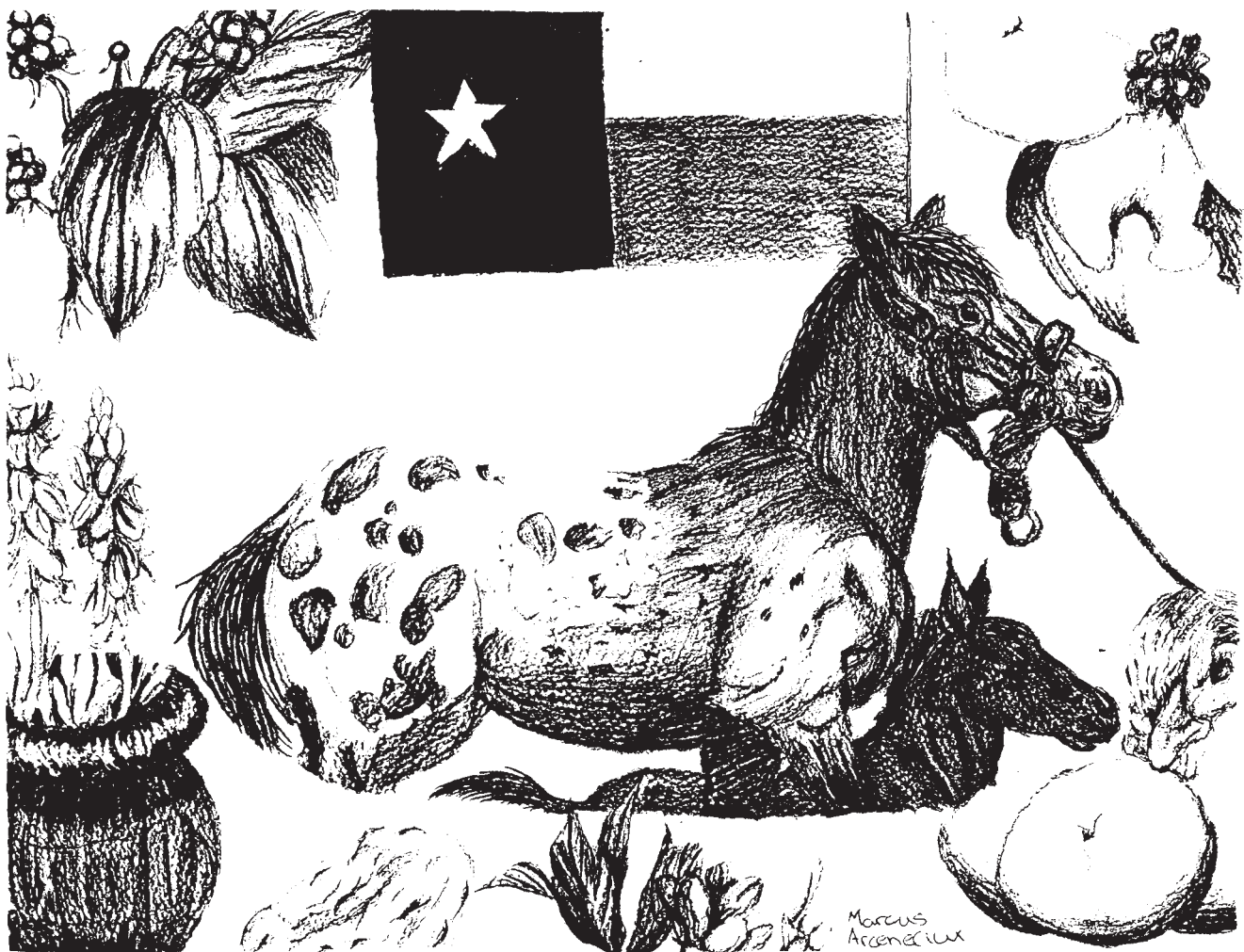


---

# TEXAS REGISTER

*Vol. 24 No. 31 July 30, 1999*

*Pages 5811-5954*



***This month's front cover artwork:***

***Artist: Marcus Arceneaux***

***7th Grade***

***Johnston Middle School***

School children's artwork has decorated the blank filler pages of the *Texas Register* since 1987. 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.

We will display artwork on the cover of each *Texas Register*. The artwork featured on the front cover is chosen at random.

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*. The artwork does not add additional pages to each issue and does not increase the cost of the *Texas Register*.

For more information about the student art project, please call (800) 226-7199.

***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 \$150, six month \$100. First Class mail subscriptions are available at a cost of \$250 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. Periodical Postage is paid at Austin, Texas.

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

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>

**Secretary of State** - Elton Bomer

**Director** - Dan Procter  
**Assistant Director** - Dee Wright

**Receptionist** - Brett Tiedt

***Texas Administrative Code***  
Dana Blanton  
John Cartwright

***Texas Register***  
Carla Carter  
Tricia Duron  
Ann Franklin  
Kris Hogan  
Roberta Knight  
Becca Williams

**Circulation/Marketing**  
Jill S. Ledbetter  
Liz Stern

**ATTORNEY GENERAL**

Opinions.....5817

**PROPOSED RULES**

**Texas Incentive and Productivity Commission**

State Employee Incentive Program

1 TAC §273.1, §273.9.....5819

Productivity Bonus Program

1 TAC §§275.1, 275.3, 275.5-275.9, 275.11, 275.13, 275.15-275.17, 275.19, 275.21.....5820

**Texas Health and Human Services**

Medicaid Reimbursement Rates

1 TAC §355.8061.....5821

1 TAC §355.8085.....5821

**Texas Department of Agriculture**

Citrus

4 TAC §§21.30–21.39.....5822

**Public Utility Commission of Texas**

Substantive Rules Applicable to Electric Service Providers

16 TAC §§25.161–25.171.....5825

Substantive Rules Applicable to Electric Service Providers

16 TAC §25.192.....5826

16 TAC §25.236.....5827

**Texas Education Agency**

Planning and Accreditation

19 TAC §97.6, §97.7.....5827

Charters

19 TAC §100.101.....5829

19 TAC §100.201.....5829

Assessment

19 TAC §101.3.....5830

Hearings and Appeals

19 TAC §§157.1–157.20.....5832

**Texas Board of Chiropractic Examiners**

Licenses and Renewals

22 TAC §73.1, §73.2.....5836

**Texas Optometry Board**

Examinations

22 TAC §271.2.....5837

22 TAC §271.5.....5838

General Rules

22 TAC §273.4.....5838

Interpretations

22 TAC §279.11.....5839

22 TAC §279.17.....5839

Therapeutic Optometry

22 TAC §280.4.....5840

22 TAC §280.5.....5840

22 TAC §280.7.....5841

**Texas State Board of Plumbing Examiners**

Licensing

22 TAC §365.14.....5842

**Texas Department of Insurance**

Life, Accident and Health Insurance and Annuities

28 TAC §§3.4501–3.4508.....5844

**Texas Water Development Board**

Research and Planning Fund

31 TAC §355.93, §355.100.....5852

Regional Water Planning Guidelines

31 TAC §357.2, §357.4, §357.5, §357.7.....5853

State Water Planning Guidelines

31 TAC §358.3.....5856

Financial Assistance Programs

31 TAC §363.613.....5857

**Comptroller of Public Accounts**

Central Administration

34 TAC §1.6.....5857

34 TAC §1.13.....5858

**Texas Board of Occupational Therapy Examiners**

Types of Licenses

40 TAC §365.1.....5859

Application for License

40 TAC §366.1.....5860

Continuing Education

40 TAC §367.1.....5861

Inactive/Retiree Status

40 TAC §471.1.....5862

**WITHDRAWN RULES**

<b>Texas State Board of Plumbing Examiners</b>	
Licensing	
22 TAC §365.14 .....	5865
<b>ADOPTED RULES</b>	
<b>Texas Department of Licensing and Regulation</b>	
Elevators, Escalators, and Related Equipment	
16 TAC §§74.10, 74.20, 74.30, 74.50, 74.55, 74.65, 74.70, 74.75, 74.80, 74.90, 74.100 .....	5867
<b>Texas Board of Chiropractic Examiners</b>	
Rules of Practice	
22 TAC §75.1 .....	5869
22 TAC §75.7 .....	5870
Chiropractic Radiologic Technologists	
22 TAC §78.1 .....	5870
<b>Texas Optometry Board</b>	
General Rules	
22 TAC §273.9 .....	5871
Interpretations	
22 TAC §279.13 .....	5871
<b>Texas Natural Resource Conservation Commission</b>	
Public Notice	
30 TAC §39.13 .....	5873
30 TAC §39.103 .....	5873
Control of Air Pollution from Toxic Materials	
30 TAC §113.120 .....	5875
30 TAC §113.170 .....	5875
30 TAC §113.200 .....	5875
30 TAC §113.220 .....	5875
30 TAC §113.240 .....	5876
30 TAC §113.250 .....	5876
30 TAC §113.290 .....	5876
30 TAC §113.340 .....	5876
30 TAC §113.380 .....	5877
30 TAC §113.410 .....	5877
30 TAC §113.430 .....	5877
30 TAC §113.460 .....	5877
30 TAC §113.470 .....	5878
30 TAC §113.480 .....	5878
30 TAC §113.490 .....	5878
30 TAC §113.530 .....	5878
30 TAC §113.620 .....	5879
30 TAC §113.640 .....	5879
30 TAC §113.660 .....	5879
Consolidated Permits	
30 TAC §305.2 .....	5881
30 TAC §305.69 .....	5881
30 TAC §305.125 .....	5881
30 TAC §305.172, §305.174 .....	5881
30 TAC §305.401 .....	5882
30 TAC §305.572, §305.573 .....	5882
Used Oil	
30 TAC §§324.1-324.7, 324.11-324.16, 324.21, 324.22 .....	5884
30 TAC §§324.8-324.10 .....	5885
<b>EXEMPT FILINGS</b>	
<b>Texas Department of Insurance</b>	
Proposed Action on Rules .....	5887
<b>RULE REVIEW</b>	
<b>Amended Agency Rule Review Plan</b>	
State Preservation Board .....	5889
<b>Proposed Rule Reviews</b>	
Texas Incentive and Productivity Commission .....	5889
Texas State Board of Podiatric Medical Examiners .....	5889
State Preservation Board .....	5889
<b>Adopted Rule Reviews</b>	
Texas Board of Chiropractic Examiners .....	5890
Texas Natural Resource Conservation Commission .....	5890
Texas Water Development Board .....	5891
<b>TABLES AND GRAPHICS</b>	
<b>Tables and Graphics</b>	
Tables and Graphics .....	5893
<b>IN ADDITION</b>	
<b>Adjutant General's Department</b>	
Invitation for Bid .....	5915
<b>Texas Department of Agriculture</b>	
Notice of Public Hearings .....	5915
Request for Proposals .....	5915
<b>Texas Commission on Alcohol and Drug Abuse</b>	
Correction of Error .....	5916
Notice of Public Hearings .....	5917
<b>Office of the Attorney General</b>	

Notice.....	5917	Request for Proposals for Consulting Services.....	5929
<b>Coastal Coordination Council</b>		<b>Texas Natural Resource Conservation Commission</b>	
Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence under the Texas Coastal Management Program .....	5917	Notice of District Petitions.....	5930
<b>Comptroller of Public Accounts</b>		Notice of Water Quality Applications.....	5930
Notice of Proposers' Conference for Texas School Performance Reviews.....	5918	Proposal for Decision.....	5939
Notice of Request for Information.....	5918	<b>Permian Basin Workforce Development Board</b>	
<b>Office of Consumer Credit Commissioner</b>		Request for Proposal.....	5939
Notice of Rate Ceilings.....	5919	<b>Texas Department of Protective and Regulatory Services</b>	
<b>Texas Credit Union Department</b>		Request for Proposal - Adolescent Residential Substance Abuse Treatment Services.....	5942
Application(s) to Expand Field of Membership .....	5919	Request for Proposal - Assessment Model .....	5942
Notice of Final Action Taken .....	5919	<b>Public Utility Commission of Texas</b>	
<b>Finance Commission of Texas</b>		Notices of Application for Approval of IntraLATA Equal Access Implementation Plan Pursuant To P.U.C. Substantive Rule §26.275 5943	
Notice of Award of Contract.....	5920	Notice of Application for Sale, Transfer, or Merger.....	5944
<b>Texas Department of Health</b>		Notice of Application for Service Provider Certificate of Operating Authority .....	5944
Licensing Actions for Radioactive Materials.....	5920	Notice of Application to Amend Certificate of Convenience and Necessity .....	5945
<b>Texas Health and Human Services Commission</b>		Notices of Applications to Introduce New or Modified Rates or Terms Pursuant to Public Utility Commission Substantive Rule §26.2125945	
Amended Requests for Proposals.....	5926	Public Notice of Rulemaking and Workshop Regarding Electric Reliability Standards.....	5946
Public Hearing-Proposed Payment Rates for Day Activity and Health Services (DAHS); Primary Home Care; Community Based Alternatives Waiver (CBA); and the Community Living Assistance and Support Services (CLASS) Waiver.....	5926	Public Notice of Rulemaking and Workshop Regarding Natural Gas Generating Capacity.....	5946
<b>Texas Department of Housing and Community Affairs</b>		Public Notice of Workshop on Project Number 21074, Energy Efficiency Programs.....	5946
Notice of Public Hearing for the Low Income Home Energy Assistance Program .....	5926	<b>Starr County</b>	
<b>Texas Department of Human Services</b>		Public Notice.....	5946
Public Hearing –Temporary Assistance for Needy Families (TANF) State Plan.....	5927	<b>Stephen F. Austin State University</b>	
Public Hearing-Proposed Payment Rates for Day Activity and Health Services; Family Care; and Residential Care.....	5927	Notice of Consultant Contract Award .....	5947
Public Notice- Availability of Proposed Intended Use Report of Title XX Social Service Clock Grant Funds.....	5927	<b>The Texas A&amp;M University System</b>	
<b>Texas Department of Insurance</b>		Request for Information .....	5947
Insurer Services .....	5928	Request for Proposal.....	5948
Notice.....	5928	<b>Texas Tech University</b>	
Notice of Hearing.....	5928	Requests for Proposals.....	5948
Third Party Administrator Applications .....	5929	<b>Texas Workforce Commission</b>	
<b>Texas Lottery Commission</b>		Request for Proposal Choices and Food Stamp Employment and Training Program.....	5949
Request for Proposals.....	5929	Requests for Proposals for Selection of Asbestos Surveying Firm.....	5950
<b>Texas Department of Mental Health and Mental Retardation</b>		Requests for Qualifications for Selection of Professional Architectural/Engineering Services.....	5951

# OFFICE OF 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.

---

*The Texas Register inadvertently omitted the following summary of Opinion JC-0069 from the July 2, 1999 issue of the Texas Register (24 TexReg 4937).*

**Opinions**

**Opinion Number JC-0069. (RQ-0009)** The Honorable David Dewhurst, Texas Land Commissioner, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701-1495, Re: Whether the General Land Office validly conveyed title to certain submerged land to the City of Aransas Pass in 1944, and related questions.

**Summary.** A 1944 conveyance from the Land Commissioner to the City of Aransas Pass attempted to cede an interest in certain state-owned submerged land to the City of Aransas Pass. The Land Commissioner did not have authority to transfer submerged land. Moreover, submerged land, or an interest therein, could not have been validly conveyed to the city without compensation to the perpetual public school fund established by article VII, section 2 of the Texas Constitution. The acts and conduct of the Land Commissioner, including mistakes of law, cannot estop the state from recovering public school lands improperly conveyed.

TRD-9903704  
Elizabeth Robinson  
Assistant Attorney General  
Office of the Attorney General  
Filed: June 22, 1999



**Opinion Number JC-0082(RQ-1109)** The Honorable Delma Rios Kleberg County Attorney P.O. Box 1411 Kingsville, Texas 78364 Re: Whether a commissioners court may purchase fire-fighting equipment for or pay a volunteer fire department without having contracted with the volunteer fire department to provide fire-protection services for county residents

**S U M M A R Y** A county commissioners court may purchase fire-fighting equipment for or pay a volunteer fire department only if the volunteer fire department has contracted with the county to provide fire-fighting services to county residents living outside the boundaries of a municipality.

**Opinion Number JC-0083(RQ-0010)** The Honorable Jack Herrington Red River District and County Attorney P.O. Box 364 Clarksville, Texas 75426 Re: Whether a county judge may conduct an inquest when the appropriate justice of the peace is unavailable to do so

**S U M M A R Y** A county judge may not conduct an inquest. Rather, as this office indicated in Attorney General Letter Opinion Number 97-101, when the appropriate justice of the peace is unavailable, the county judge must appoint a temporary justice of the peace to conduct the inquest.

**Opinion Number JC-0084(RQ-0014)** Mr. R. R. Noble Andrews County Auditor County Courthouse, Room 109 Andrews, Texas 79714 Re: Whether a county auditor may require a county attorney to submit documentation for expenses incurred from the hot check fund

**S U M M A R Y** A county auditor may, as an ordinary accounting and control procedure, require the county attorney to provide receipts for purchases of goods and services from the "hot check" fund, or for reimbursement for such purchases therefrom.

TRD-9904421  
Elizabeth Robinson  
Assistant Attorney General  
Office of the Attorney General  
Filed: July 21, 1999



# PROPOSED RULES

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

**Symbology in proposed amendments.** New language added to an existing section is indicated by the text being underlined. [Brackets] and ~~strike-through~~ of text indicates deletion of existing material within a section.

---



## TITLE 1. ADMINISTRATION

### Part XIII. Texas Incentive and Productivity Commission

#### Chapter 273. State Employee Incentive Program

##### 1 TAC §273.1, §273.9

The Texas Incentive and Productivity Commission proposes amendments to §273.1 and §273.9 concerning employee incentive program administration. The proposed amendments to the rules are being made to create a single employee incentive program and to recognize and reward all aspects of employee involvement, including efforts for which quantifiable savings cannot be determined. The amended rules will also effect the Commission's membership and current methods of finance. Restructuring, required by changes enacted by the 1999 legislature will allow participating agencies to retain the majority of any realized savings, and allow TIPC to focus on administering and promoting participation in its programs.

Ed Bloom, Executive Director, has determined for the first five years that the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ed Bloom has also determined that for the first five-years the rules will be in effect, the public benefit will be monetary savings, increased revenue, and improved services as a result of the amendment to the rules. There will be no anticipated costs to persons who are required to comply with the amendments as proposed. There will be no adverse economic effect on small businesses as compared to the effect on large businesses.

Comments on the proposed amendments may be submitted to Ed Bloom, Executive Director, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas, 78711; or via e-mail at ed.bloom@license.state.tx.

The Commission proposes to adopt these rule amendments pursuant to Texas Government Code, §2108.004 which authorizes the Commission to adopt rules.

The rule amendments to §273.1, Definitions, affect code provisions newly enacted in the 1999 legislature in Senate Bill 355, that added Texas Government Code, §2108.0235 which provides for recognition awards, §2108.0236 which provides for bonuses for group suggestions, §2108.027 which concerns multiple and joint suggestions, and §2108.037 which permits agencies to retain the amount of actual or projected savings attributable to implement suggestions.

The rule amendments to §273.9 affect Texas Government Code, §2108.024 regarding participant eligibility requirements; §2108.026 regarding suggestion eligibility requirements; code provisions newly enacted in the 1999 legislature in Senate Bill 355, that added §2108.0235 which provides for recognition awards; §2108.0236 which provides for bonuses for group suggestions; §2108.027 which concerns multiple and joint suggestions; and §2108.037 which permits agencies to retain the amount of actual or projected savings attributable to implement suggestions.

##### §273.1. *Definitions for the State Employee Incentive Program.*

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

(1)-(15) (No change.)

(16) Joint suggestion—A suggestion submitted by two or three employees.

(17) [(16)] Net cash award—A monetary amount resulting after necessary taxes are deducted from the award.

(18) [(17)] Originating agency—The agency of the employee who submits a suggestion.

(19) [(18)] Program—The State Employee Incentive Program.

(20) Recognition award—A \$50 award for approved suggestions not eligible for a bonus.

(21) [(19)] [~~SEIP~~] Savings Measurement Account (SMA)[(~~SSMA~~)]—An account in appropriation (95752) into which cash, in an amount equal to the projected savings/revenue resulting from approved employee suggestions, is transferred from the agency's other appropriations.

(22) [(20)] State agency or agency—A department, commission, board, office, or other agency in the executive or judicial branch of government that is created under the constitution or a statute of this state. This definition includes institutions of higher education.

(23) [(21)] State employee—A state agency employee.

(24) State employee group—A group of four or more state employees employed by the same state agency.

(25) [(22)] Target agency or affected agency—The agency which is the object of an employee suggestion.

(26) [(23)] Transfer—The process by which the amount of net savings/revenue is allocated by an agency in accordance with the Act.

(27) [(24)] Verification—The process of determining the amount of net savings or net revenue attributable to an employee suggestion. The commission, with assistance from the participating agency, the Comptroller of Public Accounts, the state auditor, or other state agencies, conducts the verification process.

§273.9. *Eligibility.*

(a) Employee eligibility. Each state employee is eligible to participate in the State Employee Incentive Program (program) except an employee:

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

(7) who is an employee of the commission.

(b) (No change.)

(c) Suggestion eligibility. A suggestion is ineligible for consideration under this Program if it:

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

(7) proposes an idea that involves delayed hiring of employees by the agency.

(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 July 19, 1999.

TRD-9904326

Ed Bloom

Executive Director

Texas Incentive and Productivity Commission

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 475-2393



## Chapter 275. Productivity Bonus Program

**1 TAC §§275.1, 275.3, 275.5-275.9, 275.11, 275.13, 275.15-275.17, 275.19, 275.21**

(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 Incentive and Productivity Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Incentive and Productivity Commission proposes the repeal of Chapter 275, §§275.1, 275.3, 275.5-275.9, 275.11, 275.13, 275.15-275.17, 275.19, and 275.21, which implement the Productivity Bonus Program.

In compliance with Senate Bill 355, §14(c), which continues the effect of the repealed statutory provisions for limited purposes, the provisions of the repealed rules also will continue effect as those rules prior to their repeal, for purposes of awarding bonuses for which application is made in accordance with §2108.103 on or before August 1, 1999.

Ed Bloom, Executive Director, has determined that for the first five-year period the proposed repeals will be in effect, there will be no fiscal implications for state or local government as a result of administering or enforcing the repeals. There is not anticipated impact on local or state employment as a result of implementing the repeals.

Ed Bloom has also determined that for the first five-year period the proposed repeals will be in effect, the public benefit anticipated as a result of the repeal is the removal of obsolete rules which will provide space for replacement rules and the overall improvement in accessibility and clarity of the remaining rules. There will be no anticipated costs to persons who are required to comply with the repeals as proposed. There will be no adverse economic effect on small businesses as compared to the effect on large businesses.

Comments on the repealed rules may be submitted to Ed Bloom, Executive Director, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas, 78711; or via email at ed.bloom@license.state.tx.us.

The Commission proposes to repeal these rules pursuant to Texas Government Code §2108.004 which authorizes the Commission to repeal rules. The rules are being repealed to comply with the passage of 1999 legislation, Senate Bill 355, which abolished Texas Government Code, Chapter 2108, Subchapter C, which created and governed the Productivity Bonus Program.

There were no other statutes, codes, or rules affected by the repeal of these rules.

§275.1. *Definitions for the Productivity Bonus Program.*

§275.3. *Submission of Productivity Plans.*

§275.5. *Approval by Commission.*

§275.6. *Establishment of a Productivity Savings Measurement Account.*

§275.7. *Plan Revisions.*

§275.8. *Agency Responsibility to Provide Information.*

§275.9. *Application.*

§275.11. *Qualifications for Award.*

§275.13. *Savings Certification.*

§275.15. *Application Review.*

§275.16. *Transfer of Savings.*

§275.17. *Awards to Employees.*

§275.19. *Awards to Agencies/Divisions.*

§275.21. *Remainder of Savings.*

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 July 19, 1999.

TRD-9904327  
Ed Bloom  
Executive Director  
Texas Incentive and Productivity Commission  
Earliest possible date of adoption: August 29, 1999  
For further information, please call: (512) 475-2393

◆ ◆ ◆  
**Part XV. Texas Health and Human Services**

**Chapter 355. Medicaid Reimbursement Rates**

**Subchapter J. Purchased Health Services**

**Division 4. Hospital Services**

**1 TAC §355.8061**

The Health and Human Services Commission (HHSC) proposes an amendment to §355.8061 of 1 TAC Chapter 355, Medicaid Reimbursement Rates, Subchapter J, Purchased Health Services, Division 4, Hospital Services. Section 355.8061 is being amended to increase reimbursement for outpatient hospital services to 80.3% of allowable cost. The increase is the result of additional funds appropriated by the Texas Legislature.

Don Green, chief financial officer, has determined that for each year of the first five years the proposed amendment is in effect enforcing or administering the amendment will result in additional costs to the state. The additional costs are \$4,500,000 for Fiscal Year 2000, \$4,500,000 for Fiscal Year 2001, \$4,500,000 for Fiscal Year 2002, \$4,500,000 for Fiscal Year 2003, and \$4,500,000 for Fiscal Year 2004. The amendment does not have foreseeable implications relating to cost or revenues of local governments.

Mr. Green has also determined that for each year of the first five years the proposed amendment is in effect the public benefit expected as a result of the adoption of the amendment is compliance with legislative appropriations. It is anticipated that there would be no economic cost to persons required to comply with the proposed amendment.

It is anticipated that the proposed amendment will not affect a local economy.

It is anticipated that the proposed amendment will not have an adverse economic effect on small businesses.

Comments on the proposal may be submitted to Joe Branton, Policy Specialist, Medicaid Reimbursement Division, Texas Health and Human Services Commission, P.O. Box 13247, Austin, Texas 78711-3247, within 30 days of publication of this issue of the *Texas Register*. To comply with federal regulations, a copy of the proposal is being sent to each Texas Department of Human Services (DHS) office where it will be available for public review upon request.

A public hearing will be held at 11:00 a.m., Central Time, on Tuesday, August 10, 1999, in room 3501 of the Brown-Healy State Office Building, 4900 N. Lamar Blvd. Austin, Texas, to accept comments on the proposal.

The amendment is proposed under the Texas Government Code, §531.033, which provides the commissioner of HHSC with broad rulemaking authority; the Texas Human Resources

Code, §32.021, and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and the Texas Government Code, §531.021(b), which provides HHSC with the authority to adopt rules governing the determination of Medicaid reimbursements.

This section affects Government Code § 531.021(b), which provides HHSC with the authority to adopt rules governing the determination of Medicaid reimbursements.

*§355.8061. Payment for Hospital Services.*

(a) The Department of Health (department) or its designated agent shall reimburse hospitals approved for participation in the Texas Medical Assistance Program for covered Title XIX hospital services provided to eligible Medicaid recipients. The Texas Title XIX State Plan for Medical Assistance provides for reimbursement of covered hospital services to be determined as specified in paragraphs (1)-(3) of this subsection.

(1) (No change.)

(2) The amount payable for outpatient hospital services shall be determined under similar methods and procedures used in the Social Security Act, Title XVIII, as amended, effective October 1, 1982, by Public Law 97-248, except as may be otherwise specified by the Health and Human Services Commission [department]. Medicaid reimbursement for outpatient hospital services shall be at 77.6% of allowable cost. For the 2000-2001 biennium, reimbursement for outpatient hospital services shall be at 80.3% of allowable cost. Reimbursement for outpatient hospital surgery is limited to the lesser of the amount reimbursed to ambulatory surgical centers (ASCs) for similar services, the hospital's actual charge, the hospital's customary charge, or the allowable cost determined by the department or its designee.

(3) (No change.)

(b)-(d) (No change.)

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

Filed with the Office of the Secretary of State, on July 14, 1999.

TRD-9904247  
Marina S. Henderson  
Executive Deputy Commissioner  
Health and Human Services  
Earliest possible date of adoption: August 29, 1999  
For further information, please call: (512) 424-6576

◆ ◆ ◆  
**Division 5. General Administration**

**1 TAC §355.8085**

The Health and Human Services Commission (HHSC) proposes an amendment to §355.8085, of 1 TAC Chapter 355, Medicaid Reimbursement Rates, Subchapter J, Purchased Health Services, Division 5, General Administration. Section 355.8085 is being amended to specify that reimbursement to physicians and certain other Medicaid providers may be increased by a percentage approved by HHSC. The amendment is necessary to increase reimbursement as a result of the appropriation of additional funds by the Texas Legislature.

Don Green, chief financial officer, has determined that for each year of the first five years the proposed amendment is in effect enforcing or administering the amendment will result in additional costs to the state. The additional costs are \$10,500,000 for Fiscal Year 2000, \$10,500,000 for Fiscal Year 2001, \$10,500,000 for Fiscal Year 2002, \$10,500,000 for Fiscal Year 2003, and \$10,500,000 for Fiscal Year 2004. The amendment does not have foreseeable implications relating to cost or revenues of local governments.

Mr. Green has also determined that for each year of the first five years the proposed amendment is in effect the public benefit expected as a result of the adoption of the amendment is compliance with legislative appropriations. It is anticipated that there would be no economic cost to persons required to comply with the proposed amendment.

It is anticipated that the proposed amendment will not affect a local economy.

It is anticipated that the proposed amendment will not have an adverse economic effect on small businesses.

Comments on the proposal may be submitted to Joe Branton, Policy Specialist, Medicaid Reimbursement Division, Texas Health and Human Services Commission, P.O. Box 13247, Austin, Texas 78711-3247 within 30 days of publication in this issue of the *Texas Register*. To comply with federal regulations, a copy of the proposal is being sent to each Texas Department of Human Services (DHS) office where it will be available for public review upon request.

A public hearing will be held at 9:00 a.m., Central Time, on Tuesday, August 10, 1999, in room 3501 of the Brown-Heatly State Office Building, 4900 North Lamar Blvd. Austin, Texas, to accept comments on the proposal.

The amendment is proposed under the Texas Government Code, §531.033, which provides the commissioner of HHSC with broad rulemaking authority; the Texas Human Resources Code, §32.021, and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and the Texas Government Code, §531.021(b), which provides HHSC with the authority to adopt rules governing the determination of Medicaid reimbursements.

This section affects Government Code §531.021(b), which provides HHSC with the authority to adopt rules governing the determination of Medicaid reimbursements.

§355.8085. *Texas Medicaid Reimbursement Methodology (TMRM)*.

(a) Reimbursement for physicians and certain other practitioners.

(1) (No change.)

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

(A)-(C) (No change.)

(D) Conversion factor—The dollar amount by which the sum of the three cost component RVUs is multiplied in order to obtain a reimbursement fee for each individual service. The initial value of the conversion factor is \$26.873 for fiscal years 1992 and 1993. If funding is available, the conversion factor will be updated based on the adjustments described in subparagraph (E) of this paragraph or such other percentage approved by the Health

and Human Services Commission (HHSC) at the beginning of each state fiscal year biennium. The department may, with the approval of HHSC [at its discretion], develop and apply multiple conversion factors for various classes of service such as obstetrics, pediatrics, general surgeries, and/or primary care services.

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

(3) (No change.)

(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 July 14, 1999.

TRD-9904248

Marina S. Henderson

Executive Deputy Commissioner

Health and Human Services

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 424-6576

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 21. Citrus

##### Subchapter C. Citrus Budwood Certification Program

###### 4 TAC §§21.30–21.39

The Texas Department of Agriculture (the department) proposes new §§21.30-21.39, concerning the Citrus Budwood Certification Program. These new sections are being proposed in order to protect the citrus industry by preventing the spread of dangerous plant diseases.

The department is proposing new §21.30 to define terms used in the subchapter. Designation, establishment, and maintenance of the foundation grove are outlined in new §§21.31-21.33. Requirements for citrus budwood certification, labeling of nursery trees and record keeping are specified in new §§21.34-21.36. Inspections, fees, violations and penalties are outlined in new §§21.37-21.39.

Terry Mitchell, Coordinator for Pest Management, has determined that for the first five-year period the new sections are in effect, there will be no fiscal implications for state government or local government as a result of enforcing or administering the new sections. Although the department anticipates that there will be a gradual increase in workload for inspectors as one or more foundation groves become operational and as nurseries begin purchasing certified budwood, and that there will be a modest cost for printing forms required for record keeping, these costs will be offset by inspection and certification fees collected by the department.

Mr. Mitchell has also determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be the increased protection of the citrus industry from the threat of graft-transmissible diseases by establishing a

certification program for disease-free budwood. The effect on small or large businesses will be that certified disease-free budwood would be available for propagation of citrus nursery stock; however, there will be an increase in record keeping responsibilities. Costs associated with increased record keeping will depend on the type of business and the amount of certified budwood or nursery stock they handle. Businesses may also benefit from this action through the increased value of stock produced with certified budwood. Anticipated economic costs to persons who are required to comply with the new sections as proposed will be the cost of the foundation grove application (\$250.00) and certification fees (6 cents per bud); the cost of establishing and maintaining the foundation grove; and, as noted previously, the cost of complying with record keeping and labeling requirements. It is not possible to determine costs of compliance, other than the cost of fees, at this time, as these costs will vary depending on the size, scope, and type of business.

Comments on the proposal may be submitted to Terry Mitchell, Coordinator for Pest Management, Texas Department of Agriculture, P. O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new sections are proposed under the authority of the Texas Agriculture Code (the Code), §19.006, which provides the Texas Department of Agriculture the authority, with the advice of the advisory council established under the Code, §19.005, to adopt standards and rules necessary to administer the citrus budwood certification program; and the Code, §19.010 which provides the department with the authority to set and collect fees for foundation grove designation and citrus budwood certification.

The code that will be affected by the proposal is the Texas Agriculture Code, Chapter 19.

§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 citrus nursery tree - A citrus tree propagated with certified citrus budwood or re-budded from the same scion source.
- (2) Certified laboratory - A public or private laboratory authorized to perform tests for citrus pathogens.
- (3) Citrus - All species of the genus *Citrus*, *Poncirus*, and *Fortunella* including any hybrids thereof.
- (4) Increase Block - An area in which budwood from the foundation grove are budded or grafted onto rootstock to increase budwood production.

§21.31. Designation of Foundation Grove.

(a) Foundation grove status will be considered upon written request to the department, which must include:

- (1) a physical description of the proposed site, to include location, size, and a map of the land to be used;
- (2) a description of the environmental controls and security measures as outlined in subsection (b) of this section;

(3) designation of a laboratory and a description of the facilities available to perform tests to diagnose diseases listed in this section; and

(4) the name and address of the person responsible for the overall operation of the foundation grove.

(b) A foundation grove, including the increase block, shall meet the following standards:

(1) the soil must support good growth of commonly used citrus rootstocks;

(2) adequate environmental controls shall be in place to prevent loss of the grove due to adverse environmental conditions; and

(3) adequate security shall be maintained to protect the budwood from contamination or theft.

§21.32. Establishment of the Foundation Grove.

(a) The trees in the foundation grove shall be established using:

(1) Texas budwood or budwood source trees that have been tested by a certified laboratory and found to be free of tristeza virus, exocortis viroid, cachexia viroid, psorosis virus, ringspot virus, stubborn spiroplasma, greening mycoplasma, citrus tatterleaf virus, citrus variegated chlorosis (CVC); or

(2) budwood imported from the California Citrus Clonal Protection Program and accompanied by documentation certifying that the budwood is free of the diseases listed in paragraph (1) of this subsection. The imported budwood may be re-tested upon receipt in Texas by a certified laboratory to verify freedom from tristeza virus.

(b) Budwood used to establish the foundation grove shall originate from trees that exhibit desirable horticultural characteristics for the specified varieties:

(1) in accordance with *The Citrus Industry Volume I*, edited by Reuther, Webber and Batchelor, published by the University of California Division of Agricultural Sciences in 1967;

(2) developed since publication of *The Citrus Industry* in accordance with other recognized scientific reviewed publications containing variety release articles; or

(3) as determined by review of specific variety information by the Director of the Texas A&M University-Kingsville Citrus Center.

(c) Each tree planted in the foundation grove, including the increase block, shall be assigned a unique source tree identification number consisting of grove abbreviation, variety abbreviation, block number, row number, and tree number. A sign, stake, tag or other durable marker shall be used to associate each tree with its unique number.

(d) Foundation grove trees shall be examined during first fruiting and thereafter at annual intervals by a panel of experts designated by the department to verify horticultural characteristics. Trees not exhibiting desirable horticultural characteristics for the specified variety shall be immediately removed from use as a budwood source.

§21.33. Maintaining Foundation Grove Status.

(a) The foundation grove manager shall ensure that trees within the foundation grove and the increase block are tested by a certified laboratory to verify that the trees continue to be free of diseases listed in this subchapter. A list of approved testing

procedures and testing schedules will be provided to the foundation manager by the department.

(b) The following measures shall be taken to prevent disease contamination from internal or external sources:

(1) if one or more trees within the foundation grove become infected with a disease listed in this subchapter, the affected tree(s) must be removed immediately according to procedures and authority set out in the Texas Agriculture Code, §71.0091, as amended;

(2) tools and equipment used to cut or prune citrus trees shall be used only in the foundation grove, including the increase block, unless:

(A) it is impractical to restrict equipment use only to the foundation grove; and

(B) such equipment has been sterilized with a solution of 5.25% sodium hypochlorite (bleach) and water (1 part bleach to 4 parts water) for at least 3 seconds, followed by rinsing with clean water;

(3) Irrigation of the foundation grove shall be performed in such a manner as to minimize the risk of transmission of diseases through the irrigation system; and

(4) All or part of the foundation grove may be screened to prevent entry of insect vectors when possible.

#### §21.34. Citrus Budwood Certification.

(a) Only citrus budwood originating from the increase block or the foundation grove or both shall be certified.

(b) The foundation grove manager shall label each bundle of certified budwood at the time of sale listing the variety of the budwood, number of buds, and source tree identification number.

(c) Commercial nurseries shall not claim as certified any budwood propagated from citrus trees outside the increase block or the foundation grove or both.

#### §21.35. Labeling of Certified Citrus Nursery Trees.

(a) A tag at the beginning and end of each row showing the variety and source tree identification number shall identify certified citrus nursery trees.

(b) If a row contains trees propagated from more than one source tree, the different selections shall be separated by a minimum of 24 inches in the row, with a tag at the beginning and end of each series of trees showing the variety and source tree identification number.

(c) If certified citrus nursery trees are grown in containers, each container or group of container-grown trees shall be labeled with the variety and source tree identification number and separated from other trees in the nursery to avoid mixing nursery trees originating from different source trees.

#### §21.36. 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) The following records of the foundation grove, and the increase block operations must be maintained on forms promulgated by the department at the foundation grove:

(1) a map of trees showing block and row numbers and locations of each variety;

(2) results of tests verifying that all trees are free of diseases listed in this subchapter; and

(3) records of budwood sources used to establish trees along with certificates and/or test results obtained to verify that the budwood was free of diseases listed in this subchapter.

(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 identification number;

(2) number of buds sold daily, summarized by month; and

(3) records of each sale, including:

(A) name and address of buyer;

(B) number of buds sold;

(C) variety and source tree identification number(s); and

(D) date of sale.

(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) Sellers of certified citrus nursery trees must maintain records to adequately verify the origin or source of such trees.

#### §21.37. Inspection.

The department shall, as deemed appropriate, inspect the foundation grove, increase block, foundation grove records, commercial nurseries, and records at commercial nurseries that produce certified citrus nursery trees.

#### §21.38. Fees.

(a) Foundation grove application fee. The applicant shall pay a non-refundable application fee of \$250 to the department.

(b) Certification Fee.

(1) A foundation grove manager that sells certified citrus budwood shall pay to the department a fee of \$ .06 for each bud sold.

(2) Certification fees shall be paid to the department by the 15th day of the month following the end of each calendar quarter for budwood sold during the previous calendar quarter.

#### §21.39. Violations and Penalties.

(a) Violations. In addition to any other violations that may arise under the act or this subchapter, the following are violations.

(1) It is a violation for any person to falsify an application for foundation grove designation.

(2) It is a violation for any person to falsify records required by this subchapter.

(3) It is a violation to sell or offer to sell or to distribute citrus budwood falsely claiming that it is certified or that it comes from a foundation grove, or the increase block, or to sell or offer citrus trees for sale falsely claiming that they originated from certified budwood or that they came from a designated foundation grove, or the increase block

(4) It is a violation to fail to maintain or provide records for inspection.

(5) It is a violation to fail to comply with any order issued or rule adopted by the department under this subchapter.

(b) Penalties.

(1) A stop-sale order may be issued if a person offers citrus budwood for sale falsely claiming that it is certified, or offers citrus trees for sale falsely claiming that they originate from certified budwood.

(2) Any violation under this subchapter is subject to an administrative penalty as provided in the Texas Agriculture Code, 12.020. Penalty calculations shall be made using a penalty matrix developed by the department and published in the Texas Register.

(3) Foundation grove status, citrus budwood certification, or citrus nursery tree certification may be revoked by the department if it is determined that a violation of these rules has occurred or if procedures prescribed by the department are not implemented.

(4) If the department proposes to revoke foundation grove status, citrus budwood certification, or citrus nursery tree certification under this subchapter, the owner is entitled to a hearing under the Texas Agriculture Code, §12.0202, and the proceedings shall be conducted as provided for contested cases by the Texas Administrative Procedures Act, the Government Code, Chapter 2001, and Chapter 1 of this title (relating to General Procedures).

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 July 19, 1999.

TRD-9904305

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 29, 1999

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



## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 25. Substantive Rules Applicable to Electric Service Providers

#### Subchapter H. Electrical Planning

#### 16 TAC §§25.161-25.171

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

The Public Utility Commission of Texas (commission) proposes the repeal of Subchapter H, §§25.161-25.171 relating to Electrical Planning. Project Number 21023 has been assigned to this proceeding. Subchapter H was adopted to implement the Public Utility Regulatory Act (PURA), Chapter 34, relating to Electrical Planning. This chapter required the commission to adopt rules to implement the provisions of Chapter 34 concerning integrated resource planning and resource solicitation. By acts of the 76th Legislature, Regular Session (1999), Senate Bill 7, repealed PURA, Chapter 34. Therefore, §§25.161-25.171 are no longer necessary.

Paula Mueller, Chief, Office of Regulatory Affairs, has determined that for each year of the first five-year period the proposed repeal of these sections is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Mueller has determined that for each year of the first five years the proposed repeal of these sections is in effect the public benefit anticipated as a result of enforcing the repeal of these sections would be elimination of rules implementing statutes that no longer exist. There will be no effect on small businesses or micro-businesses as a result of enforcing the repeal of these sections. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Ms. Mueller has also determined that for each year of the first five years the proposed repeal 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.

Comments on the proposed repeal (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 30 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed repeal. The commission will consider the costs and benefits in deciding whether to adopt the repeal. All comments should refer to Project Number 21023.

This repeal is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (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, Senate Bill 7, 76th Legislature, Regular Session, (1999) §61, which repeals PURA Chapter 34.

Cross-Index to Statutes: Public Utility Regulatory Act §14.002.

§25.161. *Integrated Resource Planning.*

§25.162. *Public Participation.*

§25.163. *Acquisition of Resources Outside the Solicitation Process.*

§25.164. *Statewide Integrated Resource Plan.*

§25.165. *Preliminary Integrated Resource Plan.*

§25.166. *Commission Review of a Preliminary Integrated Resource Plan that Does*

§25.167. *Commission Review of a Preliminary Integrated Resource Plan that Includes a Solicitation.*

§25.168. *Solicitation of Resources.*

§25.169. *Approval of Resources Procured Through Solicitation.*

§25.170. *Hearing on the Final Integrated Resource Plan.*

§25.171. *Certificate of Convenience and Necessity for Generation Facilities.*

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 July 16, 1999.

TRD-9904287

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 29, 1999

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



## Chapter 25. Substantive Rules Applicable to Electric Service Providers

The Public Utility Commission of Texas (commission) proposes amendments to §25.192 relating to Transmission Service Pricing, and §25.236 relating to Recovery of Fuel Costs. Amended §25.192 would require transmission customers taking planned transmission service to pay a fee to the independent system operator (ISO) for the Electric Reliability Council of Texas (ERCOT), to permit the ISO to begin funding the additional functions that will be required to implement competition in the retail sale of electricity. Amended §25.236 would permit utilities to recover these costs as fuel costs. Project Number 21066 has been assigned to this proceeding.

The legislature recently passed and the Governor signed Senate Bill 7, 76th Legislature, Regular Session (1999), which would introduce competition in the retail sale of electricity in Texas, beginning in 2002. The bill requires the establishment of independent organizations in each power region to carry out certain functions that are essential to the operation of a competitive retail electric market. The ERCOT ISO currently performs functions related to transmission access and reliability for the competitive wholesale market, but it will have significantly greater responsibilities and workload if it is to be the independent organization for ERCOT. It has begun planning for its additional manpower and other resource needs, with the expectation that additional personnel and systems will need to be in place and operational by the summer of 2001. While full-scale competition begins in January 2002, Senate Bill 7 requires utilities to conduct pilot projects in retail competition beginning in June 2001. This amendment will give the ISO the funds to carry out this expansion, so that it can meet its additional responsibilities without undue financial burden.

Section 25.192, relating to transmission service pricing, currently requires transmission service customers to pay an ISO fee for unplanned service and for weekly and daily planned service. The proposed amendment would also require the payment of the ISO fee for annual and monthly planned service. Section 25.236, relating to recovery of fuel costs, currently permits a utility to include transmission payments related to unplanned transmission service as fuel costs. The proposed amendment

to this section would permit the ISO fee to be recovered as a fuel cost, regardless of whether the payment is in connection with planned or unplanned transmission service.

Jess Totten, Director, Office of Policy Development, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Totten has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be more orderly development of the ERCOT ISO to meet the additional responsibilities and challenges of performing the function of an independent organization under Senate Bill 7. Providing this source of funding for the ISO should also obviate the need for the ISO to devote management resources on its own financial concerns and instead concentrate on acquiring the manpower, systems, and other resources that will be needed to carry out these responsibilities. There will be no effect on small businesses as a result of enforcing these sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Mr. Totten has also determined that for each year of the first five years the proposed sections are in effect there will be no impact on employment in the geographic area affected by implementing the requirements of the sections.

The commission staff will conduct a public hearing on this rule-making under 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, September 2, 1999, at 9:00 a.m. in the Commissioners' Hearing Room.

Comments on the proposed amendments (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 30 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed sections. The commission will consider the costs and benefits in deciding whether to adopt the sections.

### Subchapter I. Transmission and Distribution

#### Division 1. Open-Access Comparable Transmission Service for Electric Utilities in the Electric Reliability Council of Texas

##### 16 TAC §25.192

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1999) (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; PURA §31.001, which declares that the public interest requires that rules, policies and principles be formulated and applied to protect the public interest in a more competitive marketplace; §35.004, which requires utilities to provide comparable wholesale transmission service, directs the commission to ensure that utilities provide non-discriminatory transmission service, and requires the commission to adopt reasonable rates for transmission service; §35.005, which permits the commission to require an elec-



tric utility to provide wholesale transmission service, determine whether the terms and conditions of such service are reasonable, and require the construction or enlargement of a transmission facility; and §35.006, which directs the commission to adopt rules relating to wholesale transmission service. These amendments are also proposed under Senate Bill 7, in particular the provision that will be codified in Texas Utilities Code Annotated §39.151, which requires that an independent organization be established in each power region.

Cross-Index to Statutes: Public Utility Regulatory Act §§14.002, 31.001, 35.004 through 35.006, and 39.151.

§25.192. *Transmission Service Rates.*

(a) Charges for transmission service. Transmission service customers shall incur ~~both~~ facilities charges, ~~and~~ loss compensation charges, and an independent system operator (ISO) fee for planned transmission service. Transmission service customers shall incur loss compensation charges and an ISO~~independent system operator (ISO)~~ fee for unplanned transmission service. Transmission service customers shall incur facilities charges and an ISO fee for weekly and daily planned transmission service. The facilities charge for annual and monthly planned transmission service shall consist of an access fee and an impact fee. Facilities charges shall be determined in transmission ratemaking proceedings conducted periodically, at such intervals as the commission determines are appropriate.

(1) - (5) (No change.)

(b) - (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 July 16, 1999.

TRD-9904282

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 29, 1999

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



## Subchapter J. Costs, Rates and Tariffs

### 16 TAC §25.236

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1999) (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; PURA §31.001, which declares that the public interest requires that rules, policies and principles be formulated and applied to protect the public interest in a more competitive marketplace; §35.004, which requires utilities to provide comparable wholesale transmission service, directs the commission to ensure that utilities provide non-discriminatory transmission service, and requires the commission to adopt reasonable rates for transmission service; §35.005, which permits the commission to require an electric utility to provide wholesale transmission service, determine whether the terms and conditions of such service are reasonable, and require the construction or enlargement of a transmission facility; and §35.006, which directs the commission to adopt rules relating to wholesale transmission service. These amendments are also proposed under Senate Bill 7, in partic-

ular the provision that will be codified in Texas Utilities Code Annotated §39.151, which requires that an independent organization be established in each power region.

Cross-Index to Statutes: Public Utility Regulatory Act §§14.002, 31.001, 35.004 through 35.006, and 39.151.

§25.236. *Recovery of Fuel Costs.*

(a) Eligible fuel expenses. Eligible fuel expenses include expenses properly recorded in the Federal Energy Regulatory Commission Uniform System of Accounts, numbers 501, 503, 518, 536, 547, 555, and 565, as modified in this subsection, as of April 1, 1997, and the items specified in paragraph (7) of this subsection. Any later amendments to the System of Accounts are not incorporated into this subsection. Subject to the commission finding special circumstances under paragraph (6) of this subsection, eligible fuel expenses are limited to:

(1) - (4) (No change.)

(5) For Account 565, an electric utility may not recover transmission expenses paid to affiliated companies for the purpose of equalizing or balancing the financial responsibility of differing levels of investment and operating costs associated with transmission assets. A non-ERCOT electric utility may not recover expenses for wheeling transactions. An ERCOT electric utility may only recover the expenses properly recorded in Account 565, for ISO fees and payments to parties related to unplanned transmission service, such as ~~ISO fees,~~ losses, and re-dispatch fees.

(6) - (8) (No change.)

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

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

Filed with the Office of the Secretary of State, on July 16, 1999.

TRD-9904283

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 29, 1999

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



## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 97. Planning and Accreditation

##### Subchapter A. Accreditation

###### 19 TAC §97.6, §97.7

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

The Texas Education Agency (TEA) proposes the repeal of §97.6 and §97.7, concerning home-rule school district charters and open-enrollment charter schools. The sections establish procedures for contested cases under the Texas Education Code, Chapter 12. A new Chapter 100 that specifies procedures for modifying, placing on probation, revoking, or denying

renewal of the charter of an open-enrollment charter school and placing on probation or revoking a home-rule school district charter is proposed in a separate submission.

Texas Education Code, §12.028 and §12.116, authorizes the State Board of Education to adopt by rule procedures for taking adverse action on home-rule school district charters and open-enrollment charter schools. These procedures, currently located in 19 TAC §97.6 and §97.7, have been modified and relocated in proposed new §100.101 and §100.201, in anticipation of additional rules on charter schools.

The TEA is also proposing new 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, which is filed in a separate submission. The proposed new rules would create general rules for contested cases under the Texas Government Code, Chapter 2001.

Pat Pringle, associate commissioner for school finance and support, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Pringle and Criss Cloudt, associate commissioner for policy planning and research, have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be procedures that enable the State Board of Education to act more efficiently and effectively when taking action on a home-rule school district charter and the charter of an open-enrollment charter school under the Texas Education Code, §12.027 and §12.115. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Research, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. Comments may also be submitted electronically to [rules@tmail.tea.state.tx.us](mailto:rules@tmail.tea.state.tx.us) or faxed to (512) 475-3499. All requests for a public hearing on the proposed sections submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

The repeals are proposed under the Texas Education Code, §§7.102(c)(8) and (9), 12.028, and 12.116, which authorizes the State Board of Education to adopt by rule procedures to be used for placing on probation or revoking a home-rule school district charter and for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.

