#### Public Notice of Amendment to Interconnection Agreement

On March 27, 2003, Southwestern Bell Telephone, L.P. doing business as SBC Texas and Cbeyond Communications of Texas, L.P., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2003) (PURA). The joint application has been designated Docket Number 27563. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing three copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 27563. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by April 29, 2003, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this action, or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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 telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 27563.

TRD-200302103  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 28, 2003



#### Public Notice of Interconnection Agreement

On March 21, 2003, XIT Telecommunication and Technology, Ltd. and Sprint Spectrum doing business as Sprint PCS, collectively referred to as applicants, filed a joint application for approval of interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2003) (PURA). The joint application has been designated Docket Number 27538. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing three copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 27538. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by April 23, 2003, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this action, or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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 telephones (TTY) may contact the commission at (512) 936- 7136. All correspondence should refer to Docket Number 27538.

TRD-200302095  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 28, 2003



### Public Notice of Interconnection Agreement

On March 21, 2003, Alenco Communications, Inc. and Nextel Communications, Inc. doing business as Nextel of Texas, Inc., collectively referred to as applicants, filed a joint application for approval of interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2003) (PURA). The joint application has been designated Docket Number 27539. The joint application and the underlying interconnection

agreement is available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing three copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 27539. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by April 23, 2003, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this action, or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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 telephones (TTY) may contact the commission at (512) 936- 7136. All correspondence should refer to Docket Number 27539.

TRD-200302097  
Rhonda G. Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: March 28, 2003



### Railroad Commission of Texas

#### Correction of Error

The Railroad Commission of Texas proposed the repeal of 16 TAC §13.2004 and proposed new 16 TAC §14.2004 in the March 28, 2003, *Texas Register* (28 TexReg 2688 and 2689).

On page 2688, in the first paragraph of the preamble for the proposed repeal of §13.2004, the last sentence of that paragraph refers to §13.2046 and §14.2046. The references should be to §13.2004 and §14.2004. The text should read as follows.

"In the separate rulemaking, new §14.2004 is proposed in place of §13.2004 as part of the move of the LNG rules out of Chapter 13 and into Chapter 14."

On page 2689, in the first paragraph of the preamble for proposed new §14.2004, the references to §13.2046 and §14.2046 in the last sentence are incorrect. The last sentence should read as follows.

"In the separate rulemaking, existing §13.2004 is proposed for repeal with new §14.2004 proposed in its place as part of the move of the LNG rules out of Chapter 13 and into Chapter 14."

TRD-200302186  
Mary Ross McDonald  
Deputy General Counsel  
Railroad Commission of Texas  
Filed: April 2, 2003

◆ ◆ ◆  
**Texas Office of State-Federal Relations**

**Notice of Contract Award**

Pursuant to Chapter 2254, Chapter B, the Texas Office of State-Federal Relations (OSFR) announces this notice of consulting contract award.

The notice of request for proposals (RFP #333-03-1) was published in the February 21, 2003, issue of the *Texas Register* (28 TexReg 1688).

The consultant will assist OSFR in state-federal liaison activities in Washington, D.C.

The contract was awarded to Federalist Group, L.L.C., 1331 H Street, NW, Washington, DC 20005. The total amount of this contract is not to exceed \$78,750.00.

The term of the contract is March 26, 2003 through August 31, 2003.

TRD-200302161  
David Pagan  
Associate Director  
Texas Office of State-Federal Relations  
Filed: April 2, 2003

◆ ◆ ◆  
**Texas Water Development Board**

**Applications Received**

Pursuant to the Texas Water Code, Section 6.195, the Texas Water Development Board provides notice of the following applications received by the Board:

Canyon Regional Water Authority, 850 Lakeside Pass Drive, New Braunfels, Texas, 78130, received March 3, 2003, application for financial assistance in the amount of \$2,000,000 from the Rural Water Assistance Fund.

Clear Fork Groundwater Conservation District, P.O. Box 369, Roby, Texas, 79543-0369, received February 26, 2003, application for financial assistance in the amount of \$15,000 from the Groundwater District Loan Assistance Fund.

City of Clifton, 403 West 3rd Street, Clifton, Texas, 76634, received March 3, 2003, application for financial assistance in an amount not to exceed \$328,274 from the Water Loan Assistance Fund.

City of Stephenville, 298 West Washington, Stephenville, Texas, 76401-4257, received March 3, 2003, application for financial assistance in an amount not to exceed \$1,540,000 from the Water Loan Assistance Fund.

Hurst Creek Municipal Utility District, 102 Trophy Drive, Austin, Texas, 78738, received March 3, 2003, application for financial assistance in the amount of \$425,000 from the Texas Water Development Funds.

Middle Pecos Groundwater Conservation District, received January 2, 2003, application for financial assistance in the amount of \$120,000 from the Groundwater District Loan Assistance Fund.

Travis County Water Control and Improvement District No. 17, 3812 Eck Lane, Austin, Texas, 78734, received March 4, 2003, application for financial assistance in the amount of \$4,320,000 from the Texas Water Development Funds.