The repeals implement the Texas Education Code, §§7.102(c)(8) and (9), 12.028, and 12.116.

*§97.6. Placing on Probation or Revoking a Home-Rule School District Charter.*

*§97.7. Placing on Probation or Revoking an Open-Enrollment Charter School.*

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 July 19, 1999.

TRD-9904300

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 463-9701



## Chapter 100. Charters

The Texas Education Agency (TEA) proposes new §100.101 and §100.201, concerning charters. The new sections establish definitions, requirements, and procedures relating to open-enrollment charter schools and home-rule school district charters. The new sections specify procedures for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school and placing on probation or revoking a home-rule school district charter.

Texas Education Code, §12.028 and §12.116, authorizes the State Board of Education to adopt by rule procedures for taking adverse action on home-rule school district charters and open-enrollment charter schools. These procedures are located in current 19 TAC §97.6 and §97.7. In anticipation of additional rules on charter schools, language in §97.6 and §97.7 has been modified and relocated in proposed new §100.101 and §100.201. Some of the modifications reflected in proposed new §100.101 and §100.201 include: (1) revising timelines for contested cases involving charter schools; (2) deleting references to a hearing on the recommendation of the review team; (3) substituting a hearing on the decision of the State Board of Education to take the proposed action; and (4) making other conforming changes.

The TEA is also proposing the repeal of 19 TAC §97.6 and §97.7, which is filed in a separate submission. In addition, the TEA is proposing new 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, which is filed in a separate submission. The proposed new rules would create general rules for contested cases under the Texas Government Code, Chapter 2001.

Pat Pringle, associate commissioner for school finance and support, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections.

Mr. Pringle and Criss Cloudt, associate commissioner for policy planning and research, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be procedures that enable the State Board of Education to act more efficiently and effectively when taking action on a home-rule school district charter and the charter of an open-enrollment charter school under the Texas Education Code, §12.027 and §12.115. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed new sections.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Research, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. Comments may also be submitted electronically to [rules@tmail.tea.state.tx.us](mailto:rules@tmail.tea.state.tx.us) or faxed to (512) 475-3499. All requests for a public hearing on the proposed sections submitted under the Administrative

Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

## Subchapter A. Open-Enrollment Charter Schools 19 TAC §100.101

The new section is proposed under the Texas Education Code, §7.102(c)(8) and (9), and §12.116, which authorizes the State Board of Education to adopt procedures to be used for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.

The new section implements the Texas Education Code, §7.102(c)(8) and (9), and §12.116.

### §100.101. Adverse Action on an Open-Enrollment Charter.

(a) The State Board of Education (SBOE) may modify, place on probation, revoke, or deny renewal of an open-enrollment charter granted to a charter holder if the SBOE determines the person operating the school:

- (1) committed a material violation of the charter;
- (2) failed to satisfy generally accepted accounting standards of fiscal management; or
- (3) failed to comply with the requirements of the Texas Education Code (TEC), Chapter 12, Subchapter D, or other applicable law or rule.

(b) The "person operating the charter school" shall mean the chief executive officer of the charter holder under TEC, §12.101. The chief executive officer is responsible under this subchapter for the acts of any agent or employee of the charter school or the charter holder.

(c) The recommendation to modify, place on probation, revoke, or deny renewal of the charter of an open-enrollment charter school shall be made by the Texas Education Agency (TEA) in accordance with 19 TAC §157.11 of this title (relating to Notice of Intent), no fewer than 60 calendar days prior to the meeting of the SBOE at which the recommendation will be considered.

(d) The TEA shall notify the person operating the school before modifying, placing on probation, revoking, or denying renewal of the school's charter. The notice shall clearly specify the following, either in the notice or by reference to other documents included with the notice:

- (1) the action sought and the grounds for taking such action;
- (2) a statement of the legal authority and jurisdiction under which the hearing will be held;
- (3) a reference to the particular sections of the statutes and rules involved; and
- (4) the date, time, and place for a hearing on the action sought, which shall be provided to the person operating the open-enrollment charter school and to parents and guardians of students in the school, if requested in accordance with subsection (f) of this section.

(e) Notice served on the person operating the school shall be notice to parents and guardians of students in the school.

(f) Within ten calendar days after receiving the notice, the person operating the school may request a hearing and submit a written response containing specific answers to each of the findings

included in the notice. If a request for hearing and a written response are not submitted within ten calendar days, the recommendations of the TEA on the proposed action shall be submitted to the SBOE for action.

(g) A hearing held under this section shall be open to the public and must be held at the facility at which the program is operated unless a different location is agreed to by the person operating the school. The hearing shall be held not fewer than ten calendar days from the date the school receives notice and shall be governed by Chapter 157, Subchapter A, of this title (relating to General Provisions for Hearings Before the State Board of Education).

(h) The administrative law judge may order that testimony and evidence from parents and guardians of students at the school be taken via prefiled written testimony under the Texas Government Code, §2001.085.

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 July 19, 1999.

TRD-9904301

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 463-9701



## Subchapter B. Home-Rule School District Charters

### 19 TAC §100.201

The new section is proposed under the Texas Education Code, §7.102(c)(8) and (9), and §12.028, which authorizes the State Board of Education to adopt by rule procedures to be used for placing on probation or revoking a home-rule school district charter.

The new section implements the Texas Education Code, §7.102(c)(8) and (9), and §12.028.

### §100.201. Adverse Action on a Home-Rule School District Charter.

(a) The State Board of Education (SBOE) may place on probation or revoke a home-rule school district charter if the SBOE determines that the district:

- (1) committed a material violation of the charter;
- (2) failed to satisfy generally accepted accounting standards of fiscal management; or
- (3) failed to comply with the requirements of the Texas Education Code (TEC), Chapter 12, Subchapter B, or other applicable law or rule.

(b) The recommendation to place on probation or revoke the charter of a home-rule school district charter shall be made by the Texas Education Agency (TEA) in accordance with 19 TAC §157.11 of this title (relating to Notice of Intent), no fewer than 60 calendar days prior to the meeting of the SBOE at which the recommendation will be considered.

(c) The TEA shall notify the district before placing on probation or revoking the charter. The notice shall clearly specify

the following, either in the notice or by reference to other documents included with the notice:

(1) the action sought and the grounds for taking such action;

(2) a statement of the legal authority and jurisdiction under which the hearing will be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) the date, time, and place for a hearing on the action sought, which shall be provided to the district and to parents and guardians of district students, if requested in accordance with subsection (e) of this section.

(d) Notice served on the district shall be notice to parents and guardians of students in the district.

(e) Within ten calendar days after receiving the notice, the district may request a hearing and submit a written response containing specific answers to each of the findings included in the notice. If a request for hearing and a written response are not submitted within ten calendar days, the recommendations of the TEA on the proposed action shall be submitted to the SBOE for action.

(f) A hearing held under this section shall be open to the public and must be held at the district unless a different location is agreed to by the district. The hearing shall be held not fewer than ten calendar days from the date the district receives notice and shall be governed by Chapter 157, Subchapter A, of this title (relating to General Provisions for Hearings Before the State Board of Education).

(g) The administrative law judge may order that testimony and evidence from parents and guardians of students at the charter school be taken via prefiled written testimony under the Texas Government Code, §2001.085.

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 July 19, 1999.

TRD-9904302

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 463-9701



## Chapter 101. Assessment

### 19 TAC §101.3

The Texas Education Agency (TEA) proposes an amendment to §101.3, concerning student assessment. The section establishes definitions, requirements, and procedures relating to testing accommodations and exemptions.

The proposed amendment would specify that limited English proficient (LEP) students will be required to take reading proficiency tests in English (RPTE), designed specifically for second language learners. Beginning in the spring of 2000, the RPTE will be administered to LEP students in accordance with Senate Bill (SB) 103, 76th Texas Legislature, 1999. In addition, recently passed legislation would require additional modifications to §101.3.

Current rule allows LEP students certain testing options other than the English-version Texas Assessment for Academic Skills (TAAS) for a period not to exceed three years. During this period, if the language proficiency assessment committee (LPAC) determines that the TAAS in English is not yet appropriate, a student may take the TAAS in Spanish or be exempted and administered a locally chosen alternative assessment from a state-approved list. Following the three-year period, students are required to take the TAAS in English. SB 103, 76th Texas Legislature, 1999, however, limits exemptions for LEP students and specifies the administration of Spanish-version tests and the RPTE. The RPTE has been designed specifically for LEP students and would provide a statewide, standardized measure of how well the students are developing the ability to read in English. Implementation of the RPTE would ensure that no LEP student is excluded from statewide assessment on the basis of limited English proficiency.

The proposed amendment to §101.3(e) requires all LEP students to participate annually in the statewide assessment system and requires school districts to adhere to additional administrative procedures that the TEA may establish to implement testing. The proposed amendment to §101.3(f) requires that all LEP students in Grades 3-12 take the RPTE annually until they demonstrate proficiency in reading in English.

Section 101.3(g) is amended to: (1) define the term "un-schooled;" (2) allow unschooled recent immigrants whose primary language is Spanish not to take the TAAS in English or Spanish during their first school year in the U.S.; (3) require LEP students in Grades 3-6 whose primary language is Spanish, other than unschooled recent immigrants enrolled for less than one year, to take the TAAS in English or Spanish; (4) require LEP students in Grades 7-8 whose primary language is Spanish, other than unschooled recent immigrants enrolled for less than one year, to take the TAAS in English; (5) allow LEP students in Grades 3-8 whose primary language is other than Spanish not to take the TAAS during their first three years in the U.S., if the tests are not appropriate measures of their academic progress; and (6) eliminate the current requirement to administer alternative assessments to exempted LEP students. Section 101.3(g) maintains the one-time postponement of the initial administration of the exit level tests for recent immigrants.

The proposed amendment to §101.3(h) specifies that LEP students with parental denials shall take the TAAS in English annually and §101.3(i) authorizes the TEA to grant district requests to administer the Spanish TAAS to non-LEP students who participate in two-way bilingual programs.

It is anticipated that the RPTE would provide useful data on the current reading levels of LEP students and on their growth in becoming proficient readers of English, which would further the understanding of the educational needs of LEP students. It is also anticipated that as a result of the amended rule, fewer than 5% of the LEP students at tested grades would be eligible for exemption on the basis of limited English proficiency.

Felipe Alanis, Deputy Commissioner for Programs and Instruction, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. The existing agency contract with a private organization for the RPTE will not be impacted by the proposed amendment since it is set at a fixed price, as long as there are no major changes in the number of students tested.

Mr. Alanis and Criss Cloudt, Associate Commissioner for Policy Planning and Research, have 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 including the performance of more Texas public school students in the TAAS data and in the school accountability data reported to the public. Also, the RPTe will make it possible for parents, educators, and policy makers to monitor the extent to which LEP students are acquiring the English reading skills necessary for academic achievement. There will not be an 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 to Criss Cloudt, Policy Planning and Research, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. Comments may also be submitted electronically to [rules@tmail.tea.state.tx.us](mailto:rules@tmail.tea.state.tx.us) or faxed to (512) 475-3499. All requests for a public hearing on the proposed section submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §§39.022, 39.023, and 39.027, as amended by Senate Bill 103, 76th Texas Legislature, 1999, which authorizes the State Board of Education to create and implement a statewide assessment program.

The proposed amendment implements the Texas Education Code, §§39.022, 39.023, and 39.027, as amended by Senate Bill 103, 76th Texas Legislature, 1999.

*§101.3. Testing Accommodations and Exemptions.*

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

(e) A student of limited English proficiency, as defined by the TEC, Chapter 29, Subchapter B, shall participate in the administration of the criterion-referenced tests as outlined in subsections (f)-(i) of this section. School districts shall follow all Texas Education Agency procedures necessary for the administration of the criterion-referenced tests.

~~(e) A student of limited English proficiency, as defined by the TEC, Chapter 29, Subchapter B, shall take the criterion-referenced test unless the student's language proficiency assessment committee (LPAC) determines that it is an inappropriate measure of the student's academic progress based on the student's limited language proficiency.~~

(f) In Grades 3-12, the limited English proficient (LEP) student shall take the reading proficiency tests in English until the student has demonstrated English reading proficiency and is being administered the assessment of academic skills in English.

~~(f) The LPAC shall select one of the options outlined in paragraphs (1)-(3) of this subsection for each limited English proficient (LEP) student. The criteria for this determination shall be documented in the student's permanent record file and shall conform with required procedures for identification of a limited English proficient student. Any combination of the options outlined in paragraphs (1) and (2) of this subsection shall not exceed three consecutive years. Any combination of using the Spanish version criterion-referenced test and exempting for limited English proficiency shall not total more than three years. A school district shall make a reasonable effort to determine a student's previous exemption and testing history. For students who have been enrolled continuously in school beginning at least in the first grade, the LPAC~~

~~is discouraged from selecting a combination of the options outlined in paragraphs (1) and (2) of this subsection for more than two years.~~

~~{(1) The LEP student may be exempted from the criterion-referenced test.}~~

~~{(2) The LEP student may be administered the Spanish version criterion-referenced test.}~~

~~{(3) The LEP student may be administered the English version criterion-referenced test.}~~

(g) In accordance with the TEC, §39.023(1) and §39.027(a)(3), the language proficiency assessment committee (LPAC) shall select the appropriate assessment for each LEP student as outlined in paragraphs (1)-(3) of this subsection. The criteria for the selection of tests shall be documented in the student's permanent record file. A school district shall make a reasonable effort to determine a student's previous testing history.

(1) In Grades 3-6, the LEP student whose primary language is Spanish shall take the assessment of academic skills in English or Spanish based on which assessment is the most appropriate measure of the student's academic progress. In Grades 7-8, the LEP student whose primary language is Spanish shall take the assessment of academic skills in English. However, a recent unschooled immigrant whose primary language is Spanish is not required to take the assessment of academic skills in either language if the student has been enrolled in U.S. schools for less than one year. For the purposes of this paragraph, the term "unschooled" means to be significantly deficient in cognitive and academic development resulting from lack of school enrollment, as determined by the LPAC.

(2) In Grades 3-8, the LEP student whose primary language is other than Spanish shall not be required to take the assessment of academic skills in English during the student's first three years of enrollment in U.S. schools, if the LPAC determines that the student's academic progress cannot be validly and reliably measured by the English-version assessment.

(3) The LEP student shall be required to take the exit level assessment of academic skills and the end-of-course tests. However, the LEP student who is a recent immigrant may postpone only one time the initial administration of the exit level test. The term "recent immigrant" in this paragraph is defined as an immigrant entering the United States no more than 12 months before the administration of the exit level test from which the postponement is sought.

~~{(g) Each exempted student of limited English proficiency shall participate in an appropriate alternative assessment, as determined by the student's LPAC.}~~

(h) The LEP student whose parent or guardian has declined the services required by the TEC, Chapter 29, Subchapter B, shall take the assessment of academic skills in English and the reading proficiency tests in English.

~~{(h) No student shall be exempted from an exit level or end-of-course test based on limited English proficiency. However, a student who is a recent immigrant with limited English proficiency may postpone only one time the initial administration of the exit level test. The term "recent immigrant" is defined as an immigrant entering the United States no more than 12 months before the administration of the exit level test from which the postponement is sought.}~~

(i) Upon written request, the commissioner of education may annually grant each district the authority to administer the assessment of academic skills in Spanish to a student who is not identified as

limited English proficient but who participates in a two-way bilingual 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 July 19, 1999.

TRD-9904303

Criss Cloudt

Associate Commissioner, Policy Planning and Research  
Texas Education Agency

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 463-9701



## Chapter 157. Hearings and Appeals

### Subchapter A. General Provisions for Hearings Before the State Board of Education

#### 19 TAC §§157.1-157.20

The Texas Education Agency (TEA) proposes new §§157.1-157.20, concerning hearings and appeals. The new sections establish definitions, requirements, and procedures relating to hearings before the State Board of Education. The new sections would create general rules for contested cases under the Texas Government Code, Chapter 2001, conducted by the State Board of Education (SBOE) or a hearing officer appointed by the SBOE.

Proposed new 19 TAC §§157.1-157.20 would provide general rules needed to govern hearings held on matters such as textbooks and charter schools, and may apply to other contested cases held by the SBOE under the Administrative Procedure Act. The new rules would provide needed guidance to the administrative law judge in conducting hearings before the SBOE.

The TEA is also proposing new 19 TAC §100.101 and §100.201, which specify procedures for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school and placing on probation or revoking a home-rule school district charter. The proposed new rules are filed in a separate submission. In addition, the TEA is proposing the repeal of 19 TAC §97.6 and §97.7, which is filed in a separate submission. Language in §97.6 and §97.7 has been modified and relocated in proposed new §100.101 and §100.201, in anticipation of additional rules on charter schools.

Pat Pringle, Associate Commissioner for School Finance and Support, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections.

Mr. Pringle and Criss Cloudt, Associate Commissioner for Policy Planning and Research, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be procedures that enable the State Board of Education to act more efficiently and effectively when conducting hearings on contested cases. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed new sections.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Research, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. Comments may also be submitted electronically to [rules@tmail.tea.state.tx.us](mailto:rules@tmail.tea.state.tx.us) or faxed to (512) 475-3499. All requests for a public hearing on the proposed sections submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §12.028, which authorizes the State Board of Education to adopt by rule procedures to be used for placing on probation or revoking a home-rule school district charter; §12.116, which authorizes the State Board of Education to adopt procedures to be used for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school; and §31.151, which authorizes the State Board of Education to adopt rules for hearings regarding penalties imposed under this section; and the Texas Government Code, §2001.004, which authorizes state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The new sections implement the Texas Education Code, §§12.028, 12.116, and 31.151, and the Texas Government Code, §2001.004.

#### §157.1. Scope and Purpose.

(a) This subchapter shall govern the proceedings in all contested cases before the State Board of Education (SBOE) where:

(1) notice and opportunity for hearing is expressly required by other law; and

(2) the hearing is not exempted from the provisions of the Administrative Procedure Act (APA) (Texas Government Code, Chapter 2001).

(b) This subchapter adopts for all purposes the provisions of the APA, the Texas Rules of Civil Evidence, and the Texas Rules of Civil Procedure. The Rules of Civil Evidence and Civil Procedure will prevail except as modified by the APA and by these rules. The provisions of this subchapter shall govern the procedure for the administration of all contested cases before the SBOE except where modified by a more specific rule relating to specific contested cases before the SBOE.

#### §157.2. Definitions.

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

(1) Agency - The Texas Education Agency.

(2) Commissioner - The state commissioner of education.

(3) Contested case - A proceeding in which legal rights, duties, or privileges of a party are to be determined by the commissioner after opportunity for an adjudicative hearing.

(4) Disqualification - When an administrative law judge, in his or her discretion, permanently forbids a party representative from any further participation in an adjudicative proceeding.

(5) Exclusion - When an administrative law judge, in his or her discretion, ejects a person temporarily from an adjudicative proceeding.

(6) Administrative law judge - A member or employee of the agency or other individual assigned to issue a proposal for decision, to render a decision, or to make findings of fact or conclusions of law in a case.

(7) Party representative - A lawyer or non-lawyer who acts on behalf of himself or herself, or on behalf of another person during an adjudicative proceeding.

§157.3. Administrative Law Judge.

(a) The commissioner may designate and appoint an administrative law judge to act on behalf of the State Board of Education in conducting any hearing or proceeding held under this subchapter and to prepare proposals for decision on those hearings.

(b) The administrative law judge has the authority to administer oaths; call and examine witnesses; issue subpoenas; make rulings on motions, admissibility of evidence, and amendments to pleadings; maintain decorum; schedule and recess the proceedings from day to day; and make any other orders as justice requires.

(c) If the administrative law judge is unable to continue presiding over a case at any time before the final decision, another administrative law judge will be appointed who shall perform any remaining function without the necessity of repeating any previous proceedings.

§157.4. Classification of Parties.

(a) Parties are designated as follows.

(1) Petitioner - the party who seeks State Board of Education (SBOE) action.

(2) Respondent - any party against whom the petitioner seeks SBOE action.

(3) Intervenor - a person who, upon showing a justiciable interest, is permitted to become a party to a proceeding.

(b) Regardless of errors concerning designations in the pleadings, parties shall be accorded their true status in the appeal.

§157.5. Appearances.

Any party may appear on his or her own behalf. Party representatives are held to the same procedural and substantive standards as attorneys authorized to practice law.

§157.6. Conduct and Decorum.

(a) Standards of conduct during adjudicative proceedings.

(1) The administrative law judge and the party representative should refer to the Texas Disciplinary Rules of Professional Conduct for guidance, regardless of whether all participants are licensed attorneys (Texas State Bar Rules, Article 10, §9).

(2) Party representatives shall maintain high standards of professionalism during the administrative process and promote an atmosphere of civility and fairness.

(3) A party representative shall use these rules for legitimate purposes and not for dilatory purposes or to harass or intimidate other participants.

(b) Exclusion or disqualification of party representatives.

(1) Contemptuous conduct. An administrative law judge may exclude or disqualify a party representative from participating in a hearing for contemptuous conduct. The administrative law judge shall warn the party representative prior to exclusion, if possible. Contemptuous conduct includes, but is not limited to:

(A) actual or threatened physical assault of any participant or spectator;

(B) knowingly or recklessly making a false statement of material fact or law to the administrative law judge;

(C) counseling or assisting a witness to testify falsely;

(D) knowingly offering or using false evidence;

(E) filing a frivolous or knowingly false pleading or other document, or filing a frivolous or knowingly false defense. A frivolous filing is one:

(i) primarily for the purpose of harassing or maliciously injuring another person; or

(ii) for which the party representative is unable to make a good faith argument consistent with existing law, or a good faith argument for an extension, modification, or reversal of existing law;

(F) paying, offering to pay, or acquiescing in a payment or offer of payment to a witness based on the content of the witness' testimony or the outcome of the proceeding;

(G) continually violating an established rule of agency procedure or of evidence;

(H) raising superfluous objections or otherwise unreasonably delaying the proceeding or increasing the costs or other burdens of the proceeding;

(I) misrepresenting, mischaracterizing, or misquoting facts or law to gain unfair advantage;

(J) except as otherwise permitted by law, communicating or causing someone else to communicate with the administrative law judge without the knowledge and consent of opposing party representatives in order to gain unfair advantage or to influence the proceeding;

(K) using vulgar or abusive language during the proceeding; and

(L) engaging in disruptive conduct.

(2) Conflicts of interest. An administrative law judge may disqualify a party representative from participating in a proceeding if the administrative law judge decides that the party representative has a conflict of interest. Conflicts of interest can be, but are not limited to, the following:

(A) when a party representative who previously acted as a public officer or employee on a matter later attempts to represent a private client on the same matter, unless the appropriate government agency consents;

(B) when a party representative who serves as a public officer or employee on a matter negotiates for private employment with a party or party representative involved in the same matter;

(C) when a party representative who serves as a public officer or employee participates in a matter involving a former private client whom he or she represented on the same matter, unless no one may legally act in the attorney's stead;

(D) when an attorney engages in the practice of law while under suspension or in violation of a disciplinary order or judgment; and

(E) any other conflict of interest that, in the opinion of the administrative law judge, offends the dignity and decorum of the proceeding.

(3) Procedures for excluding or disqualifying a party representative.

(A) Notice. The administrative law judge shall state the specific reason for excluding or disqualifying a party representative on the record or in a written order. The administrative law judge shall notify the affected party and party representative of the exclusion or disqualification personally or by certified mail.

(B) Reasonable time for substitution. After the administrative law judge has excluded or disqualified a party representative, the affected party or party representative shall have reasonable time to appeal to the commissioner. If the commissioner sustains the exclusion or disqualification, the party shall have a reasonable time to substitute a new representative. In determining a reasonable time, the administrative law judge shall consider the right of opposing parties to have the proceeding resolved without undue delay. The administrative law judge may therefore align the affected party with another party in interest instead of permitting a substitution.

(C) Appeal to the commissioner. A party or party representative may appeal the exclusion (if it is for a period of more than eight hours) or disqualification to the commissioner. The motion shall be filed with the commissioner within two working days after actual notification of the exclusion or disqualification. If the commissioner does not act within two days after the motion is filed, the motion is overruled by operation of law. The commissioner may, however, extend the time for taking action on the motion.

(D) No further participation. After being disqualified from a proceeding, a party representative may not provide further assistance, either directly or indirectly, to any party with regard to the proceeding, except to the extent reasonably necessary to appeal to the commissioner and to complete the withdrawal and substitution of a new party representative.

(E) No recusal. The exclusion or disqualification of a party representative by an administrative law judge is not a ground for recusal of the administrative law judge in the same or any subsequent proceeding.

#### §157.7. Classification of Pleadings.

Pleadings filed with the State Board of Education shall include, but not be limited to, petitions, answers, replies, exceptions, and motions. Regardless of any error in its designation, the pleading shall be accorded its true status in the contested case in which it is filed.

#### §157.8. Form of Documents.

All pleadings, briefs, and exhibits shall be signed by the party representative and legibly handwritten, typewritten, or printed on paper 8 1/2 inches wide by 11 inches long.

#### §157.9. Service of Documents.

(a) Every pleading, plea, or motion, filed with the agency's hearings and appeals division, shall be served by delivering a copy to all party representatives of record either in person or by agent or by courier receipted delivery, to the party's current address of record, or by facsimile to the recipient's current telecopier number of record. All party representatives shall be served by the same method as the document was filed with the agency's hearings and appeals division. Service by facsimile may be substituted for personal service.

(b) All other communications not specified in §157.7 of this title (relating to Classification of Pleadings) filed with the agency's hearings and appeals division may be served by first class mail.

(c) Service by facsimile completed after 5:00 p.m. (Central Time) of the recipient shall be deemed served on the following day.

(d) The party representative shall certify to the administrative law judge compliance with this rule in writing over the signature of the party representative on the filed instrument.

#### §157.10. Filing of Documents.

(a) Documents for consideration by the State Board of Education (SBOE) shall be filed with the agency's hearings and appeals division, not directly with the SBOE, any of its members, or the commissioner. Any document shall be deemed filed with the SBOE only when actually received by the designated docket clerk for the hearings and appeals division or the assigned administrative law judge.

(b) Facsimile transmission of pleadings by telecopier to the agency's hearings and appeals division, in proper form, containing a facsimile of the signature of the party representative filing the pleading, constitutes filing. Parties shall not mail a duplicate of the transmitted document. Filing by facsimile completed after 5:00 p.m. (Central Time) shall be deemed filed on the following business day.

(c) The mailbox rule concerning service of pleadings and documents is not applicable in proceedings brought under this subchapter.

#### §157.11. Notice of Intent.

(a) If notice and opportunity for hearing is expressly required by other law, the petitioner shall provide written notice to the respondent of his or her intent to seek State Board of Education (SBOE) action not fewer than 60 days prior to the meeting of the SBOE at which the recommendation is to be considered.

(b) The notice of intent shall clearly specify the following, either in the notice or by reference to other documents included with the notice:

(1) a statement of the time, place, and nature of the hearing, which will be held not fewer than 25 calendar days after the petitioner receives notice of the proposed action;

(2) a statement of the legal authority and jurisdiction under which the hearing will be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) a short, plain statement of the matters asserted. If the petitioner is unable to state matters in detail at the time of the notice, the initial notice may be limited to a statement of the issues involved. On the respondent's written application filed at least five days prior to the answer date, a more definite and detailed statement shall be furnished not fewer than two days before the answer date.

(c) The notice of intent shall be served on the respondent by facsimile, personal delivery, or overnight courier service. A certificate evidencing service shall be included in the notice. If the respondent fails to answer or appear at the hearing, the petitioner shall file with the administrative law judge on or before the hearing date evidence showing successful transmission of the facsimile or personal delivery.

(d) The notice of intent shall be filed pursuant to 19 TAC §157.10 of this title (relating to Filing of Documents) and distributed by the agency's hearings and appeals division to the SBOE.

#### §157.12. Answer and Request for Hearing.

(a) The respondent may request a hearing within ten calendar days after receiving the notice of intent. The request for a hearing shall be served on the petitioner by facsimile, personal delivery, or



overnight courier. If a request for hearing is not filed within ten days, the notice of proposed action shall be submitted to the State Board of Education for action.

(b) The answer shall specifically admit or deny each allegation in the notice of intent and shall set forth all affirmative defenses.

(c) The answer shall contain the name of the respondent or the respondent's party representative, the mailing address, telephone number during business hours, and facsimile number, if any.

(d) All well-pled factual allegations in the notice of intent will be deemed admitted unless the respondent's answer, containing specific denials to each allegation, is filed within the time period prescribed in subsection (a) of this section. A general denial shall not be sufficient to controvert factual allegations contained in the notice of intent.

#### §157.13. Prehearing Conference.

(a) In any contested case, the administrative law judge or a party may move for the setting of a prehearing conference. The administrative law judge shall direct the parties to appear, either in person or by telephone, at a specific time for a conference prior to a hearing on the merits for the purposes of considering any of the following:

- (1) the formulation or simplification of issues;
- (2) admission of certain assertions of fact or stipulations;
- (3) admission into evidence of documents or other evidence by agreement;
- (4) the taking of prefiled written testimony and evidence under the Texas Government Code, §2001.085;
- (5) ordering the parties to exchange, by a date certain, all exhibits and lists of fact and expert witnesses that each party may offer at hearing;
- (6) ordering the parties to exchange, by a date certain, all documents and other evidence relevant to the issues, even if the party intends to offer the evidence at hearing;
- (7) the procedure at the hearing on the merits;
- (8) any limitation, where possible, of the number of witnesses; and/or
- (9) such other matters as may aid in the simplification of the proceeding or the disposition of matters in controversy, including the settlement of matters in dispute.

(b) Action taken at the conference shall be recorded in the manner directed by the administrative law judge.

#### §157.14. Discovery.

An administrative law judge may allow either party to take one or more depositions or to use other means of discovery before the hearing.

#### §157.15. Motions for Continuance.

A motion for continuance shall specifically articulate grounds constituting good cause and shall be verified and filed in writing at least three calendar days prior to the date of the hearing affected.

#### §157.16. Dismissal Without a Hearing; Nonsuits.

(a) The State Board of Education or the administrative law judge may, sua sponte, or the motion of a party, dismiss an appeal without a hearing for the following reasons: compromise, unnecessary duplication of proceedings, res judicata, withdrawal,

mootness, untimely filing, lack of jurisdiction, failure of a party requesting relief to set forth facts in the pleadings that would support a decision in that party's favor, failure to state a claim for which relief can be granted, or failure to prosecute.

(b) The petitioner may nonsuit the appeal at any time.

#### §157.17. Order of Procedure at Hearing.

(a) The administrative law judge shall establish reasonable time allotments for the hearing, dividing the time equally between the petitioner and respondent.

(b) The petitioner may state briefly the nature of the claim or defense, what the petitioner expects to prove, and the relief sought. Immediately after, the respondent may make a similar statement, and the intervenors and other parties will be afforded similar rights as determined by the administrative law judge.

(c) Evidence shall then be introduced by the petitioner. The respondent and intervenors shall have the opportunity to cross-examine each of the petitioner's witnesses.

(d) Cross-examination is not limited solely to matters raised on direct examination. Parties are entitled to redirect and recross examination.

(e) Unless the statement has already been made, the respondent may briefly state the nature of the claim or defense, what the respondent expects to prove, and the relief sought.

(f) Evidence, if any, shall be introduced by the respondent. The petitioner and intervenors shall have the opportunity to cross-examine each of the respondent's witnesses.

(g) The intervenor and other parties may make their statement, unless they have already done so, and shall introduce their evidence, if any. The petitioner and respondent shall have the opportunity to cross-examine the intervenor's witnesses.

(h) The petitioner may present rebuttal evidence.

(i) The parties may be allowed closing arguments.

(j) The administrative law judge may permit deviations from this order of procedure in the discretion of the administrative law judge.

(k) Parties shall provide four copies of each exhibit offered.

(l) In any appeal where a party is represented by more than one attorney, a lead attorney must be designated.

#### §157.18. Filing of Exceptions and Replies to Proposal for Decision.

(a) A copy of the proposal for decision in a contested case shall be simultaneously delivered by facsimile, personal service, or overnight courier to each party representative of record.

(b) Written exceptions to the proposal for decision shall be filed with the agency's hearings and appeals division on or before the expiration of six calendar days from the date of the proposal for decision. Exceptions shall not be delivered directly to the State Board of Education (SBOE), any of its members, or the commissioner.

(c) Written replies to exceptions shall be filed with the agency's hearings and appeals division on or before the expiration of ten calendar days from the date of the proposal for decision. Replies shall not be delivered directly to the SBOE, any of its members, or the commissioner.

(d) All disagreements with the factual findings of the proposal for decision must be made in the parties' written exceptions to the proposal for decision or be waived.

(e) The exceptions shall be specifically and concisely stated. The evidence relied upon shall be stated with particularity, and any evidence or arguments relied upon shall be grouped under the exceptions to which they relate.

§157.19. Board Consideration and Adoption of Proposal for Decision.

(a) After the time for filing exceptions and replies to exceptions expires, the State Board of Education (SBOE) shall consider the proposal for decision and any exceptions and replies in public session, and shall enter a written decision adopting or modifying and adopting the proposed decision or remanding the matter to the administrative law judge for further proceedings.

(b) No public testimony shall be heard on the question of adopting, modifying, or remanding the proposal for decision. No information other than the record of the proceedings conducted by the administrative law judge, the proposal for decision, and the exceptions and replies of the parties shall be heard, considered, or discussed by the SBOE concerning the contested case.

(c) All final decisions or orders of the SBOE shall be in writing and signed by the chair, if voting in favor of the decision, or by a member selected by those voting in favor of the decision. A final decision shall include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(d) The decision of the SBOE may incorporate by reference the proposal for decision in whole or in part, and such incorporation by reference may constitute compliance with subsection (c) of this section. If the decision of the SBOE modifies the proposal for decision in any respect, the SBOE shall specify the portions modified and shall set out in full the affected language as modified by the decision of the SBOE.

(e) Party representatives shall be simultaneously notified either personally, by facsimile transmission, or overnight courier of each decision or order. For purposes of §157.20 of this title (relating to Motions for Rehearing), a party present at a meeting of the SBOE at which a public vote is taken shall be deemed notified of the decision or order on the date of the vote.

§157.20. Motions for Rehearing.

(a) In the absence of a finding of imminent peril, a motion for rehearing is a prerequisite to a judicial appeal.

(b) Motions for rehearing will be in conformance with the Texas Government Code, §2001.146.

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 July 19, 1999.

TRD-9904304

Criss Cloudt

Associate Commissioner, Policy Planning and Research  
Texas Education Agency

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 463-9701

◆ ◆ ◆  
**TITLE 22. EXAMINING BOARDS**

## Part III. Texas Board of Chiropractic Examiners

### Chapter 73. Licenses and Renewals

#### 22 TAC §73.1, §73.2

The Texas Board of Chiropractic Examiners proposes to amend §73.1 and §73.2 of Chapter 73 relating to recording of a license and renewal of a license, respectively, in conjunction with its review of this chapter pursuant to the requirements of the Appropriations Act of 1997, House Bill 1, Article IX, §167. In accordance with §167, the board has reviewed this chapter and has determined that it should be readopted, with changes to these sections. The board finds that the reasons for this chapter, with the proposed changes, continue to exist.

The proposed amendments conform and clarify these rules as to current renewal procedures. Other changes are proposed for further clarity, grammar and consistency. Proposed amendments include a new subsection (d) for §73.2, that explains the consequences of practicing with an expired license under the Chiropractic Act and board rules. A similar provision was included in a prior version of this section and inadvertently left out in later amendments. It is added to provide notice to licensees of the consequences of practicing with an expired license.

Joyce Kershner, Director of Licensure, Texas Board of Chiropractic Examiners, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections as amended.

Ms. Kershner has also determined that for each year of the first five years, the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the rules, as amended, will be that licensees and the public are provided better notice of the board's current requirements for license renewal. There will be no added effect on small businesses versus that on larger businesses. Each licensee is subject to the same requirements, regardless of the size of their practice. There is no anticipated economic cost to persons who are required to comply with the amended rules inasmuch as the primary purpose of the proposal is to revise board rules to remove unnecessary language and to conform language to current procedures and other related rules for consistency.

Comments may be submitted, no later than 30 days from the date of this publication, to Joyce Kershner, Rules Committee, Texas Board of Chiropractic Examiners, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4512b, §4(c), §4a, which the board interprets as authorizing it to adopt rules necessary for the performance of its duties, the regulation of the practice of chiropractic, and the enforcement of the Act, and §§8, 8a, which the board interprets as establishing a licensee and the board's duties relating to license renewal.

The following are the statutes, articles, or codes affected by the proposed amendments:

Chapter 73 - Texas Civil Statutes, Article 4512b, §§4(c), 4a, 8, 8a.

§73.1. Notification and Change of Business Address [Recording of License].

(a) Licensees shall maintain a current business address with the board. A different mailing address may be provided in addition to the business address. Licensees shall ~~must~~ notify the board, in writing, of any change in business ~~street~~ or mailing address ~~post office address~~ within 30 days of the change ~~in writing~~.

(b) The notification shall ~~Notification must~~ be signed by the licensee and must include the license number.

#### §73.2. *Renewal of License.*

(a) Annual renewal. ~~[Unexpired License.]~~

~~[(1)]~~ Each year, on or before the first day of a licensee's birth month, a licensee shall renew his or her license or apply for inactive status in accordance with §73.4 of this title (relating to Inactive Status). [The license renewal fee shall be paid on or before the date published on the license renewal form provided by the board.] In order to renew a license, a licensee must submit to the board the license renewal form provided by the board, the renewal fee for an active license as provided in §75.7 of this title (relating to Fees), any late fees, if applicable as provided in subsection (c) of this section, and verification of continuing education attendance as required by §73.3 of this title (relating to Continuing Education). An annual renewal certificate shall not be issued until all information and fees required by this section are provided to the board. The license

~~[(2)]~~ ~~[License]~~ renewal fee shall be paid by cashier's check or money order made payable to the Texas Board of Chiropractic Examiners.

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

(d) Practicing with an expired license. Practicing chiropractic with an expired license constitutes practicing chiropractic without a license. A licensee whose license expires shall not practice chiropractic until the license is renewed or a new license is obtained as provided by subsection (c) of 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 July 19, 1999.

TRD-9904332

Gary K. Cain, Ed. D.

Executive Director

Texas Board of Chiropractic Examiners

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 305-6709



## Part XIV. Texas Optometry Board

### Chapter 271. Examinations

#### 22 TAC §271.2

The Texas Optometry Board proposes the adoption of amendments to §271.2 regarding applications for examination. The amendments, if adopted, will allow an applicant for licensure to provide documentation regarding the granting of a doctor of optometry degree, allowing the applicant to sit for the jurisprudence examination prior to graduation based on the documentation received, and will establish a time element for submission of applications. This amendment is required in order to comply with House Bill 2394, 76th Legislature.

Lois Ewald, Executive Director of the Texas Optometry Board, has determined that for the first five-year period the amended rule is in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the rule.

Lois Ewald also has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing the amended rule is the assurance that candidates for licensure have met all statutory requirements to obtain and hold a valid license to practice and because the amendment to the rule does not require any additional duties for optometrists, there are no anticipated economic costs to persons required to comply with the rule as proposed. The amendment to the rule imposes no duties on small businesses, and thus there will be no economic effect on small businesses.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas, 78701-3942. The deadline for furnishing comments is September 1, 1999.

The amendment is proposed under the Texas Optometry Act, Texas Civil Statutes, Articles 4552-2.14, 4552-3.02, and 4552-3.03.

The Texas Optometry Board interprets §2.14 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The Board interprets §3.02 as authorizing the procedures for application to take the examination and interprets §3.03 as authorizing procedures for submitting the examination fee.

Texas Civil Statutes, Articles 4552-3.02 and 4552-3.03, are affected by this proposed action.

#### §271.2. *Applications.*

(a) The applicant shall make application furnishing to the executive director, on forms to be furnished by the board, satisfactory sworn evidence that the applicant has attained the age of 21 years, is of good moral character, and has a preliminary education equivalent to permit matriculation in the University of Texas, and that the applicant has attended and graduated from a reputable university or college of optometry which meets with the requirements of the board, or in the alternative, submit a written statement from the dean of a reputable college of optometry that the applicant is enrolled in good standing in the college and is in the final semester before graduation, and such other information as the board may deem necessary for the enforcement of the Act.

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

(g) The completed application and examination fee must be filed with the executive director not later than 45 ~~30~~ days prior to the date of the examination. In the event an applicant intends to retake the examination, the fee therefor and the notice of this intention to retake said examination must ~~also~~ be in the executive director's office 30 days prior to the date of the examination.

(h)-(i) (No change.)

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

Filed with the Office of the Secretary of State, on July 12, 1999.

TRD-9904211

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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



## 22 TAC §271.5

The Texas Optometry Board proposes the adoption of new §271.5 regarding licensure without examination. The rule, if adopted, will allow an individual licensed in another state to obtain a license to practice therapeutic optometry in Texas based on the equivalency of another state's licensing examination. The new rule establishes procedures to implement the amendments of House Bill 2394, 76th legislature.

Lois Ewald, Executive Director of the Texas Optometry Board, has determined that for the first five-year period the rule is in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the rule.

Lois Ewald also has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing the rule is the assurance that candidates for licensure have met all statutory requirements to obtain and hold a valid license to practice and because the amendment to the rule does not require any additional duties for optometrists, there are no anticipated economic costs to persons required to comply with the rule as proposed. The rule imposes no duties on small businesses, and thus there will be no economic effect on small businesses.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas, 78701-3942. The deadline for furnishing comments is September 1, 1999.

The rule is proposed under the Texas Optometry Act, Texas Civil Statutes, Articles 4552-2.14, 4552-3.02, 4552-3.03, and 4552-3.085, recently added by House Bill 2394, 76th Legislature.

The Texas Optometry Board interprets §2.14 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The Board interprets §3.02 as authorizing the procedures for application to take the examination, §3.03 as authorizing procedures for submitting the examination fee and §3.085 as authorizing licensure without examination.

Texas Civil Statutes, Articles 4552-3.02, 4552-3.03, and 4552-3.085 are affected by this proposed action.

### §271.5. Licensure without Examination.

(a) Upon payment of a fee in an amount set by the Board, the board may license applicants without examination who:

(1) have no pending disciplinary actions in the state, district, or territory in which the applicant is licensed;

(2) have never had their license suspended or revoked;

(3) meet all requirements of the Act;

(4) are currently licensed as a therapeutic optometrist in good standing in another state, the District of Columbia, or territory of the United States;

(5) have passed an examination that is equivalent or superior to the examination required by §351.253 and §351.256 of the Act; and

(6) have, for at least five of the seven years preceding the application date, been :

(A) actively engaged in the practice of therapeutic optometry; or

(B) engaged in full-time teaching at an accredited college of optometry or medicine.

(b) The applicant must furnish a certificate of good standing from the jurisdictions where licensed. The certificate must establish that:

(1) the applicant's license has never been suspended or revoked;

(2) there are no pending disciplinary actions against the applicant; and

(3) the applicant is presently authorized to practice therapeutic optometry without restrictions.

(c) An examination is deemed equivalent or superior to the examination required by §351.253 and §351.256 of the Act if at the time the applicant took the examination, the examination met the requirements of §351.253 and §351.256 of the Act.

(d) The applicant shall take and pass the jurisprudence examination administered by the board.

(e) The applicant must have complied with §271.2 of this title (relating to Applications).

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 July 12, 1999.

TRD-9904210

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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



## Chapter 273. General Rules

### 22 TAC §273.4

The Texas Optometry Board proposes amendments to §273.4 concerning Fees. The amendments raise the license renewal and corresponding late fees by \$10 in order to provide funding for the appropriations made by the 76th Legislature as well as implement House Bill 2394 regarding licensure without examination.

Lois Ewald, Executive Director, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications for local government as a result of enforcing or administering the amendments. For state government, there will be increased revenue of \$60,350.00 for the biennium that the amended license fee amounts are in effect. It would be difficult to determine revenue from fees generated by applicants seeking licensure without examination.

Lois Ewald also has determined that for the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be the funding of those programs the 76th Legislature found appropriate to fund.

The economic costs for persons who are required to comply with the amendments, including small businesses, will be an

additional license fee of \$10 for each license holder and a fee of \$300 for those applicants seeking licensure in Texas without an examination. No disparate effect is foreseen on small businesses as the fee is imposed on individual professionals regardless of the size of any business. Comments are solicited if a cost of compliance can be established.

Written comments on the proposal may be submitted in writing to Lois Ewald, Texas Optometry Board, 333 Guadalupe, Suite 2-420, Austin, Texas, 78701-3942, telephone: (512) 305-8500, and must be received by September 1, 1999.

The amendments are proposed under the authority of the Texas Optometry Act, Texas Civil Statutes, article 4552, §2.14 which grants the Board the authority to establish by rule reasonable and necessary fees to cover the costs of administering the act.

The amendments affect the Texas Optometry Act, article 4552, §2.15 which places limits on the Board's authority to set fees.

§273.4. *Fees (Not Refundable).*

(a)-(f) (No change.)

(g) License Renewal—\$150 [\$140]

(h)-(i) (No change.)

(j) Late fees (for all renewals with delayed continuing education)—\$150 [\$140]

(k)-(l) (No change.)

(m) License Without Examination Fee—\$300

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 July 12, 1999.

TRD-9904209

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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



## Chapter 279. Interpretations

### 22 TAC §279.11

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Optometry Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Optometry Board proposes the repeal of §279.11 regarding the practice of optometry in nursing homes and other abodes of patient confinement. The repeal, if adopted, will remove rule language which is not applicable since the Board has incorporated the same language within proposed rule amendment §279.13, finally adopted on July 9, 1999.

Lois Ewald, executive director of the Texas Optometry Board, has determined that for the first five-year period the repeal of the rule is in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the rule. The repeal imposes no duties on small businesses, and thus there will be no economic effect on small businesses.

Lois Ewald also has determined that for each of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing the rule is that licensees and the general public will be able to consult only one rule to determine the duties imposed when optometric services are provided under Article 4552 §5.04, and because the repeal of the rule does not require any additional duties for optometrists, there are no anticipated economic costs to persons required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is September 1, 1999.

The repeal is proposed under the Texas Optometry Act, Texas Civil Statutes, Article 4552-2.14 and 4552-5.04.

The Texas Optometry Board interprets §2.14 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The Board interprets §5.04 as authorizing the practice of optometry in nursing homes.

Texas Civil Statutes, Article 4552-5.04 is affected by this proposed action.

### §279.11. *Board Interpretation Number Eleven.*

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 July 12, 1999.

TRD-9904208

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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



### 22 TAC §279.17

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Optometry Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Optometry Board proposes the repeal of §279.17 regarding the definition of surgery. The repeal, if adopted, will remove language which has been superceded by Article 4552-1.02, as amended by the 76th Legislature in H.B. 1051.

Lois Ewald, executive director of the Texas Optometry Board, has determined that for the first five-year period the repeal of the rule is in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the rule. The repeal imposes no duties on small businesses, and thus, there will be no economic effect on small businesses.

Lois Ewald also has determined that for each of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing the rule is that licensees and the general public will be fully informed regarding the definition of surgery by consulting the statute, Article 4552-1.02, which fully defines surgery as it applies to optometrists. Because the repeal of the rule does not require any additional duties for optometrists, there are no anticipated economic costs to persons required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is September 1, 1999.

The repeal is proposed under the Texas Optometry Act, Texas Civil Statutes, Article 4552-2.14 and 4552-1.02.

The Texas Optometry Board interprets §2.14 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The Board interprets §1.02 as authorizing the practice of optometry which does not permit the use of surgery as defined by that section.

Texas Civil Statutes, Article 4552-1.02 is affected by this proposed action.

§279.17. *Interpretation Number Seventeen.*

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 July 12, 1999.

TRD-9904207

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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



## Chapter 280. Therapeutic Optometry

### 22 TAC §280.4

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Optometry Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Optometry Board proposes the repeal of §280.4, regarding the use of topical steroids by a therapeutic optometrist. The repeal, if adopted, will remove language which has been superceded by Article 4552-1.03, as amended by the 76th Legislature in House Bill 1051.

Lois Ewald, executive director of the Texas Optometry Board, has determined that for the first five-year period the repeal of the rule is in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the rule. The repeal imposes no duties on small businesses, and thus, there will be no economic effect on small businesses.

Ms. Ewald also has determined that for each of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing the rule is that licensees will be fully informed regarding proper medications prescribed, removing the restriction formerly in the statutes and rules. Because the repeal of the rule does not require any additional duties for optometrists, there are no anticipated economic costs to persons required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is September 1, 1999.

The repeal is proposed under the Texas Optometry Act, Texas Civil Statutes, Article 4552-2.14 and 4552-1.03.

The Texas Optometry Board interprets §2.14 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The Board interprets §1.03 as authorizing the practice of therapeutic optometry.

Texas Civil Statutes, Article 4552-1.03 is affected by this proposed action.

§280.4. *Utilization of Pharmaceutical Agents.*

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 July 12, 1999.

TRD-9904206

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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



### 22 TAC §280.5

The Texas Optometry Board proposes the amendment to §280.5 to implement House Bill 1051, 76th Legislature, which redefined the classes of medications that therapeutic optometrists may administer and prescribe. The amendments remove restrictions that were deleted by House Bill 1051.

Lois Ewald, executive director of the Texas Optometry Board, has determined that for the first five-year period the amended rule is in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the rule. The rule imposes no duties on small businesses, thus, there will be no economic effect on small businesses.

Ms. Ewald also has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing the rule is that qualified therapeutic optometrists will be able to administer and prescribe additional appropriate medications. It has also been determined that there will be no cost to those affected by the rule over the first five years as a result of enforcing or administering the rule.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2- 420, Austin, Texas 78701-3942. The deadline for furnishing comments is September 1, 1999.

The amendment is proposed under the Texas Optometry Act, Texas Civil Statutes, Article 4552, §2.14 and §1.03.

The Texas Optometry Board interprets §2.14 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The Board interprets § 1.03 as authorizing the interpretation of the therapeutic optometry requirements.

Texas Civil Statutes, Article 4552-1.03 is affected by this rule.

§280.5. *Prescription and Diagnostic Drugs for Therapeutic Optometry.*

(a) A certified therapeutic optometrist may administer and prescribe a drug authorized by the Texas Optometry Act, §1.02 and §1.03.

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

(g) A therapeutic optometrist may administer and prescribe all:

- (1) ophthalmic devices;
- (2) over-the-counter oral medications; and

(3) appropriate topical pharmaceutical agents used for diagnosing and treating visual defects, abnormal conditions, and diseases of the human eye and adnexa, which are included in the following classifications or are combinations of agents in the classifications. No drug falling within one of the following categories may be used for the treatment of glaucoma in a manner that was not permitted by law on August 31, 1991 [~~Antiviral drugs falling within the anti-infective classification are not included in the formulary~~]:

- (A) anti-allergy:
  - (i) antihistamine;
  - (ii) membrane stabilizer;
- (B) anti-fungal:
  - (i) imidazoles;
  - (ii) polyenes;
- (C) anti-infective:
  - (i) aminoglycoside;
  - (ii) anti-cell membrane;
  - (iii) anti-cell wall synthesis;
  - (iv) anti-DNA synthesis;
  - (v) anti-protein synthesis (excluding chloramphenicol);
  - (vi) anti-ACHase;
  - (vii) cephalosporin;
  - (viii) agents affecting intermediary metabolism;
- (D) anti-inflammatory:
  - (i) nonsteroidal anti-inflammatory drug (NSAID);
  - (ii) steroid;
- (E) antiseptic;
- (F) chelating agent;
- (G) chemical cautery;
- (H) cycloplegic: parasympatholytic;
- (I) hyperosmotic;
- (J) miotic:
  - (i) anti-ACHase;
  - (ii) parasympathomimetic;
- (K) mucolytic;
- (L) mydriatic: sympathomimetic (Alpha 1 agonists only);
- (M) vasoconstrictor: sympathomimetic (Alpha 1 agonists only).

(h) (No change.)

(i) This formulary specifically lists the types of drugs which may be prescribed by a therapeutic optometrist. Subject to the

antiglaucoma [~~and antiviral~~] limitations described in subsections (g) and (h) of this section, a therapeutic optometrist may possess and administer any topical ocular pharmaceutical agent which has a legitimate diagnostic or therapeutic use.

(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 July 12, 1999.

TRD-9904205

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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

◆ ◆ ◆  
**22 TAC §280.7**

The Texas Optometry Board proposes new §280.7 to implement House Bill 1051, 76th Legislature, which establishes a six-member committee to be known as the Optometric Health Care Advisory Committee. This rule will define the committee's responsibilities.

Since committee members will not be reimbursed for expenses, Lois Ewald, executive director of the Texas Optometry Board, has determined that for the first five-year period the amended rule is in effect, there will be no fiscal implications for state and local governments as a result of enforcing or administering the rule. The rule imposes no duties on small businesses, thus, there will be no economic effect on small businesses.

Ms. Ewald also has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing the rule is that the committee will have procedures that will permit it to implement educational and testing requirements for therapeutic optometrists to become glaucoma specialists. It has also been determined that there will be no cost to those affected by the rule over the first five years as a result of enforcing or administering the rule.

Comments on the proposal may be submitted to Lois Ewald, Executive Director, Texas Optometry Board, 333 Guadalupe Street, Suite 2-420, Austin, Texas 78701-3942. The deadline for furnishing comments is September 1, 1999.

The amendment is proposed under the Texas Optometry Act, Texas Civil Statutes, Article 4552, §2.14 and §1.03A.

The Texas Optometry Board interprets § 2.14 as authorizing the adoption of procedural and substantive rules for the regulation of the optometric profession. The Board interprets § 1.03A as authorizing the interpretation of the therapeutic optometry requirements, including the establishment of the Optometric Health Care Advisory Committee.

Texas Civil Statutes, Article 4552-1.03A is affected by this rule.

§280.7. Optometric Health Care Advisory Committee.

(a) The Optometric Health Care Advisory Committee's purpose is to assist with the implementation of House Bill 1051, 76th Legislature, Regular Session, regarding the scope of therapeutic optometry.

(b) The committee consists of six members.

(c) In accordance with Section 1.03A the advisory committee is composed of the following:

(1) two members who are therapeutic optometrists, appointed by the Texas Optometry Board;

(2) two members who are board certified ophthalmologists, appointed by the Texas State Board of Medical Examiners; and

(3) two members who are pharmacologists, appointed by the Texas State Board of Pharmacy. A person is not eligible for appointment as a pharmacologist member if the person is licensed as a therapeutic optometrist or ophthalmologist or is related within the second degree by affinity or consanguinity to a person who is licensed as a therapeutic optometrist or ophthalmologist.

(d) Members of the committee serve staggered two-year terms with the terms of half of the members expiring September 1 of each year.

(e) Members of the committee may not be reimbursed for any expenses incurred nor be entitled to per diem or any other allowance.

(f) The committee will be consulted and meet as the need arises. Meetings of the committee are subject to the Open Meetings Act, Chapter 551 of the Government Code. The committee shall elect its president annually.

(g) The committee shall make recommendations that:

(1) establish educational and clinical training requirements for certification as an optometric glaucoma specialist;

(2) establish the parameters of care for treatment of ocular diseases and conditions by optometric glaucoma specialists as health care technology advances;

(3) identify additional classes of pharmaceuticals under §1.03(f) of the Act that are effective treatments for ocular diseases and conditions and that may be effectively used by certified optometric glaucoma specialists; and

(4) consider patient safety, patient costs, the effect on a patient's access to health care, patient convenience, and any added efficiencies to the health care delivery system the decision may involve when making a recommendation.

(h) The committee's recommendations shall be reported in writing at the next meeting of the affected boards.

(i) Recommendations of the committee become law when the Texas Optometry Board and the Texas State Board of Medical Examiners promulgate rules adopting the recommendations.

(j) The Optometric Health Care Advisory Committee is abolished on September 1, 2005, unless continued in existence by an act of the legislature.

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 July 12, 1999.

TRD-9904204

Lois Ewald

Executive Director

Texas Optometry Board

Earliest possible date of adoption: August 29, 1999

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



## Part XVII. Texas State Board of Plumbing Examiners

### Chapter 365. Licensing

#### 22 TAC §365.14

The Texas State Board of Plumbing Examiners proposes an amendment to §365.14, concerning continuing education programs. This section states procedures and requirements for annual selection of one continuing education course, textbook, course outline and approval of instructors, as well as instructor license requirements and qualifications.

The proposed amendments will allow the Board to comply with §12B of the Plumbing License Law ("Act") including §12B(b), which requires the Board to adopt, by rule, the criteria for continuing professional education. The amendments set forth the minimum required criteria and provide for the expanded criteria to be contained in the course, course outline and textbook ("course materials") that will be developed, produced and distributed by the Board by contracting with an appropriate state entity ("course materials supplier") through an interagency contract. The amendments will apply to the 2000-2001 continuing education year (which begins July 1, 2000) and subsequent years. The Board will accept proposals for an interagency contract from appropriate state entities for the development, production and distribution of the course materials containing the expanded criteria upon the effective date of these amendments.

The minimum criteria incorporated within the rule amendments sets forth the minimum number of hours and general subject matter of study that must be provided in the course materials; a provision for the course materials to be offered through correspondence; a requirement for course materials to comply with §12B of the Act; the requirements that must be met by the course materials supplier for development, production, distribution, maximum costs of course materials; time requirements for submission of course materials to the Board for approval; and instructor training in the use of course materials.

The minimum criteria further requires that, beginning with any course materials developed for use during the 2001-2002 continuing education year, the course materials supplier will be required to utilize the services of a consulting group approved by the Board to coordinate the development of relevant subject matter for course materials. Due to the time constraints for course materials and instructor training to be completed in time for the 2000-2001 continuing education year, these amendments do not require the use of such a consulting group during development of the 2000-2001 course materials, nor do the amendments prohibit it.

Section 365.14 currently sets out qualifications for course providers and their instructors and states that course providers and their instructors shall be approved by the Board. The proposed amendments do not change the current requirements for course providers or instructors, but simply clarify that "course providers" are separate entities from "course materials suppliers," in that course providers employ instructors that teach the course materials, or acceptable criteria for teaching continuing professional education, supplied by the Board through interagency contract. The amendments also clarify the current practices of course providers and their instructors being approved annually by the Board and each course provider electronically



transmitting to the Board certification of the students' completion of continuing education requirements.

Doretta A. Conrad, Administrator, Texas State Board of Plumbing Examiners, has determined that for the first five-year period the rule is in effect there should be no fiscal implications for state government as a result of enforcing or administering the rule as proposed. Any costs to state government incurred as a result of the development, production and distribution of the course materials, will be recovered by the course materials supplier through the sale of the materials.

There should be no effect on local government or to the individuals required to comply with the rule amendments as proposed because the method by which continuing education requirements will be fulfilled by the licensees will not change, nor should the cost to the licensees significantly change. The costs to licensees could decrease. Small businesses could be affected by their inability to bid on and contract for the course materials.

Ms. Conrad has determined that each year of the first five years the rule is in effect the public benefit would be the protection of health and safety of the citizens through the assurance that licensed Plumbers and Plumbing Inspectors will receive important updates on current industry practices in the subjects of health protection, energy and water conservation and the laws, rules and codes affecting licensees through continuing professional education that is provided with structured criteria adopted by the Board.

Comments on the proposed rule changes may be submitted to Doretta A. Conrad, Administrator, Texas State Board of Plumbing Examiners, 929 East 41st Street, P.O. Box 4200, Austin, Texas 78765-4200.

The amendment is proposed under and affects Texas Revised Civil Statutes Annotated Article 6243-101 ("Act"), §§5(a), 5(d), 12B(a), 12B(b), 12B(c) and the rule it amends. Section 5(a) of the Act authorizes, empowers and directs the Board to prescribe, amend and enforce all rules and regulations necessary to carry out the Act. Section 5(d) specifies that the Board may recognize, prepare, or implement continuing education programs for licensees. Section 12B(a) requires a plumbing license holder to complete at least six hours of continuing professional education each license year. Section 12B(b) directs that the Board, by rule, adopt criteria for continuing professional education. Section 12B(c) specifies that in order for persons to receive credit for participation in a continuing professional education program or course, the program or course must have been provided according to criteria adopted by the Board by an individual, business, or association approved by the Board. The amendment is also proposed under the Texas Government Code, Chapter 771, The Interagency Cooperation Act.

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

*§365.14. Continuing Education Programs.*

(a) Beginning with the 2000-2001 continuing professional education year (begins on July 1, 2000), the Board will annually develop, produce and distribute a course, including course outline and textbook containing the expanded criteria for the purposes of providing the six hours of continuing professional education as required by §12B of the Act. The Board may contract with a state entity ("course materials supplier") for the development, distribution and production of the course outline and textbook and other course

materials by interagency contract. [Any provider wishing to offer continuing education in plumbing must make application at least 60 days prior to the March Board meeting each year. The 60-day deadline will become effective September 1, 1995. The Board shall approve the providers annually. All providers will submit to the Board a list of instructors and instructors' credentials for Board approval. The Board will approve a course and textbook each year as well as a course outline and establish the required minimum hours. The providers shall meet the certification requirements of the Central Education Agency or be exempted from the Central Education Agency certification requirements under Texas Education Code, Chapter 132, §132.002(a), (Texas Proprietary School Act) or be approved by the United States Department of Labor-Bureau of Apprenticeship Training Schools and/or Programs. No exemptions will be permitted under (7) of the Education Code.]

(b) The following minimum criteria listed in paragraphs (1)-(9) of this subsection will be used in the development and production of the course materials by the course materials supplier under the interagency contract.

(1) The course materials will provide a minimum of six classroom hours of study, three of which will be in the subjects of health protection, energy conservation and water conservation, with the remaining three hours covering subjects which shall include information concerning the Act, Board Rules, current industry practices and codes.

(2) Course materials will also be prepared, as needed, in correspondence course form to comply with §12B(d) of the Act.

(3) The course materials supplier will be responsible for obtaining any required legal authority or consent for the publication of contents of course materials and will be responsible for the technical, grammatical and content accuracy of the course materials.

(4) The textbook will be a printed and bound "soft-back" book using "book quality" paper, printing and binding. The technical specifications for printing and publication of course materials will be stated in the proposal submitted by the state entity.

(5) The textbook will be provided at a cost of \$25 or less to continuing education participants. Within 30 days after the end of the previous continuing professional education year, the course materials supplier will provide the Board with its best detailed estimate of cost of producing the textbook for the following year.

(6) The course materials supplier will conduct instructor training in the use of course materials.

(7) Beginning with any course materials developed for use during the 2001-2002 continuing education year, the course materials supplier will, at its cost, utilize the services of a consulting group to coordinate the development of relevant subject matter for course materials. Members of the consulting group will be selected by the course materials supplier and will consist of a licensed Master Plumber, licensed continuing professional education instructor, licensed Plumbing Inspector and four other individuals experienced in the plumbing field, all of whom shall be subject to approval by the Board.

(8) All course materials will be submitted to the Board for its approval no later than its May meeting, unless an extension is requested at or before the May Board meeting and granted by the Board.

(9) The course materials supplier will be required to have distribution facilities which will ensure prompt distribution of course materials (shipment within two business days of receipt of an order),

facsimile ordering and a statewide toll free telephone number for placing orders.

(c) Any proposal by a state entity to provide course materials under an interagency contract shall be submitted to the Board for its consideration no later than its September meeting or at such other time as may be approved by the Board.

(d) All course providers shall annually submit to the Board a list of instructors and instructors' credentials for Board approval. All course providers of continuing professional education shall be approved annually by the Board and shall meet the certification requirements of the Central Education Agency or be exempted from the Central Education Agency certification requirements under Texas Education Code, Chapter 132, §132.002(a), (Texas Proprietary School Act) or be approved by the United States Department of Labor-Bureau of Apprenticeship Training Schools and/or Programs. No other exemptions will be permitted under §132.002(a) (7) of the Education Code.

(e) [(b)] Instructors must be licensees of the Board, successfully complete the instructor certification workshop each year conducted by the Board, and be employed by a course provider approved by the Board. In addition to the requirements in this subsection, instructors of medical gas endorsement continuing education must comply with the requirements in §363.11(a) of this title (relating to Endorsement Training Programs).

(f) [(e)] Instructors will be required to successfully complete a Board approved program of 160 clock hours which meets the following generic criteria. The Board will allow credit for approved courses.

(1) Forty hours to provide the instructor with the basic educational techniques and instructional strategies necessary to plan and conduct effective training programs.

(2) Forty hours to provide the instructor with the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs.

(3) Forty hours to provide the instructor with the basic principles, techniques, theories, and strategies to establish and maintain effective relationships with students, co-workers, and other personnel in the classroom, industry, and community.

(4) Forty hours to provide the instructor with the basic principles, techniques, theories, and strategies to communicate effectively with the use of instructional media.

(5) To maintain his/her status as an approved instructor of continuing education, the instructor shall undergo one of the aforementioned training programs every 12 months such that the entire training (160 hours) is complete within four years.

(g) [(d)] Continuing education course providers shall be reviewed annually by the Board to ensure that classes have been provided equitably across the state of Texas.

(h) [(e)] The Board shall review continuing education course providers for quality in instruction. The Board shall also respond to complaints regarding approved course providers.

(i) [(f)] Each approved course provider must notify the Board 30 days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

(j) [(g)] Each approved course provider will perform self-monitoring and reporting as required by the Board.

(k) Each course provider shall, in a format approved by the Board, electronically transmit to the Board certification of the students' completion of continuing education requirements within 48 hours of completion.

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 July 19, 1999.

TRD-9904331

Robert L. Maxwell

Chief of Field Services/Investigations

Texas State Board of Plumbing Examiners

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 458-2145

◆ ◆ ◆  
**TITLE 28. INSURANCE**

**Part I. Texas Department of Insurance**

**Chapter 3. Life, Accident and Health Insurance and Annuities**

**Subchapter EE. Valuation of Life Insurance Policies**

**28 TAC §§3.4501-3.4508**

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

The Texas Department of Insurance proposes the repeal of existing Subchapter EE, §§3.4501-3.4508, concerning the valuation of life insurance policies. Subchapter EE was originally adopted as Subchapter NN, effective August 9, 1998. The Texas Register administratively transferred Subchapter NN to Subchapter EE to comply with the Texas Register's restrictions on rule number length detailed in 1 TAC §91.19 (Numbering Schemes). The proposed repeal of the subchapter will enable the Texas Department of Insurance simultaneously to propose a new Subchapter EE. The proposed new Subchapter EE will replace the existing subchapter with an improved regulation. The repeal of the existing Subchapter EE will eliminate conflicts which would be created by the adoption of a proposed new Subchapter EE without repealing the existing Subchapter EE. The existing subchapter represents the department's adoption of the National Association of Insurance Commissioner's (NAIC) model regulation titled "Valuation of Life Insurance Policies" which was adopted by the NAIC on March 12, 1995. The proposed new subchapter is a modification of the NAIC's model regulation which was adopted by the NAIC on March 8, 1999. Notification of the proposed new subchapter appears elsewhere in this issue of the *Texas Register*. If the proposed new Subchapter EE is not adopted, the proposed repeal of the existing Subchapter EE will be withdrawn.

The department will consider the adoption of the repeal of the existing Subchapter EE, Valuation of Life Insurance Policies, and the adoption of the proposed new Subchapter EE, Valuation of Life Insurance Policies, in a public hearing under Docket Number 2412, scheduled for 9:00a.m. on September 7, 1999,

in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street in Austin, Texas. The department encourages any interested party to provide the department with any comments on the repeal of the existing subchapter and/or the proposed new subchapter prior to the hearing or at the hearing.

Betty Patterson, Associate Commissioner for the Financial Program for the Texas Department of Insurance has determined that, for the first five-year period the repeal of the subchapter will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal, and there will be no effect on local employment or local economy.

Ms. Patterson also has determined that, for each year of the first five years the repeal of the sections will be in effect, the public benefit anticipated as a result of the repeal will be the elimination of sections which would conflict with the new sections regulating the valuation of life insurance policies which are being proposed simultaneously with the proposed repeal. There will be no economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposed repeal in the *Texas Register* to Lynda H. Nesenholtz, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Mike Boerner, Managing Actuary, Mail Code 305-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The repeal of the subchapter is proposed under the Insurance Code, Articles 3.28 and 1.03A. Article 3.28 authorizes the commissioner of insurance to adopt mortality tables adopted by the National Association of Insurance Commissioners and modifications to those mortality tables and methods consistent with Article 3.28. Article 1.03A, authorizes the commissioner of insurance to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

Insurance Code, Article 3.28, is affected by the section.

§3.4501. *Purpose*

§3.4502. *Adoption of Tables of Select Mortality Factors.*

§3.4503. *Applicability*

§3.4504. *Definitions*

§3.4505. *General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves.*

§3.4506. *Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies)*

§3.4507. *Calculation of Minimum Valuation standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period of More Than Five Years.*

§3.4508. *Effective Date.*

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 July 19, 1999.

TRD-9904328

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: August 29, 1999

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



The Texas Department of Insurance proposes a new Subchapter EE, §§3.4501-3.4508, concerning the Valuation of Life Insurance Policies, to replace the existing Subchapter EE which is proposed for repeal elsewhere in this issue of the *Texas Register*.

The new Subchapter EE will apply to all life insurance policies, with or without nonforfeiture values, with certain exceptions and conditions. The proposed subchapter is a substantive adoption of the National Association of Insurance Commissioners' (NAIC) model regulation titled "Valuation of Life Insurance Policies" (the model regulation is frequently referred to as "XXX"). The purpose new subchapter is to substantively adopt the current NAIC model regulation which was adopted by the NAIC on March 8, 1999. The new subchapter proposes to adopt tables of select mortality factors; rules for their use; rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and rules concerning a minimum standard for the valuation of plans with secondary guarantees. The method for calculating basic reserves defined in the subchapter will constitute the Commissioners' Reserve Valuation Method for policies to which this subchapter would apply. Section 3.4502 contains six tables of select mortality factors that were adopted by the NAIC on March 8, 1999, in connection with the adoption by the NAIC of the updated model regulation for the valuation of life insurance policies.

The department will consider adoption of Subchapter EE, Valuation of Life Insurance Policies, in a public hearing under Docket Number 2412, scheduled for 9:00 a.m. on September 7, 1999, in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street in Austin, Texas. The department encourages any interested party to provide the department with any comments prior to the hearing or at the hearing.

Betty Patterson, Associate Commissioner for the Financial Program, has determined that for the first five-year period the proposed subchapter is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the regulation.

Ms. Patterson has determined that for each year of the first five years the subchapter is in effect, the public benefits anticipated as a result of enforcing the regulation will be greater consistency in adequacy of reserves and reserving practices. In addition, the new mortality rates allowed by this regulation will enable insurers to reserve and price more closely in line with level of mortality and risks encountered. The estimated cost of compliance to insurers will vary depending on the types of products offered and on the amount of reserves currently held. One type of product significantly affected by the proposed subchapter is the type where the guaranteed maximum premiums after the initial period of years are much higher than the guaranteed low premiums during the initial period of years. In estimating the cost, it is assumed that the guaranteed maximum premiums for the product described in

the preceding sentence are approximately ten to fifteen times higher in later years than the initial guaranteed premium. These products are referred to as "Indeterminate Premium Reduction Policies." Insurers with these products that hold reserves only to provide for the expected cost of insurance in the current year may experience an increase in reserves as a result of this regulation. This increase will vary by such factors as the length of the initial period of years (as referenced above), reserve method, reserve interest rate, the amount of increase of the guaranteed maximum premiums, issue age, length of the benefit period, and the degree of selection in the risks covered. Anticipated ranges of the increase in reserves for these products based on the length of the initial guarantee period are as follows: 1) Immaterial increase where the initial period is less than 5 years; 2) An increase of 2-5 times where the initial period is 10 years; and 3) An increase of approximately 10 times where the initial period is 20 years. These ranges assume that the insurer is currently providing reserves for only the anticipated cost of insurance in the current year. Department staff assumes that the ranges set out above are the highest levels that could occur at some point in the coverage period, and particular results may vary. Department staff further assumes that the insurer is not making full use of an "X" factor which would further reduce the reserve impact. Increasing reserves to the levels mentioned above would provide a similar level of reserve conservatism to these products as is already required of other life products which should promote greater solvency protection to both the insurer and the public. For insurers who experience the anticipated ranges of reserve increases listed above, the range of increases in the price of these products is estimated to be as follows: 1) Immaterial price increase where the initial period is less than 5 years; 2) An approximate 5% price increase where the initial period is 10 years; and 3) An approximate 28% price increase where the initial period is 20 years. Such price increases would only be anticipated if an insurer (subject to the assumptions mentioned above and without full use of the "X" factor, which could reduce the impact) funds any reserve increase solely out of premiums rather than other sources, and would also depend on whether the insurer chooses to continue to offer the particular product as presently designed, or decides to make modifications to its policy forms. Costs to the insurer given any increase in reserves would be the cost of funds required to be in reserves versus available for other uses. The impact of the cost, as with any increase in liabilities, depends on the opportunities for use of funds available to an insurer. The public benefit served by the change is the establishment of reasonable reserve conservatism to promote solvency and the provision for similar reserve conservatism for indeterminate premium products as required of other products. The result therefore promotes leveling of the competitive position of various term life products. The numerous other products where such reserve conservatism is currently required are anticipated to generally experience a lower but still reasonable amount of reserve conservatism due to the use of improved mortality tables that this regulation will provide in the calculation of reserves. This reduction of reserves may result in lower prices for these other products. As stated previously, this regulation will result in a similar level of acceptable required reserve conservatism to be extended to all products to which this regulation applies, which will promote solvency benefits to both the insurer and the public. In addition, this regulation will promote reasonable competition across the various product lines which is a benefit to the insurer in having

similar reserve standards and is expected to be a benefit to the public in lower prices for many products.

To analyze the economic effect of the regulation on small businesses, the cost of compliance is divided into two components. First, the regulation will require the establishment of reserves for policies issued after the effective date of the regulation which probably will be higher than reserves presently established by many insurers for products significantly affected by this regulation, such as indeterminate premium reduction policies. Second, insurers will have to develop systems to monitor compliance and calculate reserves in accordance with the regulation.

Based on the department's experience and discussions with actuaries, the actual impact on reserves will vary from company to company as a result of the factors discussed previously. On the basis of \$100 premium paid, the cost of establishing the reserves for policies issued after the effective date of this regulation will be similar for small and large businesses. This assumes that reserves are funded by the premiums paid plus the investment income on those premiums. While an insurer may actually derive these funds from other sources from time to time, in the long run the premiums paid must be adequate to provide the funds necessary to perform the insurance contract.

The cost to develop systems to monitor compliance and calculate reserves in accordance with this regulation could be up to \$100,000 for the largest insurers and as low as \$5,000 for small insurers based on the department's experience and discussions with actuaries. These costs would be incurred in the first year the regulation is in effect. Large insurers have staff actuaries who the department assumes will develop the systems to monitor compliance and calculate reserves required by the regulation. Since the larger insurers generally have more complexity in their products and systems, the department estimates that the cost of developing a system for a large insurer will be approximately \$100,000. A large insurer with total premium volume of \$500 million that incurred a \$100,000 cost in developing a system would have a cost of \$.02 per \$100 of premium. Small insurers generally do not have staff actuaries, but engage consulting actuarial firms. Such actuarial firms estimate that it would cost \$30,000 to develop a system to monitor compliance and calculate reserves for the products and systems typically found in small insurers. A consulting actuarial firm would then attempt to spread this cost of development among its client companies. For example, if an actuarial consulting firm had six client insurers that purchased their system, then approximately \$5,000 of the actuarial firm's cost of \$30,000 would be prorated to each client insurer. Assuming the small insurer had \$500,000 in total premiums, the cost per \$100 of total premium would be \$1.00. In summary, on the basis of \$100 of premium, large and small insurers will incur a similar reserve impact for similar products. In developing the systems to monitor compliance and calculate reserves, small insurers will incur a cost of \$1.00 per \$100 of premium while large companies would incur a cost of \$.02 per \$100 of premium. The costs are approximations based on the department's experience and discussions with actuaries. In order to provide equal protection to policyholders, Insurance Code, Article 3.28, requires large and small insurers alike to establish minimum reserves, therefore, the department finds it is neither legal nor feasible to reduce the effect of the proposed subchapter for small insurers that offer the type of products impacted by this regulation.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposed sections in the *Texas*

*Register* to: Lynda H. Nesenholtz, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Mike Boerner, Managing Actuary, Mail Code 305-3A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104.

The subchapter is proposed under the Insurance Code, Articles 3.28 and 1.03A. Article 3.28 authorizes the commissioner of insurance to adopt mortality tables adopted by the National Association of Insurance Commissioners and modifications to those mortality tables and methods consistent with Article 3.28. Article 1.03A provides the commissioner with the authority to adopt rules and regulations for the conduct and execution of the duties and functions of the department only as authorized by a statute.

The Insurance Code, Article 3.28, is affected by the proposed subchapter.

§3.4501. Purpose.

(a) The purpose of this subchapter is to provide:

(1) Tables of select mortality factors and rules for their use;

(2) Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and

(3) Rules concerning a minimum standard for the valuation of plans with secondary guarantees.

(b) The method for calculating basic reserves defined in this subchapter will constitute the Commissioners' Reserve Valuation Method for policies to which this subchapter is applicable.

§3.4502. Adoption of Tables of Select Mortality Factors.

The six tables of select mortality factors adopted in this section are from the NAIC model regulation titled "Valuation of Life Insurance Policies Model Regulation" which was adopted by the NAIC on March 8, 1999. The six tables of base select mortality factors include: male aggregate, male nonsmokers, male smoker, female aggregate, female nonsmoker, and female smoker. These tables apply to both age last birthday and age nearest birthday mortality tables. Figure: 28 TAC §3.4502

§3.4503. Applicability.

This subchapter shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this subchapter, subject to the following exceptions in paragraph (1) of this section and conditions in paragraph (2) of this section.

(1) Exceptions.

(A) This subchapter shall not apply to any individual life insurance policy issued on or after the effective date of this subchapter if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before the effective date of this subchapter, that guarantees the premium rates of the new policy. This subchapter also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

(B) This subchapter shall not apply to any universal life policy that meets all the following requirements:

(i) secondary guarantee period, if any, is five years or less;

(ii) specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the 1980 CSO valuation tables and the applicable valuation interest rate; and

(iii) the initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.

(C) This subchapter shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

(D) This subchapter shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

(E) This subchapter shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

(2) Conditions.

(A) Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of §3.4506 of this title (relating to Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies)).

(B) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period, shall be in accordance with the provisions of §3.4507 of this title (relating to Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period).

§3.4504. Definitions.

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

(1) Basic reserves - reserves calculated in accordance with the principles of Insurance Code, Article 3.28, §6.

(2) Contract segmentation method - the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in this section, (or any other valuation mortality table adopted by the NAIC after the effective date of this subchapter and promulgated by regulation by the commissioner for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in §3.4505(b) of this title (relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves).

Figure: 28 TAC §3.4504(2)

(3) Deficiency reserves - the excess, if greater than zero, of the minimum reserves calculated in accordance with the principles of Insurance Code, Article 3.28, §10 over the basic reserves.

(4) Guaranteed gross premiums - the premiums under a policy of life insurance that are guaranteed and determined at issue.

(5) Maximum valuation interest rates - the interest rates defined in Insurance Code, Article 3.28, §5(b)(1), Computation of Minimum Standard by Calendar Year of Issue, that are to be used in determining the minimum standard for the valuation of life insurance policies.

(6) NAIC - National Association of Insurance Commissioners.

(7) 1980 CSO valuation tables - the Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

(8) Scheduled gross premium - the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in §3.4507(a)(3) of this title (relating to Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period) if any, or else the minimum premium described in §3.4507(a)(4) of this title (relating to Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period).

(9) Segmented reserves - reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The length of each segment is determined by the "contract segmentation method," as defined in this section. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy. For both basic reserves and deficiency reserves computed by the segmented method, present values must include future benefits and net premiums in the current segment and in all subsequent segments. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

(A) the present value of the death benefits within the segment, plus

(B) the present value of any unusual guaranteed cash value (see §3.4506(d) of this title (relating to Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies)) occurring at the end of the segment, less

(C) any unusual guaranteed cash value occurring at the start of the segment, plus

(D) for the first segment only, the excess of clause (i) of this paragraph over clause (ii) of this paragraph, as follows:

(i) a net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

(ii) a net one year term premium for the benefits provided for in the first policy year.

(10) Tabular cost of insurance - the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

(11) Ten-year select factors - the select factors in Insurance Code, Article 3.28.

(12) Unitary reserves - the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

(A) guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

(B) modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of clause (i) of this subparagraph over clause (ii) of this subparagraph, as follows:

(i) a net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

(ii) a net one year term premium for the benefits provided for in the first policy year.

(C) The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

(13) Universal life insurance policy - any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

§3.4505. General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves.

(a) At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this subchapter and promulgated by regulation by the commissioner for this purpose). If select mortality factors are elected, they may be:

(1) the ten-year select mortality factors incorporated in Insurance Code, Article 3.28, The Standard Valuation Law;

(2) The select mortality factors adopted in §3.4502 of this title (relating to Adoption of Tables of Select Mortality Factors).

(3) Any other table of select mortality factors adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the commissioner for the purpose of calculating basic reserves.

(b) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the commissioner). If select mortality factors are elected, they may be:

(1) the ten-year select mortality factors in Insurance Code, Article 3.28;

(2) the select mortality factors adopted in §3.4502 of this title (relating to Adoption of Tables of Select Mortality Factors);

(3) For durations in the first segment, X% of the select mortality factors adopted in §3.4502 of this title (relating to Adoption of Tables of Select Mortality Factors), subject to the following:

(A) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

(B) X shall not be less than 20%;

(C) X shall not decrease in any successive policy years;

(D) X is such that, when using the valuation interest rate used for basic reserves, clause (i) is greater than or equal to clause (ii) of this paragraph;

(i) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(ii) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

(E) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

(F) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of paragraph (3) of this subsection;

(G) The appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of paragraph (3) of this subsection; and

(H) The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

(I) If X is less than 100% at any duration for any policy, the following requirements shall be met:

(i) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of §3.1608 of this title (relating to Statement of Actuarial Opinion Based on Asset Adequacy Analysis); and

(ii) The appointed actuary shall annually opine for all policies subject to this regulation as to whether the mortality rates resulting from the application of X meet the requirements of paragraph (3) of this subsection. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

(4) Any other table of select mortality factors adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the commissioner for the purpose of calculating deficiency reserves.

(c) This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten years, the appropriate ten-year select mortality factors may be used thereafter through the tenth policy year from the date of issue.

(d) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums even if not included in the actual calculation of basic reserves.

(e) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:

(1) reserves calculated ignoring the guarantee,

(2) reserves assuming the guarantee was made at issue, and

(3) reserves assuming that the policy was issued on the date of the guarantee.

(f) The commissioner may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to the effective date of this subchapter. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of §3.1608 of this title (relating to Statement of Actuarial Opinion based on Asset Adequacy Analysis).

§3.4506. Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies).

(a) Basic Reserves. Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy must use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums,

either one of the two adjustments described in paragraphs (1) or (2) of this subsection may be made.

(1) An insurer may use the adjustments described in this paragraph.

(A) Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment; and

(B) subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(2) An insurer may use the adjustments described in this paragraph.

(A) Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and

(B) subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(b) Deficiency Reserves.

(1) The deficiency reserve at any duration shall be calculated:

(A) on a unitary basis if the corresponding basic reserve determined by subsection (a) of this section is unitary;

(B) on a segmented basis if the corresponding basic reserve determined by subsection (a) of this section is segmented; or

(C) on the segmented basis if the corresponding basic reserve determined by subsection (a) of this section is equal to both the segmented reserve and the unitary reserve.

(2) This subsection shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality specified in §3.4505(b) of this title (Relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) and rate of interest.

(3) Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in §3.4505(b) of this title (Relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves).

(4) For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(c) Minimum Value. Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance must use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if the select mortality factors are used, they shall be the ten-year select factors incorporated into Insurance Code, Article 3.28. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon

contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

(d) Unusual Pattern of Guaranteed Cash Surrender Values.

(1) For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

(2) The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:

(A) n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

(i) the date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

(ii) the mandatory expiration date of the policy;  
and

(B) the net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and

(C) the net to gross ratio is equal to clause (i) of this subparagraph divided by clause (ii) of this subparagraph as follows:

(i) the present value, at the beginning of the n year period, of death benefits payable during the n year period plus the present value, at the beginning of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period;

(ii) the present value, at the beginning of the n year period, of the scheduled gross premiums payable during the n year period.

(3) For purposes of this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

(A) 110% of the scheduled gross premium for that year;

(B) 110% of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

(C) 5% of the first policy year surrender charge, if any.



(e) Optional Exemption for Yearly Renewable Term (YRT) Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used:

(1) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

(2) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (c) of this section.

(3) Deficiency reserves.

(A) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

(B) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subparagraph (A) of this paragraph.

(4) For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose.

(5) A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection if only the mortality risk is reinsured.

(6) If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

(f) Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the option of the company, the approach described in this subsection for reserves for attained-age-based YRT life insurance policies may be used.

(1) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

(2) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (c) of this section.

(3) Deficiency reserves.

(A) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

(B) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subparagraph (A) of this paragraph.

(4) For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose.

(5) A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection if:

(A) the premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

(B) the premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

(6) For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

(A) the initial period is constant for all insureds of the same sex, risk class and plan of insurance; or

(B) the initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and

(C) after the initial period of coverage, the policy meets the conditions of paragraph (5) of this subsection.

(7) If this election is made, this approach must be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this subchapter.

(g) Exemption from Unitary Reserves for Certain n-Year Renewable Term Life Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the conditions described in paragraphs (1)-(3) of this subsection are met.

(1) The policy consists of a series of n-year periods, including the first period and all renewal periods, where n is the same for each period, except for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ten years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

(2) the guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten-year select mortality factors; and

(3) there are no cash surrender values in any policy year.

(h) Exemption from Unitary Reserves for Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the conditions described in paragraphs (1)-(3) of this subsection are met, based upon the initial current premium scale at issue.

(1) At issue, the insured is age twenty-four or younger;

(2) until the insured reaches the end of the juvenile period, which must occur at or before age twenty-five, the gross premiums and death benefits are level, and there are no cash surrender values; and

(3) after the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

*§3.4507. Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period.*

(a) General.

(1) Policies with a secondary guarantee include:

(A) a policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;

(B) a policy in which the minimum premium at any duration is less than the corresponding one year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose; or

(C) a policy with any combination of subparagraphs (A) and (B) of this paragraph.

(2) A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in subsections (b) and (c) of this section must be recalculated from issue to reflect these changes.

(3) Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

(4) For purposes of this section, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation must use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue.

(5) The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in §3.4505(b)(2),(3) and (4) of this title (relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) may not be used to calculate the one-year valuation premiums.

(6) The one-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

(b) Basic Reserves for the Secondary Guarantees. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in §3.4504 of this title (relating to Definitions).

(c) Deficiency Reserves for the Secondary Guarantees. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in §3.4506(b) of this title (Relating to Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other Than Universal Life Policies)) with gross premiums set equal to the

specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

(d) Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of:

(1) The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

(2) The minimum reserves required by other rules or subchapters governing universal life plans.

§3.4508. *Effective Date.*

This subchapter is effective January 1, 2000.

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 July 19, 1999.

TRD-9904329

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: August 29, 1999

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

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part X. Texas Water Development Board

#### Chapter 355. Research and Planning Fund

##### Subchapter C. Regional Water Planning Grants

###### 31 TAC §355.93, §355.100

The Texas Water Development Board (board) proposes amendments to 31 TAC §355.93 and §355.100 concerning the Research and Planning Fund. The proposed amendments to §355.93 delete paragraph (b)(4). This paragraph was included to initially focus all regional water planning funds on completion of plans that encompassed entire regional water planning areas, rather than smaller geographic locations. Because the board has committed funds for initial regional water plan development for all regional water planning areas, the paragraph is no longer needed. Proposed amendments to §355.100 require regional water planning groups to make all work products available to the Texas Department of Agriculture in addition to agencies already listed, to reflect statutory changes made by Senate Bill 1310, 76th Texas Legislature, Regular Session (1999).

Ms. Patricia Todd, Director of Accounting and Finance, has determined that for the first five-year period these sections are in effect there will be no fiscal implications on state and local government as a result of enforcement and administration of the sections.

Ms. Todd has also determined that for the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to eliminate restrictions on expenditure of regional water planning funds which are no longer needed, and to accurately reflect requirements for provision of reports as required by Senate Bill 1310.

Ms. Todd has determined there will be no economic costs to small businesses or individuals required to comply with the sections as proposed.

Comments on the proposed amendments will be accepted for 30 days following publication and may be submitted to Suzanne Schwartz (512) 463-7981, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, or by fax at (512) 463-5580.

The amendments are proposed under the authority of the Texas Water Code, §6.101, and §15.403, which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Texas Water Code, including Chapter 15, and other laws of the State, and Texas Water Code §15.4061, which directs the board to adopt rules establishing criteria for eligibility for regional water planning money.

The statutory provision affected by the proposed amendments are Texas Water Code, Chapter 15, Subchapter F.

§355.93. *Eligibility.*

(a) (No Change.)

(b) Activities. Those activities directly related and necessary to the development or revision of regional water plans are eligible for funding within the limits established in §355.99 of this title (relating to Funding Limitations), with the exception of:

(1) activities for which the board determines existing information or data is sufficient for the planning effort including:

(A) detailed evaluations of cost of water management strategies where recent information for planning is available to evaluate the cost associated with the strategy;

(B) evaluations of groundwater resources for which current information is available from the board or other entity sufficient for evaluation of the resource;

(C) determination of water savings resulting from standard conservation practices for which current information is available from the board;

(D) revision of the state population and demand projections;

(E) revision of state environmental planning criteria for new surface water supply projects; and

(F) collection of data describing groundwater or surface water resources where information for evaluation of the resource is currently available;

(2) activities directly related to the preparation of applications for state or federal permits or other approvals, activities associated with administrative or legal proceedings by regulatory agencies, and preparation of engineering plans and specifications;

(3) activities related to planning for individual system facility needs other than identification of those facilities necessary to transport water from the source of supply to a regional water treatment plant or to a local distribution system; and

{(4) until September 1, 2000, requests from eligible applicants to plan for areas smaller than the regional water planning area in which it is located prior to the commitment of funds by the board to develop a regional water plan for that regional water planning area.}

(4) ~~{(5)}~~ costs associated with administration of the plan's development, including but not limited to:

(A) compensation for the time or expenses of regional water planning groups members' service on or for the regional water planning group;

(B) costs of administering the regional water planning groups;

(C) costs of public notice and meetings, including time and expenses for attendance at such meetings;

(D) costs for training;

(E) costs of reviewing products developed due to this grant; and

(F) costs of administering the regional water planning grant and associated contracts.

(c)-(d) (No Change.)

§355.100. *Availability of Reports and Planning Documents.*

All reports, planning documents and any other work products resulting from projects receiving board funding assistance must be made available to the board, the Texas Parks and Wildlife Department, Texas Department of Agriculture, and the Texas Natural Resource Conservation Commission and one copy of the regional water plans placed in the county clerk's office for each county and in at least one public library of each county having land in the regional water planning area.

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 July 14, 1999.

TRD-9904264

Suzanne Schwartz

General Counsel

Texas Water Development Board

Proposed date of adoption: September 15, 1999

For further information, please call: (512) 463-7981



Chapter 357. Regional Water Planning Guidelines

31 TAC §357.2, §357.4, §357.5, §357.7

The Texas Water Development Board (the board) proposes amendments to 31 TAC §§357.2, 357.4, 357.5, and 357.7, concerning Regional Planning Guidelines. The amendments are proposed to reflect changes made by Senate Bills 272, 657, 658, and 1310, 76th Texas Legislature, 1999.

Senate Bill 657 eliminates requirements that regional water planning must include water management strategies to be used when flows are at 50% and 75% of normal. Consistent with such legislative change, amendments are proposed to: §357.2 to eliminate the definitions of "Flows at 50% of normal" and "Flows at 75% of normal;" and §357.5(e) and §357.7(a)(3) and (5) to delete references to planning for such flow conditions. As a result, the regional water planning groups will be required to prepare their regional water plans only for drought of record conditions.

Senate Bill 657 also adds a requirement that regional water plans identify: each source of water supply in the regional water planning area; factors specific to each source of water supply

to be considered in determining whether to initiate a drought response; and actions to be taken as part of the response. Section 357.5(e) imposes such additional requirements on development of the regional water plans by regional water planning groups.

Senate Bills 272 and 1310 make changes to the appointment of additional members of regional water planning groups by the initial coordinating body named by the board. The bill makes it clear that the initial coordinating body is not required to add additional members to serve on the regional water planning group unless necessary to ensure adequate representation of interests comprising the region. The bill also clarifies that the regional water planning groups are required to maintain adequate representation of all interests comprising the region. Amendments to §357.4 (c), (d), and (e) reflect these changes.

Senate Bill 658 extends the date by which each regional water planning group must submit its regional water plan to the board from September 1, 2000 to January 5, 2001. Section 357.5(b) is amended to reflect such deadline change.

Amendment to §357.4(h)(3) deletes an unnecessary semicolon and is not intended to produce any substantive change.

Ms. Patricia Todd, Director of Accounting and Finance, has determined that for the first five-year period these sections are in effect there will be no fiscal implications on state and local government as a result of enforcement and administration of the sections.

Ms. Todd has also determined that for the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to clarify the requirements for appointment of members to regional water planning groups, to streamline the planning process by focusing studies only on drought conditions, to provide for increased ability to respond to drought conditions by requiring identification of trigger levels for drought response and appropriate responses in the regional water plans, and to allow for the preparation of more thorough regional water plans under extended deadline. Ms. Todd has determined there will be no economic costs to small businesses or individuals required to comply with the sections as proposed.

Comments on the proposed amendments will be accepted for 30 days following publication and may be submitted to Suzanne Schwartz, (512) 463-7981, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, or by fax at (512) 463-5580.

The amendments are proposed under the authority granted in Texas Water Code, §6.101, which provides the board with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and laws of Texas, and under the authority of Texas Water Code, §16.053, which requires the board to develop rules and guidelines to govern procedures to be followed in carrying out the responsibilities in Texas Water Code, §16.053, which responsibilities include designation of representatives for regional water planning areas and procedures for adoption of regional water plans by regional water planning groups.

The statutory provisions affected by the amendments are Texas Water Code, §16.053.

§357.2. *Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Words defined in the applicable provisions of the Texas Water Code, Chapter 16, and not defined here shall have the meanings provided in Chapter 16.

(1) Board - The Texas Water Development Board.

(2) Drought of record - The period of time when natural hydrological conditions provided the least amount of water supply.

(3) Executive administrator - The executive administrator of the board or a designated representative.

~~[(4) Flows at 50% of normal - 50% of the amount of water normally in the water source.]~~

~~[(5) Flows at 75% of normal - 75% of the amount of water normally in the water source.]~~

(4) ~~[(6)]~~ Long-term water needs - Those needs which must be met by implementation of water management strategies within the next 30 to 50 years based on federal census years (2040, 2050, etc).

(5) ~~[(7)]~~ Near-term water needs - Those needs which must be met by implementation of water management strategies within the next 30 years based on federal census years (2000, 2010, 2020, 2030, etc).

(6) ~~[(8)]~~ Political subdivision - City, county, district or authority created under the Texas Constitution, Article III, §52, or Article XVI, §59, any other political subdivision of the state, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Acts of the 43rd Legislature, 1933, 1st Called Session, Chapter 76, (Vernon's Texas Civil Statutes, Article 1434a).

(7) ~~[(9)]~~ Regional water plan - Plan or amendment to an adopted or approved regional water plan developed by a regional water planning group for a regional water planning area pursuant to the Texas Water Code, §16.053 and this chapter.

(8) ~~[(10)]~~ State water plan - The most recent state water plan adopted by the board under the Texas Water Code, Chapter 16.

§357.4. *Designation of Regional Water Planning Groups.*

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

(c) At the request of a majority of the members of an initial coordinating body, or if a meeting has not been held within 30 days after the effective date of the board's selection of an initial coordinating body, the executive administrator may post and convene the first meeting of the initial coordinating body. The executive administrator shall consult with the initial coordinating body regarding an appropriate time and place for such meeting. The initial coordinating body shall meet only in a meeting posted and held according to the Texas Open Meetings Act. The initial coordinating body shall designate any additional representatives by a vote of two-thirds of the designated members of the initial coordinating body, and shall ensure ~~[ensuring]~~ adequate representation of interests comprising the regional water planning area on the regional water planning group, including, but not limited to, the interests identified in subsection (a) of this section. At the option of the regional water planning group, entities identified by subsection (g)(4) of this section may be designated as voting members of the regional water planning group. Each regional water planning group shall provide a list of its members to the executive administrator, keeping the list current with any additions or deletions and showing how the interests shown in subsection (a) of this section are represented.

(d) The executive administrator will recognize a regional water planning group after initial coordinating bodies ~~add members and~~ ] inform the executive administrator that all interests comprising the regional water planning area are represented. Members of the initial coordinating body and representatives added by the initial coordinating body shall comprise the regional water planning group. All members shall be voting members of the regional water planning group except those specified as non-voting members in subsections (g) and (h) of this section.

(e) A regional water planning group may at any time after its formation add additional representatives to serve on the regional water planning group. The regional water planning group shall maintain [ensuring] adequate representation from those [of] interests comprising [in] the regional water planning area.

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

(h) The regional water planning group, at its discretion may add as non-voting members:

(1) a representative designated by each state or nation that shares water resources with the regional water planning area;

(2) a representative designated by an entity with binational authority, if the regional water planning area shares water resources with another nation; and

(3) a representative designated by state or federal agencies, including Texas Natural Resource Conservation Commission[;] and Texas General Land Office, ~~and Texas Department of Agriculture~~ or other entities that the regional water planning groups determine important to the planning effort.

(i)-(l) (No change.)

#### §357.5. Guidelines for Development of Regional Water Plans.

(a) (No change.)

(b) Submittal of plan. The regional water planning group shall prepare, adopt, and submit a regional water plan to the executive administrator on or before January 5, 2001 ~~September 1, 2000~~, and at least as frequently as every five years thereafter, for board approval and inclusion in the state water plan.

(c)-(d) (No change.)

(e) Plan development. In developing regional water plans, regional water planning groups shall:

(1) evaluate alternative water management strategies for effect on environmental water needs including effect on instream flows and bays and estuaries using environmental information resulting from site-specific studies, or, in the absence of such information, using state environmental planning criteria adopted by the board for inclusion in the state water plan after coordinating with staff of Texas Natural Resource Conservation Commission and Texas Parks and Wildlife Department;

(2) provide water management strategies to be used during a drought of record ~~when flows are 75% of normal and when flows are 50% of normal~~;

(3) protect existing water rights, water contracts, and option agreements, but may consider potential amendments of water rights, contracts and agreements. Any amendments will require the eventual consent of the owner;

(4) provide specific recommendations of water management strategies based upon identification, analysis, and comparison of all water management strategies the regional water planning group

determines to be potentially feasible so that the cost effective water management strategies which are environmentally sensitive are considered and pursued, where appropriate;

(5) incorporate water conservation planning and drought contingency planning into the near-term strategies and long-term strategies or alternatives to address water supply needs;

(6) conduct their planning to achieve efficient use of existing water supplies, explore opportunities for and the benefits of developing regional water supply facilities or providing regional management of water facilities, coordinate the actions of local and regional water resource management agencies, provide substantial involvement by the public in the decision-making process, and provide full dissemination of planning results; ~~and~~

(7) for each source of water supply in the regional water planning area designated in accordance with §357.7(a)(1) of this title (relating to Regional Water Plan Development), identify:

(A) factors specific to each source of water supply to be considered in determining whether to initiate a drought response, and

(B) actions to be taken as part of the response; and

(8) [(7)] consider the effect of the regional water plan on navigation.

(f)-(m) (No change.)

#### §357.7. Regional Water Plan Development.

(a) Regional water plan development shall include the following:

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

(3) evaluation of adequacy of current water supplies available to the regional water planning area for use during drought of record. This evaluation shall consider surface water and groundwater data from the state water plan, existing water rights, contracts and option agreements, other planning and water supply studies, and analysis of water supplies currently available to the regional water planning area. Analysis of surface water available during drought of record from reservoirs shall be based on firm yield analysis of reservoirs. Firm yield is defined as the supply the reservoir can provide during a drought of record using reasonable sedimentation rates and the assumption that all senior water rights will be totally utilized. Until information is provided by the Texas Natural Resource Conservation Commission, regional water planning groups may use estimates of the projected amount of water that would be available from existing water rights during a drought of record ~~when flows are at 75% of normal, and when flows are at 50% of normal~~. Once this information is available from the Texas Natural Resource Conservation Commission, the regional water planning group shall incorporate it in its next planning cycle. The executive administrator, after coordination with staff of the Texas Natural Resource Conservation Commission and the Texas Parks and Wildlife Department, shall identify the methodology, in consultation with representatives of regional water planning groups, to be used by regional water planning groups to calculate water availability during drought of record ~~and describe conditions when flows are at 50% and 75% of normal~~. The executive administrator shall provide available technical assistance to the regional water planning groups upon request to assist them in selecting appropriate methods and data to be used to determine water supply availability. Results of evaluations shall be reported by city, major providers of municipal and manufacturing water, and categories of water use (including municipal, manufacturing, irrigation, steam electric power generation,

mining, and livestock watering) for each county or portion of a county in the regional water planning area. If a county or portion of a county is in more than one river basin, data shall be reported for each river basin;

(4) water supply and demand analysis comparing water demands as developed in paragraph (2) of this subsection with current water supplies available to the regional water planning area as developed in paragraph (3) of this subsection to determine if the water users in the regional water planning area will experience a surplus of supply or a need for additional supplies. The social and economic impact of not meeting these needs shall be evaluated by the regional water planning groups and reported by regional water planning area and river basin. Other results shall be reported by city, major providers of municipal and manufacturing water, and categories of water use (including municipal, manufacturing, irrigation, steam electric power generation, mining, and livestock watering) for each county or portion of a county in the regional water planning area. If a county or portion of a county is in more than one river basin, data shall be reported for each river basin. The executive administrator shall provide available technical assistance to the regional water planning groups, upon request, on water supply and demand analysis, including methods to evaluate the social and economic impacts of not meeting needs;

(5) using the water supply needs identified in paragraph (4) of this subsection, plans to be used during the drought of record to provide sufficient water supply to meet the needs identified in paragraph (4) of this subsection and in accordance with water management strategies and scenarios described in paragraph (8) of this subsection. [~~Also, water management strategies shall be identified to be used when flows are at 50% of normal and when flows are at 75% of normal.~~] Water management strategies shall be developed for cities, major providers of municipal and manufacturing water, and for categories of use including municipal, manufacturing, irrigation, steam electric power generation, mining and livestock watering. The plan to be used for water supply during drought of record shall meet all needs for the water use categories of municipal, manufacturing, irrigation, steam electric power generation, mining, and livestock watering except:

(A) plans may identify those needs for which no water management strategy is feasible. Full evaluation of water management strategies must be presented and reasons given for why no water management strategies are feasible; or

(B) where a political subdivision that provides water supply (other than water supply corporations, counties, or river authorities) does not participate in the regional water planning effort for needs located within its boundaries or extraterritorial jurisdiction. The regional water planning group shall establish terms of participation that shall be equitable and shall not unduly hinder participation;

(6)-(9) (No change.)