TRD-200302174  
Gail L. Allan  
Legal Counsel, Administration and Northern Legal Services  
Texas Water Development Board  
Filed: April 2, 2003

◆ ◆ ◆  
**WorkSource of the South Plains**

**Request for Proposals for Child Care Services**

The South Plains Regional Workforce Development Board (d.b.a. WorkSource of the South Plains) is seeking proposals from qualified and eligible organizations for the management and operation of South Plains Child Care Services. Proposing entities must submit proposals for the entire South Plains Workforce Development area which consists of Bailey, Cochran, Crosby, Dickens, Floyd, Garza, Hale, Hockley, King, Lamb, Lubbock, Lynn, Motley, Terry and Yoakum counties.

This Request for Proposals (RFP) will be released on March 28th at 1:00 pm. To request a copy of the RFP document, contact Christine Veazey at 806-744-1987 or by email at Christine.Veazey@twc.state.tx.us . The RFP may also be accessed via the Board's website at [www.worksourceonline.net](http://www.worksourceonline.net) . A mandatory pre-proposal conference to explain, clarify and answer technical questions concerning this RFP is scheduled for April 11th, 2003 at 1:30 p.m., at 1212 13th Street, Ste 201, Lubbock, Texas 79401.

The deadline for submission of proposals is 12:00 noon, May 9th, 2003. The WorkSource of the South Plains reserves the right to accept or reject any proposals.

WorkSource of the South Plains is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request for individuals with disabilities.

TRD-200302075  
Christine Veazey  
Manager of Contracts and Quality Assurance  
WorkSource of the South Plains  
Filed: March 28, 2003

## How to Use the Texas Register

**Information Available:** The 13 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 a 30-day 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.

**Open Meetings** - notices of open meetings.

**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 26 (2001) is cited as follows: 26 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 "26 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 26 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 through the Internet. The address is: <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 subscription information, see the back

cover or call the Texas Register at (800) 226-7199.

## 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 (using Arabic numerals) and Parts (using Roman 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 (1-800-356-6548), and West Publishing Company (1-800-328-9352).

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 *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 19, April 13, July 13, and October 12, 2001). If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

*Part I. Texas Department of Human Services*

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

# *Texas Register*

## Services

The *Texas Register* offers the following services. Please check the appropriate box (or boxes).

### **Texas Natural Resource Conservation Commission, Title 30**

- Chapter 285** \$25     update service \$25/year (*On-Site Wastewater Treatment*)  
 **Chapter 290** \$25     update service \$25/year (*Water Hygiene*)  
 **Chapter 330** \$50     update service \$25/year (*Municipal Solid Waste*)  
 **Chapter 334** \$40     update service \$25/year (*Underground/Aboveground Storage Tanks*)  
 **Chapter 335** \$30     update service \$25/year (*Industrial Solid Waste/Municipal Hazardous Waste*)

Update service should be in  printed format     3 1/2" diskette

### **Texas Workers Compensation Commission, Title 28**

- Update service \$25/year

### **Texas Register Phone Numbers**

**(800) 226-7199**

Documents	(512) 463-5561
Circulation	(512) 463-5575
Marketing	(512) 305-9623
Texas Administrative Code	(512) 463-5565

### **Information For Other Divisions of the Secretary of State's Office**

Executive Offices	(512) 463-5701
Corporations/ Copies and Certifications	(512) 463-5578
Direct Access	(512) 475-2755
Information	(512) 463-5555
Legal Staff	(512) 463-5586
Name Availability	(512) 463-5555
Trademarks	(512) 463-5576
Elections Information	(512) 463-5650
Statutory Documents Legislation	(512) 463-0872
Notary Public	(512) 463-5705
Uniform Commercial Code Information	(512) 475-2700
Financing Statements	(512) 475-2703
Financing Statement Changes	(512) 475-2704
UCC Lien Searches/Certificates	(512) 475-2705

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues required. You may use your VISA or Mastercard. All purchases made by credit card will be subject to an additional 2.1% service charge. Return this form to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824. For more information, please call (800) 226-7199.

**Change of Address**

*(Please fill out information below)*

**Paper Subscription**

One Year \$200       First Class Mail \$300

**Back Issue (\$10 per copy)**

\_\_\_\_\_ Quantity

Volume \_\_\_\_\_, Issue # \_\_\_\_\_.

*(Prepayment required for back issues)*

NAME \_\_\_\_\_

ORGANIZATION \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_

FAX NUMBER \_\_\_\_\_

Customer ID Number/Subscription Number \_\_\_\_\_

*(Number for change of address only)*

**Payment Enclosed via**  Check       Money Order

Mastercard/VISA Number \_\_\_\_\_

Expiration Date \_\_\_\_/\_\_\_\_ Signature \_\_\_\_\_

Please make checks payable to the Secretary of State. Subscription fees are not refundable.  
Do not use this form to renew subscriptions.

Visit our home on the internet at <http://www.sos.state.tx.us>.

\_\_\_\_\_  
\_\_\_\_\_  
Periodical Postage

PAID

Austin, Texas  
and additional entry offices  
\_\_\_\_\_  
\_\_\_\_\_