(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 July 14, 1999.

TRD-9904265

Suzanne Schwartz

General Counsel

Texas Water Development Board

Proposed date of adoption: September 15, 1999

For further information, please call: (512) 463-7981

## Chapter 358. State Water Planning Guidelines

### 31 TAC §358.3

The Texas Water Development Board proposes amendments to §358.3 concerning State Water Planning Guidelines. The changes are proposed to extend the deadlines for the state water plan completion from September 1, 2001 to January 5, 2002, consistent with statutory changes made by Senate Bill 658, 76th Texas Legislature, Regular Session (1999).

Ms. Patricia Todd, Director of Accounting and Finance, has determined that for the first five-year period these sections are in effect there will be no fiscal implications on state and local government as a result of enforcement and administration of the sections.

Ms. Todd has also determined that for the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to allow for the preparation of a more thorough state water plan under extended deadlines. Ms. Todd has determined there will be no economic costs to small businesses or individuals required to comply with the sections as proposed.

Comments on the proposed amendments will be accepted for 30 days following publication and may be submitted to Suzanne Schwartz (512) 463-7981, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, or by fax at (512) 463-5580.

The amendment is proposed under the authority granted in Texas Water Code, §6.101, which directs the board to adopt rules necessary to carry out the powers and duties of the board provided by the Texas Water Code and other laws of Texas, and also pursuant to Texas Water Code, §16.051, which requires the board to adopt by rule guidance principles for the state water plan.

The statutory provision affected by the proposed amendments are Texas Water Code §16.051, Chapter 16, Subchapter C.

#### §358.3. Guidelines.

(a) The state water plan adopted by the board in August 1997 shall remain in effect until a new state water plan is adopted by the board. A state water plan shall be developed by the executive administrator and adopted by the board no later than January 5, 2002 [~~September 1, 2001~~], and at least every five years thereafter. The executive administrator shall identify the beginning of the 50-year planning period for the state and regional water plans. The executive administrator shall incorporate into the state water plan presented to the board those regional water plans approved by the board pursuant to Chapter 357 of this title (relating to Regional Water Planning Guidelines). The board shall, not less than 30 days before adoption or amendment of the state water plan, publish notice in the *Texas Register* of its intent to adopt a state water plan and shall mail notice to each regional water planning group. The board shall hold a hearing, after which it may adopt a water plan or amendments thereto.

(b) (No change.)

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

Filed with the Office of the Secretary of State, on July 14, 1999.  
TRD-9904266  
Suzanne Schwartz  
General Counsel  
Texas Water Development Board  
Proposed date of adoption: September 15, 1999  
For further information, please call: (512) 463-7981

◆ ◆ ◆  
**Chapter 363. Financial Assistance Programs**

**Subchapter F. Storage Acquisition and State Participation**

**31 TAC §363.613**

The Texas Water Development Board (board) proposes new section §363.613, concerning administrative cost recovery for state participation. The new section implements the collection of fees for the board's State Participation Program and sets out the procedure under which the board will assess administrative cost recovery fees from political subdivisions that participate in the State Participation Program. The new section is proposed in order to comply with Senate Bill 1862, Acts of the 76th Legislature, 1999, which authorized the board to set a fee to recover the board's administrative costs in participating in a project under this program. The rules require payment of a fee of 0.5% of the total cost of the board's participation in a project and provide that one-third of the fee is due at closing and the balance of the fee may be paid in annual installments with the consent of the Development Fund Manager.

Ms. Patricia Todd, Director of Accounting and Finance, has determined that for the first five-year period the section is in effect the fiscal implications on state government as a result of enforcement and administration of the section will be an estimated increase of zero for FY 1999; \$40,000 for FY 2000; \$41,000 for 2001; \$24,000 for FY 2002; and \$15,000 for FY 2003. The impact on local governments will be additional cost to political subdivisions that apply to the Board for participation in an eligible project and are estimated at zero for FY 1999; \$40,000 for FY 2000; \$41,000 for 2001; \$24,000 for FY 2002; and \$15,000 for FY 2003.

Ms. Todd has also determined that for the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcing the sections will be to reduce the general revenue used by the Board and distribute the cost of the program to those benefitting from the program. Ms. Todd has determined there will be no economic costs to small businesses or individuals required to comply with the section as proposed.

Comments on the proposed new section will be accepted for 30 days following publication and may be submitted to Gail Allan, 512/463-7804, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231.

The new section is proposed under the authority of the Texas Water Code, §6.101 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

The statutory provisions affected by the new section are Texas Water Code, Chapter 15, Subchapter E, and Chapter 16, Subchapters E and F.

§363.613. Administrative Cost Recovery for State Participation Program

(a) General. The board will assess fees for the purpose of recovering administrative costs from all political subdivisions with which the board agrees to participate in a state participation project under this subchapter in an amount of 0.5% of the amount of the total participation in the project by the board.

(b) Payment Method. Payment of one-third of the fee is due at closing. The balance of the fee may be paid in a limited number of annual installments with the consent of the Development Fund Manager.

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 July 19, 1999.  
TRD-9904299  
Suzanne Schwartz  
General Counsel  
Texas Water Development Board  
Proposed date of adoption: September 15, 1999  
For further information, please call: (512) 463-7981

◆ ◆ ◆  
**TITLE 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

**Chapter 1. Central Administration**

**Subchapter A. Practice and Procedure**

**Division 1. Practice and Procedure**

**34 TAC §1.6**

The Comptroller of Public Accounts proposes an amendment to §1.6, concerning extensions of time. The rule is being amended to reflect organizational changes.

James LeBas, chief revenue estimator, has determined that for the first five-year period the amendment will be in effect there will be no significant revenue impact on the state or local government.

Mr. LeBas also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of adopting the amendment will be in providing new information regarding tax responsibilities. This amendment is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Eleanor Kim, Deputy General Counsel, General Counsel Division, P.O. Box 13528, Austin, Texas 78711-3528.

This amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §111.009 and §111.105.

§1.6. *Extensions of Time.*

(a) Motions for extension of the due date for submitting a request for redetermination and statement of grounds may be granted in case of emergency or extraordinary circumstances. Motions for extension will not be routinely granted and each motion will be closely scrutinized to insure that the taxpayer has made every effort to comply with the original deadline. Motions received after the expiration of the original due date will not be considered. The comptroller's office will not be responsible for delay in delivery of mail, messenger service, or other carriers. Motions must be directed to the general counsel [~~chief hearings attorney~~] or his designee, who will grant or deny the extension.

(b) A motion for an extension of any other deadline in these sections will not be granted unless good cause is established and the need for the extension is not due to the moving party's neglect, indifference, or lack of diligence. A motion must be made in writing at least seven days prior to the expiration of the time period. In the event of an emergency, a motion may be accepted if it is postmarked, sent by facsimile transmission, or deposited with a private mail or courier service, postage or delivery charges paid, not later than the date of the original deadline. Prior to the setting of a hearing the hearings attorney may approve one extension of the time to reply to a position letter of not more than 14 days. Any additional extension may be granted, for good cause shown, only by the general counsel [~~chief hearings attorney~~] or, ~~in his absence,~~ by his designee. After a hearing is set, a motion for an extension of filing deadlines should be addressed to the assigned administrative law judge and will be ruled upon by him. A copy of a motion for extension of a filing deadline must be provided to all parties.

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 July 14, 1999.

TRD-9904261

Martin Cherry

Special Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 463-4062



**34 TAC §1.13**

The Comptroller of Public Accounts proposes an amendment to §1.13, concerning initiation of an expedited hearing. The rule is being amended to reflect organizational changes.

James LeBas, chief revenue estimator, has determined that for the first five-year period the amendment will be in effect there will be no significant revenue impact on the state or local government.

Mr. LeBas also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of adopting the amendment will be in providing new information regarding tax responsibilities. This amendment is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Eleanor Kim, Deputy General Counsel, General Counsel Division, P.O. Box 13528, Austin, Texas 78711-3528.

This amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §111.009 and §111.105.

§1.13. *Initiation of an Expedited Hearing.*

(a) A taxpayer may request an expedited hearing at the time a petition for redetermination or written request for refund hearing is filed. An expedited hearing is one conducted under the accelerated pre-hearing and hearing timetable set forth in this section.

(b) To obtain an expedited hearing, a taxpayer must do the following at the time the petition for redetermination or written request for refund hearing is filed:

(1) request in writing the election of the expedited procedure and specify whether an oral hearing or a hearing on written submissions is preferred;

(2) pre-file its statement of grounds and all evidence (other than resale and exemption certificates) on which it intends to rely at the hearing, including summaries of testimony of witnesses expected to be called at an oral hearing. Contentions and evidence not pre-filed by the taxpayer shall be deemed inadmissible;

(3) agree to abbreviated discovery timetables in the event the tax division should initiate discovery during the pre-hearing phase;

(4) request an extended oral hearing, if desired;

(5) agree to file resale and exemption certificates no later than the date of hearing or by the 60th day from the date of the hearing request, whichever occurs first, and to waive in writing the requirement of written notice and the 60-day period for the presentation of certificates as provided in Tax Code, §151.054(e); and

(6) waive in writing the issuance of a proposed decision.

(c) The general counsel or his designee [~~Chief Hearings Attorney~~] shall, within ten days of his receipt of a request for an expedited hearing, make a determination as to whether the request qualifies for an expedited hearing. If it does not, the taxpayer will be so notified in writing, and advised that either with the filing of additional curative documentation the case can proceed on an expedited basis or that the case will be placed on the agency's regular hearings docket.

(d) For good cause shown, a request for an expedited hearing may be withdrawn; however, the waiver of the 60-day period pursuant to subsection (b)(5) of this section cannot be withdrawn. A taxpayer's request for continuance, or a request for an extended oral hearing filed after the initial request for an expedited hearing, shall not be granted unless there is a showing of good cause. Withdrawal of the request for an expedited hearing, or the granting of a motion for continuance or an extended oral hearing, shall cause the hearing to be set on the agency's regular hearings docket.

(e) The tax division may petition the Administrative Law Judge for conversion from an expedited to a regular hearing for good cause shown, including, but not limited to, the need for additional policy consideration of issues raised, the need for extended discovery, for reasons of agency policy or court case hold, or for extended examination of records presented by the taxpayer. The Administrative Law Judge shall rule on such motion on the basis of written pleadings submitted by the parties.



(f) A compliant expedited hearing request shall be set and decided on the following timetable:

(1) within 20 days of receipt of the request by the general counsel or his designee [~~Chief Hearings Attorney~~] an oral hearing or written submission closing date not to exceed 60 days from the date of receipt of the request shall be set by the Chief Administrative Law Judge;

(2) a date, not to exceed 50 days from the date of receipt of the request by the general counsel or his designee [~~Chief Hearings Attorney~~], shall be set as a deadline for the Tax Division to file a written response to the taxpayer's statement of grounds and pre-filed evidence;

(3) a final decision shall be issued as follows:

(A) if no audit amendment is required in order to issue the final decision, within 45 days of the date of the oral hearing or the date the written submission record closes; or

(B) if an audit amendment is required in order to issue the final decision, within 75 days of the date of the oral hearing or the date the written submission record closes; and

(4) a motion for rehearing may be filed as provided in §1.29 of this title (relating to Motion for Rehearing).

(g) Hearings conducted pursuant to the expedited timetable established in this section shall not be subject to the provisions of §§1.9, 1.10, 1.11, 1.14, 1.15, 1.16, 1.20, and 1.27 of this title (relating to Rules of Practice and Procedure).

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 July 14, 1999.

TRD-9904262

Martin Cherry

Special Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 463-4062

◆ ◆ ◆

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part XII. Texas Board of Occupational Therapy Examiners

#### Chapter 365. Types of Licenses

##### 40 TAC §365.1

The Texas Board of Occupational Therapy Examiners proposes the following amendments to §365.1 of its rules concerning Types of Licenses. The proposed amendments eliminate superfluous cross-reference language and reflect changes currently proposed for §367.1, Continuing Education.

John P. Maline, executive director, Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Maline has also determined that for each year of the first five years the rule is in effect the benefit anticipated as a result of enforcing the rule will be greater administrative efficiency and a reduction in confusing terminology. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted to Kathy Fiorillo, coordinator of OT program licensing, Executive Council of Physical Therapy & Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701

These amendments are proposed under the Occupational Therapy Practice Act (Article 8851, Texas Revised Civil Statutes Annotated), which provides the Texas Board of Occupational Therapy Examiners with authority to adopt rules consistent with the Act.

No other statute, article or code will be affected by these proposed amendments.

##### §365.1. Types of Licenses

(a) The board issues three types of licenses: a regular license, a temporary license, and a provisional license.

(b) Regular License:

(1) A regular license may be issued to an applicant who has met the academic requirements and passed the Examination, submitted a complete application with the required fees and now meets at least one of the following criteria:

(A) The applicant passed the Examination within the 12 months immediately before the receipt date of current, complete application for licensure with TBOTE; or

(B) The applicant has a current, valid license to practice as an OTR, LOT, COTA or LOTA in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of the Texas Occupational Therapy Practice Act, and has been employed as an OTR, LOT, COTA or LOTA in that jurisdiction within five years from the receipt date of current, complete application for licensure with TBOTE; or

(C) The applicant has been employed as an OTR, LOT, COTA or LOTA within the past six months of the receipt date of current, complete application for licensure with TBOTE in a non-licensing state, foreign country, or state or federal government facility which does not require a license or other form of registration; or

(D) The applicant has been employed as an OTR, LOT, COTA or LOTA within five years of the receipt date of current, complete application for licensure with TBOTE.

(i) Previous OT employment may be in Texas, another state, a foreign country, or state or federal government facility which does not require a license or other form of registration.

(ii) Applicants returning to practice shall complete extra hours of continuing education within a specified period of time as determined by the Coordinator of the Occupational Therapy Program. [~~Such hours are in addition to those required by Chapter 367 of this title (relating to Continuing Education).~~]

(2) The regular license is valid from the date of issuance until the last day of the applicant's next birth month. If the applicant's birth month is within 90 days after the license is issued, the license will be valid until the last day of the following birth month[~~in the next year. For example: If the license is issued in January 1997, and~~

the applicant's birthday is in March, the license will be valid until March 1998. On the other hand, if the license is issued in January 1997 and the applicant's birthday is in July, the license will be valid until July 1997].

(c) Temporary License.

(1) There are two types of temporary licenses.

(A) Temporary License Pending Examination—The applicant meets all the qualifications for a license except taking the first available Examination after completion of all educational requirements. Continuing supervision by a licensed OTR or LOT is required while holding this type of license. The temporary license expires upon notification to the board of failure to pass the Examination and must be returned to the board. No second temporary licenses are issued after failure of the Examination. The Application Review Committee may allow a second temporary license to an individual who failed to take the Examination for which he or she was registered, if there are documented extraordinary circumstances that prevented the individual from taking the Examination.

(B) [Temporary] Extended Temporary License —The applicant has passed the Examination and has not been employed as an OTR, LOT, COTA or LOTA for five years or more from the receipt date of current, complete application for licensure with TBOTE. A temporary license is issued for a maximum of 12 months, during which time the Examination must be taken. The temporary license will be canceled if the applicant fails the Examination and must be returned to the board. The continuing supervision by a licensed OTR or LOT is required, and the licensee shall complete additional hours of continuing education within a specified period of time as determined by the Coordinator of the Occupational Therapy Program.

(2) The board may issue a regular license upon receipt of satisfactory evidence that the applicant has passed the Examination. The regular license will be valid until the end of the licensee's first birth month after the expiration of the temporary license. The exception for licenses issued within 90 days of the licensee's birth month (described in subsection (b)(2) of this section) does not apply in this case.

(d) Provisional License.

(1) If an applicant for a regular license under subsection (b)(1)(B), (C) or (D) of this section is unable to provide complete documentation that he or she meets the qualification for a regular license, the board may issue a provisional license.

(A) The applicant must provide satisfactory interim documentation, including evidence of having passed the Examination.

(B) The provisional license will be valid for not more than 120 days.

(2) Upon receipt of full documentation the board may issue a regular license. In that case, the regular license will be valid until the end of the licensee's first birth month after the expiration of the provisional license. The exception for licenses issued within 90 days of the licensee's birth month (described in subsection (b)(2) of this section) does not apply in this case.

(3) The applicant must be sponsored by and practice with a person licensed by the board under this Act.

(4) An applicant may be excused from paragraph (3) of this subsection if it constitutes a hardship to the applicant. A request for hardship exemption must be submitted in writing to the board.

(e) An application for a regular, temporary, or provisional license will be referred to the Application Review Committee whenever additional information, investigation, or study of the application is warranted.

(f) An applicant educated in Occupational Therapy outside the United States of America or its territories may be issued a temporary license, not to exceed a duration of nine months, upon approval from NBCOT that the applicant has met all the requirements to sit for the next available Examination.

(g) An applicant who passed the Examination more than 12 months before the receipt date of current, complete application for licensure with TBOTE and who has not practiced as an OTR, LOT, COTA or LOTA during that time will be referred to the Application Review Committee.

(h) Any licensee holding a temporary, provisional, or regular license who continues to practice as an OT, OTA, OTR, LOT, COTA or LOTA after the expiration of his or her license will be subject to disciplinary action [(refer to §374.1 of this title (relating to Disciplinary Actions))].

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 July 16, 1999.

TRD-9904292

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 305-6962



## Chapter 366. Application for License

### 40 TAC §366.1

The Texas Board of Occupational Therapy Examiners proposes the following amendments to §366.1, concerning Application for License. The proposed amendments eliminate superfluous cross-reference language.

John P. Maline, executive director, Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Maline has also determined that for each year of the first five years the rule is in effect the benefit anticipated as a result of enforcing the rule will be greater administrative efficiency and a reduction in confusing terminology. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted to Kathy Fiorillo, coordinator of OT program licensing, Executive Council of Physical Therapy & Occupational Therapy Examiners, 333 Guadalupe St., Suite 2-510, Austin, TX 78701

These amendments are proposed under the Occupational Therapy Practice Act (Article 8851, Tex. Rev. Civ. Stat. Ann.), which provides the Texas Board of Occupational Therapy Examiners with authority to adopt rules consistent with the Act.

No other statute, article or code will be affected by these proposed amendments.

*§366.1. Application for License*

(a) Individuals wishing to obtain an application for licensure can phone, fax, write or e-mail the board.

(b) Upon receipt of a request for application, the applicant will be sent a complete application packet containing an instruction sheet, application form, and any other information required by the board.

(c) An individual who makes application to the board later than one year [~~in excess of 12 months~~] after passing the NBCOT certification examination may need to meet additional continuing education requirements during the first year of licensure.

(d) A license may be issued upon receipt of a complete application, payment of the required fee, and demonstration of compliance with all applicable state laws and board rules. [~~(refer to §362.1 of this title (relating to Definitions)) and payment of the prescribed fee (refer to §375.1 of this title (relating to Fees)) and §651.1 of the rules of the Executive Council of Physical Therapy and Occupational Therapy Examiners, Title 22, Part XXVIII (concerning Fees) and upon meeting applicable requirements (refer to §364.1 of this title (relating to Requirements for Licensure)).~~]

(e) Licensees are responsible for knowledge of Texas Civil Statutes, Article 8851, the Occupational Therapy Practice Act, and the Texas Board of Occupational Therapy Examiners' rules.

(f) All applicants must complete and return a board-prepared jurisprudence examination [~~(as defined in §362.1 of this title (relating to Definitions))~~]. The test will be scored by TBOTE staff. At least 70% of questions must be answered correctly in order to achieve a passing score.

(1) A passing score on the jurisprudence examination will be noted in the application file, and the test will be returned to the applicant upon issuance of a license.

(2) A failing score on the jurisprudence examination will be noted in the application file and a new test will be sent to the applicant to complete. Once a passing score on the jurisprudence examination is achieved, that will be noted in the application file and the test will be returned to the applicant upon issuance of a license.

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 July 16, 1999.

TRD-9904293

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 305-6962



## Chapter 367. Continuing Education

### 40 TAC §367.1

The Texas Board of Occupational Therapy Examiners proposes the following amendments to §367.1, concerning Continuing Education. The proposed amendments add an audit procedure to test compliance with the rules, clarify the kinds of activities/

courses accepted by the Board, simplify the calculation of credits, and eliminate superfluous cross-reference language.

John P. Maline, executive director, Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Maline has also determined that for each year of the first five years the rule is in effect the benefit anticipated as a result of enforcing the rule will be greater administrative efficiency and a reduction in confusing terminology. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted to Kathy Fiorillo, coordinator of OT program licensing, Executive Council of Physical Therapy & Occupational Therapy Examiners, 333 Guadalupe St., Suite 2-510, Austin, TX 78701

These amendments are proposed under the Occupational Therapy Practice Act (Article 8851, Tex. Rev. Civ. Stat. Ann.), which provides the Texas Board of Occupational Therapy Examiners with authority to adopt rules consistent with the Act.

No other statute, article or code will be affected by these proposed amendments.

*§367.1. Continuing Education.*

(a) The Act, §5(A), mandates licensee participation in a continuing education program for license renewal. All continuing education must be directly relevant to the profession of occupational therapy. The licensee is solely responsible for keeping accurate documentation of all continuing education requirements. The Executive Council staff will conduct, at least yearly, an audit of a randomly drawn sample of licensees to determine compliance with continuing education rules. Failure to maintain accurate documentation, or failure to respond to a request to submit documentation for an audit, may result in disciplinary action by the board. The audit results will be reported to the board.

(b) Licensees must complete 30 [~~contact~~] hours of continuing education every two years. These requirements must be met before the month the license is expected to be renewed. [~~each biennial renewal. Thirty contact hours of continuing education must be obtained in the 24 months immediately preceding the renewal month.~~]

(c) A minimum of 15 hours of continuing education must be in skills relevant to occupational therapy practice with patients or clients. This requirement is effective beginning with licenses due for renewal in January 2000.

~~[(d) Record of attendance/verification for all continuing education must be submitted to the board, on the board approved Continuing Education Record Card, with the biennial annual application for license renewal.]~~

(d) ~~[(e)]~~ Continuing education credit [~~hours~~] may be earned in the following manner:

(1) Attendance at workshops, refresher courses, in-services, professional conferences, seminars, or facility based continuing education programs. Hour for hour credit on program content only. No maximum;

(2) Presentations by Licensee:

(A) Professional presentations, e.g., in-services, workshops, institutes (any presentation counted only one time). Hour for hour credit. 10 hours maximum [~~No maximum~~];

(B) Community/service organization presentations (any presentation counted only one time). Hour for hour credit. Four hours maximum;

(3) Formal academic coursework:

(A) one or two [~~one-two~~] credit hour class - 2 continuing education hours [~~7.5 contact hours~~];

(B) three or four [~~three-four~~] credit hour class - 4 continuing education hours [~~15 contact hours~~];

(4) AOTA Self Study Series: Hour for hour credit based on the number of hours awarded by AOTA for each course. (Any course can be counted only once per licensee.) No maximum. [~~A copy of the self study completion certificate must accompany the Continuing Education Record Card at renewal.~~]

(5) Development of publications, media materials or research/grant activities. A request to receive credit for this category must be submitted in writing to the Coordinator of Occupational Therapy no later than 60 days before the current license expiration date. (Any publication, media materials, or research or grant activities can be counted only once per licensee). 10 hours;

~~[(5) Other continuing education: Publications/Media; or research/grant activities. A request to receive credit for this category must be submitted in writing for approval to the Coordinator of Occupational Therapy a minimum of 60 days prior to the expiration of the license. If warranted, the request may be reviewed by the Continuing Education Committee for final approval.]~~

(6) First Aid and cardiopulmonary resuscitation training, either initial instruction or refresher training, can only be submitted for continuing education once per licensee; [~~Journal reading is not acceptable for continuing education credit.~~]

(7) Home study courses, Internet-based courses, and videotape instruction: A request to receive credit for this category must be submitted in writing to the Coordinator of Occupational Therapy no later than 60 days before the current license expiration date. The request must include the course title, the number of hours required for completion, the sponsoring group, and a description of its direct relevance to the occupational therapy profession. (Any course or videotape can be counted only once per licensee). No maximum;

(e) ~~[(f)]~~ Any deviation from the above continuing education categories will be reviewed on a case by case basis by the Coordinator of Occupational Therapy or by the Continuing Education Committee. A request for special consideration must be submitted in writing a minimum of 60 days prior to expiration of the license. The request must include a description of the activity/course, the sponsoring group, its direct relevance to the occupational therapy profession, and the number of hours to complete it.

(f) ~~[(g)]~~ Definitions for continuing education rules. Continuing education documentation includes, but is not limited to, final official transcripts, AOTA self-study completion certificates, copies of official sign-in or attendance sheets, and official correspondence from the Executive Council or board approving requested credits.

~~[(1) Record of Attendance/Verification - actual proof of participation in, the continuing education activity(ies) shall be documented by submission of a Continuing Education Record Card.]~~

~~[(A) The Continuing Education Record Card must contain the title of the presentation, the presenter(s), the dates attended, the number of contact hours received, and a signature by the presenter, workshop coordinator, supervisor, or training coordinator verifying attendance at the stated continuing education activity(ies) for the renewal year.]~~

~~[(B) A licensee listing himself/herself as the presenter of a continuing education program must obtain the signature of the workshop coordinator, supervisor, or training coordinator.]~~

~~[(C) For formal academic coursework, an official transcript or grade report must be submitted at renewal.]~~

~~[(2) Contact hour - equals one clock hour of attendance.]~~

~~[(3) CEU - formal Continuing Education Unit. Usually one (1.0) CEU equals ten contact hours.]~~

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 July 16, 1999.

TRD-9904294

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 305-6962



## Chapter 371. Inactive/Retiree Status

### 40 TAC §471.1

The Texas Board of Occupational Therapy Examiners proposes the following amendments to §371.1, concerning Inactive Status. The proposed amendments allow inactive licensees to use a professional designation, and eliminate superfluous cross-reference language.

John P. Maline, executive director, Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Maline has also determined that for each year of the first five years the rule is in effect the benefit anticipated as a result of enforcing the rule will be greater administrative efficiency and a reduction in confusing terminology. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted to Kathy Fiorillo, coordinator of OT program licensing, Executive Council of Physical Therapy & Occupational Therapy Examiners, 333 Guadalupe St., Suite 2-510, Austin, TX 78701

These amendments are proposed under the Occupational Therapy Practice Act (Article 8851, Tex. Rev. Civ. Stat. Ann.), which provides the Texas Board of Occupational Therapy Examiners with authority to adopt rules consistent with the Act.

No other statute, article or code will be affected by these proposed amendments.

§371.1. *Inactive Status.*

A request for a change to inactive status, in accordance with §25A of the Act, may only be made at renewal date.

(1) A written request to change a regular license in good standing from active to inactive status must be postmarked prior to the expiration date of the license. The request must include the appropriate fee. ~~[and proof of having met the continuing education renewal requirements for that renewal cycle.]~~

(2) A licensee may remain on inactive status for a period of no more than six consecutive years. A licensee must submit a written petition to the board requesting an extension of inactive status for more than six years.

(3) A licensee requesting to re-enter active status after more than six consecutive years without the prior approval of the board may not renew his/her license. In order to obtain licensure, the individual must again pass the Examination and comply with the requirements and procedures for obtaining an extended temporary license.

(4) A licensee on inactive status shall be required to complete the continuing education renewal requirements of licensees on active status.

(5) A licensee on inactive status must complete and return a board prepared jurisprudence examination ~~[(as defined in §362.1 of this title (relating to Definitions)) at the time of renewal for either inactive or active status].~~ The test will be scored by TBOTE staff.

At least 70% of questions must be answered correctly in order to achieve a passing score.

(6) A licensee on inactive status will not have to pay a renewal fee but will have to pay an appropriate late fee if he/she does not notify the board prior to the expiration of the license of his/her intent to remain on inactive status. A licensee will have to pay a fee to change to active status.

(7) A licensee may not represent himself/herself as an OTR, LOT, COTA or LOTA while on inactive status. A licensee retains the right to represent himself/herself as having an inactive license.

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 July 16, 1999.

TRD-9904295

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: August 29, 1999

For further information, please call: (512) 305-6962

◆ ◆ ◆

# WITHDRAWN RULES

---

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

---

## **TITLE 22. EXAMINING BOARDS**

### **Part XVII. Texas State Board of Plumbing Examiners**

#### **Chapter 365. Licensing**

##### **22 TAC §365.14**

The Texas State Board of Plumbing Examiners has withdrawn from consideration for permanent adoption the amendment to §365.14, which appeared in the March 26, 1999, issue of the *Texas Register* (24 TexReg 2137). The section is being

reproposed for public comment elsewhere in this issue of the *Texas Register*.

Filed with the Office of the Secretary of State on July 19, 1999.

TRD-9904330

Robert L. Maxwell

Chief of Field Services/Investigations

Texas State Board of Plumbing Examiners

Effective date: July 19, 1999

For further information, please call: (512) 458-2145



# ADOPTED RULES

---

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

---



## TITLE 16. ECONOMIC REGULATION

### Part IV. Texas Department of Licensing and Regulation

#### Chapter 74. Elevators, Escalators, and Related Equipment

##### **16 TAC §§74.10, 74.20, 74.30, 74.50, 74.55, 74.65, 74.70, 74.75, 74.80, 74.90, 74.100**

The Texas Department of Licensing and Regulation adopts amendments to §§74.10, 74.20, 74.30, 74.50, 74.65, 74.70, 74.80, 74.90, 74.100 and new §§74.55 and 74.75 concerning certification of elevators, escalators, and related equipment. Sections 74.20, 74.30, 74.50, 74.55, 74.75, 74.80, and 74.100 are adopted without changes to the proposed text as published in the January 15, 1999 issue of the *Texas Register* (24 TexReg 288) and will not be republished. Sections 74.10, 74.65, 74.70, and 74.90 are adopted with changes.

The amended and new sections are adopted to rearrange and revise existing language to clarify definitions of key words used throughout the rules; inspector and building owner requirements and responsibilities; fees regarding inspection reports and waivers or delays; penalties regarding violation of the Code; deletes several items that are redundant to the elevator program's legislation, Texas Health and Safety Code Annotated, §754, Subchapter B (Vernon 1995) and conforms the rules to Texas Revised Civil Statutes Annotated Article 9100 (Vernon 1991) and Texas Administrative Code §60 (1998).

Written comment was received from The Association of Texas Hospitals and Health Care Organizations regarding §§74.10 and 74.70 of the proposed amendments.

In §74.10 definitions were added or changed for clarity. One comment was received regarding §74.10(6) "serious injury," stating that while the definition was important, it was not understood what public interest would be served in defining "serious injury" so broadly as to include even minor injuries such as scratches or bruises. The Department agrees and has changed the wording.

In §74.70 responsibilities of the building owner were clarified for accident reporting, arrangements of an inspection and requirements of the American Society of Mechanical Engineers (ASME) A17.1, including who performs the inspection and when new or altered installations are placed in service. The Department received several comments regarding the proposed amendments to this section.

In §74.70(a) building owners would be required to employ an ASME qualified elevator inspector who is registered with the Department, however, the comment stated that a building owner may choose to contract with a person who is not an employee to perform the inspections. The Department agrees with the comment and the rule has been changed as recommended.

In §74.70(c) a building owner would be required to have all inspections completed within 60 days of the first inspection. The comment on this subsection raised the issue of how to comply with this requirement when inspectors are unable to complete all inspections within this time frame. The Department agrees with the comment and has changed the wording to clarify the intent of the rule.

In §74.70(f) the building owner is required to report all accidents to the Department in an established timeframe. The comment received stated that this provision does not specifically correlate to an elevator or escalator accident. The Department agrees with this comment and has revised the wording to reflect that these reporting requirements are only associated with accidents caused by an elevator or escalator.

Section 74.70(f)(1) requires the report of an accident causing serious bodily injury to include the type of device involved, as well as the current status of the equipment involved. In §74.70(f)(2) relating to the reporting of accidents involving property damage, the term "equipment" is used. The comment received stated that the use of the terms "device" and "equipment" implies that these are separate items that caused injury, and neither term is defined. The Department agrees with this comment and has changed the wording to "equipment," which is consistent with other sections in the rules. Another comment regarding provisions of subsections (f)(1) and (f)(2) of §74.70 do not indicate that the type of equipment that must be reported has to be a functional part of the elevator or escalator. The Department disagrees with this comment because in reviewing accident reports and conducting accident investigations a large percentage of accidents involve negligence on the part of the riding public. The Department is adopting this section of the rules as proposed.

Section 74.70(h) requires the building owner to immediately place an unsafe elevator or escalator out of service until repairs are completed. The comment received stated that there may be times when an elevator or escalator can be repaired sufficiently to remedy the unsafe condition, even though other repairs have not been completed. The building owner should be permitted to operate the elevator even though all repairs have not been completed. The Department agrees and has changed the wording for clarification.

Section 74.70(i) requires new elevators and escalators to comply with ASME A17.1 Code in effect at the date of installation. The comment received suggested a more reasonable inspection interval to be developed that would meet the dual goals of protecting the public while addressing concerns about the financial burden of the inspection. It was recommended that the rules be revised to require inspection every five years to coincide with the required five-year load test. The Department disagrees with this comment because it is in direct conflict with the requirements of Chapter 754.015.

Section 74.75(a)(1) requires all elevators, escalators and related equipment, regardless of age, to comply with the installation standards of ASME A17.1, and ASME A17.3 (1994), regardless of the installation date. The comment received addressed concern about the imposition on older elevators of any requirement that is intended primarily to promote aesthetics or that has no effect on the safety of the passengers in the elevator. It was recommended that the Department meet with the regulated community to address the scope and applicability of upgrading requirements for existing elevators. The recommended enforcement of ASME A17.3 (1994) for existing elevators, escalators, and related equipment is in direct conflict with Chapter 754.014(b), (e), (f), (g), and (h). However, Chapter 754.019(b)(2) allows the building owner the opportunity to submit an application for a delay or waiver for an applicable standard. The Department agrees that a meeting with representatives of the regulated community to discuss Chapter 754 of the Health and Safety Code and concerns regarding the scope and applicability of upgrading requirements for existing elevators would be beneficial and will continue to hold open meetings of the Elevator Advisory Board.

The 76th Legislature enacted HB3155 which made non-substantive changes to Article 9100 and codified the article into the Occupations Code. This change is reflected in §75.90.

The amended and new rules will function by increasing program integrity. The amended and new rules are adopted under Texas Health and Safety Code Annotated, §754 (Vernon 1997) which authorizes the Commissioner of the Texas Department of Licensing and Regulation to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purpose of the Code.

The Code and Article affected by the amended and new rules is Texas Health and Safety Code Annotated, §754 (Vernon 1997) and Texas Revised Civil Statutes Annotated, Article 9100 (Vernon 1991).

#### §74.10. Definitions.

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

(1) The Act-Texas Health and Safety Code Annotated, Chapter 754, Elevators, Escalators, and Related Equipment (Vernon 1997).

(2) Delay-Suspension of compliance with American Society of Mechanical Engineers (ASME) Safety Codes for a specific period of time.

(3) Inspection report-Consists of the Owner's Cover Sheet and one Department approved Inspector's Report per elevator, escalator, or related equipment in a building.

(4) Inspector-An inspector who is registered with the Department and certified as an ASME QEI-1 by an organization accredited by the American Society of Mechanical Engineers (ASME).

(5) QEI-Qualified Elevator Inspector

(6) Serious injury-serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(7) Unsafe elevator or escalator-A condition which exists due to a design, mechanical, structural or electrical defect which presents a risk of serious injury.

(8) Waiver-Indefinite suspension of compliance with ASME, Safety Codes.

(9) Yearly or annual inspection-routine inspection and test plus additional detailed examination and operation of an elevator, escalator, or related equipment per ASME A17.1, Part 10, at yearly intervals, witnessed by an inspector to check for compliance with applicable Code requirements.

#### §74.65. Advisory Board.

(a) If with the advice of the Elevator Advisory Board, the Executive Director determines that the standards of inspection and certification of a municipal elevator, escalator and related equipment program are no less stringent than those contained in the Act, the municipal ordinance shall apply.

(b) Board meetings may be called by the Executive Director or the presiding officer. Meetings in excess of twice each calendar year may be authorized by the Executive Director.

(c) The board shall consist of those regulated industry members and consumers of services members specified in the Act.

(d) Board members will serve for staggered three year terms with two regulated industry positions and two consumer positions expiring in each of the first and second years and one of each position expiring in the third year.

(e) Terms of board members shall expire November 1 of each year.

#### §74.70. Responsibilities of the Building Owner.

(a) The building owner must contract with, or employ an ASME QEI-1 who is registered with the Department to perform inspections in accordance with §74.100 of this title (relating to Technical Requirements).

(b) The owner of the building in which an elevator, escalator or related equipment is located shall have such equipment inspected yearly.

(c) Within 60 days of the inspection, the building owner shall have all inspections of elevators, escalators, or related equipment in that building completed. If a building owner is unable through reasonable and practical effort to complete inspections within the required 60-day period, a written request must be received and granted by the Department to allow the building owner a later inspection completion date.

(d) Unless the building owner is granted a Department waiver, the building owner must remedy all deficiencies noted on the annual inspection report or submit information documenting when the violations will be corrected, within:

(1) 60 days of completing all inspections; or

(2) within a delay period granted by the Department.

(e) Each deficiency constitutes a separate violation.

(f) The building owner or their representative must report all accidents involving an elevator, escalator or related equipment to the Department by the fastest means available, followed by a written report within 72 hours of the accident.

(1) If the accident caused serious bodily injury, the report must include the type of injuries, the type of equipment involved, the name of the building owner, and any other information pertaining to the event leading up to the accident, including the current status of the equipment involved.

(2) If the accident caused property damage, the report must include the type of equipment involved, the name of the building owner, and any other information pertaining to the event leading up to the accident, including the current status of the equipment involved.

(g) The building owner shall ensure that all of the tests required by ASME A17.1 Part X are made by a person qualified to perform such services. Such tests must be performed in the presence of a QEI registered with the Department. The person performing the test must be familiar with the operation of the equipment and available to accompany and assist during an inspection.

(h) The building owner shall immediately place any unsafe elevator, escalator, or related equipment out of service until repairs to correct the unsafe condition are completed.

(i) New elevator, escalator or related equipment installations must be in compliance with ASME A17.1 Code in effect at date of installation.

(j) Altered elevators, escalators or related equipment must be in compliance with ASME A17.1, Part XII, and ASME A17.3 (1994).  
*§74.90. Sanctions.*

If a person violates Texas Health and Safety Code Annotated §754 (Vernon 1997), or a rule, or order of the Executive Director or Commission relating to this Code and Chapter, proceedings may be instituted to impose administrative sanctions and/or recommend administrative penalties in accordance with this Code or the Texas Department of Licensing and Regulation, Texas Occupations Code Chapter 51 (Vernon 1999), and 16 Texas Administrative Code, Chapter 60 (1998) of this title (relating to the Texas Department of Licensing and Regulation).

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 July 12, 1999.

TRD-9904212

Rachelle A. Martin

Executive Director

Texas Department of Licensing and Regulation

Effective date: August 1, 1999

Proposal publication date: January 15, 1999

For further information, please call: (512) 463-7348

◆ ◆ ◆  
**TITLE 22. EXAMINING BOARDS**

**Part III. Texas Board of Chiropractic Examiners**

**Chapter 75. Rules of Practice**

**22 TAC §75.1**

The Texas Board of Chiropractic Examiners adopts amendments to §75.1, relating to grossly unprofessional conduct, without changes to the proposed text as published in the June 4, 1999, issue of the *Texas Register* (24 TexReg 4140). The text of the proposed amendments will not be republished. Section 75.1 currently defines grossly unprofessional conduct to include sexual misconduct. Amendments to §75.1 are made for the purpose of defining this term and providing specific examples of the types of conduct which the board considers sexual misconduct. The amendments provide specific descriptions of conduct which are considered to be "sexual improprieties" or "sexual intimacies," both of which are defined as sexual misconduct under §75.1. The lists of prohibited conduct enumerated in the amendments are not exclusive. Other types of conduct, based on the totality of circumstances, could also be considered sexual misconduct in violation of this rule and the Chiropractic Act, Texas Civil Statutes, Article 4512b §14a.5. The amendments also provide a defense to the offense of sexual misconduct if the conduct occurred after the patient client relationship and the emotional dependency of the patient ended. The amendments expressly exclude consent, conduct off-premises or outside of treatment sessions as defenses. It is the board's opinion while such circumstances may serve as mitigation in deciding the appropriate sanction for such conduct in certain situations, they do not excuse sexual misconduct with a patient. Research in the area of sexual misconduct by healthcare providers have viewed the doctor patient relationship as a fiduciary relationship. The doctor holds a superior-power position. As a result, it is the responsibility of the doctor, included a chiropractor, to maintain a professional relationship with a patient and to avoid any conduct that could harm a patient or undermine the trust a patient bestows on a professional doctor of chiropractic. See generally, "Sexual Conduct within the Physician-Patient Relationship: A Statutory Framework for Disciplining This Breach of Fiduciary Duty," by Catherine S. Leffler, *Widener Law Symposium Journal*, Spring, 1996, 1-SPG Widner L. Symp. J. 501 (given the physician's position of power in the relationship, the physician bears complete responsibility for enforcing appropriate boundaries and for preventing the potentially devastating impact of physician-patient sexual contact, at 510); "Sexual Misconduct: Ethical, Clinical and Legal Ramifications and the Chiropractic Profession," by Michael F. Stahl, D.C. and Stephen M. Foreman, D.C., published by NCMIC Insurance Co., Des Moines, Iowa (1997)(copies of these articles are on file at the offices of the TBCE); Tex. Penal Code, §22.011 (consent is no defense to a charge of sexual assault of a patient or former patient by a health care services provider, including a chiropractor). The accepted standard of practice requires that healthcare professionals, including chiropractors, avoid personal, intimate contact with their patients. The amendments are modeled after rules of other occupational licensing agencies, including the board of examiners of psychologists (22 TAC §465.33) and the board of examiners of professional counselors (22 TAC §681.33). The section as amended will provide better notice to the public and licensees of the types of conduct which may subject a licensee to disciplinary action. A licensee is, therefore, forewarned that certain types of conduct are prohibited and should be guided in his or her relationships with patients accordingly. Likewise, the public has a standard of conduct by which to gauge a licensee's actions. The definitions will also provide guidance to the board's enforcement committee, staff and the full board in carrying out its disciplinary responsibilities.

No comments were received concerning the proposed amendments.

The amendments are adopted under Texas Civil Statutes, Article 4512b, §§4(c), 4a, which the board interprets as authorizing it to adopt rules necessary for performance of its duties, the regulation of the practice of chiropractic, and the enforcement of the Act, and §8b(d), which the board interprets as requiring the board to identify the key factors for the competent performance by a licensee of the licensee's professional duties, and §14a which the board interprets as authorizing it to discipline licensees for grossly unprofessional conduct, gross inefficient practice of chiropractic or lack of proper diligence.

The following are the statutes, articles, or codes affected by the amendments:

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

Filed with the Office of the Secretary of State on July 19, 1999.

TRD-9904333

Gary K. Cain, Ed. D.

Executive Director

Texas Board of Chiropractic Examiners

Effective date: August 8, 1999

Proposal publication date: June 4, 1999

For further information, please call: (512) 305-6709



## 22 TAC §75.7

The Texas Board of Chiropractic Examiners adopts an amendment to §75.7, relating to board fees, without changes to the proposed text as published in the June 4, 1999, issue of the *Texas Register* (24 TexReg 4141). The text of the proposed rule will not be republished. The current fee schedule in §75.7(a) is amended to change the application fee for registering chiropractic radiologic technologists from a \$35 yearly fee to \$70 every two years. This change is being made in connection with a separate rulemaking published in this issue of the *Texas Register* and which adopted amendments to §78.1, changing registration and continuing education compliance to a biennial basis instead of yearly, beginning January 1, 2000. The annual cost of registration under the amendments remains the same. For the remainder of 1999, registration, renewal, related fees and continuing education reporting will continue on an annual basis. The amendments provide greater uniformity and consistency with the Texas Department of Health's (TDH) registration and continuing education program for radiological technicians. With the same deadlines and reporting periods as TDH, it is anticipated that CRTs will be provided a greater choice of seminars, in number and subject matter, which in turn will provide better training opportunities which will inure to the benefit of the public.

No comments were received concerning the proposed amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512b, §§4(c), 4a, which the board interprets as authorizing it to adopt rules necessary for performance of its duties, the regulation of the practice of chiropractic, and the enforcement of the Act, Texas Civil Statutes, Article 4512m §2.08(c), which the board interprets as authorizing it to adopt rules to establish reasonable and necessary fees to produce sufficient revenue

to cover the cost of administering this CRT program, and Article 4512b §11, which the board interprets as authorizing it to adopt rules to establish reasonable and necessary fees to produce sufficient revenue to cover the cost of administering the Chiropractic Act, including this program.

The following are the statutes, articles, or codes affected by 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 July 19, 1999.

TRD-9904334

Gary K. Cain, Ed. D.

Executive Director

Texas Board of Chiropractic Examiners

Effective date: August 8, 1999

Proposal publication date: June 4, 1999

For further information, please call: (512) 305-6709



## Chapter 78. Chiropractic Radiologic Technologists

### 22 TAC §78.1

The Texas Board of Chiropractic Examiners adopts amendments to §78.1, regarding Registration of Chiropractic Radiologic Technologists (CRTs), without changes to the proposed text as published in the May 28, 1999, issue of the *Texas Register* (24 TexReg 3975). The text of the proposed amendments will not be republished. At present, §78.1 requires CRTs to renew annually their registration with the board. As part of the renewal, a CRT must provide proof of six hours of continuing education. Beginning January 1, 2000, with these amendments the board is changing the renewal period from an annual basis to an every two year or biennial basis, with a continuing education requirement of 12 hours every two years. The annual cost of registration under the amendments remains the same. For the remainder of 1999, registration, renewal, related fees and continuing education reporting will continue on an annual basis. The amendments provide greater uniformity and consistency with the Texas Department of Health's (TDH) registration and continuing education program for radiological technicians. With the same deadlines and reporting periods as TDH, it is anticipated that CRTs will be provided a greater choice of seminars, in number and subject matter, which in turn will provide better training opportunities which will inure to the benefit of the public.

No comments were received concerning the proposed amendments.

The amendments are adopted under Texas Civil Statutes, Article 4512b, §§4(c), 4a, which the board interprets as authorizing it to adopt rules necessary for the performance of its duties, the regulation of the practice of chiropractic, and the enforcement of the Act, and §14b and Texas Civil Statutes, Article 4512m, §2.08(c), which the board interprets as authorizing it to adopt rules that establish a registration and continuing education program for CRTs in the use of x-ray in conformity with state law and TDH rules and to implement state law relating to radiologic training for employees of a chiropractor.

The effective date of the amendments is January 1, 2000. The amendments apply to the 2000 registration year for CRTs. The board will accept registration and renewal forms under the amendment for the year 2000, beginning 20 days after notice of this rule is filed in the offices of the secretary of state.

The following are the statutes, article, or codes affected by the amendments:

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

Filed with the Office of the Secretary of State on July 19, 1999.

TRD-9904335

Gary K. Cain, Ed. D.

Executive Director

Texas Board of Chiropractic Examiners

Effective date: August 8, 1999

Proposal publication date: May 28, 1999

For further information, please call: (512) 305-6709



## Part XIV. Texas Optometry Board

### Chapter 273. General Rules

#### 22 TAC §273.9

The Texas Optometry Board adopts amendment to §273.9, without changes to the proposed text as published in the May 7, 1999, issue of the *Texas Register* (24 TexReg 3442).

The amendment to §273.9 is required in order to inform licensees that providing public interest information to patients, by displaying at every location where optometric services are provided information for the purposes of filing complaints, including the board's name, address and telephone number, is required under Texas Optometry Act, Texas Civil Statutes, Article 4552 §2.17.

No comments were received.

The amended section is adopted under the provisions of Texas Civil Statutes, Article 4552, §2.17 and §2.14. The Texas Optometry Board interprets §2.17 to require public interest information be provided to the general public. The Board interprets §2.14 as authorizing the Board to adopt substantive and procedural rules for the regulation of the profession of optometry. No other code, statute or article is affected by this proposed 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 July 12, 1999.

TRD-9904203

Lois Ewald

Executive Director

Texas Optometry Board

Effective date: August 1, 1999

Proposal publication date: May 7, 1999

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



## Chapter 279. Interpretations

### 22 TAC §279.13

The Texas Optometry Board adopts an amendment to §279.13, with changes to the proposed text as published in the May 7, 1999, issue of the *Texas Register* (24 TexReg 3443). The change is required to remove the word "at" which was redundant in the second sentence of the rule. The change made is not substantive.

Rule 279.13 is required in order to inform licensees of the requirement of follow-up care to patients when examinations are performed in a nursing home or other abode to confined patients, at an industrial site, or at a school when requested by the school administration.

No comments were received.

The amended section is adopted under the provisions of Texas Civil Statutes, Article 4552, § 5.04 and § 2.14. The Texas Optometry Board interprets § 5.04 as authorizing the practice of optometry away from the principal office of the examining doctor in certain instances. The Board interprets § 2.14 as authorizing the Board to adopt substantive and procedural rules for the regulation of the profession of optometry. No other code, statute or article is affected by this proposed amendment.

#### §279.13. Board Interpretation Number Thirteen.

The Texas Optometry Act was enacted in part to safeguard the visual welfare of the public and the optometrist-patient relationship and to fix professional responsibility with respect to the patient. In order to comply with these objectives and to assure patients will have adequate follow-up care, licensed optometrists or therapeutic optometrists who practice optometry or therapeutic optometry, including the examination and prescribing or supplying of lenses to patients, at:

(1) a nursing home or other abode to patients confined therein,

(2) an industrial site, when requested to do so, or

(3) a school site when requested to do so by the school administration, must have an office location or place of practice within 100 miles of such examination site, or, in the alternative must have made arrangements, confirmed in writing prior to offering or providing services, for continued care with a qualified eye health professional with an office location or place of practice within 100 miles of such examination site. Failure to comply with this rule shall be deemed as practicing from house-to-house and the improper solicitation of patients in violation of the Act, § 5.04(5). In addition, the optometrist must comply with the requirements of § 5.02 to maintain current information regarding practice locations with the board office.

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 July 12, 1999.

TRD-9904202

Lois Ewald

Executive Director

Texas Optometry Board

Effective date: August 1, 1999

Proposal publication date: May 7, 1999

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



## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 39. Public Notice

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §39.13 and §39.103, concerning public notice. The amendments are adopted without changes to the proposed text as published in the April 9, 1999 issue of the *Texas Register* (24 TexReg 2846) and will not be republished.

**EXPLANATION OF ADOPTED RULES** The primary purpose of the adopted amendments is to revise the state rules to reflect certain federal hazardous waste regulations relating to public participation. These rules are intended to provide earlier opportunities for public involvement in the hazardous waste permitting process and expand public access to information throughout the permitting process and the operational lives of certain hazardous waste management facilities. The amendments include, for certain hazardous waste facility permit applications, requirements relating to pre-application public meeting and notice, requirements concerning public notice that a Part B hazardous waste permit application has been submitted, and requirements for information repositories. The amendments also include a clarification to the requirements for publishing notice of draft permit for industrial and hazardous waste facilities. The amendments reflecting federal public participation regulations are needed to establish equivalency with federal regulations and will enable the State of Texas to retain authorization to operate aspects of the federal hazardous waste program in lieu of the United States Environmental Protection Agency (EPA). The federal regulations upon which the rules are based are found at 40 Code of Federal Regulations (CFR) Part 124, Subpart A, which relates to public notice of permit actions and public comment period, and Subpart B, which relates to specific procedures applicable to hazardous waste permits.

**FINAL REGULATORY IMPACT ANALYSIS** The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule." "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The rulemaking is not a major environmental rule because it is not adopted with the specific intent of protecting the environment or reducing risks to human health or the environment. The specific intent of the rule is to provide earlier opportunities for public involvement with regard to authorization of certain hazardous waste management activities and expand public access to information throughout the permitting process and the operational lives of certain hazardous waste management facilities. In addition, the rulemaking is not a major environmental rule because it will not adversely affect in a material way the aforementioned aspects of the state because the rule simply updates the state's hazardous waste regulations by revising the rules to conform to certain federal hazardous waste regulations, adding enhanced public participation procedures. The rulemak-

ing is specifically required by federal law because states such as Texas that are authorized to administer and enforce the RCRA program in lieu of EPA under §3006 of RCRA are required to modify their programs by adopting equivalent requirements, as necessary. The delegation agreement between the commission and EPA expressly requires the commission to maintain RCRA authorization. Finally, this rulemaking is not being adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

**TAKINGS IMPACT ASSESSMENT** The commission has prepared a takings impact assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. The specific purpose of the rules is to provide earlier opportunities for public involvement in the hazardous waste permitting process, to expand public access to information throughout the permitting process and the operational lives of certain hazardous waste management facilities, to provide enhanced consistency between federal and state waste regulatory requirements, to clarify certain state rules, and to ensure that Texas' state hazardous waste rules are equivalent to the federal regulations after which they are patterned, thus enabling the state to retain authorization to operate its own hazardous waste program in lieu of the corresponding federal program. The adopted rules will substantially advance this stated purpose by referencing specific federal regulations or by introducing language intended to ensure that state rules are equivalent to the corresponding federal regulations for hazardous waste facilities and by incorporating certain clarifications to the requirements for mailing notice and for publishing notice of draft permit for industrial and hazardous waste facilities. Promulgation and enforcement of these rules will not affect private real property which is the subject of the rules because the rule language consists of technical corrections and updates to bring certain state hazardous waste regulations into equivalence with more recent federal regulations, as well as language which clarifies certain existing requirements, which would increase public participation, thus providing the benefits of earlier opportunities for public involvement and expanded public access to information throughout the permitting process and the operational lives of certain hazardous waste management facilities. These requirements give applicants a better opportunity to address public concerns in making decisions about the facility and in subsequent permitting activities. The permitting process will be streamlined in some cases, since the public will raise issues, and the applicant can address the issues, at an earlier stage in the process. This earlier involvement may well reduce costs associated with delays, litigation, and other consequences of dispute. The subject regulations do not affect a landowner's rights in private real property because this rulemaking does not restrict or limit the owner's right to property that would otherwise exist in the absence of the regulations, because a property owner may continue to use the property for the management of hazardous waste. In other words, since these rules merely revise public participation and notice requirements, they do not restrict the owner's right to property. Also, the following exception to the application of Chapter 2007 of the Texas Government Code, listed in Texas Government Code, §2007.003(b), applies to these rules: this action is reasonably taken to fulfill an obligation mandated by federal law. See Title 40 CFR §271.21(e)(1), which states that as the federal hazardous waste program changes, authorized state programs such as the commission's hazardous waste program must be revised to remain in compliance with 40 CFR Part 271, Subpart A.

**COASTAL MANAGEMENT PROGRAM** The commission has reviewed the rulemaking and found that the adoption is a rulemaking subject to the Texas Coastal Management Program (CMP) and must be consistent with all applicable goals and policies of the CMP. The commission has prepared a consistency determination for the rule pursuant to 31 TAC §505.22 and has found that the rulemaking is consistent with the applicable CMP goals and policies. The following is a summary of that determination. The CMP goals applicable to the rulemaking are to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs). CMP policies focus on construction and operation of solid waste treatment, storage, and disposal facilities such that new solid waste facilities and areal expansions of existing solid waste facilities shall be sited, designed, constructed, and operated to prevent releases of pollutants that may adversely affect CNRAs and, at a minimum, comply with standards established under the Solid Waste Disposal Act, 42 United States Code Annotated, §§6901 et seq.

Promulgation and enforcement of this rule is consistent with the applicable CMP goals and policies because the rule amendments merely update and enhance the commission's rules concerning public participation in the hazardous and industrial solid waste area by providing earlier opportunities for public involvement and by expanding public access to information throughout the permitting process. These rules do not address protection, preservation, restoration, or enhancement of the diversity, quality, quantity, functions, or values of CNRAs, nor do they relate to the authorization of construction and/or operation of solid waste treatment, storage, or disposal facilities. Thus, the rule does not violate any applicable provisions of the CMP's stated goals and policies, because there are no applicable CMP goals or policies that this rule could violate.

**HEARINGS AND COMMENTERS** The commission did not hold a public hearing on the proposed rule changes. The comment period for the proposed rules closed at 5:00 p.m., May 10, 1999. There were no comments received.

#### Subchapter A. Applicability and General Provisions

##### 30 TAC §39.13

**STATUTORY AUTHORITY** The amendment is adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904337

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-6087



#### Subchapter B. Public Notice of Solid Waste Applications

##### 30 TAC §39.103

**STATUTORY AUTHORITY** The amendment is adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904338

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-6087



#### Chapter 113. Control of Air Pollution from Toxic Materials

##### Subchapter C. National Emission Standards for Hazardous Air Pollutants for Source Categories (FCAA §112, 40 CFR 63)

The Texas Natural Resource Conservation Commission (commission) adopts new §§113.170, 113.240, 113.410, 113.430, 113.460, 113.470, 113.480, 113.490, 113.530, 113.620, 113.640, and 113.660; and amendments to §§113.120, 113.200, 113.220, 113.250, 113.290, 113.340, and 113.380, concerning National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Source Categories. The new sections and amendments are adopted without changes to the proposed text as published in the April 9, 1999 issue of the *Texas Register* (24 TexReg 2851) and will not be republished.

The new sections concern requirements that are contained in 40 Code of Federal Regulations (CFR) Part 63. The United States Environmental Protection Agency (EPA) is developing these national standards to regulate emissions of hazardous air pollutants under the Federal Clean Air Act (FCAA) Amendments, §112. These NESHAP for source categories are technology-based standards commonly referred to as Maximum Achievable Control Technology (MACT) standards.

The amendments incorporate changes that EPA has made to MACT standards by updating the federal promulgation dates cited in the commission rules that were previously adopted by reference. Sections 113.120, 113.220, 113.250, and 113.290 were adopted by the commission on June 25, 1997. Sections

113.200, 113.340, and 113.380 were adopted by the commission on October 15, 1997.

#### EXPLANATION OF ADOPTED RULES

The commission adopts by reference, without changes, 12 of the federal MACT standards. Under federal law, the affected industries will be required to implement these MACT standards regardless of whether the commission or EPA is the agency responsible for implementation of the standards. In addition to adopting these standards into Chapter 113, the commission is actively pursuing delegation of MACT standards from the EPA. Upon delegation, the commission will be responsible for administration and enforcement of the MACT requirements. The agency is adopting these rules as a step toward ensuring that the commission will eventually be the single point of contact for most MACT enforcement, notifications, reports, and other actions.

These 12 federal rules, each of which will be under its own division of the same name, are: Coke Oven Batteries, 40 CFR 63, Subpart L; Pulp and Paper Production, 40 CFR 63, Subpart S; Wood Furniture Manufacturing Operations, 40 CFR 63, Subpart JJ; Primary Aluminum Reduction Plants, 40 CFR 63, Subpart LL; Tanks - Level 1, 40 CFR 63, Subpart OO; Containers, 40 CFR 63, Subpart PP; Surface Impoundments, 40 CFR 63, Subpart QQ; Individual Drain Systems, 40 CFR 63, Subpart RR; Oil-Water Separators and Organic-Water Separators, 40 CFR 63, Subpart VV; Hazardous Waste Combustors, 40 CFR 63, Subpart EEE; Pharmaceuticals Production, 40 CFR 63, Subpart GGG; and Flexible Polyurethane Foam Production, 40 CFR 63, Subpart III.

The Hazardous Waste Combustor MACT provisions, promulgated in 40 CFR 63, Subpart EEE, represent only a portion of the MACT standard that was proposed by EPA. On June 19, 1996, EPA proposed the Hazardous Waste Combustor MACT. On June 19, 1998, EPA finalized portions of the MACT which include requirements for sources to provide a notification of intent to comply with the final rule, progress reports once the final rule is promulgated, and allowances for extensions to the compliance period. EPA finalized these MACT provisions early because under the FCAA, affected sources have three years (with a potential one-year extension) to comply with a MACT standard, whereas modifications to a Resource Conservation and Recovery Act permit may take several years to process. Therefore, EPA promulgated a streamlined approach to allow permit modifications designed to comply with MACT requirements. EPA will finalize the remaining portions of the MACT in the near future. This rulemaking includes adoption by reference of the streamlined approach already adopted by EPA. As with all MACTs, the commission will review the future EPA rulemaking on this subject and will incorporate the new standards as appropriate.

As other MACT standards continue to be promulgated, they will be reviewed for compatibility with current state regulations and policies. The commission will then incorporate them into Chapter 113 through formal rulemaking procedures. The commission will seek formal delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

The commission adopts by reference the latest EPA amendments to seven of the federal MACT standards. The seven standards are: Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations,

and Wastewater, 40 CFR 63, Subpart G, §113.120; Ethylene Oxide Sterilization Facilities, 40 CFR 63, Subpart O, §113.200; Industrial Process Cooling Towers, 40 CFR 63, Subpart Q, §113.220; Halogenated Solvent Cleaning, 40 CFR 63, Subpart T, §113.250; Secondary Lead Smelting, 40 CFR 63, Subpart X, §113.290; Petroleum Refineries, 40 CFR 63, Subpart CC, §113.340; and Aerospace Manufacturing and Rework Facilities, 40 CFR 63, Subpart GG, §113.380.

#### FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Texas Government Code. This rulemaking does not establish any new requirements beyond those already established by federal law. Affected sources are required to comply with these federal standards whether or not the commission adopts them.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for this rulemaking under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to facilitate implementation and enforcement of the MACT standards by the state. This rulemaking will not create any additional burden on private real property. Under federal law, the affected industries will be required to implement these MACT standards regardless of whether the commission or EPA is the agency responsible for implementation of the standards.

#### COASTAL MANAGEMENT PLAN CONSISTENCY REVIEW

The commission has determined that this rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the CMP. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3), relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that this rulemaking action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations in 40 CFR to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). This rulemaking will adopt by reference, without changes, 12 federal MACT standards contained in 40 CFR Part 63 and is, therefore, consistent with this policy.

#### HEARING AND COMMENTERS

A public hearing was held in Austin on May 5, 1999. No oral comments were received at this hearing. Two commenters, the Styrene Information and Research Center and an individual, submitted written comments.

#### ANALYSIS OF TESTIMONY

The Styrene Information and Research Center expressed support for the commission adoption of the MACT standard for



Wood Furniture Manufacturing Operations, 40 CFR 63, Subpart JJ, as amended through December 28, 1998.

The commission appreciates the support.

An individual expressed overall support of the rulemaking.

The commission appreciates the support.

## Division 2. Hazardous Organic NESHAP

### 30 TAC §113.120

#### STATUTORY AUTHORITY

The amendment is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904306

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966



## Division 3. Coke Oven Batteries

### 30 TAC §113.170

#### STATUTORY AUTHORITY

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904307

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966



## Division 6. Ethylene Oxide Sterilization Facilities

### 30 TAC §113.200

#### STATUTORY AUTHORITY

The amendment is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904308

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966



## Division 7. Industrial Process Cooling Towers

### 30 TAC §113.220

#### STATUTORY AUTHORITY

The amendment is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904309

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission  
Effective date: August 8, 1999  
Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

Effective date: August 8, 1999  
Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 9. Pulp and Paper Production**

◆ ◆ ◆  
**Division 13. Secondary Lead Smelting**

**30 TAC §113.240**

**30 TAC §113.290**

**STATUTORY AUTHORITY**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

The amendment is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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.

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 July 19, 1999.

Filed with the Office of the Secretary of State on July 19, 1999.

TRD-9904310

TRD-9904312

Margaret Hoffman

Margaret Hoffman

Director, Environmental Law Division

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966

For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 10. Halogenated Solvent Cleaning**

◆ ◆ ◆  
**Division 15. Petroleum Refineries**

**30 TAC §113.250**

**30 TAC §113.340**

**STATUTORY AUTHORITY**

**STATUTORY AUTHORITY**

The amendment is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

The amendment is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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.

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 July 19, 1999.

Filed with the Office of the Secretary of State on July 19, 1999.

TRD-9904311

TRD-9904313

Margaret Hoffman

Margaret Hoffman

Director, Environmental Law Division

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 18. Aerospace Manufacturing and Re-  
work Facilities**

**30 TAC §113.380**

**STATUTORY AUTHORITY**

The amendment is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904314

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 20. Wood Furniture Manufacturing Op-  
erations**

**30 TAC §113.410**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904315

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission  
Effective date: August 8, 1999  
Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 22. Primary Aluminum Reduction Plants**

**30 TAC §113.430**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904316

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 23. Tanks-Level 1**

**30 TAC §113.460**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904317

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999  
Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 24. Containers**

**30 TAC §113.470**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904318

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 26. Individual Drain Systems**

**30 TAC §113.490**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904320

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 25. Surface Impoundments**

**30 TAC §113.480**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904319

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

◆ ◆ ◆  
**Division 27. Oil-Water Separators and Organic-Water Separators**

**30 TAC §113.530**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904321

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999  
Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 28. Hazardous Waste Combustors**

**30 TAC §113.620**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904322

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 29. Pharmaceuticals Production**

**30 TAC §113.640**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904323

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999  
For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Division 30. Flexible Polyurethane Foam Production**

**30 TAC §113.660**

**STATUTORY AUTHORITY**

The new section is adopted under the Texas Health and Safety Code, the TCAA, §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.051, which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this Chapter 382.

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 July 19, 1999.

TRD-9904324

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 9, 1999

For further information, please call: (512) 239-1966

◆ ◆ ◆  
**Chapter 305. Consolidated Permits**

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §§305.2, 305.69, 305.125, 305.172, 305.174, 305.401 305.572, and 305.573, concerning consolidated permits. The amendments are adopted without changes to the proposed text as published in the April 16, 1999 issue of the *Texas Register* (24 TexReg 3022) and will not be republished.

**EXPLANATION OF ADOPTED RULES** The purposes of the adopted amendments are to revise the state rules to conform to certain federal regulations regarding public participation and permit modification procedures, to correct and reformat cross-references, to revise certain permit modification rules to clarify responsibilities and authority in the area of Class 2 modification requests, and to add public notice requirements for temporary authorizations. The adopted rules are intended, in part, to provide earlier opportunities for public involvement and expand public access to information throughout the permitting process and the operational lives of certain hazardous waste management facilities. The conforming changes are needed to establish equivalency with federal regulations and will enable the State of Texas to retain authorization to operate aspects of the federal hazardous waste program in lieu of the United States Environmental Protection Agency (EPA). The federal regulations to which the public participation rules are being conformed were promulgated by the EPA on December 11, 1995, at 60 FedReg

63417, and are found at 40 Code of Federal Regulations (CFR) Part 270, Subpart C, which relates to permit conditions, and Subpart F, which relates to special forms of permits. The federal regulations to which the permit modification rules are being conformed were promulgated by the EPA on June 19, 1998, at 63 FedReg 33782. These regulations concern hazardous waste combustor facility permits and are found at 40 CFR §270.42, which relates to permit modification at the request of the permittee.

**FINAL REGULATORY IMPACT ANALYSIS** The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule." "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This rule is not adopted with the specific intent of protecting the environment or reducing risks to human health or the environment. The specific intent of the rule is to provide earlier opportunities for public involvement with regard to authorization of certain hazardous waste management activities; expand public access to information throughout the permitting process and the operational lives of certain hazardous waste management facilities; revise the permit modification rules to add a permit modification procedure and to clarify responsibilities and authority in the area of Class 2 modification requests; and correct and reformat cross-references. In addition, the rulemaking is not a major environmental rule because it will not adversely affect in a material way the aforementioned aspects of the state because the rule simply updates the state's hazardous waste regulations by revising the rules to conform to certain federal hazardous waste regulations, adds enhanced public participation and permit modification procedures to Chapter 305, and corrects cross-references in the rules. The rulemaking, in part, is specifically required by federal law because states such as Texas that are authorized to administer and enforce the RCRA program in lieu of EPA under §3006 of RCRA are required to modify their programs by adopting equivalent requirements, as necessary. See 40 CFR §271.21(e). The delegation agreement between the commission and EPA expressly requires the commission to maintain RCRA authorization. Any other portions of the adoption which clarify or modify state rules, such as the clarification of authority and responsibilities of the commission and the executive director and adding public notice requirements for temporary authorizations, though not specifically required by the delegation agreement, do not exceed the delegation agreement. Finally, this rulemaking is not being adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

**TAKINGS IMPACT ASSESSMENT** The commission has prepared a takings impact assessment for these rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that assessment. The specific purposes of the adopted rules are to ensure that Texas' state hazardous waste rules are equivalent to the federal regulations after which they are patterned, thus enabling the state to retain authorization to operate its own hazardous waste program in lieu of the corresponding federal program, to correct and reformat cross-references, to revise certain permit modification rules to clarify

responsibilities and authority in the area of Class 2 modification requests, and add public notice requirements for temporary authorizations. The adopted rules will substantially advance this stated purpose by referencing specific federal regulations or by introducing language intended to ensure that state rules are equivalent to the corresponding federal regulations for hazardous waste facilities; by correcting and reformatting cross-references; by clarifying where the executive director and the commission have authority and responsibilities in the Class 2 modification rules, and by adding public notice requirements for temporary authorizations. Promulgation and enforcement of these rules will not affect private real property which is the subject of the rules because the adopted language consists of changes to cross-references, clarification of authority and responsibilities of the commission and the executive director, public notice requirements for temporary authorizations, and technical corrections and updates to bring certain state hazardous waste regulations into equivalence with more recent federal regulations, which would increase public participation, thus providing the benefits of expanded public access to information throughout the permitting process and the operational lives of certain hazardous waste management facilities. These requirements give applicants a better opportunity to address public concerns in making decisions about the facility and in subsequent trial burn and permitting activities. The subject regulations do not affect a landowner's rights in private real property because this rulemaking does not restrict or limit the owner's right to property that would otherwise exist in the absence of the regulations. That is, a property owner may continue to use the property for the management of hazardous waste. In other words, since these rules merely revise public participation and notice requirements, revise permit modification procedures applicable to the executive director's staff, and correct and reformat cross-references, they do not restrict the owner's right to property. Also, the following exception to the application of Chapter 2007 of the Texas Government Code listed in Texas Government Code, §2007.003(b) applies in part to these rules: this action is reasonably taken to fulfill an obligation mandated by federal law. See Title 40 CFR §271.21(e)(1), which states that as the federal hazardous waste program changes, authorized state programs such as the commission's hazardous waste program must be revised to remain in compliance with 40 CFR Part 271, Subpart A.

**COASTAL MANAGEMENT PROGRAM** The commission has reviewed the rulemaking and found that the adoption is a rulemaking subject to the Texas Coastal Management Program (CMP) and must be consistent with all applicable goals and policies of the CMP. The commission has prepared a consistency determination for the adopted rule pursuant to 31 TAC §505.22 and has found that the rulemaking is consistent with the applicable CMP goals and policies. The following is a summary of that determination. The CMP goals applicable to the rulemaking are to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs). CMP policies focus on construction and operation of solid waste treatment, storage, and disposal facilities, such that new solid waste facilities and areal expansions of existing solid waste facilities shall be sited, designed, constructed, and operated to prevent releases of pollutants that may adversely affect CNRAs and, at a minimum, comply with standards established under the Solid Waste Disposal Act, 42 United States Code Annotated, §6901 et seq.

Promulgation and enforcement of this rule are consistent with the applicable CMP goals and policies because the rule amendments will update and clarify certain permit modification rules, including clarification of authority and responsibilities of the executive director and the commission, and update and enhance the commission's rules concerning public participation in the hazardous waste area by expanding public participation and notice as well as public access to information throughout the trial burn and permitting process for certain hazardous waste management facilities. These rules do not address protection, preservation, restoration, or enhancement of the diversity, quality, quantity, functions, or values of CNRAs, nor do they relate to the siting, design, construction, or operation of solid waste treatment, storage, or disposal facilities. Thus, the adopted rule does not violate any applicable provisions of the CMP's stated goals and policies, because there are no applicable CMP goals or policies that this rule could violate.

HEARINGS AND COMMENTERS The commission did not hold a public hearing on the proposed rule changes. The comment period for the proposed rules closed at 5:00 p.m., May 17, 1999. There were no comments received.

### Subchapter A. General Provisions

#### 30 TAC §305.2

STATUTORY AUTHORITY The amendment is adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904339

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 16, 1999

For further information, please call: (512) 239-6087



### Subchapter D. Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits

#### 30 TAC §305.69

STATUTORY AUTHORITY The amendment is adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial

solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904340

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 16, 1999

For further information, please call: (512) 239-6087



### Subchapter F. Permit Characteristics and Conditions

#### 30 TAC §305.125

STATUTORY AUTHORITY The amendment is adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904341

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 16, 1999

For further information, please call: (512) 239-6087



### Subchapter I. Hazardous Waste Incinerator Permits

#### 30 TAC §305.172, §305.174

STATUTORY AUTHORITY The amendments are adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904342

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 16, 1999

For further information, please call: (512) 239-6087



## Subchapter L. Groundwater Compliance Plan

### 30 TAC §305.401

**STATUTORY AUTHORITY** The amendment is adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904343

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 16, 1999

For further information, please call: (512) 239-6087



## Subchapter Q. Permit for Boilers and Industrial Furnaces Burning Hazardous Waste

### 30 TAC §305.572, §305.573

**STATUTORY AUTHORITY** The amendments are adopted under Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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 July 19, 1999.

TRD-9904344

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: April 16, 1999

For further information, please call: (512) 239-6087



## Chapter 324. Used Oil

### Subchapter A. Used Oil Recycling

The Texas Natural Resource Conservation Commission (commission) adopts amendments to Subchapter A, §§324.1-324.7, 324.11-324.16, 324.21, and 324.22; and the repeals of §§324.8-324.10; concerning Used Oil Recycling. Sections 324.1, 324.4-324.7, 324.11-324.16, 324.21, and 324.22; and the repeals of §§324.8-324.10 are adopted without change to the proposed text as published in the March 12, 1999, issue of the *Texas Register* (24 TexReg 1741) and will not be republished. Section 324.2 and §324.3 are adopted with changes to the proposed text as published.

The commission also readopts Chapter 324, Subchapter A, as required by the General Appropriations Act (Act), Article IX, §167, 75th Legislature, 1997. Section 167 requires state agencies to review and consider for readoption rules adopted under the Administrative Procedure Act. The review must include, at a minimum, an assessment that the reason for the rules continues to exist. The commission has reviewed the rules in Chapter 324, Subchapter A, and determined that the reasons for adopting those rules continue to exist. The rules are necessary to encourage the recycling of used oil; to protect the environment from used oil contamination; to implement Texas Health and Safety Code Chapter 371, Used Oil Collection, Management, and Recycling; and to implement 40 Code of Federal Regulations (CFR), Part 279, Standards for the Management of Used Oil.

#### EXPLANATION OF ADOPTED RULES

The commission has conducted a regulatory reform review of the rule and is adopting amendments and repeals to improve the readability of the rule. Generally, readability is improved by deleting repeats of legal statutes; by providing lists where possible; by providing more logical sequencing; by reducing word, paragraph and sentence lengths; by eliminating unnecessary words; replacing complex or out-of-date words with simpler ones; and by any other changes that make the meaning clearer or reading easier. Readability changes should not cause a rule requirement to become more or less stringent. In most instances, the word "shall" was replaced with the word "must" because the word "shall" is not commonly used in normal conversation and correspondence and is not necessary to make rule requirements legally enforceable.

Section 324.2 has been changed from the proposed version. In the §324.2(6) definition of "re-refining," the language giving examples of re-refining has not been deleted as proposed because a commenter felt that it made the definition clearer. The deletion was only proposed because less words are generally believed to make a rule more readable. Although the commission intends to make the rule more readable, it does not insist on a wording deletion if someone in the regulated community feels that the deletion makes the rule less clear. Also, a definition of "earthen area" has been added at §324.2(11) because this was requested by a commenter and it merely repeats wording already reflected in §324.22(c). Restating this information in the definitions section can do no harm and may help the users of the rule.



Section 324.3 has been changed from the proposed version. In §324.3(1), the word "waste" has been added back into the first line where it had been inadvertently omitted in the proposed version. In §324.3(3), in the fourth sentence, the word "hazardous" has been added back in front of "ignitability characteristic" as requested by a commenter. The deletion of this word was only proposed because less words are generally believed to make a rule more readable. Although the commission intends to make the rule more readable, it does not insist on a wording deletion if someone in the regulated community feels that the deletion makes the rule less clear.

#### SMALL BUSINESS ANALYSIS

The commission has reviewed the adopted rulemaking in light of Texas Government Code, §2006.002, requirements and has determined that there is no adverse economic effect on small businesses because the readability changes are not intended to cause a rule requirement to become more or less stringent and this rulemaking does not amend any underground storage tank rule requirement.

#### FINAL REGULATORY IMPACT ANALYSIS

The rulemaking does not affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state because it merely improves the readability of the used oil recycling rule requirements without making them more or less stringent. Therefore, this rulemaking does not constitute a major environmental rule.

Chapter 324 implements federal law regarding used oil recycling in 40 CFR Part 279, Standards for the Management of Used Oil.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code §2007.043. The following is a summary of that assessment. The specific purpose of the rulemaking is to improve the readability of Chapter 324, Subchapter A, concerning Used Oil Recycling. The rules will substantially advance this specific purpose by amending or repealing all of the rule sections in Chapter 324, Subchapter A. Promulgation and enforcement of these rules will not burden private real property which is the subject of the rules because they improve the readability of used oil recycling rule requirements without making them more or less stringent.

Also, the following exception to the application of Chapter 2007 of the Texas Government Code listed in Texas Government Code §2007.003(b) applies to Chapter 324: the rulemaking is an action reasonably taken to fulfill an obligation mandated by federal law.

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has reviewed the adopted rulemaking and found that the rule is neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, nor will it affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC 505.11. Therefore, the adoption is not subject to the Coastal Management Program. In addition, this rulemaking does not amend any underground storage tank rule requirement or make any Chapter 324, Subchapter A, used oil recycling rule requirement more or less stringent.

#### HEARING AND COMMENTERS

A public hearing was not held for this rulemaking. The comment period closed April 12, 1999. Written comments were submitted by Central and South West Services, Inc.

#### ANALYSIS OF COMMENTS

On §324.2(6), the commenter felt that the deletion of the phrase containing examples of re-refining, i.e., "including settling, filtering, catalytic conversion, fractional/vacuum distillation, hydro treating, or polishing," made the definition less clear.

The commission agrees to retain these examples of re-refining in §324.2(6). The deletion was only proposed because fewer words are generally believed to make a rule more readable. The commission does not, however, support sacrificing clarity for streamlining. The examples proposed for deletion have been retained in §324.2(6).

On §324.2(10), the commenter stated that there is no mention of marketer in the definition of used oil handler.

The commission agrees with the commenter. However, the omission of marketer from the definition of used oil handler is intentional. The commission only uses the term used oil handler to define which entities are subject to the state requirement for financial responsibility. A marketer is someone who either directs a shipment of off-specification used oil to a burner or is the first to claim that his used oil is on-specification. Therefore, a generator could be a marketer, and the state's financial responsibility requirement is not intended to apply to generators. That is why the term marketer is intentionally omitted from the definition of a used oil handler. No rule change was made in response to this comment.

On §324.2, the commenter stated that "earthen area" should be defined as "the active area of the facility is the earthen area at the facility over which any transportation, storage, or processing of used oil occurs."

The commission agrees to define earthen area in §324.2 as recommended by the commenter. This wording is already reflected in §324.22(c), and restating it in the definitions section may help the users of the rule. The earthen area definition has been added as §324.2(11), as recommended by the commenter.

On §324.3(1), the commenter felt that the requirement to use EPA Hazardous Waste Number F002 for used oil that is listed hazardous due to mixing with halogenated contaminants was incorrect.

The commission agrees that EPA Hazardous Waste Number F002 is normally used for spent halogenated solvents and not used oil. However, under the federal used oil rule that Chapter 324 implements, used oil that contains greater than 1,000 ppm total halogens is assumed to be listed hazardous due to mixing with listed hazardous halogenated wastes. An EPA Hazardous Waste Number is required to manifest and transport a hazardous waste and the federal used oil rule, 40 CFR Part 279, does not specify an EPA Hazardous Waste Number for used oil that contains greater than 1,000 ppm total halogens. Used oil is usually made a "listed" hazardous waste by mixing with halogenated solvents. Therefore, because an EPA Hazardous Waste Number is absolutely required to manifest a hazardous waste and the federal used oil rule did not provide one for used oil that contains more than 1,000 ppm total halogens, the commission selected the EPA Hazardous Waste Number F002 for spent halogenated solvents as the best

choice to use in manifesting such used oil. No rule change was made in response to this comment.

On §324.3(2), the commenter stated that the rule statement that used oil can be stored in tanks and containers not meeting 40 CFR Part 264 or 265 might conflict with the federal rule on used oil, 40 CFR Part 279.

The commission does not agree that the rule statement conflicts with the federal rule, 40 CFR Part 279. The federal rule states: "Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under parts 264 or 265 of this chapter." The commission agrees that the federal rule could easily be interpreted to mean that used oil must be stored in tanks and containers regulated under 40 CFR Parts 264 or 265. However, in a subsequent preamble changing the first version of the federal rule (Fed Reg 26422, May 3, 1992) and subsequent training and guidance, the Environmental Protection Agency (EPA) explained that the federal rule should not be interpreted to require that used oil be stored in tanks and containers regulated under 40 CFR Parts 264 or 265. That is why the commission added §324.3(2) to the state used oil rule, i.e., to explain that used oil can be stored in tanks and containers not regulated under 40 CFR Parts 264 or 265. EPA intended only to restrict used oil storage in surface impoundments. No rule change was made in response to this comment.

On §324.3, the commenter requested that the word "hazardous" be retained in the statement: "However, the resultant mixture cannot exhibit the (hazardous) ignitability characteristic."

The commission agrees to retain the word "hazardous" in this rule statement. The deletion was only proposed because fewer words are generally believed to make a rule more readable. The commission does not, however, support sacrificing clarity for streamlining.

On §324.12(3), the commenter stated that the requirement for the processor to include in his analysis plan "procedures for handling a shipment of contaminated used oil" is not in the federal used oil rule and should not be included in the state rule.

The commission agrees with the commenter that this wording is not in the federal rule. However, the commission notes that this wording is derived from the preamble for the original federal rule (Fed Reg 41597, September 10, 1992) which states: "In addition, EPA believes that an analysis plan will also indicate a procedure for handling a shipment of adulterated used oil if received by a used oil processor/re-refiner facility especially when the given facility is not a co-management facility (i.e., permitted to manage hazardous waste)." The commission considers it reasonable to require that the analysis plan indicate a procedure to properly handle adulterated used oil. However, the commission interprets that the analysis plan exemption under §324.12(3)(A)-(B), for a facility which only processes its own used oil and uses process knowledge instead of analysis, applies to a holding company and its sister operating companies if (1) sister operating companies ship used oil to each other for processing; (2) the holding company has incorporated common policies, procedures, and sampling protocols for sister operating companies; and (3) communication takes place between the companies on their process knowledge of the oil involved. The commenter was satisfied with this interpretation and no change was made to the rule in view of this interpretation of the rule.

On §324.22, the commenter was concerned that the financial responsibility requirement exemption statement "does not apply to a used oil handler which is owned or otherwise effectively controlled by the owners or operators where the used oil is generated," might be interpreted not to apply to geographically separate sites under the same ownership, such as substations and sister operating companies under a utility holding company. The commenter felt that the exclusion should not be geographically specific.

In discussions with the commenter, the commission agreed that the exclusion is not geographically specific and applies to used oil generated at all owned facilities of a used oil handler. With this agreement between the commission and the commenter on proper interpretation of the rule, there was no need to change the rule language in response to this comment.

### **30 TAC §§324.1-324.7, 324.11-324.16, 324.21, 324.22**

#### **STATUTORY AUTHORITY**

The amended sections are adopted under the Texas Water Code §5.103, which provides the commission authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state and to adopt rules repealing any statement of general applicability that interprets law or policy; §5.105 which authorizes the commission to establish and approve all general policy of the commission by rule; and §26.011, which requires the commission to control the quality of water by rule. The amended sections are also adopted under Texas Health and Safety Code Chapter 371, relating to Used Oil Collection, Management and Recycling.

#### *§324.2. Definitions.*

Most words are as defined in 40 CFR §279.1. However, the following words have these meanings:

(1) Aboveground tank - A tank used to store or process used oil that is not an underground storage tank as defined in 30 TAC Chapter 334 of this title (relating to Underground and Aboveground Storage Tanks).

(2) Administrator or Regional Administrator - These terms in 40 CFR Part 279 requirements should be replaced with the "State Administrator, the Executive Director of the Texas Natural Resource Conservation Commission or his representative."

(3) Commission - The Texas Natural Resource Conservation Commission or its successor.

(4) Environmental Protection Agency (EPA) - This term in 40 CFR Part 279 requirements should be replaced with "commission."

(5) Recycling -

(A) Preparing used oil for reuse as a petroleum product by rerefining, reclaiming, or other means;

(B) Using used oil as a lubricant or petroleum product instead of using a petroleum product made from new oil; or

(C) Burning used oil for energy recovery.

(6) Re-refining - Applying processes (other than crude oil refining) to material composed primarily of used oil to produce high-quality base stocks for petroleum products, including settling, filtering, catalytic conversion, fractional/vacuum distillation, hydro treating, or polishing.

(7) Secondary containment - Dikes, berms, retaining walls, and/or equivalent made of a material(s) that is sufficiently impervious to used oil. These structures all potential spills of used

oil from the tanks or containers, plus run-on water, until removal of the spill.

(8) Sufficiently impervious to used oil - Capable of containing all potential spills of used oil from containers and tanks until removal of the spill.

(9) Synthetic oils - Oils not derived from crude oil. This includes those from coal, shale, or a polymer-based starting material; and non-polymeric synthetic fluids used as hydraulic or heat transfer fluids. Synthetic oils are generally used for the same purpose as crude oil derived oils and have relatively the same level of contamination after use.

(10) Used oil handler - A transporter or an owner or operator of a used oil transfer, processing, rerefining, or off-specification used oil burning facility.

(11) Earthen area - The active area of the facility is the earthen area at the facility over which any transportation, storage, or processing of used oil occurs.

**§324.3. Applicability.**

Applicability and exemptions from applicability will be as in 40 CFR Part 279, Subpart B, and as clarified here.

(1) A used oil contaminated with a listed hazardous waste must be handled under Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste). EPA Hazardous Waste Number "F002" must be used on used oil that is listed hazardous due to halogenated contaminants.

(2) Used oil can be stored in tanks and containers not meeting 40 CFR Part 264 or 265. The requirement in 40 CFR Part 279 that refers to compliance with Parts 264 or 265, Subpart K, on used oil storage applies to used oil stored in surface impoundments. Storage of used oil in lagoons, pits, or surface impoundments is prohibited, unless the generator is storing only wastewater containing de minimis quantities of used oil, or unless the unit is in compliance with 40 CFR Part 264/265, Subpart K.

(3) Requirements applicable to mixing hazardous waste with used oil are in 40 CFR §279.10 (b) (relating to Mixtures of Used Oil and Hazardous Waste). Mixing of hazardous waste with used oil, by other than generators, in tanks and containers within their applicable accumulation time limit, requires a hazardous waste permit per 30 TAC §335.2 of this title (relating to Permit Required). A waste that is characteristically hazardous for "ignitability only" can be mixed with used oil. However, the resultant mixture cannot exhibit the hazardous ignitability characteristic to manage it under this chapter and 40 CFR Part 279 rather than Chapter 335 of this title. The resultant mixture formed from mixing used oil and a characteristically hazardous waste, other than solely ignitable waste, must be tested for all likely hazardous characteristics. The resultant mixture will be a hazardous waste rather than used oil if it retains a hazardous characteristic, even if the hazardous characteristic is derived from the used oil. Anyone who mixes used oil with another solid waste to

produce from used oil, or to make used oil more amenable for production of fuel oils or products is also a processor subject to 40 CFR Part 279, Subpart F (relating to Standards for Used Oil Processors and Re-refiners) and §324.12 of this chapter (relating to Processors and Rerefiners).

(4) A used oil shall not be regulated until it is a spent material as defined in 40 CFR §261.1(c)(1) and 30 TAC §335.17 of this title (relating to Special Definitions for Recyclable Materials and Nonhazardous Recyclable Materials).

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 July 19, 1999.

TRD-9904346

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: March 12, 1999

For further information, please call: (512) 239-6087



**30 TAC §§324.8-324.10**

**STATUTORY AUTHORITY**

The repeals are adopted under the Texas Water Code §5.103, which provides the commission authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state and to adopt rules repealing any statement of general applicability that interprets law or policy; §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; and §26.011, which requires the commission to control the quality of water by rule. The repeals are also adopted under Texas Health and Safety Code, Chapter 371, relating to Used Oil Collection, Management and Recycling.

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 July 19, 1999.

TRD-9904345

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Effective date: August 8, 1999

Proposal publication date: July 19, 1999

For further information, please call: (512) 239-6087



# 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 Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board 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 78714-9104.)

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

### Proposed Action on Rules

The Commissioner of Insurance at a public hearing under Docket Number 2414 scheduled for September 2, 1999 at 9:00 a.m., in room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a petition by Texas Insurance Organization (TIO). TIO's petition seeks adoption of endorsements, rules, and rates to the Homeowners and Dwelling Sections of the Texas Personal Lines Manual (Manual) relating to homeowners and dwelling policies. TIO's petition (Reference Number P-0399-02), was filed on March 2, 1999, and supplemented by a petition filed on May 28, 1999, amending Exhibits B and G.

TIO proposes adoption of endorsements, rules, and rates for residential property policies to provide coverage for the increased cost of construction when an ordinance or law imposes specific requirements on the repair or replacement of insured damaged property.

Staff proposes the following numbers for TIO's proposed endorsements: Endorsement Number TDP-026, Building Laws Increased Costs of Construction (Forms TDP-1 and TDP-2 only); Endorsement Number TDP-027, Building Laws Increased Cost of Construction (Form TDP-3 only); and Endorsement Number HO-135, Building Laws Increased Cost of Construction (Forms HO-A, HO-B and HO-C only).

A copy of the petition, including exhibits of rates, full text of the proposed endorsements, and amendments to the Manual are available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number P-0399-02).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the *Texas Register*, to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas, 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Automobile and Homeowners Division, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas, 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from requirement of the Government Code, Chapter 2001 (Administrative Procedure Act).

TRD-9904271

Lynda H. Nesenholtz  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: July 15, 1999

◆ ◆ ◆

# == REVIEW OF AGENCY RULES ==

This Section contains notices of state agency rules review as directed by the 75th Legislature, Regular Session, House Bill 1 (General Appropriations Act) Art. IX, Section 167. 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.

---

## Amended Agency Rule Review Plan

State Preservation Board

### Title 13, Part VII

Filed: July 16, 1999



## Proposed Rule Reviews

Texas Incentive and Productivity Commission

### Title 1, Part XIII

The Texas Incentive and Productivity Commission proposes to review Chapter 273 and Chapter 275 concerning employee incentive program administration and the Productivity Bonus Program, pursuant to the Appropriations Act of 1997, House Bill 1, Article IX, §167.

As part of this review process, the commission is proposing amendments to §273.1 and §273.9 and repeal of Chapter 275. The proposed amendments and repeal may be found in the Proposed Rules section of this issue of the *Texas Register*.

During this review the commission will determine if the reasons for adopting these rules continue to exist.

Please submit written comments to Ed Bloom, Executive Director, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas, 78711; or via email at ed.bloom@license.state.tx.us. Comments must be received no later than 30 days after the date this notice is published in the *Texas Register*.

TRD-9904325

Ed Bloom

Executive Director

Texas Incentive and Productivity Commission

Filed: July 19, 1999



Texas State Board of Podiatric Medical Examiners

### Title 22, Part XVIII

In accordance with 1997 General Appropriations Act, Article IX, Section 167, Review of Agency Rules, the Texas State Board of

Podiatric Medical Examiners will review the following rules for re-adoption, repeal or amendment beginning immediately. The rules to be reviewed are located at 22 Texas Administrative Code §371. Examination, §373. Identification of Practice, §375. Rules Governing Conduct, §376. Violations and Penalties and §377. Procedure Governing Grievances, Hearings, and Appeals.

An assessment will be made by the agency whether reasons for adopting or readopting these rules continue to exist. This assessment will be continued during the rule review process. 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 agency. The Board will consider comments received in response to this notice at its next meeting following the publication of this notice. Changes to the rules proposed by the Board after considering comments received in response to this notice will appear in the "Rules Proposed" section of the *Texas Register* and will be adopted in accordance with the requirements of the Administrative Procedure Act, Texas Government Code Annotated §2001.

Comments of the review may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Janie Alonzo, Staff Services Officer I, Texas State Board of Podiatric Medical Examiners, 333 Guadalupe, Suite 2-320, Austin, Texas 78701 or e-mail to janie.alonzo@foot.state.tx.us.

TRD-9904377

Janie Alonzo

Staff Services Officer I

Texas State Board of Podiatric Medical Examiners

Filed: July 20, 1999



State Preservation Board

### Title 13, Part VII

The State Preservation Board (board) will review and consider for re-adoption, revision or repeal sections of Title 13, Texas Administrative Code, Part VII, Chapter 111. This review and consideration is being conducted in accordance with the General Appropriations Act, House Bill 1, Article IX, §167, 75th Legislature.

The review will include, at a minimum, whether the reasons for adopting or readopting the rules continue to exist.

Any proposed changes to these rules as a result of the rule review will be published in the Proposed Rules Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the board, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

Any questions or written comments pertaining to this rule review may be submitted to Richard L. Crawford, Executive Director, P.O. Box 13268, Austin, Texas, 78711, or by e-mail at [spbadmin@tspb.state.tx.us](mailto:spbadmin@tspb.state.tx.us). The comment period will last for 30 days beginning with the publication of this notice in the *Texas Register*.

TRD-9904298  
Richard L. Crawford  
Executive Director  
State Preservation Board  
Filed: July 19, 1999



## Adopted Rule Reviews

Texas Board of Chiropractic Examiners

### Title 22 Part III

The Texas Board of Chiropractic Examiners has completed the review of Chapter 73 relating to licenses and renewals as noticed in the September 11, 1998, issue of the *Texas Register* (23 TexReg 9440). The board readopts §§73.3, 73.4, 73.5, 73.7 without changes and §73.1 and §73.2 with proposed changes, pursuant to the requirements of the Appropriations Act of 1997, House Bill 1, Article IX, §167, and finds that the reasons for adopting these sections continue to exist.

No comments were received on the §167 review requirement for Chapter 73 as to whether the reason for adopting the rules continues to exist. As part of this review process, the board has proposed amendments to §73.1 and §73.2, as published elsewhere in this issue of the *Texas Register*

This concludes the review of Chapter 73.

TRD-9904336  
Gary K. Cain, Ed.D.  
Executive Director  
Texas Board of Chiropractic Examiners  
Filed: July 19, 1999



Texas Natural Resource Conservation Commission

### Title 30, Part I

The Texas Natural Resource Conservation Commission (commission) adopts the review of 30 TAC Chapter 324, Subchapter A, Used Oil Recycling. This review is in accordance with the General Appropriations Act, Article IX, §167, 75th Legislature, 1997. The proposed review was published in the March 12, 1999, issue of the *Texas Register* (24 TexReg 1843).

The commission readopts the rules contained in 30 TAC Chapter 324, Subchapter A, concerning the collection and recycling of used oil, as required by the General Appropriations Act, Article IX, §167. Section 167 requires state agencies to review and consider for readoption rules adopted under the Administrative Procedure Act. The reviews must include, at a minimum, an assessment that the reason for the rules continues to exist. The commission has reviewed the rules in Chapter 324 and determined that the reasons for adopting those rules

continue to exist. The rules are necessary to encourage the recycling of used oil; to protect the environment from used oil contamination; to implement Texas Health and Safety Code Chapter 371, Used Oil Collection, Management, and Recycling; and to implement 40 Code of Federal Regulations (CFR), Part 279, Standards for the Management of Used Oil.

The commission concurrently adopts amendments and repeals to Chapter 324, Subchapter A in the Adopted Rules section of this issue of the *Texas Register*. These changes are adopted as a result of the commission's review of the rules and address the commission's regulatory reform goal to improve readability of the rule.

A public hearing was not held for this rulemaking. The comment period closed April 12, 1999. Written comments were submitted by Central and South West Services, Inc.

On §324.2(6), the commenter felt that the deletion of the phrase containing examples of re-refining, i.e., "including settling, filtering, catalytic conversion, fractional/vacuum distillation, hydro treating, or polishing," made the definition less clear.

The commission agrees to retain these examples of re-refining in §324.2(6). The deletion was only proposed because fewer words are generally believed to make a rule more readable. The commission does not, however, support sacrificing clarity for streamlining. The examples proposed for deletion have been retained in §324.2(6).

On §324.2(10), the commenter stated that there is no mention of marketer in the definition of used oil handler.

The commission agrees with the commenter. However, the omission of marketer from the definition of used oil handler is intentional. The commission only uses the term used oil handler to define which entities are subject to the state requirement for financial responsibility. A marketer is someone who either directs a shipment of off-specification used oil to a burner or is the first to claim that his used oil is on-specification. Therefore, a generator could be a marketer, and the state's financial responsibility requirement is not intended to apply to generators. That is why the term marketer is intentionally omitted from the definition of a used oil handler. No rule change was made in response to this comment.

On §324.2, the commenter stated that "earthen area" should be defined as "the active area of the facility is the earthen area at the facility over which any transportation, storage, or processing of used oil occurs."

The commission agrees to define earthen area in §324.2 as recommended by the commenter. This wording is already reflected in §324.22(c), and restating it in the definitions section may help the users of the rule. The earthen area definition has been added as §324.2(11), as recommended by the commenter.

On §324.3(1), the commenter felt that the requirement to use EPA Hazardous Waste Number F002 for used oil that is listed hazardous due to halogenated contaminants was incorrect.

The commission agrees that EPA Hazardous Waste Number F002 is normally used for spent halogenated solvents and not used oil. However, under the federal used oil rule that Chapter 324 implements, used oil that contains greater than 1,000 ppm total halogens is assumed to be listed hazardous due to mixing with listed hazardous halogenated wastes. An EPA Hazardous Waste Number is required to manifest and transport a hazardous waste and the federal used oil rule, 40 CFR Part 279, does not specify an EPA Hazardous Waste Number for used oil that contains greater than 1,000 ppm total halogens. Used oil is usually made a "listed" hazardous waste by mixing with halogenated solvents. Therefore, because an EPA Hazardous Waste Number is absolutely required to manifest a hazardous waste and the



federal used oil rule did not provide one for used oil that contains more than 1,000 ppm total halogens, the commission selected the EPA Hazardous Waste Number F002 for spent halogenated solvents as the best choice to use in manifesting such used oil. No rule change was made in response to this comment.

On §324.3(2), the commenter stated that the rule statement that used oil can be stored in tanks and containers not meeting 40 CFR Part 264 or 265 might conflict with the federal rule on used oil, 40 CFR Part 279.

The commission does not agree that the rule statement conflicts with the federal rule, 40 CFR Part 279. The federal rule states: "Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under parts 264 or 265 of this chapter." The commission agrees that the federal rule could easily be interpreted to mean that used oil must be stored in tanks and containers regulated under 40 CFR Parts 264 or 265. However, in a subsequent preamble changing the first version of the federal rule (Fed Reg 26422, May 3, 1992) and subsequent training and guidance, the Environmental Protection Agency (EPA) explained that the federal rule should not be interpreted to require that used oil be stored in tanks and containers regulated under 40 CFR Parts 264 or 265. That is why the commission added §324.3(2) to the state used oil rule, i.e., to explain that used oil can be stored in tanks and containers not regulated under 40 CFR Parts 264 or 265. EPA intended only to restrict used oil storage in surface impoundments. No rule change was made in response to this comment.

On §324.3, the commenter requested that the word "hazardous" be retained in the statement: "However, the resultant mixture cannot exhibit the (hazardous) ignitability characteristic." The commission agrees to retain the word "hazardous" in this rule statement. The deletion was only proposed because fewer words are generally believed to make a rule more readable. The commission does not, however, support sacrificing clarity for streamlining.

On §324.12(3), the commenter pointed out that the requirement for the processor to include in his analysis plan "procedures for handling a shipment of contaminated used oil" is not in the federal used oil rule and should not be included in the state rule.

The commission agrees with the commenter that this wording is not in the federal rule. However, the commission notes that this wording is derived from the preamble for the original federal rule (Fed Reg 41597, September 10, 1992) which states: "In addition, EPA believes that an analysis plan will also indicate a procedure for handling a shipment of adulterated used oil if received by a used oil processor/re-refiner facility especially when the given facility is not a co-management facility (i.e., permitted to manage hazardous waste)." The commission considers it reasonable to require that the analysis plan indicate a procedure to properly handle adulterated used oil. However, the commission interprets that the analysis plan exemption under §324.12(3)(A)-(B), for a facility which only processes its own used oil and uses process knowledge instead of analysis, applies to a holding company and its sister operating companies if (1) sister operating companies ship used oil to each other for processing; (2)

the holding company has incorporated common policies, procedures, and sampling protocols for sister operating companies; and (3) communication takes place between the companies on their process knowledge of the oil involved. The commenter was satisfied with this interpretation and no change was made to the rule in view of this interpretation of the rule.

On §324.22, the commenter was concerned that the financial responsibility requirement statement "does not apply to a used oil handler which is owned or otherwise effectively controlled by the owners or operators where the used oil is generated," might be interpreted not to apply to geographically separate sites under the same ownership, such as substations and sister operating companies under a utility holding company. The commenter felt that the exclusion should not be geographically specific.

In discussions with the commenter, the commission agreed that the exclusion is not geographically specific and applies to used oil generated at all owned facilities of a used oil handler. With this agreement between the commission and the commenter on proper interpretation of the rule, there was no need to change the rule language in response to this comment.

TRD-9904347  
Margaret Hoffman  
Director, Environmental Law Division  
Texas Natural Resource Conservation Commission  
Filed: July 19, 1999



## Texas Water Development Board

### Title 31, Part X

Pursuant to the notice of proposed rule review published in the *Texas Register*, 24 TexReg 4256, June 4, 1999, the Texas Water Development Board (board) has reviewed and considered for re-adoption, revision or repeal 31 TAC Chapter 359, Water Banking, in accordance with the Appropriations Act, Section 167.

The board considered, among other things, whether the reasons for adoption of these rules continues to exist. No comments were received on the proposed rule review.

As a result of the board's review, the board determined that the rules are still necessary because they establish and administer the Texas Water Bank in accordance with Texas Water Code, Chapter 15, Subchapter K, and readopts the sections. The board will propose amendments to this chapter at a future date to reflect changes resulting from the recent Legislative session.

TRD-9904263  
Suzanne Schwartz  
General Counsel  
Texas Water Development Board  
Filed: July 14, 1999



# TABLES & GRAPHICS

---

---

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is 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. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

---

SELECT MORTALITY FACTORS

Issue	Male, Aggregate																				
	Duration										Duration										
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+	
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	96	98	98	99	99	100	100	90	92	92	92	92	93	93	96	97	98	98	99	99	100
19	83	84	84	87	87	87	79	79	79	81	81	82	82	82	85	88	91	94	97	97	100
20	69	71	71	74	74	69	69	67	69	70	71	71	71	71	74	79	84	90	95	95	100
21	66	68	69	71	66	66	67	66	67	70	70	70	70	71	71	77	83	88	94	94	100
22	65	66	66	63	63	64	64	64	65	68	68	68	68	69	71	77	83	88	94	94	100
23	62	63	59	60	62	62	63	63	64	65	65	67	67	69	70	76	82	88	94	100	100
24	60	56	56	59	59	60	61	61	61	64	64	64	66	67	70	76	82	88	94	100	100
25	52	53	55	56	58	58	60	60	60	63	62	63	64	67	69	75	81	88	94	100	100
26	51	52	55	56	58	58	57	61	61	62	63	64	66	69	66	73	80	86	93	100	100
27	51	52	55	57	58	60	61	61	60	63	63	64	67	66	67	74	80	87	93	100	100
28	49	51	56	58	60	60	61	62	62	63	64	66	65	66	68	74	81	87	94	100	100
29	49	51	56	58	60	61	62	62	62	64	64	62	66	67	70	76	82	88	94	100	100
30	49	50	56	58	60	60	62	63	63	64	62	63	67	68	71	77	83	88	94	100	100
31	47	50	56	58	60	62	63	64	64	62	63	66	68	70	72	78	83	89	94	100	100
32	46	49	56	59	60	62	63	66	62	63	66	67	70	72	73	78	84	89	95	100	100
33	43	49	56	59	62	63	64	62	65	66	67	70	72	73	75	80	85	90	95	100	100
34	42	47	56	60	62	63	61	63	66	67	70	71	73	75	76	81	86	90	95	100	100
35	40	47	56	60	63	61	62	65	67	68	71	73	74	76	76	81	86	90	95	100	100
36	38	42	56	60	59	61	63	65	67	68	70	72	74	76	77	82	86	91	95	100	100
37	38	45	56	57	61	62	63	65	67	68	70	72	74	76	76	81	86	90	95	100	100
38	37	44	53	58	61	62	65	66	67	69	69	73	75	76	77	82	86	91	95	100	100
39	37	41	53	58	62	63	65	65	66	68	69	72	74	76	76	81	86	90	95	100	100
40	34	40	53	58	62	63	65	65	66	68	68	71	75	76	77	82	86	91	95	100	100

41	34	41	53	58	62	63	65	64	64	66	68	70	74	76	77	82	86	91	95	100
42	34	43	53	58	61	62	63	63	64	64	66	69	72	75	77	82	86	91	95	100
43	34	43	54	59	60	61	63	62	62	64	66	67	72	74	77	82	86	91	95	100
44	34	44	54	58	59	60	61	60	61	62	64	67	71	74	77	82	86	91	95	100
45	34	45	53	58	59	60	60	60	59	60	63	66	71	74	77	82	86	91	95	100
46	31	43	52	56	57	58	59	59	59	60	63	67	71	74	75	80	85	90	95	100
47	32	42	50	53	55	56	57	58	59	60	65	68	71	74	75	80	85	90	95	100
48	32	41	47	52	54	56	57	57	57	61	65	68	72	73	74	79	84	90	95	100
49	30	40	46	49	52	54	55	56	57	61	66	69	72	73	74	79	84	90	95	100
50	30	38	44	47	51	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100
51	28	37	42	46	49	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100
52	28	35	41	45	49	51	54	56	57	61	66	71	72	74	75	80	85	90	100	100
53	27	35	39	44	48	51	53	55	57	61	67	71	74	75	76	81	86	100	100	100
54	27	33	38	44	48	50	53	55	57	61	67	72	74	75	76	81	100	100	100	100
55	25	32	37	43	47	50	53	55	57	61	68	72	74	75	78	100	100	100	100	100
56	25	32	37	43	47	49	51	54	56	61	67	70	73	74	100	100	100	100	100	100
57	24	31	38	43	47	49	51	54	56	59	66	69	72	100	100	100	100	100	100	100
58	24	31	38	43	48	48	50	53	56	59	64	67	100	100	100	100	100	100	100	100
59	23	30	39	43	48	48	51	53	55	58	63	100	100	100	100	100	100	100	100	100
60	23	30	39	43	48	47	50	52	53	57	100	100	100	100	100	100	100	100	100	100
61	23	30	39	43	49	49	50	52	53	75	100	100	100	100	100	100	100	100	100	100
62	23	30	39	44	49	49	51	52	75	75	100	100	100	100	100	100	100	100	100	100
63	22	30	39	45	50	50	52	75	75	75	100	100	100	100	100	100	100	100	100	100
64	22	30	39	45	50	51	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	22	30	39	45	50	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	22	30	39	45	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	22	30	39	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	23	32	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	23	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Figure: 28 TAC §3.4502

Issue	Male, Aggregate																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Issue	Male, Non-Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	93	95	96	98	99	100	100	90	92	92	92	92	95	95	96	97	98	98	99	100
19	80	81	83	86	87	87	79	79	79	81	81	82	83	83	86	89	92	94	97	100
20	65	68	69	72	74	69	69	67	69	70	71	71	72	72	75	80	85	90	95	100
21	63	66	68	71	66	66	67	66	67	70	70	70	71	71	73	78	84	89	95	100
22	62	65	66	62	63	64	64	64	67	68	68	68	70	70	73	78	84	89	95	100
23	60	62	58	60	62	62	63	63	64	67	68	68	67	69	71	77	83	88	94	100
24	59	55	56	58	59	60	61	61	63	65	67	66	66	69	71	77	83	88	94	100
25	52	53	55	56	58	58	60	60	61	64	64	64	64	67	70	76	82	88	94	100
26	51	53	55	56	58	60	61	61	61	63	64	64	66	69	67	74	80	87	93	100
27	51	52	55	58	60	60	61	61	62	63	64	66	67	66	67	74	80	87	93	100
28	49	52	57	58	60	61	63	62	62	64	66	66	63	66	68	74	81	87	94	100
29	49	51	57	60	61	61	62	62	63	64	66	63	65	67	68	74	81	87	94	100
30	49	51	57	60	61	62	63	63	63	64	62	63	66	68	70	76	82	88	94	100
31	47	50	57	60	60	62	63	64	64	62	63	65	67	70	71	77	83	88	94	100
32	46	50	57	60	62	63	64	64	62	63	65	66	68	71	72	78	83	89	94	100
33	45	49	56	60	62	63	64	62	63	65	66	68	71	73	74	79	84	90	95	100
34	43	48	56	62	63	64	62	62	65	66	67	70	72	74	74	79	84	90	95	100
35	41	47	56	62	63	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
36	40	47	56	62	59	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
37	38	45	56	58	59	61	62	63	66	67	67	69	71	73	74	79	84	90	95	100
38	38	45	53	58	61	62	63	65	65	67	68	70	72	74	73	78	84	89	95	100
39	37	41	53	58	61	62	63	64	65	67	68	70	71	73	73	78	84	89	95	100
40	34	41	53	58	61	62	63	64	64	66	67	69	71	73	72	78	83	89	94	100

Figure: 28 TAC §3.4502

Issue Age	Male, Non-Smoker																			
	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	34	41	53	58	61	61	62	62	63	65	65	67	69	71	71	77	83	88	94	100
42	34	43	53	58	60	61	62	61	61	63	64	66	67	69	71	77	83	88	94	100
43	32	43	53	58	60	61	60	60	60	60	62	64	66	68	69	75	81	88	94	100
44	32	44	52	57	59	60	60	59	59	58	60	62	65	67	69	75	81	88	94	100
45	32	44	52	57	59	60	59	57	57	57	59	61	63	66	68	74	81	87	94	100
46	32	42	50	54	56	57	57	56	55	56	59	61	63	65	67	74	80	87	93	100
47	30	40	48	52	54	55	55	54	54	55	59	61	62	63	66	73	80	86	93	100
48	30	40	46	49	51	52	53	53	54	55	57	61	62	63	63	70	78	85	93	100
49	29	39	43	48	50	51	50	51	53	54	57	61	61	62	62	70	77	85	92	100
50	29	37	42	45	47	48	49	50	51	54	57	61	61	61	61	69	77	84	92	100
51	27	35	40	43	45	47	48	50	51	53	57	60	61	61	62	70	77	85	92	100
52	27	34	39	42	44	45	48	49	50	53	56	60	60	62	62	70	77	85	100	100
53	25	31	37	41	44	45	47	49	50	51	56	59	61	61	62	70	77	100	100	100
54	25	30	36	39	43	44	47	48	49	51	55	59	59	61	62	70	100	100	100	100
55	24	29	35	38	42	43	45	48	49	50	56	58	59	61	62	100	100	100	100	100
56	23	29	35	38	42	42	44	47	48	50	55	57	58	59	100	100	100	100	100	100
57	23	28	35	38	42	42	43	45	47	49	53	55	56	100	100	100	100	100	100	100
58	22	28	33	37	41	41	43	45	45	47	51	53	100	100	100	100	100	100	100	100
59	22	26	33	37	41	41	42	44	44	46	50	100	100	100	100	100	100	100	100	100
60	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
61	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
62	19	25	32	38	40	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
63	19	25	33	36	40	40	41	41	41	45	100	100	100	100	100	100	100	100	100	100
64	18	24	32	36	39	40	41	42	44	46	100	100	100	100	100	100	100	100	100	100
65	18	24	32	36	39	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
66	18	24	32	36	40	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
67	18	24	32	36	40	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
68	18	24	32	36	40	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
69	18	24	32	36	40	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Figure: 28 TAC §3.4502

Issue	Male, Non-Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100



Issue	Male, Smoker																			
	Duration										Duration									
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
19	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
20	98	100	100	100	100	100	100	99	99	99	100	99	99	99	100	100	100	100	100	100
21	95	98	99	100	95	96	96	95	96	97	97	96	96	96	96	97	98	98	99	100
22	92	95	96	90	90	93	93	92	93	95	95	93	92	93	93	94	96	97	99	100
23	90	92	85	88	88	89	89	89	90	90	90	89	90	92	92	94	95	97	98	100
24	87	81	82	85	84	86	88	86	86	88	88	86	86	88	89	91	93	96	98	100
25	77	78	79	82	81	83	83	82	83	85	84	84	84	85	86	89	92	94	97	100
26	75	77	79	82	82	83	83	82	83	84	84	84	85	81	85	85	89	92	96	100
27	73	75	78	82	82	83	83	82	82	82	82	84	84	81	85	85	89	92	96	100
28	71	73	79	82	81	82	83	81	81	82	82	82	80	81	85	85	89	92	96	100
29	69	72	78	81	81	82	82	81	81	81	81	80	80	81	85	85	89	92	96	100
30	68	71	78	81	81	81	82	81	81	81	76	77	80	80	81	85	89	92	96	100
31	65	70	77	81	79	81	82	81	81	76	77	79	81	83	86	86	90	93	97	100
32	63	67	77	78	79	81	81	81	76	77	77	80	83	85	88	88	91	94	97	100
33	60	65	74	78	79	79	81	76	77	77	79	80	83	85	88	88	91	94	97	100
34	57	62	74	77	79	79	75	76	77	79	79	81	83	85	87	90	92	95	97	100
35	53	60	73	77	79	75	75	76	77	79	80	82	84	86	88	90	93	95	98	100
36	52	59	71	75	74	75	75	76	77	79	79	81	83	85	87	90	92	95	97	100
37	49	58	70	71	74	74	75	76	77	78	79	81	84	86	86	89	92	94	97	100
38	48	55	66	70	72	74	74	75	76	78	79	81	83	85	87	90	92	95	97	100
39	45	50	65	70	72	72	74	74	75	77	79	81	84	86	86	89	92	94	97	100
40	41	49	63	68	71	72	73	74	74	76	78	80	83	85	86	89	92	94	97	100

Figure: 28 TAC §3.4502

Issue	Male, Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	40	49	63	68	71	72	72	72	73	75	76	78	81	84	85	88	91	94	97	100
42	40	49	62	68	70	71	71	71	71	73	75	76	81	83	85	88	91	94	97	100
43	39	50	62	67	69	69	70	70	70	71	73	76	79	83	85	88	91	94	97	100
44	39	50	60	66	68	69	68	69	69	69	71	74	79	81	85	88	91	94	97	100
45	37	50	60	66	68	68	68	67	67	67	69	73	78	81	85	88	91	94	97	100
46	37	48	58	63	65	67	66	66	66	67	71	74	78	81	84	87	90	94	97	100
47	36	47	55	61	63	64	64	64	65	67	71	75	79	81	84	87	90	94	97	100
48	35	46	53	58	60	62	63	63	65	67	72	75	79	81	83	86	90	93	97	100
49	34	45	51	56	58	59	61	62	63	67	72	77	80	81	83	86	90	93	97	100
50	34	43	49	53	55	57	60	61	63	67	73	78	80	81	81	85	89	92	96	100
51	32	42	47	52	55	57	60	61	63	67	73	78	80	83	84	87	90	94	97	100
52	32	40	46	50	54	56	60	61	63	67	73	78	81	84	85	88	91	94	100	100
53	30	37	44	49	54	56	59	61	65	67	74	79	83	85	87	90	92	100	100	100
54	30	36	43	48	53	55	59	61	65	67	74	80	84	85	89	91	100	100	100	100
55	29	35	42	47	53	55	59	61	65	67	75	80	84	86	90	100	100	100	100	100
56	28	35	42	47	53	55	57	60	63	68	74	79	83	85	100	100	100	100	100	100
57	28	35	42	47	53	54	57	60	64	67	74	78	81	100	100	100	100	100	100	100
58	26	33	43	48	54	54	56	59	63	67	73	78	100	100	100	100	100	100	100	100
59	26	33	43	48	54	53	57	59	63	66	73	100	100	100	100	100	100	100	100	100
60	25	33	43	48	54	53	56	58	62	66	100	100	100	100	100	100	100	100	100	100
61	25	33	43	49	55	55	57	59	63	75	100	100	100	100	100	100	100	100	100	100
62	25	33	43	50	56	56	58	61	75	75	100	100	100	100	100	100	100	100	100	100
63	24	33	45	51	56	56	59	75	75	75	100	100	100	100	100	100	100	100	100	100
64	24	34	45	51	57	57	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	24	34	45	52	57	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	24	35	45	53	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	25	35	45	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	25	36	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	27	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Male, Smoker

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Issue Age	Female, Aggregate																			
	Duration										Duration									
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	99	100	100	100	100	100	100	100	93	95	96	97	97	100	100	100	100	100	100	100
18	83	83	84	84	84	84	86	78	78	79	82	84	85	88	88	90	93	95	98	100
19	65	66	68	68	68	68	63	63	64	66	69	71	72	74	75	80	85	90	95	100
20	48	50	51	51	51	47	48	48	49	51	56	57	58	61	63	70	78	85	93	100
21	47	48	50	51	47	47	48	49	51	53	57	60	61	64	64	71	78	86	93	100
22	44	47	48	45	47	47	48	49	53	54	60	61	63	64	66	73	80	86	93	100
23	42	45	44	45	47	47	49	51	53	54	61	64	64	67	69	75	81	88	94	100
24	39	40	42	44	47	47	50	51	54	56	64	64	66	69	70	76	82	88	94	100
25	34	38	41	44	47	47	50	53	56	57	64	67	69	71	73	78	84	89	95	100
26	34	38	41	45	49	49	51	56	58	59	66	69	70	73	70	76	82	88	94	100
27	34	38	41	47	50	51	54	57	59	60	69	70	73	70	71	77	83	88	94	100
28	34	37	43	47	53	53	56	59	62	63	70	73	70	72	74	79	84	90	95	100
29	34	38	43	49	54	56	58	60	63	64	73	70	72	74	75	80	85	90	95	100
30	35	38	43	50	56	56	59	63	66	67	70	71	74	75	76	81	86	90	95	100
31	35	38	43	51	56	58	60	64	67	65	71	72	74	75	76	81	86	90	95	100
32	35	39	45	51	56	59	63	66	65	66	72	72	75	76	76	81	86	90	95	100
33	36	39	44	52	58	62	64	65	66	67	72	74	75	76	76	81	86	90	95	100
34	36	40	45	52	58	63	63	66	67	68	74	74	76	76	76	81	86	90	95	100
35	36	40	45	53	59	61	65	67	68	70	75	74	75	76	75	80	85	90	95	100
36	36	40	45	53	55	62	65	67	68	70	74	74	74	75	75	80	85	90	95	100
37	36	41	47	52	57	62	65	67	68	69	72	72	73	75	74	79	84	90	95	100
38	34	41	44	52	57	63	66	68	69	70	72	71	72	74	75	80	85	90	95	100
39	34	40	45	53	58	63	66	68	69	69	70	70	70	73	74	79	84	90	95	100
40	32	40	45	53	58	65	65	67	68	69	70	69	70	73	73	78	84	89	95	100

Figure: 28 TAC §3.4502

Issue Age	Female, Aggregate																			
	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	32	40	45	53	57	63	64	67	68	68	69	69	69	73	74	79	84	90	95	100
42	32	40	45	52	56	61	63	65	66	68	69	68	70	74	75	80	85	90	95	100
43	31	39	45	51	55	59	61	65	65	66	68	69	69	74	77	82	86	91	95	100
44	31	39	45	50	54	58	61	63	64	66	67	68	71	75	78	82	87	91	96	100
45	31	38	44	49	53	56	59	62	63	65	67	68	71	77	79	83	87	92	96	100
46	29	37	43	48	51	54	59	62	63	65	67	69	71	77	78	82	87	91	96	100
47	28	35	41	46	49	54	57	61	62	66	68	69	71	77	77	82	86	91	95	100
48	28	35	41	44	49	52	57	61	63	66	68	71	72	75	77	82	86	91	95	100
49	26	34	39	43	47	52	55	61	63	67	69	71	72	75	75	80	85	90	95	100
50	25	32	38	41	46	50	55	61	63	67	69	72	72	75	74	79	84	90	95	100
51	25	32	38	41	45	50	55	61	63	66	68	69	71	74	74	79	84	90	95	100
52	23	30	36	41	45	51	56	61	62	65	66	68	68	73	73	78	84	89	100	100
53	23	30	36	41	47	51	56	61	62	63	65	66	68	72	72	78	83	100	100	100
54	22	29	35	41	47	53	57	61	61	62	62	66	66	69	70	76	100	100	100	100
55	22	29	35	41	47	53	57	61	61	61	62	63	64	68	69	100	100	100	100	100
56	22	29	35	41	45	51	56	59	60	61	62	63	64	67	100	100	100	100	100	100
57	22	29	35	41	45	50	54	56	58	59	61	62	63	100	100	100	100	100	100	100
58	22	30	36	41	44	49	53	56	57	57	61	62	100	100	100	100	100	100	100	100
59	22	30	36	41	44	48	51	53	55	56	59	100	100	100	100	100	100	100	100	100
60	22	30	36	41	43	47	50	51	53	55	100	100	100	100	100	100	100	100	100	100
61	22	29	35	39	42	46	49	50	52	80	100	100	100	100	100	100	100	100	100	100
62	20	28	33	39	41	45	47	49	80	80	100	100	100	100	100	100	100	100	100	100
63	20	28	33	38	41	44	46	80	80	80	100	100	100	100	100	100	100	100	100	100
64	19	27	32	36	40	42	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	19	25	30	35	39	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	19	25	30	35	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	19	25	30	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	19	25	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	19	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Issue Age	Female, Aggregate																			
	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Issue Age	Female, Non-Smoker																			
	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	96	98	98	98	98	99	99	99	92	92	93	95	95	97	99	99	99	100	100	100
18	78	80	80	80	80	81	81	74	75	75	78	79	82	83	85	88	91	94	97	100
19	60	62	63	63	63	65	59	59	60	60	64	67	67	70	72	78	83	89	94	100
20	42	44	45	45	45	42	42	42	45	45	50	51	53	56	58	66	75	83	92	100
21	41	42	44	45	41	42	42	44	47	47	51	53	54	57	59	67	75	84	92	100
22	39	41	44	41	41	42	44	45	49	49	54	56	57	58	60	68	76	84	92	100
23	38	41	38	40	41	42	44	46	49	50	56	57	58	60	62	70	77	85	92	100
24	36	36	38	40	41	42	46	47	50	51	58	59	60	62	63	70	78	85	93	100
25	32	34	37	40	41	43	46	49	51	53	59	60	62	63	64	71	78	86	93	100
26	32	34	37	41	43	45	47	50	53	53	60	62	63	64	62	70	77	85	92	100
27	32	34	38	43	46	47	49	51	53	55	62	63	64	62	62	70	77	85	92	100
28	30	34	39	43	47	49	51	53	56	58	63	63	61	62	63	70	78	85	93	100
29	30	35	40	45	50	51	52	55	58	59	64	61	62	63	63	70	78	85	93	100
30	31	35	40	46	51	52	53	56	59	60	62	62	63	65	65	72	79	86	93	100
31	31	35	40	46	51	53	55	58	60	58	62	62	63	65	65	72	79	86	93	100
32	32	35	40	45	51	53	56	59	57	58	62	63	63	65	64	71	78	86	93	100
33	32	36	41	47	52	55	58	55	58	59	63	63	65	65	65	72	79	86	93	100
34	33	36	41	47	52	55	55	57	58	59	63	65	64	65	64	71	78	86	93	100
35	33	36	41	47	52	53	57	58	59	61	63	64	64	64	64	71	78	86	93	100
36	33	36	41	47	49	53	57	58	59	61	63	64	63	64	63	70	78	85	93	100
37	32	36	41	44	49	53	57	58	59	60	62	62	61	62	63	70	78	85	93	100
38	32	37	39	45	50	54	57	58	60	60	61	61	61	62	61	69	77	84	92	100
39	30	35	39	45	50	54	57	58	60	59	60	60	59	60	61	69	77	84	92	100
40	28	35	39	45	50	54	56	57	59	59	60	59	59	59	60	68	76	84	92	100

Issue Age	Female, Non-Smoker																			
	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	28	35	39	45	49	52	55	55	58	57	58	59	58	59	60	68	76	84	92	100
42	27	35	39	44	49	52	54	55	56	57	57	57	58	60	61	69	77	84	92	100
43	27	34	39	44	47	50	53	53	55	55	56	57	56	60	61	69	77	84	92	100
44	26	34	38	42	47	50	52	53	54	55	55	55	56	61	62	70	77	85	92	100
45	26	33	38	42	45	48	51	51	52	53	54	55	56	61	62	70	77	85	92	100
46	24	32	37	40	43	47	49	51	52	53	54	55	56	60	61	69	77	84	92	100
47	24	30	35	39	42	45	47	49	51	53	54	55	56	59	60	68	76	84	92	100
48	23	30	35	37	40	44	47	49	50	53	54	55	55	59	57	66	74	83	91	100
49	23	29	33	35	39	42	45	48	50	53	54	55	55	57	56	65	74	82	91	100
50	21	27	32	34	37	41	44	48	50	53	54	55	55	56	55	64	73	82	91	100
51	21	26	30	34	37	41	44	48	49	51	53	53	54	55	55	64	73	82	91	100
52	20	25	30	33	37	41	44	47	48	50	50	51	51	55	53	62	72	81	100	100
53	19	24	29	32	37	41	43	47	48	48	49	49	51	52	52	62	71	100	100	100
54	18	24	29	32	37	41	43	45	47	47	47	49	49	51	51	61	100	100	100	100
55	18	23	28	32	37	41	43	45	45	45	46	46	47	50	50	100	100	100	100	100
56	18	23	28	32	36	39	42	44	44	45	46	46	46	49	100	100	100	100	100	100
57	18	23	28	31	35	38	41	42	44	44	45	45	46	100	100	100	100	100	100	100
58	17	23	26	31	35	36	38	41	41	42	45	45	100	100	100	100	100	100	100	100
59	17	23	26	30	33	35	38	39	40	41	44	100	100	100	100	100	100	100	100	100
60	17	23	26	30	32	34	36	38	39	40	100	100	100	100	100	100	100	100	100	100
61	17	22	25	29	32	33	35	36	38	80	100	100	100	100	100	100	100	100	100	100
62	16	22	25	28	30	32	34	35	80	80	100	100	100	100	100	100	100	100	100	100
63	16	20	24	28	30	32	34	80	80	80	100	100	100	100	100	100	100	100	100	100
64	14	21	24	27	29	30	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	15	19	23	25	28	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	15	19	23	25	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	15	19	22	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	13	18	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	13	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100



Issue Age	Female, Non-Smoker																			
	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Issue	Female, Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	99	100	100	100	100	100	100	95	96	97	100	100	100	100	100	100	100	100	100	100
19	87	89	92	92	92	92	84	84	86	86	92	93	95	96	99	99	99	100	100	100
20	74	77	80	80	80	73	73	73	75	77	83	83	86	88	90	92	94	94	96	100
21	71	74	78	78	71	71	73	74	77	79	85	86	88	89	90	92	94	94	96	100
22	68	71	75	70	71	71	73	74	78	79	88	90	89	89	92	94	95	97	97	100
23	65	69	67	70	70	70	73	77	79	81	89	90	90	92	92	94	95	97	97	100
24	62	60	64	69	70	70	74	77	79	81	92	90	92	93	93	94	96	97	99	100
25	53	58	63	67	69	70	74	78	81	82	92	93	93	95	95	96	97	98	99	100
26	53	58	63	69	71	72	75	79	82	82	93	93	95	96	90	92	94	96	98	100
27	52	56	63	70	74	74	78	81	82	84	93	95	95	90	90	92	94	96	98	100
28	52	56	64	71	75	77	79	82	85	86	95	95	90	92	92	94	95	97	98	100
29	51	56	64	71	78	78	81	84	86	88	95	90	90	92	92	94	95	97	98	100
30	51	56	64	72	79	79	82	85	88	89	90	90	92	93	93	94	96	97	99	100
31	51	56	64	72	78	81	84	84	88	84	90	90	92	93	93	94	96	97	99	100
32	51	56	64	71	78	81	85	86	84	85	90	90	92	94	93	94	96	97	99	100
33	51	57	62	71	78	82	85	83	84	85	90	92	93	93	93	94	96	97	99	100
34	51	56	62	71	78	82	81	83	85	86	90	92	92	94	93	94	96	97	99	100
35	51	56	62	71	78	79	83	84	85	86	90	91	91	93	93	94	96	97	99	100
36	49	56	62	71	74	79	83	84	85	86	90	90	91	93	92	94	95	97	98	100
37	48	55	62	67	74	79	83	84	85	86	89	90	89	92	91	93	95	96	98	100
38	47	55	57	66	72	77	81	84	86	86	87	88	88	90	91	93	95	96	98	100
39	45	50	57	66	72	77	81	83	85	86	86	86	86	89	90	92	94	96	98	100
40	41	50	57	66	72	77	81	83	84	85	86	86	86	89	89	91	93	96	98	100

Issue Age	Female, Smoker																				
	Duration																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+	
41	40	50	57	65	71	76	79	81	83	84	85	86	85	89	90	92	94	94	96	98	100
42	40	49	57	65	69	74	77	80	82	83	84	85	86	90	92	94	95	97	97	98	100
43	39	49	55	63	69	73	76	78	80	82	83	84	85	92	93	94	96	97	99	100	100
44	39	48	55	62	67	71	75	78	80	80	82	84	86	93	96	97	98	98	99	100	100
45	37	47	55	61	65	70	73	76	78	80	81	84	86	94	97	98	98	99	99	100	100
46	36	46	53	59	63	68	71	75	77	79	83	85	86	93	96	97	98	98	99	100	100
47	34	44	51	57	62	66	70	75	77	80	83	85	86	93	94	95	96	98	99	100	100
48	34	44	50	54	60	64	69	74	77	80	84	86	87	92	92	94	95	97	98	100	100
49	33	42	48	53	58	63	68	74	77	81	84	86	87	92	91	93	95	96	98	100	100
50	31	41	46	51	57	61	67	74	77	81	85	87	87	91	90	92	94	96	98	100	100
51	30	39	45	51	56	61	67	74	75	80	83	85	85	90	90	92	94	96	98	100	100
52	29	38	45	50	56	62	68	74	75	79	81	83	84	90	90	92	94	96	100	100	100
53	28	37	43	49	57	62	68	73	74	77	79	81	83	89	89	91	93	100	100	100	100
54	28	36	43	49	57	63	69	73	74	75	78	80	81	87	89	91	100	100	100	100	100
55	26	35	42	49	57	63	69	73	73	74	76	78	79	86	87	100	100	100	100	100	100
56	26	35	42	49	56	62	67	71	72	74	76	78	79	85	100	100	100	100	100	100	100
57	26	35	42	49	55	61	66	69	72	73	76	78	79	100	100	100	100	100	100	100	100
58	28	36	43	49	55	59	63	68	69	72	76	78	100	100	100	100	100	100	100	100	100
59	28	36	43	49	54	57	63	67	68	70	76	100	100	100	100	100	100	100	100	100	100
60	28	36	43	49	53	57	61	64	67	69	100	100	100	100	100	100	100	100	100	100	100
61	26	35	42	48	52	56	59	63	66	80	100	100	100	100	100	100	100	100	100	100	100
62	26	33	41	47	51	55	58	62	80	80	100	100	100	100	100	100	100	100	100	100	100
63	25	33	41	46	51	55	57	80	80	80	100	100	100	100	100	100	100	100	100	100	100
64	25	33	40	45	50	53	80	80	80	80	100	100	100	100	100	100	100	100	100	100	100
65	24	32	39	44	49	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100	100
66	24	32	39	44	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100	100
67	24	32	39	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100	100
68	24	32	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100	100
69	24	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100	100

Issue	Female, Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

The length of a particular contract segment shall be set equal to the minimum of the value  $t$  for which  $G_t$  is greater than  $R_t$  (if  $G_t$  never exceeds  $R_t$  the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where  $G_t$  and  $R_t$  are defined as follows:

$$G_t = GP_{x+k+t} / GP_{x+k+t-1}$$

where:

$x$  = original issue age;

$k$  = the number of years from the date of issue to the beginning of the segment;

$t = 1, 2, \dots$ ;  $t$  is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$  = Guaranteed gross premium per thousand of face amount, for year  $t$  of the segment ignoring policy fees only if level for the premium paying period of the policy.

$R_t = q_{x+k+t} / q_{x+k+t-1}$  However,  $R_t$  may be increased or decreased by one percent in any policy year, at the company's option, but  $R_t$  shall not be less than one;

where:

$x$ ,  $k$  and  $t$  are as defined above, and

$q_{x+k+t-1}$  = valuation mortality rate for deficiency reserves in policy year  $k+t$  but using the mortality of §3.4505(b)(2) of this title (relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) if §3.4505(b)(3) of this title (relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) is elected for deficiency reserves.

However, if  $GP_{x+k+t}$  is greater than 0 and  $GP_{x+k+t-1}$  is equal to 0,  $G_t$  shall be deemed to be 1000. If  $GP_{x+k+t}$  and  $GP_{x+k+t-1}$  are both equal to 0,  $G_t$  shall be deemed to be 0.

# IN ADDITION

---

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

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

---

## Adjutant General's Department

### Invitation for Bid

The Adjutant General's Department invites qualified bidders to submit SEALED BIDS for:

**PROJECT:** Construction of a Concrete Secondary Containment Structure for Parking Mobile Fuel Tankers Trucks at the Organizational Maintenance Shop (OMS) # 8, 3130 West Redbird Lane, Dallas, Texas.

**PRE-BID CONFERENCE:** 9:00 A.M., 6 August 1999, at the Organizational Maintenance Shop (OMS) # 8, 3130 West Redbird Lane, Dallas, Texas. Questions or comments regarding specifications and scope of work may be directed to Shakeel Ahmad, (512) 465-5001 Ext 5348.

**BID PACKAGES:** May be obtained by contacting Rudy Cedillo at (512) 465-5650, on or after July 20, 1999. Bidders may mail their completed bid proposal packages to the Adjutant General's Department, P.O. Box 5218, ATTN: AGTX-RCC (Jerry Maroney), Austin, TX 78763-5218, or deliver to 2200 West 35th Street, Building 10, Room # 109, Austin, TX 78731. Deadline for submission of bids is 3:00 P.M., 19 August 1999.

**BID OPENING:** 3:00 P.M., 19 August 1999. All bids must include a 5% bid bond, and must be properly marked on the outside of the envelope with "Bid Proposal" and project name, date, and time of bid opening. No penalty or other responsibility will be assigned to any Owner's representative for the premature opening of any bid proposal not properly addressed and identified. Bidders may not withdraw their bid prior to 60 days after bid opening without forfeiture of bid bond.

TRD-9904369

Jerry C. Maroney  
State Contracting Officer  
Adjutant General's Department  
Filed: July 20, 1999



## Texas Department of Agriculture

### Notice of Public Hearings

The Texas Department of Agriculture (the department) will hold three public hearings to take public comment on proposed new Chapter 3, Subchapter I, §§3.500-3.509 of the department's boll weevil eradication program regulations. The proposed amendments concern the establishment of compliance certificate program rules to manage the payment and collection of assessments levied on cotton growers under the Texas Agriculture Code, Chapter 74, Subchapter D. The proposal will be published in the July 23, 1999, issue of the *Texas Register*.

Hearings will be held by the department as follows:

(1) on Thursday, August 5, 1999, beginning at 3:00 p.m. at the Taylor County Extension Office, located at the Taylor County Exposition Center, 1982 Lytle Way, Abilene, Texas;

(2) on Friday, August 6, beginning at 10:00 a.m. at the Lamb County Extension Center, Located at the corner of Hall Avenue and 17th St., Littlefield, Texas; and

(3) on Wednesday, August 18, beginning at 11:00 a.m. at San Patricio County Fairgrounds, Home Economics Building, located on Harville Rd., Sinton, Texas.

For more information, please contact D. Matt Brockman, Special Assistant for Producer Relations, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463- 7593.

TRD-9904401

Dolores Alvarado Hibbs  
Deputy General Counsel  
Texas Department of Agriculture  
Filed: July 21, 1999



### Request for Proposals

The Texas Department of Agriculture (the department) is intending to fund continuing projects and requesting proposals for research projects for the Texas Imported Fire Ant Research and Management Project. The 76th Texas Legislature appropriated funding for the year 2000-2001 to the Texas Agricultural Experiment Station to pass through to designated entities. The department receives a portion of these funds for fire ant quarantine and survey projects.



Grant proposals will be accepted for projects from higher education institutions, government research programs and private and public entities. Funding will be awarded for two years to projects addressing: methods to certify beehive equipment free of Red Imported Fire Ants; methods to certify round hay bales free of Red Imported Fire Ants; projects identifying ways to mitigate pest risks of artificially transporting Red Imported Fire Ants; and projects supporting the Texas Department of Agriculture's Red Imported Fire Ant Quarantine and Survey activities. The department intends to fund the previous grantees, to include the Texas A&M University Fire Ant Spatial Information Management System (FASIMS) project, and the Texas Tech University and University of Texas imported fire ant survey activities, for continuation of projects upon the submission of continuation proposals. There is \$56,900 available to fund additional grant proposals. Although there is not a cap on the amount that may be requested, it is recommended that the total budget per each project remain below \$30,000 per year. Proposals will be evaluated based on the criteria stated below.

Each proposal must include the following criteria: (1) a cover page including the title of the project, names and contact information of the principal researchers and other participating researchers, and any cooperating institution or entity accompanied by the signatures of the officers authorizing their participation; (2) a one page abstract; (3) the relevance to the Texas Imported Fire Ant Research and Management Plan (available to view on <http://fireant.tamu.edu> underneath the project logo in the right hand column of the home page); (4) background information, a hypothesis/objectives/proposed work/methods and materials, expected outcome/products/management tools or approaches, timeline, and citations; (5) a detailed budget, itemizing at a minimum, personnel services, operating expenses to include the categories of salaries, supplies, computer services, travel, and non-expendable equipment; (6) any outside/leveraged related funding; and (7) planned publications, presentations/posters at national technical meetings or conferences during the FY2000-2001.

Proposals should identify clear project outcomes and must include an implementation plan for using project results. The implementation plan should include information on jobs created, marketability of the research, if applicable, and the value of the research or production to be implemented. The singular goal of research funding from the Texas Imported Fire Ant Research and Management Project is to create and improve technology for suppressing and controlling the Red Imported Fire Ant. Proposals for project research funding will be judged on their merits for achieving this goal. Funding must be expended within each fiscal year, cannot be extended across fiscal years, and cannot be used to purchase or apply insecticides. Funded investigators will be required to submit periodic reports and make presentations. The recipient institution or entity must agree to be responsible for all costs exceeding the grant award to comply with regular and periodic reporting requirements and to execute the project once a grant is awarded, without claims for additional financial support by the fire ant funds. Finished project summaries will be subject to disclosure under the Texas Open Records Act. Any project not in compliance with the grant agreement may be subject to termination by the department.

Proposals should be submitted to Mr. David Kostroun, Director of Agri-Systems Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Please contact David Kostroun at (512) 463-0012 with any questions you may have. Proposals must be received no later than 5:00 p.m. August 12, 1999.

TRD-9904403

Dolores Alvarado Hibbs  
Deputy General Counsel

Texas Department of Agriculture

Filed: July 21, 1999

## Texas Commission on Alcohol and Drug Abuse

### Correction of Error

The Texas Commission on Alcohol and Drug Abuse proposed amendment to §144.1 and §144.21, new and amendment to §§144.201, 144.203, 144.204, 144.211–144.216, 144.411–144.416, 144.441–144.447, 144.451–144.455, 144.457–144.460, 144.462, 144.511, 144.512, 144.521–144.526, 144.531, 144.541, 144.543, 144.545, 144.551–144.554 and amendments to §144.456, §§148.3, 148.4, 148.21, 148.23–148.27, 148.41, and 148.61. The rules appeared in the June 24, 1999, issue of the *Texas Register* (24 TexReg 4756–4788).

Due to Texas Register error: §144.21, page 4756, paragraph (3), the entire definition of access is new and should have been underlined. Also paragraphs (71) and (72) should have been two separate paragraphs.

Due to Agency error: §144.216, page 4764, in the title, "Commission Review of Audit Report" should have been shown as language proposed for deletion.

Due to Agency error: §144.456, page 4778, subsection (d), second sentence, should read as "Core council service programs conducting assessments for treatment shall maintain written agreements with referral sources/treatment providers to identify assessment roles in order to minimize duplicate efforts in conducting treatment assessments."

Due to Agency error: §144.460, page 4770, paragraph (3), subparagraph (A), first sentence, fourth word, should read "HIV" instead of "HI-".

Due to Agency error: §144.545, page 4783, subsection (b), the word "achieve" should have been shown as proposed for deletion. It should read "...to support the client in achieving and maintaining a [achieve] health, drug-free life style [styles]."

Due to Agency error: §144.545, page 4783, paragraph (4), subsection (e), there is a period followed by a sentence that begins with the word "And". There should have been no period and the word "and" should not have been capitalized.

Due to Texas Register error: §148.61, page 4791, paragraph (29), subparagraph (D), the first six words "complete and document a session to" are proposed new language and should be underlined.

Due to Texas Register error: §148.61, page 4791, paragraph (31) is all proposed new language and the entire paragraph should be underlined.

Due to Texas Register error: §148.61, page 4792, paragraph (60), first sentence, between the words "order" and "by", there should be a space.

Due to Agency error: §148.181, page 4801, subsection (f), the words "in writing" should not have been coded as proposed for deletion.

Due to Agency error: §148.202, page 4802, subsection (a), in the last sentence of this subsection, the word "plan" should be coded as proposed for deletion.

Due to Agency error: §148.266, page 4807, subsection (a), there should be a space between the words "physician" and "or".



## Notice of Public Hearings

The Texas Commission on Alcohol and Drug Abuse, through its Regional Advisory Consortia, will hold public hearings in each Health and Human Services region to solicit input on the Strategic Plan, Statewide Service Delivery Plan, and intended use of Block Grant. Comments will be directed to the long term goals of the agency and how to best coordinate and deliver substance abuse related services.

Public hearings have been scheduled for the following dates, times and places:

Wednesday, August 18th

10:00 a.m.-1:00 p.m., Lubbock Regional Office, 2109 Avenue Q, Lubbock, Texas.

Friday, August 20th

10:00 a.m.-12:00 noon, Administration for MHMR Center, 2616 South Clack Street, Abilene, Texas.

Friday, August 20th

9:00 a.m.-12:00 noon, University Center for Community Health, 701 South Zarazamora, San Antonio, Texas 78207-5209. The following sites will be linked up at 9:00 a.m. with San Antonio for the entire hearing. The link up will be via teleconference.

A. Mid Coast Council on Alcohol and Drug Abuse, 1908 North Laurent, Suite 100, Victoria Texas 77901. The phone number for the Mid Coast Council is (361) 575-7842 or 1-888-575-7842.

B. City Council Chambers, 109 West Broadway, Del Rio, Texas 78840. The phone number for the City Council is (830) 774-7411.

Thursday, September 9th

10:00 a.m.-12:00 noon, Kilgore City Hall, 815 North Kilgore Street, Kilgore, Texas

Friday, September 10th

10:00 a.m.-12:00 noon, Paris Junior College, Al Ford Center, 2400 Clarksville, Paris, Texas

Representatives from the commission will be present to explain the planning process and members of the Regional Advisory Consortium along with commission staff will be present to consult with and receive comments from interested citizens and affected groups. All written and oral comments will be considered in preparation of the Strategic Plan, Statewide Services Delivery Plan, and Block Grant Application.

Spanish-language interpreters and interpreters for the hearing impaired will be provided upon request. Please contact Albert Ruiz at (800) 832-9623, extension 6607 or Stella Roland at extension 6967, ten working days prior to the public hearing to request these services. If you are an individual with a disability and need reasonable accommodation, please notify the commission ten days in advance of the hearing date for accommodations to be made.

Additional information may be obtained by contacting the Texas Commission on Alcohol and Drug Abuse, Albert Ruiz or Stella Roland 9001 North IH 35, suite 105, Austin, Texas 78753-5233, (800) 832-9623, extension 6607 or 6967.

TRD-9904356

Mark S. Smock

Deputy for Finance and Administration

Texas Commission on Alcohol and Drug Abuse

Filed: July 19, 1999



## Office of the Attorney General

### Notice

Pursuant to Texas Government Code, Chapter 552, Sections 552.001 et seq.:

The Chief Administrative Officer of the Office of the Attorney General has designated Katherine Minter Cary, Assistant Attorney General, as the recipient of all public information requests which come to the Office of the Attorney General by electronic mail or facsimile transmission.

**Public information requests sent to the OAG in writing must be sent to:**

Katherine Minter Cary

Assistant Attorney General

Public Information Coordinator

Office of the Attorney General

P O Box 12548

Austin, TX 78711-2548

**Public information requests sent to the OAG by electronic mail must be sent to:**

KMC@oag.state.tx.us.

**Public Information requests sent to the OAG by facsimile transmission must be sent to:**

512-494-8017

TRD-9904281

Elizabeth Robinson

Assistant Attorney General

Office of the Attorney General

Filed: July 15, 1999



## 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. Requests for federal consistency review were received for the following projects(s) during the period of July 9, 1999, through July 16, 1999:

### FEDERAL AGENCY ACTIONS:

Applicant: Village of Tiki Island; Location: The project is located on the south side of the 700th block of Tiki Drive, Tiki Island, Galveston, Galveston County, Texas; CCC Project No.: 99-0251-F1; Description of Proposed Action: The applicant proposes to mechanically dredge an existing residential boat canal, fill 0.95 acre of adjacent wetlands, and excavate 0.28 acre of adjacent wetlands. Approximately 1,300 cubic yards of material will be excavated from the boat canal to restore its original dimensions of 400 feet long, 100 feet wide, and

6 feet deep; Type of Application: U.S.A.C.E. permit application #21723 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).

#### FEDERAL AGENCY ACTIVITIES:

Applicant: Corps of Engineers - Channel to Aransas Pass; CCC Project No.: 99-0252-F2; Description of Proposed Activity: The applicant proposes to maintenance dredge the channel to Aransas Pass. Only option for beneficial use of the dredged material currently being excavated from the channel has been identified, and it appears to be neither economically nor environmentally viable. All placement areas were identified and used as described in an Environmental Impact Statement or Environmental Assessment issued prior to the acceptance of the CMP. The applicant has identified coastal natural resource areas (CNRAs) in the project area and determined the project activities will not adversely impact these CNRAs.

Applicant: Corps of Engineers - La Quinta Channel; CCC Project No.: 99-0253-F2; Description of Proposed Activity: The applicant proposes to maintenance dredge the La Quinta channel. Six options for beneficial use of dredged material currently being excavated from the channel have been identified, but none appears to be economically or environmentally viable. All placement areas were identified and used as described in an Environmental Impact Statement or Environmental Assessment issued prior to the acceptance of the CMP. The applicant has identified coastal natural resource areas (CNRAs) in the project area and determined the project activities will not adversely impact these CNRAs.

Applicant: Corps of Engineers - Corpus Christi Ship Channel; CCC Project No.: 99-0254-F2 Description of Proposed Activity: The applicant proposes to maintenance dredge the Corpus Christi Ship channel. Seven options for beneficial uses of dredged material have been identified and one appears to have reasonable costs in proportion to its benefits. All placement areas were identified and used as described in an Environmental Impact Statement or Environmental Assessment issued prior to the acceptance of the CMP. The applicant has identified coastal natural resource areas (CNRAs) in the project area and determined the project activities will not adversely impact these CNRAs.

Applicant: Corps of Engineers - (GIWW) Port O'Connor to Corpus Christi; CCC Project No.: 99-0255-F2; Description of Proposed Activity: The applicant proposes to maintenance dredge the Gulf Intra-coastal Waterway from Port O'Connor to Corpus Christi. One option for beneficial use of dredged material currently being excavated from the channel has been identified, but it appears to be neither economically nor environmentally viable. All placement areas were identified and used as described in an Environmental Impact Statement or Environmental Assessment issued prior to the acceptance of the CMP. The applicant has identified coastal natural resource areas (CNRAs) in the project area and determined the project activities will not adversely impact these CNRAs.

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 for the applications listed above may be obtained from Ms. Janet Fatheree, Council Secretary, Coastal Coordination Council, 1700 North Congress Avenue, Room 617, Austin, Texas 78701-1495, or janet.fatheree@glo.state.tx.us. Persons are encouraged to submit written comments as soon as possible within 30 days of publication

of this notice. Comments should be sent to Ms. Fatheree at the above address or by fax at 512/475-0680.

TRD-9904393

Larry R. Soward

Chief Clerk

Coastal Coordination Council

Filed: July 21, 1999



## Comptroller of Public Accounts

Notice of Proposers' Conference for Texas School Performance Reviews

**Notice of Proposers' Conference:** The Comptroller of Public Accounts (Comptroller) announces an upcoming proposers' conference for qualified firms interested in participating in future Texas School Performance Reviews (TSPR) of independent school districts and community colleges throughout the State of Texas. The primary purpose of the conference is to provide general information to and encourage additional qualified consultants and subcontractors to participate in future TSPRs by submitting proposals in response to the Comptroller's Requests for Proposals (RFPs) for these services. The conference will provide an overview of the TSPR process and an opportunity for feedback on it. The Comptroller will also provide insight into the agency's requirements for TSPR work product. The Comptroller encourages all interested firms and individuals to attend.

**Conference Date, Time and Location:** The conference is scheduled to begin at 10:00 a.m., on Friday, August 6, 1999, at the Employees' Retirement System Auditorium, First Floor, 1801 Brazos, Austin, Texas, 78744.

**Agenda:** Copies of the meeting agenda are available from the TSPR Division at the contact address listed below.

**Contact:** Parties interested in attending should contact the Texas School Performance Review Division, Comptroller of Public Accounts, 111 E. 17th St., Austin, Texas, 78744, toll free at 1- (800) 232-8927 or (512) 475-0332 on or before Wednesday, August 4, 1999.

**Additional Information:** The conference will provide general information and will not involve or pertain to any specific RFP already issued by the Comptroller, including, but not limited to, the RFP for a TSPR of the San Antonio Independent School District issued on July 9, 1999. *Also, attendance is voluntary and is not a prerequisite for submitting proposals in response to future RFPs for these services.*

TRD-9904415

David R. Brown

Legal Counsel

Comptroller of Public Accounts

Filed: July 21, 1999



## Notice of Request for Information

The Comptroller of Public Accounts (Comptroller) announces its Request for Information (RFI) to gather general information that may assist the Comptroller in preparing specifications for a comprehensive performance review of the Texas Department of Transportation (TxDOT). The Comptroller anticipates issuing a Request for Proposals in the Fall of 1999, for the performance review. This RFI solicits information on Respondent's organization; possible ways for structuring a performance review of TxDOT; and Respondent's experience, products and reports in relevant areas (TxDOT's contracting, geographical

distribution of highway projects, financing techniques, federal funding, and state agency operations). Responses to the RFI are voluntary and will be the property of the Comptroller.

**Contact:** Parties interested in requesting a copy of the RFI should contact the Comptroller of Public Accounts, Eva Kelly, in the Senior Legal Counsel's Office, 111 E. 17th Street, Room G-24, Austin, Texas 78774, (512) 305-8673. The RFI will be available for pick-up at the above-referenced address on Friday, July 30, 1999, between 1:00 p.m. and 5:00 p.m. Central Zone Time (CZT), and during normal business hours thereafter. Parties interested in submitting a response to the RFI should use the address listed above.

**Questions:** Questions regarding this RFI should be submitted by facsimile to Ms. Pamela Ponder at (512) 475-0973.

**Important Dates:** Written responses to the RFI are due **Monday, August 16, 1999, 1:00 p.m.** No assurance can be given that responses received after this time and date will be considered.

**The anticipated schedule of events is as follows:**

Issuance of RFI - July 30, 1999, at 1:00 p.m. (CZT);

Written RFI Responses Due - August 16, 1999, 1:00 p.m. (CZT).

TRD-9904411

David R. Brown

Legal Counsel

Comptroller of Public Accounts

Filed: July 21, 1999



## 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 Articles 1D.003, 1D.009, and 1E.003, Title 79, Revised Civil Statutes of Texas, as amended (Articles 5069-1D.003, 1D.009, and 1E.003, Vernon's Texas Civil Statutes).

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 07/26/99 - 08/01/99 is 18% for Consumer <sup>1</sup>/Agricultural/Commercial <sup>2</sup>/credit thru \$250,000.

The weekly ceiling as prescribed by Art. 1D.003 and 1D.009 for the period of 07/26/99 - 08/01/99 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by Art. 1E.003 for the period of 08/01/99 - 08/31/99 is 10% for Consumer/Agricultural/Commercial/credit thru \$250,000.

The judgment ceiling as prescribed by Art. 1E.003 for the period of 08/01/99 - 08/31/99 is 10% 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.

TRD-9904376

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 20, 1999



## Texas Credit Union Department

Application(s) to Expand Field of Membership

Notice is given that the following applications have been filed with the Texas Credit Union Department and are under consideration:

An application was received from San Angelo TWC Credit Union, San Angelo, Texas to expand its field of membership. The proposal would permit the contractors and their employees who work under contract for the Texas Workforce Commission in Regions 5 and 11, excluding those persons eligible for primary membership in any occupational based credit union at the time membership is sought, to be eligible for membership in the credit union.

An application was received from Austin Metropolitan Financial Credit Union, Austin, Texas to expand its field of membership. The proposal would permit the permanent and contract employees of Staktek Corporation who work in or are paid from Staktek's office in Austin, Texas and Staktek Corporation as a separate entity to be eligible for membership in the credit union.

An application was received from Austin Metropolitan Financial Credit Union, Austin, Texas to expand its field of membership. The proposal would permit the members, employees, volunteers and officers of the Texas Educational Broadcasting Cooperative, Inc. (KO-OP Radio), excluding persons eligible for primary membership in any occupation or association-based credit union with a total membership of less than 20,000 members at the time membership is sought with AMFCU, and having an office within the boundaries of Austin, Texas on June 28, 1999, and KO-OP Radio as a separate entity to be eligible for membership in the credit union.

An application was received from Gulf Employees Credit Union, Groves, Texas to expand its field of membership. The proposal would permit the employees of the members of the Jefferson County Medical Society to be eligible for membership in the credit union.

An application was received from Educators Credit Union, Waco, Texas to expand its field of membership. The proposal would permit persons who live or work within the boundaries of the city of Hewitt, excluding persons eligible for primary membership in any occupation or association-based credit union with a full service facility within the geographic area to be eligible for membership in the credit union.

An application was received from Houston Postal Credit Union, Houston, Texas to expand its field of membership. The proposal would remove the exclusion of U.S. Postal Service employees who are eligible for membership in Pasadena Postal Credit Union and permit them to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-9904413

Harold E. Feeney

Commissioner

Texas Credit Union Department

Filed: July 21, 1999



Notice of Final Action Taken

In accordance with the provisions of 7 TAC Section 91.103, the Texas Credit Union Department provides notice of the final action taken on the following application(s):

Application(s) to Expand Field of Membership

Texans Credit Union, Richardson, Texas - See *Texas Register* issue dated 04-30-99

Texans Credit Union, Richardson, Texas - See *Texas Register* issue dated 04-30-99

Southwest Resource Credit Union, Baytown, Texas - See *Texas Register* issue dated 04-30-99

Application(s) for a Merger or Consolidation

Houston Area Central Credit Union and First Educators Credit Union - See *Texas Register* issue dated 04-30-99

Application(s) to Amend Articles of Incorporation

Galena Park Schools Credit Union, Houston, Texas - See *Texas Register* issue dated 06-04-99

Dallas S.P. Employees Credit Union, Dallas, Texas - See *Texas Register* issue dated 06-25-99

Memorial Credit Union, Houston, Texas - See *Texas Register* issue dated 06-25-99

Public Service Employees Credit Union, Amarillo, Texas - See *Texas Register* issue dated 07-02-99

TRD-9904414

Harold E. Feeney

Commissioner

Texas Credit Union Department

Filed: July 21, 1999



**Finance Commission of Texas**

## Notice of Award of Contract

The Finance Commission of Texas forwards this Notice of Award, Proposed Contract Number: FC-99-001-RFP, for hiring a consultant to assist the finance commission in conducting the second phase of research on (1) the availability, quality and prices of financial services, including lending and depository services, offered to agricultural businesses, small businesses, and individual consumers in this state; and (2) the practices of business entities in this state that provide financial services to agricultural businesses, small businesses, and individual consumers in this state as published in the May 28, 1999, issue of the *Texas Register* (24 TexReg 4049).

The bid was awarded on June 25, 1999, and the contract was consummated on July 13, 1999. The successful bidder was Analytica, Inc., Contract Number: FC-99- 001, for a dollar amount of \$88,400 plus expenses for travel, copying, and long distance not to exceed \$4,500.

TRD-9904288

Leslie L. Pettijohn

Interim Director of Home Equity Lending in Texas

Finance Commission of Texas

Filed: July 16, 1999



## Texas Department of Health

### 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 table below. The subheading labeled "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.

Licensing Actions for Radioactive Materials

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
SAN ANTONIO	THE UNIVERSITY OF TX HEALTH SCIENCE CENTER AT S A	L05217	SAN ANTONIO	0	06/16/99

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
ABILENE	HENDRICK MEDICAL CENTER	L02433	ABILENE	59	06/29/99
ALVIN	SHARP RADIATION SERVICES	L03731	ALVIN	15	06/22/99
ARLINGTON	ARLINGTON MEMORIAL HOSPITAL	L02217	ARLINGTON	53	06/10/99
BAYTOWN	JACINTO MRI AND DIAGNOSTIC CENTER	L04808	BAYTOWN	4	06/24/99
BEAUMONT	SYNCOR INTERNATIONAL CORPORATION	L02987	BEAUMONT	32	06/28/99
BEDFORD	NORTH HILLS OUTPATIENT IMAGING CENTER	L03455	BEDFORD	25	06/15/99
BISHOP	TICONA POLYMERS	L02441	BISHOP	29	06/28/99
BROWNSVILLE	THE HEART INSTITUTE OF BROWNSVILLE	L05261	BROWNSVILLE	1	06/15/99
CENTER	MEMORIAL HOSPITAL OF CENTER	L03608	CENTER	17	06/17/99
CORPUS CHRISTI	CORPUS CHRISTI RADIOLOGY CENTER	L04493	CORPUS CHRISTI	8	06/29/99
CORPUS CHRISTI	COASTAL CARDIOLOGY ASSOCIATION	L04754	CORPUS CHRISTI	10	06/28/99
CUERO	CUERO COMMUNITY HOSPITAL	L02448	CUERO	15	06/28/99
DALLAS	COLUMBIA HOSPITAL AT MEDICAL CITY DALLAS	L01976	DALLAS	114	06/21/99
DALLAS	THE MEDICAL GROUP OF TEXAS PA	L03755	DALLAS	30	06/18/99
DENTON	INTERNATIONAL ISOTOPES INC	L05159	DENTON	5	15/99/06
EL PASO	COLUMBIA MEDICAL CENTER WEST NUCLEAR MEDICINE	L02715	EL PASO	39	06/18/99
EL PASO	GUILLERMO A PINSON MD PA	L04277	EL PASO	6	06/22/99
EL PASO	HOUSING AUTHORITY OF THE CITY OF EL PASO	L05154	EL PASO	1	06/15/99
ELECTRA	ELECTRA MEMORIAL HOSPITAL	L03227	ELECTRA	10	06/15/99
FORT WORTH	HARRIS METHODIST FORT WORTH	L01837	FORT WORTH	72	06/23/99
FREDERICKSBURG	HILL COUNTRY MEMORIAL HOSPITAL	L03516	FREDERICKSBURG	18	06/14/99
GRUVER	AIR PRODUCTS HELIUM INC	L03118	GRUVER	6	06/30/99
HOUSTON	TWELVE OAKS HOSPITAL	L02432	HOUSTON	26	06/22/99
HOUSTON	COLUMBIA EAST HOUSTON MEDICAL CENTER	L03306	HOUSTON	20	06/21/99
HOUSTON	RIVER OAKS IMAGING & DIAGNOSTIC-RICHMOND	L04342	HOUSTON	24	06/24/99
HOUSTON	RICE UNIVERSITY	L04639	HOUSTON	3	06/16/99
HOUSTON	M & G INSPECTION & TESTING	L05220	HOUSTON	4	06/04/99
INGLESIDE	GULF COAST INSPECTION INC	L04934	INGLESIDE	10	06/25/99
KINGSVILLE	SPOHN KLEBURG MEMORIAL HOSPITAL	L02917	KINGSVILLE	18	06/24/99
HOUSTON	COLUMBIA/HCA HEALTHCARE CORP	L02473	HOUSTON	36	06/23/99
LA PORTE	FINA OIL & CHEMICAL BAYPORT PLANT	L04640	LA PORTE	6	06/30/99
LONGVIEW	GOOD SHEPHERD MEDICAL CENTER	L02411	LONGVIEW	60	06/25/99

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
LONGVIEW	LONGVIEW CANCER CENTER	L05017	LONGVIEW	2	06/24/99
LUBBOCK	JOE ARRINGTON CANCER RESEARCH & TREATMENT CENTER	L04881	LUBBOCK	14	06/14/99

LUBBOCK	CARDIOLOGIST OF LUBBOCK PA	L05038	LUBBOCK	4	06/30/99
MEXIA	PARKVIEW REGIONAL HOSPITAL	L05144	MEXIA	4	06/30/99
MIDLAND	ISOTAG SPECIALIST INC	L04498	MIDLAND	18	06/15/99
NACOGDOCHES	NACOGDOCHES MEDICAL CENTER	L02853	NACOGDOCHES	23	06/24/99
NASSUA BAY	ST JOHN HOSPITAL	L02002	NASSUA BAY	19	06/29/99
PAMPA	COLUMBIA MEDICAL CENTER OF PAMPA	L03123	PAMPA	18	06/23/99
PASADENA	MEDICAL DIAGNOSIS IMAGING CENTERS	L04998	PASADENA	4	06/14/99
PORT ARTHUR	MONTIVE ENTERPRISES LLC	L05211	PORT ARTHUR	1	06/14/99
SAN ANTONIO	METROPOLITAN METHODIST HOSPITAL	L02232	SAN ANTONIO	38	06/17/99
SAN ANTONIO	DRASH CONSULTING ENGINEERS INC	L04824	SAN ANTONIO	6	06/30/99
TAHOKA	LYNN COUNTY HOSPITAL DISTRICT	L03383	TAHOKA	11	06/25/99
THROUGHOUT TEXAS	SCHLUMBERGER TECHNOLOGY CORPORATION	L01833	SUGARLAND	110	06/29/99
THROUGHOUT TEXAS	HALIBURTON ENERGY SERVICES INC	L02113	HOUSTON	91	06/25/99
THROUGHOUT TEXAS	H & G INSPECTION COMPANY INC	L02181	HOUSTON	128	06/23/99
THROUGHOUT TEXAS	TECHNICAL WELDING	L02187	PASADENA	123	06/28/99
THROUGHOUT TEXAS	NON DESTRUCTIVE INSPECTION CORPORATION	L02712	LAKE JACKSON	66	06/23/99
THROUGHOUT TEXAS	METCO	L03018	HOUSTON	86	06/16/99
THROUGHOUT TEXAS	TN TECHNOLOGIES INC	L03524	ROUND ROCK	50	06/30/99
THROUGHOUT TEXAS	GLOBAL X-RAY TESTING CORP	L03663	CHANNEL VIEW	75	06/31/99
THROUGHOUT TEXAS	TRU-TEC SERVICES INC PROCESS DIAGNOSTIC DIV	L03913	LA PORTE	56	06/24/99
THROUGHOUT TEXAS	DESERT INDUSTRIAL X-RAY	L04590	ODESSA	23	06/21/99
THROUGHOUT TEXAS	STEEN NDT SUPPLY INC	L04915	BELLAIRE	3	06/24/99
THROUGHOUT TEXAS	PROFESSIONAL SERVICE INDUSTRIES INC	L04947	AUSTIN	7	06/30/99
TYLER	NUTECH INC	L04274	TYLER	27	06/16/99

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
ABILENE	NATIONAL CENTRAL PHARMACY	L04781	ABILENE	16	06/23/99
BREMOND	TEXAS-NEW MEXICO POWER COMPANY	L04280	BREMOND	5	06/22/99
HOUSTON	UNIVERSITY OF HOUSTON CLEAR LAKE	L02108	HOUSTON	13	06/14/99
MONT BELVIEU	EXXON CHEMICAL AMERICAS	L03119	MONT BELVIEU	21	06/11/99
N RICHLAND HILLS	COLUMBIA NORTH HILLS HOSPITAL SUBSIDIARY LP	L02271	N RICHLAND HILLS	23	06/25/99

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
HOUSTON	SAFETY-KLEEN (FS) INC	L04862	HOUSTON	2	06/18/99
ODESSA	ODESSA REFINING COMPANY	L01882	ODESSA	14	06/29/99
ODESSA	K G JERRY TAYLOR COMPANY	L02488	ODESSA	9	06/03/99
SAN ANTONIO	VIRUS REFERENCE LABORATORY	L05020	SAN ANTONIO	2	06/16/99
TERRELL	FLEXIBLE FORAM PRODUCTS	L04954	TERRELL	1	06/30/99

NEW LICENSES DENIED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
ANDOVER KS	SERVICE TO MEDICAL IMAGING INC	L05209	ANDOVER KS	0	06/28/99

EXEMPTIONS ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
ABILENE	ABILENE CARDIOLOGY CONSULTANTS PA	L04315	ABILENE	0	06/14/99

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, 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 license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in 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 is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. 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), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m. Monday-Friday (except holidays).

TRD-9904267  
 Susan K. Steeg  
 General Counsel  
 Texas Department of Health  
 Filed: July 15, 1999



The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "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.



Licensing Actions for Radioactive Materials

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
SHERMAN	CARDIOVASCULAR CARE ASSOCIATES	L05271	SHERMAN	0	06/30/99

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
ABILENE	HENDRICK MEDICAL CENTER	L02433	ABILENE	60	07/02/99
ABILENE	NC-SCHI INC	L02434	ABILENE	56	07/02/99
ALVIN	SOLUTIA INC	L00219	ALVIN	59	07/06/99
AUSTIN	AUSTIN RADIOLOGICAL ASSOCIATION	L00545	AUSTIN	78	07/09/99
AUSTIN	HTI / ADC VENTURE	L04910	AUSTIN	17	07/01/99
BARTLESVILLE OK	PHILLIPS PIPE LINE COMPANY	L02083	BARTLESVILLE OK	15	07/07/99
BORGER	PHILLIPS CHEMICAL COMPANY A DIV OF PHILLPS PETROLEUM	L05181	BORGER	2	07/01/99
BORGER	PHILLIPS CHEMICAL COMPANY A DIV OF PHILLIPS PETROLEUM	L05181	BORGER	3	07/06/99
CAMERON	CAMERON HOSPITAL INC DBA CENTRAL TEXAS HOSPITAL	L04654	CAMERON	6	07/09/99
CLEVELAND	CLEVELAND REGIONAL MEDICAL CENTER	L02055	CLEVELAND	23	07/08/99
CORPUS CHRISTI	THE CORPUS CHRISTI MEDICAL CENTER BAY AREA	L04723	CORPUS CHRISTI	17	07/07/99
CUERO	CUERO COMMUNITY HOSPITAL	L02448	CUERO	16	07/01/99
EL PASO	GUILLERMO A PINZON MD PA	L04277	EL PASO	7	07/13/99
FORT WORTH	CONSULTANTS IN RADIOLOGY PA	L05014	FORT WORTH	6	07/07/99
FORT WORTH	DVI OF TEXAS INC	L05247	FORT WORTH	1	07/14/99
GRAHAM	GRAHAM GENERAL HOSPITAL	L03271	GRAHAM	16	07/06/99
GRAPEVINE	BAYLOR MEDICAL CENTER AT GRAPEVINE	L03320	GRAPEVINE	15	07/09/99
GROVES	COMMUNITY HEALTH CARE FOUNDATION INC	L02091	GROVES	25	07/06/99
HOUSTON	SYNCOR INTERNATIONAL CORPORATION	L01911	HOUSTON	104	07/06/99
HOUSTON	MALLINCKRODT MEDICAL INC	L03008	HOUSTON	48	07/14/99
HOUSTON	DIAGNOSTIC CARDIOLOGY OF HOUSTON	L04888	HOUSTON	4	07/08/99
HOUSTON	VALENTINA UGOLINI MD	L05093	HOUSTON	1	07/05/99
IRVING	COLUMBIA MEDICAL CENTER OF LAS COLINAS INC	L05084	IRVING	4	07/13/99
KERRVILLE	SID PETERSON MEMORIAL HOSPITAL	L01722	KERRVILLE	27	07/12/99
LUBBOCK	COVENANT MEDICAL CENTER-LAKESIDE	L01547	LUBBOCK	59	07/02/99
MESQUITE	PHYSICIAN RELIANCE NETWORK INC	L04914	MESQUITE	5	07/08/99
MIDLAND	MIDLAND WALK IN AND RADIOLOGY CLINIC	L05239	MIDLAND	1	07/08/99
MOUNT PLEASANT	TXU ELECTRIC	L04565	MOUNT PLEASANT	4	07/06/99
PARIS	CHRISTUS ST JOSEPHS HEALTH SYSTEM	L03199	PARIS	18	07/06/99
PASADENA	GULF COAST CANCER CENTER INC	L05194	PASADENA	2	07/08/99
PLANO	PRESBYTERIAN HOSPITAL OF PLANO	L04467	PLANO	14	07/01/99
SAN ANGELO	SHANNON MEDICAL CENTER	L02174	SAN ANGELO	34	07/02/99

CONTINUED ADMENDMENTS TO EXISTING LICENSES ISSUED:

SAN ANGELO	SHANNON CLINIC	L04216	SAN ANGELO	10	07/09/99
SAN ANTONIO	SOUTH TEXAS RADIOLOGY IMAGING CENTERS	L00325	SAN ANTONIO	91	07/05/99
SAN ANTONIO	METHODIST HEALTHCARE SYSTEM OF SAN ANTONIO	L00594	SAN ANTONIO	139	07/05/99
SAN ANTONIO	SANTA ROSA HEALTH CARE	L02237	SAN ANTONIO	56	07/01/99
SAN ANTONIO	SOUTH TEXAS RADIOLOGY IMAGING CENTERS	L03518	SAN ANTONIO	18	07/05/99

SAN ANTONIO	RADIOLOGY ASSOCIATES OF SAN ANTONIO PA	L04181	SAN ANTONIO	18	07/01/99
SAN ANTONIO	DIAGNOSTIC CLINIC OF SAN ANTONIO	L04258	SAN ANTONIO	11	07/07/99
SAN ANTONIO	RADIOLOGY ASSOCIATES OF SAN ANTONIO PA	L04305	SAN ANTONIO	22	07/01/99
SAN ANTONIO	SOUTH TEXAS INTERVENTIONAL VASCULAR GROUP	L04377	SAN ANTONIO	12	07/01/99
SAN ANTONIO	CARDIOLOGY CLINIC OF SAN ANTONIO PA	L04489	SAN ANTONIO	13	07/12/99
SAN ANTONIO	RADIOLOGY ASSOCIATES OF SAN ANTONIO PA	L04927	SAN ANTONIO	11	07/01/99
THROUGHOUT TEXAS	E I DUPONT DE NEMOURS & COMPANY	L00314	LA PORTE	70	07/14/99
THROUGHOUT TEXAS	GOOLSBY TESTING LABORATORIES INC	L03115	HUMBLE	63	07/06/99
THROUGHOUT TEXAS	HMA ENVIRONMENTAL SERVICES INC	L04779	HOUSTON	7	07/09/99
THROUGHOUT TEXAS	PROFESSIONAL SERVICE INDUSTRIES INC	L04942	HOUSTON	5	07/09/99
THROUGHOUT TEXAS	LAMCO & ASSOCIATE	L05152	WOODLANDS	2	07/08/99
THROUGHOUT TEXAS	CITY OF WACO ENGINEERING DEPARTMENT	L05160	WACO	1	07/15/99
THROUGHOUT TEXAS	SHAW FABRICATORS	L05169	HOUSTON	2	07/12/99
THROUGHOUT TEXAS	M & G INSPECTION & TESTING INCORPORATED	L05220	HOUSTON	5	07/06/99
TOMBALL	TOMBALL HOSPITAL AUTHORITY	L02514	TOMBALL	19	07/06/99
WICHITA FALLS	UNITED REGIONAL HEALTH CARE SYSTEM INC	L00350	WICHITA FALLS	71	07/08/99
WICHITA FALLS	UNITED REGIONAL HEALTH CARE SYSTEM INC	L00403	WICHITA FALLS	32	07/08/99

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
GREENVILLE	MOHIUDIN A ZEB MD	L04154	GREENVILLE	3	07/05/99

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
FORT WORTH	BELL HELICOPTER TEXTRON INC	L04901	FORT WORTH	1	07/07/99

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, 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 license(s) will not be inimical to the health and safety of the public or

the environment; and the applicants satisfy any applicable special requirements in the 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 is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. 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), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 A.M. to 5:00 P.M. Monday-Friday (except holidays).

TRD-9904400  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: July 21, 1999

◆ ◆ ◆  
**Texas Health and Human Services Commission**

**Amended Requests for Proposals**

In the July 16, 1999, issue of the *Texas Register* (24 TexReg 5577) the Health and Human Services Commission (HHSC) announced the issuance of three requests for proposals (RFPs) for services to support the implementation and administration of the Children's Health Insurance Program (CHIP), as authorized by Title XXI of the Social Security Act. HHSC requests written proposals from interested and qualified organizations for the following services in response to the 3 RFPs: (1) production and direction of a statewide multimedia campaign to publicize the availability of health insurance to families of uninsured children through television, radio, and print for the CHIP (the Marketing RFP); (2) delivery of comprehensive health insurance services for the CHIP (the Health Insurance RFP); (3) delivery of comprehensive administrative services for the CHIP (the Administrative Services RFP).

The Commission is amending the date on which one of the RFPs, the Health Insurance RFP, will be available, the submission deadline date for the response to that RFP, the method of delivery of the RFPs and the name of the contact person at HHSC.

Two of the RFPs, the Marketing RFP and the Administrative Services RFP, will be available for downloading from the HHSC website at <http://www.hhsc.state.tx.us> beginning July 19, 1999. Notice of the 2 RFPs will also be posted on the State Electronic Business Daily. Interested parties may also obtain copies of any or both of the RFPs at the offices of HHSC, 4900 North Lamar Boulevard, Fourth Floor, Austin, Texas, 78751.

The Health Insurance RFP will be available from the same sources beginning August 2, 1999.

Proposals must be submitted in accordance with the requirements of the RFPs. Proposals in response to the Marketing RFP and Administrative Services RFP must be submitted no later than 5:00 p.m., Central Time, September 3, 1999. Proposals in response to the Health Insurance RFP must be submitted no later than 5:00 p.m., Central Time, September 22, 1999. Proposals must be submitted to HHSC to the attention of Elizabeth Stanford, Children's Health Insurance Program, HHSC, 4900 North Lamar Boulevard, Fourth Floor, Austin, Texas, 78751, 512-424-6568.

TRD-9904412  
Marina S. Henderson  
Executive Deputy Commissioner  
Health and Human Services Commission  
Filed: July 21, 1999

◆ ◆ ◆  
**Public Hearing-Proposed Payment Rates for Day Activity and Health Services (DAHS); Primary Home Care; Community Based Alternatives Waiver (CBA); and the Community Living Assistance and Support Services (CLASS) Waiver**

The Texas Health and Human Services Commission and the Texas Department of Human Services will conduct a public hearing to receive comments on proposed payment rates for the following programs and services: Day Activity and Health Services (DAHS); Primary Home Care; Community Based Alternatives Waiver (CBA); and the Community Living Assistance and Support Services (CLASS) Waiver. The hearing is held in compliance with 1 TAC §355.105(g), which requires public hearings on proposed payment rates. The public hearing will be held on August 16, 1999 at 9:00 a.m. in Room 125 of the John H. Winters Building at 701 West 51st Street, Austin, Texas (First Floor, East Tower). Written comments regarding payment rates set by the Health and Human Services Commission will be accepted in lieu of testimony until 5:00 p.m. on the day of the hearing. Written comments may be delivered by U.S. mail to the attention of Ms. Barbara Tejero, Texas Health and Human Services Commission, P.O. Box 13247, Austin, Texas 78711. Hand deliveries and express delivery will be accepted at 4900 North Lamar Boulevard, Fourth Floor, Austin, Texas 78751. Alternatively, written comments may be delivered via facsimile to Ms. Tejero at (512) 424-6586. Interested parties may pick up or request to have mailed to them briefing packages concerning the proposed payment rates by contacting Ms. Tejero at (512) 424-6576.

Persons with disabilities planning to attend the hearing who may need auxiliary aids or services are asked to contact Ms. Debbie Price of the Texas Department of Human Services, at (512) 438-4817 by August 9, 1999 so that appropriate arrangements can be made.

TRD-9904427  
Steve Aragón  
Agency Liaison  
Texas Health and Human Services Commission  
Filed: July 21, 1999

◆ ◆ ◆  
**Texas Department of Housing and Community Affairs**

**Notice of Public Hearing for the Low Income Home Energy Assistance Program**

On or about October 1, 1999, the Texas Department of Housing and Community Affairs (TDHCA) anticipates receiving federal funds to continue the operation of certain programs that assist very low-income Texans. The Department is now in the process of deciding how these funds will be used and is seeking the input of groups affected by these programs and/or other interested citizens.

As part of the public information consultation and public hearing requirements for the Low Income Home Energy Assistance Program, the Administration and Community Affairs Division of the Texas Department of Housing and Community Affairs (TDHCA) will conduct one public hearing. The primary purpose of the hearing is to solicit comments on the proposed use and distribution of federal fiscal year (FFY) 2000 funds provided under the Low Income Home Energy Assistance Program (LIHEAP). LIHEAP provides funding for the Weatherization Assistance Program (WAP) and Comprehensive Energy Assistance Program (CEAP).

The public hearing has been scheduled as follows:

Friday, August 20, 1999, 3:00 p.m. in Room #1 at the Carver Library, 1161 Angelina Street, Austin, Texas.

A representative from TDHCA will be present to explain the planning process and receive comments from interested citizens and affected groups regarding the proposed plan. Intended Use Report may be obtained by contacting the Texas Department of Housing and Community Affairs, Energy Assistance Section, P. O. Box 13941, Austin, Texas 78711-3941. For questions, contact the Energy Assistance Section, Administration and Community Affairs Division at (512) 475-1099.

Comments on the intended use of funds may be in the form of written comments or oral testimony at the public hearing. Written comments must be received no later than the close of business at 5:00 p.m. on August 26, 1999. Comments concerning the Intended Use Report may be submitted to Lolly Garcia at TDHCA using the address provided above, or via the internet using [lgarcia@tdhca.state.tx.us](mailto:lgarcia@tdhca.state.tx.us), or by fax to (512) 475-3935. If you have any questions regarding the public hearing process or any of the programs referenced above, please contact the Energy Assistance Section at (512) 475-1099.

Individuals who require auxiliary aids or services for this meeting should contact Ms. Gina Esteves at (512) 475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

TRD-9904418  
Daisy Stiner  
Executive Director  
Texas Department of Housing and Community Affairs  
Filed: July 21, 1999

◆ ◆ ◆

## Texas Department of Human Services

### Public Hearing –Temporary Assistance for Needy Families (TANF) State Plan

The Texas Department of Human Services will conduct a public hearing to receive comments on the Temporary Assistance for Needy Families (TANF) State Plan. The hearing will be held at the Department of Human Services, 701 West 51st Street, in the Public Hearing Room, room number 125, on August 30, 1999 at 9:00 a.m.

In addition, comments may be submitted during the public comment period which begins July 30, 1999, and ends September 13, 1999. Comments must be submitted in writing to Texas Department of Hu-

man Services, Mary Haifley, Mail Code W-312, P. O. Box 149030, Austin, Texas 78714-9030. Comments may also be submitted electronically to "[mary.haifley@dhs.state.tx.us](mailto:mary.haifley@dhs.state.tx.us)". For additional information or a copy of the TANF State Plan, contact Mary Haifley at (512) 438-2599.

Individuals who require auxiliary aids or services for this meeting should contact Mary Haifley at (512) 438-2599 by August 23, 1999 so that appropriate arrangements can be made.

TRD-9904364  
Paul Leche  
Agency Liaison  
Texas Department of Human Services  
Filed: July 20, 1999

◆ ◆ ◆

### Public Hearing-Proposed Payment Rates for Day Activity and Health Services; Family Care; and Residential Care

The Texas Department of Human Services and the Texas Health and Human Services Commission will conduct a public hearing to receive comments on proposed payment rates for the following programs and services: Day Activity and Health Services; Family Care; and Residential Care. The hearing is held in compliance with 40 TAC §20.105(g), which requires public hearings on proposed payment rates. The public hearing will be held on August 16, 1999 at 9:00 a.m. in Room 125 of the John H. Winters Building at 701 West 51st Street, Austin, Texas (First Floor, East Tower). Written comments will be accepted in lieu of testimony until 5:00 p.m. on the day of the hearing. Written comments may be delivered by U.S. mail to the attention of Ms. Debbie Price, Texas Department of Human Services, P.O. Box 149030, MC W-425, Austin, Texas 78714-9030. Hand deliveries or express delivery will be accepted at 701 West 51st Street, Austin, Texas 78751. Alternatively, written comments may be delivered via facsimile to Ms. Price at (512) 438- 3014. Interested parties may pick up or request to have mailed to them briefing packages concerning the proposed payment rates by contacting Ms. Price at (512) 438-4817.

Persons with disabilities planning to attend the hearing who may need auxiliary aids or services are asked to contact Ms. Price at (512) 438-4817 by August 9, 1999 so that appropriate arrangements can be made.

TRD-9904428  
Paul Leche  
Agency Liaison  
Texas Department of Human Services  
Filed: July 21, 1999

◆ ◆ ◆

### Public Notice- Availability of Proposed Intended Use Report of Title XX Social Service Clock Grant Funds

The Texas Department of Human Services (DHS) has published a report outlining the proposed intended use of federal block grant funds during fiscal year 2000 for Title XX social services programs administered by the Texas Department of Human Services, the Texas Department of Health, the Texas Department of Protective and Regulatory Services, the Texas Department of Mental Health and Mental Retardation, Texas Education Agency, the Texas Workforce Commission, and the Texas Interagency Council on Early Childhood Intervention.

To obtain free copies of the report, send written requests to Chris Traylor, Government Relations Division, Mail Code W-623, Texas

Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030. DHS is seeking written comments from representatives of both public and private sectors regarding the proposed use of Title XX block grant funds. Written comments will be accepted for 30 days. Please mail comments to Chris Traylor at the address listed above.

TRD-9904289  
Paul Leche  
Agency Liaison  
Texas Department of Human Services  
Filed: July 16, 1999



## Texas Department of Insurance

### Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for incorporation to the State of Texas by AUTO CLUB INDEMNITY COMPANY, a domestic fire and casualty company. The home office is in Houston, Texas.

Application for incorporation to the State of Texas by AUTO CLUB CASUALTY COMPANY, a domestic fire and casualty company. The home office is in Houston, Texas.

Application for admission to the State of Texas by NOVAL CASUALTY COMPANY, a foreign fire and casualty company. The home office is in Buffalo, New York.

Application to change the name of FLORISTS' LIFE INSURANCE COMPANY to FINANCIAL AMERICAN LIFE INSURANCE COMPANY, a life company. The home office is in Des Plaines, Illinois.

Any objections must be filed with the Texas Department of Insurance, addressed to the attention of Kathy Wilcox, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701

TRD-9904419  
Bernice Ross  
Deputy Chief Clerk  
Texas Department of Insurance  
Filed: July 21, 1999



### Notice

The Commissioner of Insurance, or his designee, will consider approval of a rating manual request submitted by Allstate Insurance Group (Allstate Insurance Company, Allstate Indemnity Company, Allstate Property & Casualty Company) proposing to use a rating manual relative to classifications and territories different than that promulgated by the Commissioner of Insurance pursuant to TEX. INS. CODE ANN. art. 5.101, §3(1). They are proposing to adopt a companion policy discount that provides a 5% reduction in premium on certain personal auto policy coverages when the named insured or spouse is also the named insured on a homeowners, tenants, condominium owners or mobilehome policy issued by Allstate Insurance Company, Allstate Indemnity Company, or Allstate Texas Lloyds Company and covering the named insured's principal residence. The discount is applicable to premiums for bodily injury, property damage, personal injury protection, medical payments, collision and other than collision coverages.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless a properly filed objection, pursuant to Art. 5.101, §3(h), is made with the Senior Associate Commissioner for Regulation & Safety, Rose Ann Reeser, at the Texas Department of Insurance, MC 107-2A, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

TRD-9904402  
Gene Jarmon  
Assistant General Counsel  
Texas Department of Insurance  
Filed: July 21, 1999



### Notice of Hearing

The Commissioner of Insurance at a public hearing under Docket Number 2414 scheduled for September 2, 1999 at 9:00 a.m., in room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a petition by Texas Insurance Organization (TIO). TIO's petition seeks adoption of endorsements, rules, and rates to the Homeowners and Dwelling Sections of the Texas Personal Lines Manual (Manual) relating to homeowners and dwelling policies. TIO's petition (Reference Number P-0399-02), was filed on March 2, 1999, and supplemented by a petition filed on May 28, 1999, amending Exhibits B and G.

TIO proposes adoption of endorsements, rules, and rates for residential property policies to provide coverage for the increased cost of construction when an ordinance or law imposes specific requirements on the repair or replacement of insured damaged property.

Staff proposes the following numbers for TIO's proposed endorsements: Endorsement Number TDP-026, Building Laws Increased Costs of Construction (Forms TDP-1 and TDP-2 only); Endorsement Number TDP-027, Building Laws Increased Cost of Construction (Form TDP-3 only); and Endorsement Number HO-135, Building Laws Increased Cost of Construction (Forms HO-A, HO-B and HO-C only).

A copy of the petition, including exhibits of rates, full text of the proposed endorsements, and amendments to the Manual are available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number P-0399-02).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the Texas Register, to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas, 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Automobile and Homeowners Division, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas, 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from requirement of the Government Code, Chapter 2001 (Administrative Procedure Act).

TRD-9904272  
Bernice Ross  
Deputy Chief Clerk  
Texas Department of Insurance

Filed: July 15, 1999



### 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 Maruthi S. Manney, (doing business under the assumed name of SAI Plus), a foreign third party administrator. The home office is Rockville, Maryland.

Application for incorporation in Texas of KS Management Services, L.L.P., (doing business under the assumed name of Kelsey-Sebold Clinic), a domestic third party administrator. The home office is Houston, Texas.

Application for incorporation in Texas of OneSource Business Concepts, Inc., (doing business under the assumed name of FlexSource), a domestic third party administrator. The home office is Abilene, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

TRD-9904373

Bernice Ross

Deputy Chief Clerk

Texas Department of Insurance

Filed: July 20, 1999



## Texas Lottery Commission

### Request for Proposals

The Texas Lottery Commission (the "Texas Lottery") is issuing a Request for Proposals for a TV Style Game Show to be Performed at the State Fair of Texas for the Texas Lottery. ("the RFP"). The purpose of this RFP is to obtain proposals from vendors to provide the production of a TV style game show to be performed at the 1999 and 2000 State Fair of Texas for the Texas Lottery.

The Texas Lottery is seeking proposals on televised broadcast production staffing and services for the televised live on-line game drawings at a production facility within a forty (40) mile radius of the Texas Lottery's headquarters located at 611 E. 6th Street, Austin, Texas 78701.

The Successful Proposer shall perform three one-hour shows per day beginning on Friday, September 24, 1999 and ending on Sunday October 17, 1999; then, again on Friday, September 29, 2000, and ending on Sunday, October 22, 2000. The shows will begin at 2 p.m., 5 p.m. and 8 p.m. central time daily. Each show will include five or more different and unique games that highlight key information about lottery products and elicit audience participation and response.

#### Schedule of Events

The time schedule for awarding a contract under this RFP is shown below. The Texas Lottery reserves the right to amend the schedule.

July 15, 1999-Issuance of RFP

July 29, 1999-Letter of Intent to Propose Due (4:00 p.m. CT)

July 30, 1999-Written Questions Due (4:00 p.m. CT)

August 3, 1999-Answers to Written Questions Issued

August 9, 1999-DEADLINE FOR PROPOSALS (4:00 p.m. CT)

August 13, 1999-Announcement of Apparent Successful Proposer (or as soon as possible thereafter)

To obtain a copy of this RFP, please contact Ridgely Bennett, Deputy General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630, telephone (512) 344-5050, or by facsimile at (512) 344-5189.

TRD-9904290

Michelle Guerrero

Administrative Assistant

Texas Lottery Commission

Filed: July 16, 1999



## Texas Department of Mental Health and Mental Retardation

### Request for Proposals for Consulting Services

The Texas Department of Mental Health and Mental Retardation (TDMHMR), pursuant to Chapter 2254, Texas Government Code, requests proposals from consulting firms or consultants interested in providing TDMHMR with specialized consulting assistance in the rebasing of existing mental retardation model-based rates. The selected consultant will be expected to initiate contract services on or about November 1, 1999.

TDMHMR seeks consulting expertise related to long-term care programs funded by Medicaid, §1915(c) Medicaid waivers, rebasing rate indices, cost report development, analyzing program economics and efficiencies, identification of cost-saving opportunities, and development of cost-saving methodologies. The selected consultant will develop methodologies for rebasing, at a minimum, the indices (e.g., personnel wage rates, benefits percentage, supervisory span of control, staffing ratios, caseloads, and service time requirements) used to formulate the existing rate model and recommend rate model revisions to be effective in calendar year 2001.

Interested parties may obtain copies of the RFP at the offices of TDMHMR, 909 W. 45th Street, Building 4, Room 115, Austin, TX 78751.

**Proposal Submittal:** All proposals made in response to the RFP must be received by TDMHMR at the address indicated below no later than 5:00 p.m. Central Standard Time on October 1, 1999. The submitted proposal must indicate the proposer's ability and willingness to perform the services indicated in this RFP within the specified time period.

**Confidentiality:** To the extent permitted by law, TDMHMR will treat as confidential all information submitted in response to this RFP.

**Evaluation and Selection:** TDMHMR reviews all proposals to determine if they are responsive to the RFP requirements. TDMHMR may exclude from further consideration for contract award any proposal that TDMHMR determines is non-responsive. A proposer who submits a non-responsive proposal will be notified that the proposal is not responsive and will not be considered for a contract award by fax unless the required fax number is missing; in that case, the proposer will be notified by mail.

TDMHMR will select an evaluation review committee that will review and evaluate all responsive proposals. The committee will rank the proposals and submit associated recommendations to Ernest McKenney, Director, Medicaid Administration, TDMHMR.

TDMHMR will review the committee's recommendations and make recommendations to the TDMHMR Board for review and approval. TDMHMR may negotiate to complete the procurement process and/or to complete the evaluation process. Negotiations may include clarifications, improvements, and/or revisions to the original proposal only if it is in the best interest of TDMHMR.

**Contact:** All inquiries about this RFP must be directed to Mary Ann Roberts, Associate Director of Medicaid Reimbursement and Analysis, P.O. Box 12668, Austin, TX 78711-2668, Fax (512) 206-5673 or by courier to Mary Ann Roberts, Associate Director of Medicaid Reimbursement and Analysis, 909 W. 45th Street, Building 4, Room 115, Austin, Texas 78751. Communication with any TDMHMR personnel other than Mary Ann Roberts in reference to this RFP, is prohibited unless permission is granted in writing by the contact person.

TRD-9904420

Charles Cooper

Chairman, Texas MHMH Board

Texas Department of Mental Health and Mental Retardation

Filed: July 21, 1999



## Texas Natural Resource Conservation Commission

### Notice of District Petitions

Petitioners filed a petition for creation of Harris County Municipal Utility District No. 372 with the Texas Natural Resource Conservation Commission (TNRCC). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TNRCC. The petition states that: (1) the petitioners are owners of a majority in value of the land to be included in the proposed District; (2) there is one lienholder on the land to be included in the proposed district; (3) the proposed District will contain approximately 492.133 acres located within Harris County, Texas; and (4) the proposed District is within the corporate boundaries of the City of Houston, and is not within such jurisdiction of any other city. The petition further states that the proposed District will (1) construct, acquire, maintain and operate a waterworks and wastewater system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the property in the proposed District; and (3) control, abate and amend local storm waters or other harmful excesses of waters, as more particularly described in an engineer's report filed simultaneously with the filing of the petition. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the petitioners, from the information available at this time, that the cost of said project will be approximately \$23,000,000.

Petitioners filed a petition for creation of Harris County Municipal Utility District No. 370 with the Texas Natural Resource Conservation Commission (TNRCC). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TNRCC. The petition states that: (1) the petitioners are owners of a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 563 acres located within Harris County, Texas; and (3) the proposed District is within the extrater-

itorial jurisdiction of the City of Houston, and is not within such jurisdiction of any other city. By affidavit the petitioner states there are no lienholders on the land to be included in the proposed District. The petition further states that the proposed District will (1) construct, acquire, maintain and operate a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the property in the proposed District; and (3) control, abate and amend local storm waters or other harmful excesses of waters, as more particularly described in an engineer's report filed simultaneously with the filing of the petition. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the petitioners, from the information available at this time, that the cost of said project will be approximately \$35,780,000.

The TNRCC may grant a contested case hearing on this petition if a written hearing request is filed within 30 days after the newspaper publication of this notice. 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) the name of the applicant and the TNRCC Internal Control Number; (3) the statement "I/we request a public hearing"; (4) a brief description of how you would be adversely affected by the granting of the request in a way not common to the general public; and (5) the location of your property relative to the proposed district's boundaries. You may also submit your proposed adjustments to the petition which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition had hearing request to the TNRCC Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TNRCC, P.O. Box 13087, Austin, Texas, 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, 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 TNRCC can be found at our web site at [www.tnrcc.state.tx.us](http://www.tnrcc.state.tx.us).

TRD-9904388

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: July 20, 1999



### Notice of Water Quality Applications

The following notices were issued during the period of July 13, 1999 through July 20, 1999.

The following require the applicants to publish notice in the newspaper. The public comment period, requests for public meetings, or requests for a contested case hearing may be submitted to the Office

of the Chief Clerk WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THIS NOTICE.

CITY OF ABILENE has applied for renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0023973 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10334-004. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 18,000,000 gallons per day. The plant site is located approximately 1.5 miles north of the intersection of State Highway 351 and County Road 309, and 5 miles northeast of the intersection of Interstate Highway 20 and State Highway 351 in Jones County, Texas.

ACME BRICK COMPANY has applied for a National Pollutant Discharge Elimination System (NPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 03761. The draft permit authorizes the discharge of mine pit water commingled with stormwater at an intermittent and variable flow basis. The applicant operates the Mayfield Clay Mine. The plant site is located approximately 1.5 miles west of State Highway 19 and 0.3 miles north of Farm-to-Market Road 1861 in Van Zandt County, Texas.

AMERADA HESS CORPORATION has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 00671, which authorizes the discharge of storm water, wastewater from tank washes, ballast water, boiler blowdown, and tank draw-down water at a daily average flow not to exceed 730,000 gallons per day via Outfall 001, and storm water on an intermittent and flow variable basis via Outfall 002. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit Number TX0007145 issued on March 29, 1989 and TNRCC Permit Number 00671 issued December 15, 1995. The applicant operates a tank farm and loading terminal. The plant site is located on company controlled property abutting the north shore of the Houston Ship Channel at a point approximately 1/2 mile downstream from the Washburn Tunnel and approximately 1 mile south of Interstate Highway 10, in the extraterritorial jurisdiction of the City of Houston, Harris County, Texas. The effluent is discharged to the Sheffield ditch on the east side of the company's property; thence to the Houston Ship Channel in Segment No. 1007 of the San Jacinto River Basin.

AMERICAN NATIONAL CAN COMPANY has applied for a National Pollutant Discharge Elimination System (NPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 03953. The draft permit authorizes the discharge of process wastewater at a daily average flow not to exceed 100,000 gallons per day via Outfall 001. Issuance of the proposed Texas Pollutant Discharge Elimination System (TPDES) Permit Number 03953 will replace the existing TNRCC Permit Number 03953. The plant site is located approximately 800 feet southwest of the intersection of U.S. Highway 80 and Fisher Road, in the City of Longview, Gregg County, Texas.

ANDERSON MILL MUNICIPAL UTILITY DISTRICT has applied for a renewal of TNRCC Permit Number 11459-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 1,300,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,300,000 gallons per day. The plant site is located 1,700 feet southwest of the intersection of U.S. Highway 183 and Farm-to-Market Road 620 and approximately 5,800 feet northwest of the intersection of U.S. Highway 183 and Anderson Mill Road in Williamson County, Texas.

CITY OF ANTON has applied for a renewal of Permit Number 10021-001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day via irrigation of 150 acres of land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facilities and disposal area are located north of Yellow House Draw, approximately 1/2 mile south of the City of Anton, southwest of the intersection of U.S. Highway 84 and Farm-to-Market Road 168 in Hockley County, Texas.

AQUASOURCE UTILITY INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 11974-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 125,000 gallons per day. The plant site is located approximately 400 feet south of Rockwall Lake Dam and approximately 400 feet northwest of the point where the Farm-to-Market Road 3097 crosses Buffalo Creek in Rockwall County, Texas.

BP AMOCO CHEMICAL COMPANY has applied for a renewal of TNRCC Permit Number 02766, which authorizes the discharge of process wastewater, utility wastewater, treated domestic wastewater and stormwater at a daily average flow not to exceed 900,000 gallons per day via Outfall 001, and stormwater on an intermittent and flow variable basis via Outfall 002. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit Number TX0100404 issued on August 9, 1991 and TNRCC Permit Number 02766. The applicant operates a polypropylene plant. The plant site is located at 9548 Interstate Highway 10 East, one mile west of the intersection of State Highway 146 and Interstate Highway 10, in the city of Baytown, Harris County, Texas.

BEN WHEELER WATER SUPPLY CORPORATION has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13905-001. The draft permit authorizes the discharge of filter backwash at a daily average flow not to exceed 9,000 gallons per day. The plant site is located approximately 400 feet north of the intersection of County Road 4517 and Farm-to-Market Road 1995 and approximately 1.9 miles southwest of the intersection of Interstate Highway 20 and Farm-to-Market Road 314 in Van Zandt County, Texas.

BLOCK HOUSE MUNICIPAL UTILITY DISTRICT has applied for a renewal of TNRCC Permit Number 13031-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The plant site is located approximately 1.25 miles east of U.S. Highway 183 and 2 miles north of Farm-to-Market Road 1431 in Williamson County, Texas.

BISTONE MUNICIPAL WATER SUPPLY DISTRICT has applied for a major amendment to TNRCC Permit Number 14012-001 to authorize an increase in the discharge of treated water treatment filter backwash water from a daily average flow not to exceed 30,000 gallons per day to a daily average flow not to exceed 75,000 gallons per day. The plant site is located approximately one mile north of the intersection of State Highway 164 and Farm-to-Market Road 39 in Limestone County, Texas.

BRAZOS RIVER AUTHORITY has applied for a renewal of TNRCC Permit Number 11317-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 6,000,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 6,000,000 gallons per day. The plant site is located approximately 2



miles south of Sugar Land at the intersection of Beltz Road and U.S. Highway 59 in Fort Bend County, Texas.

BROWNSVILLE NAVIGATION DISTRICT has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10332-005. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The plant site is located on the north side of State Highway 48 approximately 0.7 mile east of the Brownsville Ship Channel in Cameron County, Texas.

BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY has applied for a renewal of an existing wastewater permit. The draft permit authorizes the discharge of track pan washwater and stormwater runoff via Outfall 001. The applicant operates a railroad shop and fueling station. The plant site is located approximately 1/4 mile south of the intersection of 10th Street and Avenue F in the City of Silsbee in Hardin County, Texas.

CAL FARLEY'S BOYS RANCH has applied for a renewal of Permit Number 11108-001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day via irrigation of 89 acres of land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facilities and disposal site are located approximately 0.2 mile north and 1.6 miles east of the intersection of U.S. Highway 385 and Spur 233 in Oldham County, Texas.

CAMERON WHITE DERRINGTON has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit Number 14026-001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The plant site is located approximately 2,000 feet northwest of the intersection of Farm-to-Market Road 563 and Farm-to-Market Road 770, adjacent to a county road and approximately nine miles southeast of the City of Liberty in Liberty County, Texas.

CAMP FOR ALL FOUNDATION has applied for a renewal of TNRCC Permit Number 13838-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 45,000 gallons per day. The plant site is located approximately 270 feet south of the intersection of Rehburg Road and Oliver Earl Lane north of the Town of Burton in the northwest portion of Washington County, Texas.

CELANESE LIMITED has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 03450. The draft permit authorizes the discharge of stormwater and condensate from cooling units on an intermittent and flow variable basis via Outfall 001. The plant site is located at 1901 Clarkwood Road approximately 3.5 miles north-northwest of the Corpus Christi International Airport, south of the intersection of Leopard Street and Clarkwood Street in the City of Corpus Christi in Nueces County, Texas.

CITY OF CELESTE has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10146-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 94,800 gallons per day. The plant site is located approximately 4000 feet west of U.S. Highway 69 and approximately one mile south-southwest of the intersection of U.S. Highway 69 and the Atchison-Topeka and Santa Fe Railway in Hunt County, Texas.

CHAMPION INTERNATIONAL CORPORATION has applied for a renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0064491 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 01902. The permit authorizes a discharge of wet decking runoff, cooling water, boiler blowdown, domestic wastewater, and storm water at a daily average flow not to exceed 130,000 gallons per day (dry weather flow) runoff via Outfall 001 and the discharge of fire pond overflow, boiler blowdown, non-cooling water, and storm water runoff at flow variable rates via Outfall 002. The applicant operates a plywood manufacturing facility. The plant site is located on the west side of U.S. Highway 59, approximately 6000 feet northwest of the intersection of U.S. Highway 59 and Farm-to-Market Road 352, in the City of Corrigan in Polk County, Texas.

PAT GENE CHAPMAN, SR. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit Number 13964-001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The plant site is located approximately 450 feet west of U.S. Highway 90, three miles northeast of the intersection of U.S. Highway 90 and Farm-to-Market Road 2100 in the City of Crosby, Harris County, Texas.

CHIRENO INDEPENDENT SCHOOL DISTRICT has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13917-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day. The plant site is located on the north side of Farm-to-Market Road 95, approximately 1/2 mile south of the junction of Highway 21 and Farm-to-Market Road 95 in Nacogdoches County, Texas.

CHRISTIAN TABERNACLE has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13581-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 5,000 gallons per day. The plant site is located approximately 1 mile northeast of the intersection of Farm-to-Market Road 526 and Wallisville Road in Harris County, Texas.

CLOVER CREEK MUNICIPAL UTILITY DISTRICT has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13115-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. The plant site is located approximately 2 miles south of Magnolia, Texas, on Nichols-Sawmill Road (Magnolia-Waller Road); south of the intersection of County Place Road and Nichols-Sawmill Road in Montgomery County, Texas.

COMMUNITY ESTATES, INC. has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13903-001. The plant site is located on Farm-to-Market Road 2259, approximately 2.5 miles northwest of the intersection of Farm-to-Market Road 226 and Farm-to-Market Road 2259 and 3.2 miles south-southwest of the intersection of Farm-to-Market Road and State Highway 21 in Nacogdoches County, Texas.

COMPONENT STRUCTURES, INC. has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The

applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 12320-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 2,000 gallons per day. The plant site is located approximately 2200 feet east of the intersection of Hardy Road and Richey Road, north of the City of Houston in Harris County, Texas.

COOPER CAMERON CORPORATION has applied for a renewal of TNRCC Permit Number 13668-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 6,250 gallons per day. The plant site is located at the intersection of U.S. Highway 90 and Farm-to-Market Road 1909 and approximately 3 miles east of the City of Liberty in Liberty County, Texas.

COUNTRY TERRACE WATER COMPANY, INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 11955-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 220,000 gallons per day. The plant site is located approximately 600 feet south of Highlands Reservoir, approximately 3/4 mile northwest of the intersection of Wallisville and Wade Roads in Harris County, Texas.

CROCKETT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10059-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The plant site is located approximately 3,000 feet west of the State Highway 163 and approximately 2.5 miles south of Interstate Highway 10 in Crockett County, Texas.

CITY OF DALLAS has applied for renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0002381 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10060-097. The draft permit authorizes the discharge of filter backwash water at an annual average flow not to exceed 15,000,000 gallons per day. The plant site is located at 2605 Shorecrest Drive at Denton Drive and the sludge lagoons and lagoon discharge located in the 9300 block of Harry Hines Boulevard, one half mile south of Interstate Highway 35 in the City of Dallas in Dallas County, Texas.

DEGUSSA CORPORATION has applied for a renewal of TNRCC Permit Number 02077, which authorizes the discharge of stormwater on an intermittent, flow variable basis depending on rainfall via Outfall 001. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit Number TX0033090 issued on January 30, 1988 and TNRCC Permit Number 02077. The applicant operates a carbon black plant. The plant site is located adjacent to and on the west side of State Highway 35, approximately six miles south of the City of Rockport, Aransas County, Texas.

CITY OF DEKALB has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10062-002. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 350,000 gallons per day. The plant site is located south of Dekalb, approximately 1.5 miles due south of the intersection of U.S. Highway 82 and Farm-to-Market Road 992 in Bowie County, Texas.

CITY OF DILLEY has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10404-002 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day. The plant site is located approximately one mile southwest of the intersection of Interstate Highway 35 and State Highway 85 in Frio County, Texas.

DONNA INDEPENDENT SCHOOL DISTRICT has applied for a renewal of TNRCC Permit Number 13680-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 17,000 gallons per day. The plant site is located approximately 1,000 feet west of the intersection of State Highway 493 and U.S. Highway 281, 3.6 miles south of the City of Donna in Hidalgo County, Texas.

DOVE MEADOWS REGIONAL WASTEWATER TREATMENT PLANT has applied for a renewal of TNRCC Permit Number 11215-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The plant site is located approximately 2 miles west of the intersection of Interstate Highway 45 and Farm-to-Market Road 2920 in Harris County, Texas.

ECOLOCHEM, INC., has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 03964. The draft permit authorizes the discharge of process wastewater (water treatment waste) at a daily average flow not to exceed 250,000 gallons per day via Outfall 001. The plant site is located adjacent to the west side of Farm-to-Market Road (FM) 1405 and approximately 4000 feet south of the intersection of State Highway 55 and FM 1405, east of the City of Baytown in Chambers County, Texas.

EXPLORER PIPELINE COMPANY has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 02395. The draft permit authorizes the discharge of process wastewater consisting of tank bottom water and stormwater on an intermittent and flow variable basis via Outfall 001. The plant site is located approximately one mile north of Interstate Highway 30, and 1/4 mile east of Farm-to-Market Road 36 near the City of Caddo Mills in Hunt County, Texas.

EXPLORER PIPELINE COMPANY has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 02398, which authorizes the discharge of process water and stormwater on an intermittent and flow variable basis via Outfall 001. The plant site is located north of State Highway 26 about 2.5 miles west of Grapevine in Tarrant County, Texas.

CITY OF FRANKSTON has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10441-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. The plant site is located south of the City of Frankston, immediately north of Caddo Creek, and approximately 1000 feet south and 1500 feet east of the intersection of State Highway 155 and State Highway 175 in Anderson County, Texas.

G & C INVESTMENT COMPANY, L.L.P. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a

renewal of TNRCC Permit Number 11923-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 5,000 gallons per day. The plant site is located in the southwest corner of an industrial park on Clark-Williams Road, 600 feet south of U.S. Highway 90, approximately 0.5 mile west of South Lake Houston Parkway, and approximately 4.5 miles northeast of the intersection of U.S. Highway 90 and Interstate Highway 610 in Harris County, Texas.

GFC DEVELOPMENT CORPORATION, 5599 San Felipe, Suite 2100, Houston, Texas 77056, has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit Number 14013-001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day. The plant site is located approximately 2,900 feet south of Farm-to-Market Road 1488; approximately 1,100 feet east of Bear Branch Lane; approximately 500 feet west of Sweetgum Lane in Montgomery County, Texas.

GILMER POTTERIES, INC., has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 01361. The draft permit authorizes the discharge of process wastewater at a daily average flow not to exceed 50,000 gallons per day via Outfall 001. The applicant operates a plant which manufactures porcelain products. The plant site is located southwest of the intersection of Warren Avenue and U.S. Highway 271 in the City of Gilmer in Upshur County, Texas.

CITY OF GROVES has applied for a renewal of TNRCC Permit Number 10094-004, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 5,320,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 5,320,000 gallons per day. The plant site is located approximately 2,000 feet southeast from the intersection of State Highway 87 and State Highway 73, and adjacent to Taft Avenue Extension in southeast direction from the intersection of State Highways 87 and 73 in Jefferson County, Texas.

GULF UTILITY SERVICE, INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 13643-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The plant site is located approximately 1.5 miles southeast of the intersection of Farm-to-Market Roads 2354 and 1405, on the south side of Farm-to-Market Road 2354 in Chambers County, Texas.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 8 has applied for a major amendment to TNRCC Permit Number 11727-001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 700,000 gallons per day to a daily average flow not to exceed 835,000 gallons per day. The plant site is located at 555 Normandy Street, just south of the intersection of Normandy Street and Woodforest Boulevard in Harris County, Texas.

HOLNAM TEXAS LIMITED PARTNERSHIP has applied for a renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0090425 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 02580. The draft permit authorizes the discharge of storm water on an intermittent and flow variable basis via Outfall 001. The applicant operates a limestone quarry and Portland Cement manufacturing plant. The

plant site is located at 1800 Dove Lane; east of and adjacent to the Atchison, Topeka, and Santa Fe railroad right of way; approximately two miles north of the City of Midlothian, in Ellis County, Texas.

CITY OF HOUSTON has applied for a renewal of TNRCC Permit Number 10495-101, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 4,000,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 4,000,000 gallons per day. The plant site is located at 15600 Rock House Road, approximately 1.1 miles east-southeast of the intersection of Interstate Highway 45 and Farm-to-Market Road 525 in Harris County, Texas.

HOUSTONIAN GOLF, LTD. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit Number 14031-001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 11,000 gallons per day. The plant site is located in the southwest corner of the Houstonian Golf Course, approximately 2000 feet south of the intersection of Farm-to-Market Road 1464 and Old Richmond Road and approximately 4300 feet west of Farm-to-Market Road 1464 in Fort Bend County, Texas.

CITY OF HUBBARD has applied for a major amendment to TNRCC Permit Number 10534-001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 150,000 gallons per day to a daily average flow not to exceed 250,000 gallons per day. The plant site is located south of the City of Hubbard, approximately 2 miles south of the intersection of State Highways 31 and 171 in Hill County, Texas.

HUNT COUNTY OIL COMPANY has applied for renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0068195 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 11721-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 7,000 gallons per day. The plant site is located approximately 500 feet southeast of the intersection of Interstate Highway 30 and Farm to Market Road 1903 and 5 miles southwest of the City of Greenville, Texas in Hunt County, Texas.

PAT INGRAM has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13895-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The plant site is located approximately 1.2 miles north-east of the intersection of Interstate Highway 20 and Loop 312 in Parker County, Texas.

CITY OF JOAQUIN has applied for a renewal of TNRCC Permit Number 12718-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The plant site is located approximately 2,700 feet northeast of the intersection of Jackson Street and U.S. Highway 84 in the City of Joaquin in Shelby County, Texas.

KATY INDEPENDENT SCHOOL DISTRICT has applied for a renewal of TNRCC Permit Number 12110-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The applicant has also requested a temporary variance to the existing water quality standards to allow time for the TNRCC to adopt a site specific standard for South Mayde Creek (in Addicks Reservoir) for incorporation into 30 TAC §307.10, Appendix D. The renewed permit also authorizes a variance to the Texas Surface Water Quality Standards under 30 TAC §307.2(d)(4).

The variance would authorize a three-year period in which the Commission will consider a recommended site-specific standard for South Mayde Creek (in Addicks Reservoir) and determine whether to adopt the standard or require the existing water quality standard to remain in effect. The plant site is located approximately 8 miles east of the City of Katy, just north of South Mayde Creek, 2 miles west-northwest of the intersection of Barker-Cypress Road and Interstate Highway 10 in Harris County, Texas.

CITY OF KAUFMAN has applied for a renewal of TNRCC Permit Number 12114-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 1,200,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,200,000 gallons per day. The plant site is located on U.S. Highway 175 approximately 1 mile southeast of the intersection of U.S. Highway 175 and State Highway 34 in Kaufman County, Texas.

KLEIN INDEPENDENT SCHOOL DISTRICT has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 12224-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 11,000 gallons per day. The plant site is located at the Klein I.S.D. Transportation Center, 2,000 feet east and 2,000 feet north of the intersection of Stuebner Airline Road and Spring-Cypress Road in Harris County, Texas.

KNOX OIL OF TEXAS, INC. has applied for a renewal of TNRCC Permit Number 12945-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 7,500 gallons per day. The plant site is located approximately 500 feet south of the intersection of Interstate Highway 35 and Farm-to-Market Road 310 on the west side of Interstate Highway 35 in Hill County, Texas.

ALBERT H. KORENEK has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 12680-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The plant site is located at 3318 County Road 89, approximately 1 1/3 miles southwest of the intersection of Farm-to-Market Road 1128 and Farm-to-Market Road 518 in Brazoria County, Texas.

LBC PETROUNITED, INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 02110, which authorizes the discharge of storm water on an intermittent and flow variable basis via Outfall 001. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit Number TX0075302 issued on May 7, 1996 and TNRCC Permit Number 02110. The applicant operates a petroleum/chemical bulk liquid storage terminal. The plant site is located located 900 feet east of the intersection of Port Road and State Route 146, approximately 2.5 miles north of the City of Seabrook, Harris County, Texas.

CITY OF LINDEN has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 10429-003, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 310,000 gallons per day. The plant site is located approximately 7,000 feet southeast of the intersection of Farm-to-Market Road 125 and U.S. Highway 59 (Jefferson Highway) in Cass County, Texas.

LOITZ ENTERPRISES, INC. has applied for a renewal of Permit Number 11435-001, which authorizes the disposal of treated domestic

wastewater at a daily average flow not to exceed 12,000 gallons per day via irrigation of 20 acres of land. The wastewater treatment facilities and disposal site are located approximately 1 mile south of Farm-to-Market Road 356 at a point 4 miles southeast of the intersection with State Highway 94 in the City of Trinity in Trinity County, Texas.

LOWER COLORADO RIVER AUTHORITY AND BRAZOS RIVER AUTHORITY have applied for renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0025577 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 11324-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. The plant site is located 1,300 feet east of Farm-to-Market Road 1660 and 1,500 feet south of State Highway 79 in the City of Hutto in Williamson County, Texas

MATAGORDA COUNTY NAVIGATIONAL DISTRICT NO. 1 has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit Number 04036, to authorize the discharge of treated bilge water at a daily average flow not to exceed 500 gallons per day via Outfall 001. The applicant proposes to operate a bilge water reclamation facility. The plant site is located within the Port of Palacios, on the south shore of Turning Basin #3, approximately two miles east of the intersection of Newsom Road and Mangerum Blvd., in the City of Palacios, Matagorda County, Texas.

MATAGORDA GROUP L.P. has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13946-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 12,500 gallons per day. The plant site is located 3,250 feet southwest of the end of State Highway 185 and adjacent to Commerce Street in the City of Port O'Connor in Calhoun County, Texas.

NALCO/EXXON ENERGY CHEMICALS, L.P., has applied for a renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0008761 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 01806. The draft permit authorizes the discharge of previously monitored effluent (process wastewater, sanitary wastewater, utility wastewater, stormwater runoff, and treated groundwater) on a flow variable basis via Outfall 001, and stormwater runoff on an intermittent, flow variable basis via Outfalls 002, 003, and 004. The applicant operates an oxyalkylation plant. The plant site is located on County Road 229, approximately 1.25 miles east of the intersection of County Road 229 and Farm-To Market-Road 523, northeast of the City of Freeport in Brazoria County, Texas.

CLAUDE NORMAN & DIAN NORMAN/CITY OF PEARLAND has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit Number 14050-001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The plant site is located on King Authur's Court, in the northeast corner of Somersetshire Estates, approximately 2000 feet southeast of the intersection of County Road 93 and Hughes Ranch Road in Brazoria County, Texas.

NORTH TEXAS DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC. has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit

Number 13847-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 21,000 gallons per day. The plant site is located approximately 400 feet southeast of the east end of Soil Conservation Service Dam No. 56, and approximately 2.5 miles east northeast of the City of Maypearl in Ellis County, Texas.

ORANGE COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2 has applied for renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0054810 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10240-001. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,220,000 gallons per day. The plant site is located in West Orange at 1600 Western Avenue, approximately 450 feet east-northeast of the intersection of Western Avenue and Albany Street in Orange County, Texas.

CITY OF PARIS has applied for renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0075931 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10479-001. The draft permit authorizes the discharge of filter backwash effluent from a water treatment plant at an annual average flow not to exceed 15,000,000 gallons per day. The plant site is located on Lake Crook Road, approximately one mile west of U.S. Highway 271, directly east of Lake Crook Dam and north of the City of Paris in Lamar County, Texas.

PIONEER CONCRETE OF TEXAS, INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 02624, which authorizes the discharge of sand and gravel wash water and transport water at a daily average flow not to exceed 1,300,000 gallons per day via Outfall 001. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit Number TX0092738 issued on June 2, 1989 and TNRCC Permit Number 02624 issued March 11, 1994. The applicant operates a sand and gravel plant. The plant site is located approximately 1.0 mile west on County Line Road from the intersection of Farm-to-Market Road 1489 and County Line Road, approximately 3.5 miles northwest of the community of Simonton, Fort Bend County, Texas.

PROTESTANT EPISCOPAL CHURCH COUNCIL OF THE DIOCESE OF TEXAS has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 11462-003. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 33,500 gallons per day. The plant site is located approximately 2,000 feet north of the Grimes/Waller County Line and 1,000 feet west of County Road 362 in Grimes County, Texas.

CITY OF QUANAH has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10600-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 465,000 gallons per day. Issuance of the proposed TPDES Permit Number 10600-001 will replace the existing TNRCC Permit Number 10600-001. The plant site is located at 1009 East Nelson Street in the City of Quanah in Hardeman County, Texas.

TOWN OF REFUGIO has applied for a renewal of TNRCC Permit Number 10255-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 576,000 gallons

per day. The plant site is located 1.0 mile east of U.S. Highway 77 and 0.75 mile south of Farm-to-Market Road 774 in Refugio County, Texas.

RESORT WATER SERVICES, INC. has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13879-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 75,000 gallons per day. The plant site is located approximately 0.3 mile south of the State Highway 198 and 1.5 miles west of the intersection of State Highway 198 and Farm-to-Market Road 316 in Henderson County, Texas.

RICE WATER SUPPLY AND SEWER SERVICE CORPORATION has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 11028-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 66,000 gallons per day. The plant site is located west of the City of Rice and west of Interstate Highway 45, and approximately 2 miles north of the intersection of Interstate Highway 45 and Farm-to-Market Road 1126 in Navarro County, Texas.

RIVER HILLS OWNERS ASSOCIATION, INC., has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10961-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The plant site is located adjacent to and northwest of the intersection of Farm-to-Market Road 691 and Farm-to-Market Road 131 in Grayson County, Texas.

RIVERSIDE COUNTRY CLUB has applied for a renewal of TNRCC Permit Number 11602-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 8,000 gallons per day. The plant site is located approximately 1200 feet south of State Highway 332 and approximately 1.5 miles east of the intersection of State Highway 332 and Farm-to-Market Road 521 in Brazoria County, Texas.

RONMAR GENERAL PARTNERSHIP has applied for a renewal of TNRCC Permit Number 13569-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 1,500 gallons per day. The plant site is located on the northwest corner of Stuebner Airline Road and Mittelsteadt Road, between Farm-to-Market Road 1960 and Cypress Creek in Harris County, Texas.

SAN ANTONIO WATER SYSTEM has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10137-004 which authorizes discharges from Mitchell Lake on an intermittent and variable flow basis. The plant site is located approximately one mile south of Loop 410 and east of Pleasanton Road, south of the City of San Antonio in Bexar County, Texas.

CITY OF SANTA ROSA, P.O. Box 455, Santa Rosa, Texas, 78593, has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 10330-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 390,000 gallons per day. Issuance of the proposed TPDES Permit

Number 10330-001 will replace the existing TNRCC Permit Number 10330-001. The plant site is located approximately 0.4 mile northeast of the intersection of State Highway 107 and Farm-to-Market Road 506, northeast of the City of Santa Rosa in Cameron County, Texas.

SPRING OAKS MOBILE HOME PARK, INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 12650-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 25,000 gallons per day. The plant site is located at 4200 Spring-Steubner Road, on the north side of Spring-Steubner Road approximately 2 1/2 miles west of the intersection of Interstate Highway 45 and Spring-Steubner Road in Harris County, Texas.

SPRINGTOWN INDEPENDENT SCHOOL DISTRICT has applied for a new permit, Proposed Permit Number 14054-001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 15,000 gallons per day via drip irrigation of 3.45 acres of land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facilities and disposal site are located approximately 2 miles west-northwest of the intersection of Farm-to-Market Road 730 and Farm-to-Market Road 1542 on Farm-to-Market Road 1542 in Parker County, Texas.

STOWAWAY BAY PROPERTY OWNERS ASSOCIATION has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 11779-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The plant site is located on the west side of Farm-to-Market Road 3186 approximately 2 miles south of the intersection of State Highway 190 and Farm-to-Market Road 3186 in Polk County, Texas.

THOUSAND TRAILS, INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 13075-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The plant site is located approximately 1.5 miles south of the intersection of Farm-to-Market Road 2604 and Farm-to-Market Road 933 in Hill County, Texas.

TRANS-GLOBAL SOLUTIONS, INC. has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TNRCC Permit Number 02613, which authorizes the discharge of coke pile runoff, storm water, and filter backwash water at a daily average dry weather flow not to exceed 150,000 gallons per day via Outfall 001. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit Number TX0092428 issued on March 2, 1989 and TNRCC Permit Number 02613, issued on September 9, 1994. The applicant operates a petroleum coke storage facility. The plant site is located at the south bank of the Neches River, approximately 1.5 miles northwest of the intersection of State Highway 87 and Farm-to-Market Road 366, in the City of Port Arthur, Jefferson County, Texas.

TRIANGLE PACIFIC CORPORATION AND BRUCE HARDWOOD FLOORING, L.P. has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 03950. The draft permit authorizes the discharge of log storage water (boiler blowdown, storm water and raw water) on an intermittent and flow variable basis via Outfall 001 and 002. The applicant operates a laminated hardwood processing facility. The plant site is located at 1100 Cottonford Road in the City of Center in Shelby County, Texas.

TRUCK STOP CORPORATION on has applied for a renewal of TNRCC Permit Number 03517, which authorizes the discharge of treated wastewater at a daily average flow not to exceed 8,000 gallons per day via Outfall 001, and stormwater on an intermittent and flow variable basis via Outfall 002. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing TNRCC Permit Number 03517 issued on July 16, 1993. The applicant operates a convenience store and truck stop. The plant site is located on the northwest corner of the intersection of IH 10 and Magnolia Avenue approximately 1.8 miles west of the intersection of IH 10 and the San Jacinto River in the City of Houston, Harris County, Texas

U.S. DEPARTMENT OF JUSTICE-IMMIGRATION AND NATURALIZATION SERVICE has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 12321-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 160,000 gallons per day. The plant site is located approximately 1,500 feet south of the southeast end of Cameron County Airport Runway, approximately 1.5 miles north and 4 miles east of the intersection of Farm-to-Market Roads 510 and 2480 in Cameron County, Texas.

UNION HILL INDEPENDENT SCHOOL DISTRICT has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13885-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 8,000 gallons per day. The plant site is located approximately 0.26 mile southwest of the intersection of Farm-to-Market Road 2088 and Farm-to-Market Road 2454 in Upshur County, Texas

UNION WATER SUPPLY CORPORATION has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13842-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 75,000 gallons per day. The plant site is located approximately 0.7 mile south of the intersection of Farm-to-Market 1430 and State Highway 83 on Farm-to-Market Road 1430 in Garciasville in Starr County, Texas.

THE CITY OF VENUS has applied for a renewal of TNRCC Permit Number 10883-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 175,000 gallons per day. The plant site is located approximately 0.5 mile northwest of the City of Venus at a point approximately 500 feet north of U.S. Highway 67 and approximately 200 feet west of Farm-to-Market Road 157 in Johnson County, Texas.

CITY OF WACO has applied for a renewal of TNRCC Permit Number 13971-001, which authorizes the discharge of treated water treatment filter backwash water at a daily average flow not to exceed 240,000 gallons per day. The plant site is located on Lake Shore Drive between Mt. Carmel Drive and Wooded Acres Drive just east of Lake Waco in McLennan County, Texas.

WEST HARDIN COUNTY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 11274-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 8,000 gallons per day. The plant site is located immediately

south of the intersection of State Highway 105 and Farm-to-Market Road 770 and approximately 1000 feet east of Pine Island Bayou in Hardin County, Texas.

WEST PARK MUNICIPAL UTILITY DISTRICT has applied for a renewal of TNRCC Permit Number 12346-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The plant site is located 19310 Katy Freeway, approximately 800 feet north of Interstate Highway 10 and approximately 3,200 feet east of Fry Road at the south termination of Harris County Flood Control District Ditch U101-02-00 in Harris County, Texas.

WESTON MUNICIPAL UTILITY DISTRICT has applied for a renewal with changes to TNRCC Permit Number 11632-001. The application wishes a change to authorize the discharge of treated domestic wastewater from a daily average flow not to exceed 500,000 gallons per day to a daily average flow not to exceed 100,000 gallons per day. The plant site is located approximately 0.40 mile north of Interstate Highway 10 and 0.60 mile east of Mason Road in Harris County, Texas.

WILSON ROAD PROPERTIES, LTD. has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13870-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 99,000 gallons per day. The plant site is located 3,000 feet west by southwest from the intersection of Wilson Road and Atascocita Road; thence 2,500 feet south in the plant property between Garners Bayou and Atascocita Road; approximately 8,000 feet south of Lakeland School in Harris County, Texas.

WINDERMERE UTILITY CO., INC. has applied for a renewal of TNRCC Permit Number 11931-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 2,000,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The plant site is located on the westerly bank of Gilleland Creek, approximately 5,800 feet northwest of the intersection of Pflugerville Loop and Farm-to-Market Road 1825 in Travis County, Texas.

WINTER GARDEN PARK CORPORATION has applied for renewal of an existing wastewater permit. The applicant has an existing National Pollutant Discharge Elimination System (NPDES) Permit Number TX0059587 and an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 11628-001. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 11,000 gallons per day. The plant site is located 850 feet due west from the intersection of U.S. Highway 83 and Farm-to-Market Road 800, 85 feet south of U.S. Highway 83 in Cameron County, Texas.

JOSEPH SHAU CHO WONG has applied for a renewal of Permit Number 13469-001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 25,000 gallons per day via subsurface drainfields/evaporation with a minimum area of 74,000 square feet. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facilities and disposal area are located adjacent to and north of U.S. Highway 180 and State Highway Loop 375 in El Paso County, Texas.

WOODRIDGE LIMITED PARTNERSHIP has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit Number 13474-001, which authorizes

the discharge of treated domestic wastewater at a daily average flow not to exceed 4,000 gallons per day. The plant site is located approximately 1600 feet southeast of the intersection of Farm-to-Market Road 134 and State Highway 43 in Harrison County, Texas.

The following do not require the applicants to publish notice in the newspaper. The public comment period, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk WITHIN 30 DAYS OF THE ISSUE DATE OF THE NOTICE.

PAUL H. KREBS has applied for a renewal of TNRCC Permit Number 12691-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 22,500 gallons per day. The plant site is located at No. 3806 on Farm-to-Market Road 1942 in Harris County, Texas.

RELIENT ENERGY INCORPORATED has applied for a renewal of TNRCC Permit Number 02499, which authorizes the discharge of washdown water and domestic sewage at a daily average flow not to exceed 1,600 gallons per day via Outfall 001. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit Number TX0031429 issued on July 2, 1987 and TNRCC Permit Number 02499. The applicant operates the Channelview Service Center. The plant site is located immediately north of Interstate Highway 10 between Dell Dale Street and Penn City Road, approximately 1/4 mile east of Beltway 8, in the City of Houston, Harris County, Texas.

#### Notice of Water Quality Applications (CAFO)

Written public comments may be submitted to the Office of the Chief Clerk WITHIN 10 DAYS OF THE DATE THIS NOTICE IS ISSUED.

W.C. BARTON, has applied to the Texas Natural Resource Conservation Commission (TNRCC) for an amendment to Permit Number 03513 to authorize the applicant to operate an existing Dairy Operation at a maximum capacity of 450 head in Johnson County, Texas. No discharge of pollutants into the waters of the state is authorized by this permit. All waste and wastewater will be beneficially used on agricultural land. The existing facility is located on County Road 309 approximately one-half mile south of the intersection of Farm-to-Market Road 4 and County Road 417, and southwest of the intersection of County Road 417 and County Road 309 in Johnson County, Texas. The facility is located in the drainage area of The Nolan River in Segment No. 1227 of the Brazos River Basin.

The following require the applicants to publish notice in the newspaper. The public comment period, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THIS NOTICE.

CHARLIE MYERS AND CMM GRAIN CO., Inc. have applied to the Texas Natural Resource Conservation Commission (TNRCC) for TPDES Permit 03442 to authorize the applicant to expand an existing beef cattle feedlot from a maximum capacity of 4,250 to 8,000 head in Baylor County, Texas. No discharge of pollutants into the waters in the state is authorized by this permit. All waste and wastewater will be beneficially used on agricultural land. The existing facility is located on the north side of U.S. Highway 82 approximately two miles east of the intersection of U.S. Highway 82 and Farm-to-Market Road 268 just west of Seymour in Baylor County, Texas. The facility is located in the drainage area of the Brazos River Above Possum Kingdom Lake in Segment No. 1208 of the Brazos River Basin.

JOE F. EVERETT, has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a new TPDES Permit

Number 04099 to authorize the applicant to operate a beef cattle feedlot facility at a maximum capacity of 3,000 head in Sherman County, Texas. No discharge of pollutants into the waters in the state is authorized by this Permit. All waste and wastewater will be beneficially used on agricultural land. The facility is located on the south side of an unnamed caliche road, 1 mile north of the intersection of U.S. Highway 287 and FM 297, and 2 miles north of the City of Cactus, Moore County, Texas. The facility is located in the drainage area of Segment No. 0100 of the Canadian River Basin.

FANNIN FARMS INC, has applied to the Texas Natural Resource Conservation Commission (TNRCC) for TPDES Permit No. 03250 to renew and replace an existing state permit to authorize the applicant to operate an existing dairy facility at a maximum capacity of 900 milking head and a total of 990 head in Bowie County, Texas. No discharge of pollutants into the waters in the state is authorized by this Permit. All waste and wastewater will be beneficially used on agricultural land. The existing facility is located on the northwest corner of the intersection of Farm-to-Market Road 44 and Farm-to-Market Road 3165 approximately 3.1 miles west of U.S. Highway 259 in Bowie County, Texas. The facility is located in the drainage area of Wright Patman Lake in Segment No. 0302 of the Sulphur River Basin.

GERALD OOSTEN, P.O. Box 1381, Stephenville, Texas, 76401 has applied to the Texas Natural Resource Conservation Commission (TNRCC) for TPDES Permit Number 03142 to authorize the applicant to operate an existing dairy facility at a maximum capacity of 1950 head in Erath County, Texas. No discharge of pollutants into the waters in the state is authorized by this Permit. All waste and wastewater will be beneficially used on agricultural land. The dairy is located on the west side of County Road 209, approximately four miles northwest of its intersection with Farm-to-Market Road 2481 in the city of Duffau in Erath County, Texas. The facility is located in the drainage area of North Bosque River in Segment No. 1226 of the Brazos River Basin.

RANDY WYLY, has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a TPDES Permit Number 03160 to replace and amend State permit authorizing the applicant to expand an existing dairy operation from a maximum capacity of 700 head to 1500 head in Erath County, Texas. No discharge of pollutants into the waters in the state is authorized by this Permit. All waste and wastewater will be beneficially used on agricultural land. The existing facility is located on the west side of County Road 209 at a point 1.5 miles south of the intersection of US 67 with FM 913 and County Road 209. The facility is located in the drainage area of North Bosque River in Segment No. 1226 of the Brazos River Basin.

XCL FEEDERS, INC., has applied to the Texas Natural Resource Conservation Commission (TNRCC) for TPDES Permit Number 03618 to authorize the applicant to operate an existing beef cattle facility at a maximum capacity of 6,500 head in Deaf Smith County, Texas. No discharge of pollutants into the waters in the state is authorized by this Permit. All waste and wastewater will be beneficially used on agricultural land. The existing facility is located on the south side of Farm-to-Market Road 1058 at the intersection of Farm-to-Market Road 1058 and 1057, approximately six and one half miles west of the City of Hereford in Deaf Smith County, Texas. The facility is located in the drainage area of the Upper Prairie Dog Town Fork Red River in Segment No. 0229 of the Red River Basin.

TRD-9904387

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: July 20, 1999

◆ ◆ ◆  
**Proposal for Decision**

The State Office Administrative Hearing (SOAH) has issued a Proposal for Decision and Order to the Texas Natural Resource Conservation Commission (TNRCC) on July 16, 1999 on an Enforcement Action Against R.J. Smelley Company; SOAH Docket Number 582-98-0865; TNRCC Docket Number 97-0956-AGR-E. In the matter to be considered by the Texas Natural Resource Conservation Commission on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 North Interstate 35, Austin, Texas. This posting is Notice of Opportunity to comment on Proposal for Decision and Order. Comment period will end 30 days from date of publication. If you have any questions or need assistance, please contact Doug Kitts, Chief Clerk's Office, (512) 239-3317.

TRD-9904386

Douglas A. Kitts

Agenda Coordinator

Texas Natural Resource Conservation Commission

Filed: July 20, 1999

◆ ◆ ◆  
**Permian Basin Workforce Development Board**

**Request for Proposal**

**I. INTRODUCTION**

**GENERAL INFORMATION.** The Permian Basin Workforce Development Board (PBWDB) is requesting proposals from qualified firms of certified public accountants to audit the financial statements for the fiscal year ended June 30, 1999. This audit is to be performed in accordance with generally accepted auditing standards; the standards set forth for financial audits in the U.S. General Accounting Office's (GAO) Government Auditing Standards (1984); the provisions of the federal Single Audit Act of 1984, as amended; U.S. Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-profit Organizations, as amended.

Each proposal received will become a part of PBWDB's official files without obligation on the part of PBWDB. The requested proposal is to include one annual audit covering the 12-month fiscal year beginning July 1, 1998. The reports required include statements as directed by each grant agency and/or as required to meet the Single Audit Act and OMB Circular A-133. Pertinent criteria, background, deadlines and the format requirements are contained in the following information.

**II. BACKGROUND**

The audit must comply with Generally Accepted Auditing Standards, as stated in AICPA Statements on Auditing Standards, the provision of the Single Audit Act, the generally accepted government auditing standards issued by the GAO and OMB Circular A-133.

*Dates Of Interest For The RFP:*

The period to be audited is the fiscal year ended June 30, 1999 for the Permian Basin Workforce Development Board. Proposals must be received in the office of the PBWDB no later than 5:00 p.m., Central Daylight time, on August 27, 1999.

**III. SCOPE OF AUDIT**

*The auditor will be responsible for the completion of the following tasks:*



1. Selection of audit samples of grants to be audited.
2. Law requires comprehensive financial audits of all grants. (Attachment A).
3. Statements and schedules will be prepared by the auditor with the assistance of staff as necessary.
4. The Finance Department staff and responsible Management Personnel will be available during the audit to assist the firm by providing information, documentation and explanations.
5. All records are maintained by the PBWDB, and will be audited at the office of the PBWDB.

Proposals should be addressed to:

Willie Taylor, Executive Director, Permian Basin Workforce Development Board, P.O. Box 61947, Midland, Texas 79711-1947. In addition, the envelope should be marked, "Sealed Proposal for Auditing Services" in the lower left-hand corner.

Based upon the information provided in Section II, the proposals should state a minimum fee that will be charged for each level of staff if the PBWDB authorizes the firm to expand the scope of engagement.

Proposals should also provide for the printing, typing and delivery of 50 copies of the completed audit report no later than 90 days after the end of the fiscal year audited. Each proposal should have a maximum charge for the fiscal year audited. PBWDB reserves the right to reject any and all proposals submitted and to request additional information from all proposers. All entities submitting proposals will be notified no later than September 13, 1999, of the audit firm to which the contract has been awarded.

Questions concerning this request for proposals should be forwarded to: Dia Robinett, (915) 563-5239

#### **IV. CRITERIA**

*Criteria for the selection of the auditor are established as follows:*

1. Information of the firm's background and experience auditing programs financed by the federal government, state, county and local government activities; nonprofit organizations; and commercial entities.
2. Proposals should contain resumes of team members to be assigned to this project by the auditor. These resumes should further specify the role to be played by each member during the conduct of the audit. Emphasis should be placed on prior audit experience relative to state and federal grants or subcontractors. A description of the partner(s) and manager(s) to be assigned to the engagement, including their resumes. Failure of the firm to assign individuals included in the team description may be cause for termination of the contract.
3. Information as to the size and organizational structure of the firm.
4. The firm's ability to provide 50 copies of the auditor's report, the financial statements and schedules, the management letter, and the report on internal accounting control weaknesses. The partner in charge of the audit shall be free to attend up to three public meetings a year as directed by the PBWDB at which the audit report will be discussed.
5. The firm shall make available its working papers to any or all grantors to the PBWDB upon request, and in accordance with federal and state grant provisions.
6. Ability of the firm to contain the cost of the audit.
7. Ability of the firm to meet the 90 day deadline.

ATTACHMENT A

**Grants to be audited FY '99**

<u>Grant or Contract</u>	<u>Budget Total</u>
Employment Services (ES)	\$ 22,300
Employee Benefits	\$ 107,963
TANF	\$ 102,349
Job Training Partnership Act (JTPA)	\$ 298,933
Food Stamps Employment & Training (E&T)	\$ 36,659
Child Care Management System (CCMS)	\$ 402,291
Welfare-to-Work	\$ 50,000
<b>TOTAL</b>	<b>\$1,248,250</b>

TRD-9904385  
Willie Taylor  
Executive Director  
Permian Basin Workforce Development Board

Filed: July 20, 1999

◆ ◆ ◆  
Texas Department of Protective and Regulatory  
Services

---

*IN ADDITION July 30, 1999 24 TexReg 5941*

## Request for Proposal - Adolescent Residential Substance Abuse Treatment Services

The Texas Department of Protective and Regulatory Services (PRS), pursuant to its authority under Human Resources Code Chapter 40, hereby invites proposals to provide adolescent residential substance abuse treatment services. The Texas Commission on Alcohol and Drug Abuse (TCADA) and PRS recognize the need for adolescent residential substance abuse treatment services for PRS foster care youth and anticipate the continuation and expansion of these services during Texas Fiscal Year 2000 (10/1/1999 through 8/31/2000). Accordingly, this RFP is being issued for proposals to provide additional adolescent residential substance abuse treatment services under Project CFSA, "Children Free of Substance Abuse."

**Description:** Proposals are requested under this RFP to provide TCADA-licensed adolescent residential substance abuse treatment services for PRS foster care children. Applicants must have a TCADA-licensed facility in any of the counties of PRS Regions 03, 04, 05, 06, 08, 09, 10, or 11. Proposals for Region 03 are preferred from providers who specialize in care for boys only or boys and girls adolescent population, as a female adolescent population facility is currently funded; proposals from Region 06 are preferred from providers who specialize in care for girls only or boys and girls adolescent population, as a male adolescent population facility is currently funded in that region. Interested parties must submit a separate proposal for each region on which they are bidding, to PRS at the address stated below.

**Eligible Applicants:** Eligible applicants include public or private agencies with demonstrated knowledge, competence, and qualifications in providing adolescent residential substance abuse treatment services, who are currently licensed by TCADA to provide such services. Funds provided through this project may not be used to replace existing federal, state, or local funding. Current contractors may apply to expand services to the desired groups. Eligible applicants who may also be Historically Underutilized Businesses, Minority or Women's Enterprise Businesses, or Small Business Enterprises are encouraged to apply by notifying the contact person named below.

**Limitations:** PRS reserves the absolute right to cancel or rescind this RFP, in whole or in part, and to reject, in whole or in part, any and all offers received. PRS does not guarantee any quantities or types of services, goods, customers, or other items to be available under this RFP. PRS shall not reimburse any costs incurred in applying for this RFP.

**Term and Total Value:** The contract period will be October 1, 1999, through August 31, 2000. Funding is not to exceed \$250,000 for proposal(s) funded from PRS Region 08 (San Antonio) or 11 (Edinburg). Funding is not to exceed \$200,000.00 for proposal(s) funded from PRS Region 03 (Dallas), 04 (Tyler), 05 (Beaumont), 06 (Houston), 09 (Midland), or 10 (El Paso). Total funding of this RFP is not to exceed \$950,000.00. It is projected that up to five (5) proposals may be awarded at PRS's discretion. Funding is wholly contingent upon PRS receipt of federal and state revenue for these services. At the Department's option, the contract awarded under this RFP may be renewed annually for a period not to exceed four years including the above referenced period. Contract renewal is not automatic; contracts may be renewed at the Department's option, when authorized, and when it is in the Department's best interests.

**Evaluation and selection:** A PRS state agency panel of program and administrative staff will rank and score the proposals. The screening and evaluation method and criteria are predetermined. Criteria include detailed service description, relevant organizational experience and staff qualifications, and cost projections with narrative.

**Deadline:** The last day to receive proposals is Friday, September 3, 1999, at 4:00 p.m. Proposals received after this deadline will be accepted only if received by next day delivery and with proof of mailing at least two days prior to the deadline. Modifications to the original proposal must also be received by the September 3, 1999, 4:00 p.m. deadline.

**Contact Person:** To obtain a complete copy of the Request for Proposal, please contact the designated purchasing officer, Deborah Williams, Texas Department of Protective and Regulatory Services, Winters Building, 701 West 51st Street, P. O. Box 149030 (Mail Code E-557), Austin, Texas 78751, at 512/438-3312. Please present inquiries pertaining to this RFP in writing to the stated address on or before Monday, August 13, 1999.

TRD-9904363

C. Ed Davis

Deputy Commissioner for Legal Services

Texas Department of Protective and Regulatory Services

Filed: July 20, 1999



## Request for Proposal - Assessment Model

The Texas Department of Protective and Regulatory Services (PRS), pursuant to its authority under Human Resources Code Chapter 40, is seeking providers to develop and to implement an assessment model in two Texas counties that may later be applied statewide for the benefit of children in PRS conservatorship who have suffered from abuse and neglect. The provision of an assessment model under this Request for Proposals (RFP) is to include the following components: (1) preparing and presenting a development and implementation plan for an assessment model in Texas that will effectively lead to a more systemic approach in providing clinical assessments and other therapeutic evaluations that address each child's development needs (including physical / medical, life events, social / family, emotional, behavioral and educational / cognitive areas of concern); and (2) developing, implementing, hosting, operating and maintaining an automated web-based assessment tool that is fully operational and accessible through the Internet and that is to be used by clinicians in their clinical assessments and other therapeutic evaluations to address each child's development needs; and (3) developing and implementing a certification process which will consist of training and certifying clinicians to ensure their ability to understand and to use the automated web-based assessment tool and to provide clinical assessments according to the model; and (4) mobilizing the professional communities (including but not limited to PRS Child Protective Services and other social services, legal, mental health, education, clinical / medical, caretaker / parent support groups, child advocacy groups, corporate and community leaders) to understand the assessment model and to participate in the various activities involved; and (5) preparing and presenting a research and evaluation tool for the assessment model that may be utilized by PRS / other professional communities to examine the model's effectiveness and well-being of the children during the pilot phase of the model and to address various factors such as improved systemic decision-making, reduced numbers of placement disruptions and adoption dissolutions, and the efficacy of clinical services provided under the model, and (6) assuring the transfer of the ownership rights to the assessment model and certification process to PRS.

**Eligible Offerors:** Public or private non-profit and for profit agencies, including but not limited to institutions of higher education or a consortium thereof, with demonstrated knowledge and experience in developing and implementing clinical assessment models for children

who have suffered from abuse and neglect, are eligible to submit a proposal for services under this RFP. Since PRS may decide to bring the assessment model to the entire state, offerors are required to indicate the ability to provide assessment model services statewide and the potential costs of doing so. Offerors must have appropriate staff who are licensed and in good standing with the State of Texas as providers of clinical assessments and therapeutic evaluations for children and families. Eligible offerors who may also be Historically Underutilized Businesses, Minority, Women, and Small Business Enterprises, are encouraged to apply.

**Geographic Area:** Offerors are to submit a single proposal to develop and implement an assessment model in one rural and one urban county in the State of Texas. Two (2) pilot sites shall be selected at the sole discretion of PRS. If the model is proven to be successful, it is anticipated that the model will later be implemented statewide.

**Term and Total Value:** The contract period is projected from December 1, 1999, through August 31, 2000. Funding is not to exceed \$400,000.00, pending funding availability and approval from state / federal offices as required for funding of the requested services during this projected contract period. Funding is wholly contingent upon PRS receipt of federal and state revenue for these services. At PRS' option, any contracts awarded under this RFP may be renewed annually for a period not to exceed four years including the above referenced period. Contract renewals are not automatic; contracts may be renewed at PRS' option, when authorized, and when it is in PRS' best interests.

**Evaluation And Selection:** A PRS state agency panel of program and administrative staff will rank and score the proposals. The screening and evaluation method and criteria are predetermined. Criteria include detailed service description with analysis of sample scenarios, relevant organizational experience and staff qualifications, and cost projections for providing the assessment model in two counties of PRS' choice over a two year pilot phase period (Texas Fiscal Years 2000 - 2001) with a budget projection narrative; as well as an additional budget projection narrative, indicating the potential costs of providing and transferring the assessment model for statewide use in Texas.

**Deadline:** The last day to receive proposals is Friday, October 15, 1999, at 4:00 p.m. Proposals received after this deadline will be accepted only if received by next day delivery and with proof of mailing at least two days prior to the deadline. Modifications to the original proposal must also be received by the October 15, 1999, deadline.

**Contact Person:** To obtain a complete copy of the Request for Proposal, please contact the designated purchasing officer, Deborah Williams, Texas Department of Protective and Regulatory Services, Winters Building, 701 West 51st Street, P. O. Box 149030 (Mail Code E-557), Austin, Texas 78751, 512/438-3312. Request for proposals are projected to be ready for pick up or mail out by the date of August 20, 1999. Please present inquiries pertaining to this RFP in writing to the stated address on or before Friday, September 10, 1999. Official replies will be issued by PRS only in writing and by mail to potential offerors of record on the date of Friday, September 24, 1999. No verbal replies will be binding upon PRS.

TRD-9904362  
C. Ed Davis  
Deputy Commissioner for Legal Services  
Texas Department of Protective and Regulatory Services  
Filed: July 20, 1999

◆ ◆ ◆

## Public Utility Commission of Texas

Notices of Application for Approval of IntraLATA Equal Access Implementation Plan Pursuant To P.U.C. Substantive Rule §26.275

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on July 9, 1999, pursuant to P.U.C. Substantive Rule §26.275 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Birch Telecom of Texas, Ltd., L.L.P. for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §26.275. Project Number 21091.

The Application: The intraLATA plan filed by Birch Telecom of Texas, Ltd., L.L.P. (Birch Telecom) provides a proposal that, upon implementation, would provide customers with the ability to route intraLATA toll calls automatically, without the use of access codes, to the telecommunications services provider of their designation. Birch Telecom holds Certificate of Operating Authority (COA) Number 50023.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before August 9, 1999. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference project number 21091.

TRD-9904268  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 15, 1999

◆ ◆ ◆

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on July 13, 1999, pursuant to P.U.C. Substantive Rule §26.275 for approval of an intraLATA equal access implementation plan.

Project Number: Application of ETS Telephone Company, Inc. for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §26.275. Project Number 21104.

The Application: The intraLATA plan filed by ETS Telephone Company, Inc. (ETS) provides a proposal that, upon implementation, would provide customers with the ability to route intraLATA toll calls automatically, without the use of access codes, to the telecommunications services provider of their designation. ETS holds Certificate of Operating Authority (COA) Number 50001. Currently, ETS provides local exchange service in Texas using its own facilities except for the switch. ETS does not have its own switch and is dependent upon the switching capability provided by AT&T Corporation (AT&T).

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before August 9, 1999. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference project number 21104.

TRD-9904269  
Rhonda Dempsey

Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 15, 1999



Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on July 14, 1999, pursuant to P.U.C. Substantive Rule §26.275 for approval of an intraLATA equal access implementation plan.

Project Number: Application of Intellicall Operator Services, Inc. d/ b/a ILD for Approval of IntraLATA Equal Access Implementation Plan Pursuant to P.U.C. Substantive Rule §26.275. Project Number 21108.

The Application: The intraLATA plan filed by Intellicall Operator Services, Inc. d/b/a ILD (Intellicall) provides a proposal that, upon implementation, would provide customers with the ability to route intraLATA toll calls automatically, without the use of access codes, to the telecommunications services provider of their designation. Intellicall shall implement intraLATA equal access within thirty days of approval of its dialing parity plan. Intellicall holds Service Provider Certificate of Operating Authority (SPCOA) Number 60187.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the Public Utility Commission Office of Customer Protection at (512) 936-7120 on or before August 9, 1999. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference project number 21108.

TRD-9904357  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 19, 1999



#### Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of the filing with the Public Utility Commission of Texas an application for sale, transfer, or merger on July 15, 1999, pursuant to the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.101 (Vernon 1998).

Docket Style and Number: Application of Texas New-Mexico Power Company and TNP Enterprises, Inc. Regarding Merger of TNP Enterprises, Inc. and ST Acquisition Corp. Docket Control Number 21112.

The Application: Texas New-Mexico Power Company (TNMP) seeks approval of the merger of TNP Enterprises, Inc. (TNP) and ST Acquisition Corp. (ST Acquisition), in accordance with Public Utility Regulatory Act §14.101. TNMP is a wholly-owned subsidiary of TNP. TNMP asserts that the merger of TNP and ST Acquisition will not involve a change in ownership of TNMP nor require the transfer of TNMP's assets, franchises, or certificates of convenience and necessity. TNMP further asserts that the transaction will not result in a change of rates to its customers.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Consumer Protection at (512) 936-7120. Hearing- and speech- impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-9904358  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 19, 1999



#### Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 14, 1999, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.154 - 54.159 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Eagle Communications Group, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 21109 before the Public Utility Commission of Texas.

Applicant intends to resell the existing services of the incumbent local exchange carrier(s) where available.

Applicant's requested SPCOA geographic area includes the entire state of Texas currently served by GTE Southwest, Inc., and Southwestern Bell Telephone Company.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 no later than August 4, 1999. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9904286  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 16, 1999



Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 16, 1999, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.154 - 54.159 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Web Fire Communications, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 21114 before the Public Utility Commission of Texas.

Applicant intends to provide local exchange switched services on a resale basis from the underlying incumbent local exchange carrier (ILEC) or other certificated carrier using unbundled network elements obtained from ILECs using services and facilities provided by other carriers and/or using facilities owned or operated by the Applicant.

Applicant's requested SPCOA geographic area includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 no later than August 4, 1999. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9904379  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 20, 1999



#### Notice of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 14, 1999, to amend a certificate of convenience and necessity pursuant to §§14.001, 32.001, 36.001, 37.051, and 37.054, 37.056, 37.057, 37.058 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998) (PURA). A summary of the application follows.

Docket Title and Number: Application of Magic Valley Electric Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line within Hidalgo County, Docket Number 21110 before the Public Utility Commission of Texas.

The Application: Magic Valley Electric Cooperative, Inc. (MVEC) requests approval to construct approximately 0.4 miles of 138-kV double-circuit transmission line within Hidalgo County. The proposed project is a joint transmission system improvement project between Central and South West Services/Central Power and Light Company (CSWS/CPL) and MVEC. The primary justifications for this proposed transmission line interconnection and the 138 to 96-kV substation are to relieve single- contingency loading on the CPL 69-kV system in the McAllen area and to provide a path to move power from the North Edinburg Duke Energy 500 megawatt (MW) power plant.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P. O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 within 15 days of this notice. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9904270  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 15, 1999



#### Notices of Applications to Introduce New or Modified Rates or Terms Pursuant to Public Utility Commission Substantive Rule §26.212

Notice is given to the public of an application filed with the Public Utility Commission of Texas on July 16, 1999, to introduce new or modified rates or terms pursuant to Public Utility Commission Substantive Rule §26.212, Procedures Applicable to Chapter 58-Electing Incumbent Local Exchange Companies (ILECs).

Tariff Title and Number: Application of Southwestern Bell Telephone Company to Revise the Digital Link Service Tariff to Reflect a Change of the Integrated Pathway Service to Access Advantage Plus Pursuant to Public Utility Commission Substantive Rule §26.212. Tariff Control Number 21115.

The Application: Southwestern Bell Telephone Company (SWBT) has notified the Public Utility Commission of Texas that it is changing

the name "Integrated Pathway Service," as found in the Digital Link Service Tariff, Section 15, to the name "Access Advantage Plus". This service provides a customer a channelized high capacity facility between a customer premise and its serving office for connection to other services provided by SWBT. SWBT states the name change is being made due to legal reasons.

Persons who wish to intervene in this proceeding should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 by August 6, 1999. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9904359  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 19, 1999



Notice is given to the public of an application filed with the Public Utility Commission of Texas on July 16, 1999 to introduce new or modified rates or terms pursuant to Public Utility Commission Substantive Rule §26.212, Procedures Applicable to Chapter 58-Electing Incumbent Local Exchange Companies (ILECs).

Tariff Title and Number: Application of GTE-Southwest, Inc. to Waive the Nonrecurring Charge of \$13.50 and Provide a First Month Recurring Charge of \$ .99 for New Residential Customers Ordering any Custom Calling/CLASS Services Pursuant to Substantive Rule §26.212 Tariff Control Number 21117.

The Application: GTE Southwest, Incorporated has notified the Public Utility Commission of Texas that it is instituting a 90-day promotion from September 1, 1999 through November 29, 1999 during which the company will waive the nonrecurring charge(s) of \$13.50 and provide a first month recurring charge of \$ .99 cents for new residential customers who subscribe to any Custom Calling/CLASS Services. For new subscribers of Caller ID-Number or Caller ID-Name and Number who enroll in response to direct marketing, this promotion will include a Caller ID display unit.

Persons who wish to intervene in this proceeding should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 by August 6, 1999. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9904360  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 19, 1999



Notice is given to the public of an application filed with the Public Utility Commission of Texas on July 16, 1999 to introduce new or modified rates or terms pursuant to Public Utility Commission Substantive Rule §26.212, Procedures Applicable to Chapter 58-Electing Incumbent Local Exchange Companies (ILECs).

Tariff Title and Number: Application of Contel of Texas, Inc. to Waive the Nonrecurring Charge of \$6.85 and Provide a First Month Recurring Charge of \$ .99 for New Residential Customers Ordering

any Custom Calling/CLASS Services Pursuant to Subst. R. §26.212 Tariff Control Number 21118.

The Application: Contel of Texas, Incorporated has notified the Public Utility Commission of Texas that it is instituting a 90-day promotion from September 1, 1999 through November 29, 1999 during which the company will waive the nonrecurring charge(s) of \$6.85 and provide a first month recurring charge of \$.99 cents for new residential customers who subscribe to any Custom Calling/CLASS Services. For new subscribers of Caller ID-Number or Caller ID-Name and Number who enroll in response to direct marketing, this promotion will include a Caller ID display unit.

Persons who wish to intervene in this proceeding should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Office of Customer Protection at (512) 936-7120 by August 6, 1999. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-9904361

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: July 19, 1999



#### Public Notice of Rulemaking and Workshop Regarding Electric Reliability Standards

The Public Utility Commission of Texas (commission) initiates this rulemaking and announces a workshop regarding the administration and enforcement of Senate Bill 7, 76th Legislature, Regular Session (1999), §38.005 (Electric Service Reliability Measures) and §39.101 (Customer Safeguards). The workshop will be held on Tuesday, August 10, 1999, at 9:30 a.m. in the Commissioners' Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701. The room has been reserved until 3:30 p.m. Project Number 21076, *Electric Reliability Standards*, has been established for this proceeding. This notice is not a formal notice of proposed rulemaking; however, the parties' comments at the workshop will assist the commission in developing a commission policy and rule.

Seven days prior to the workshop the commission shall make available in Central Records under Project Number 21076 an agenda for the format of the workshop. The workshop agenda will also be posted to the commission's Internet home page. Questions concerning the workshop or this notice should be referred to Evan Rowe (512-936-7254 or [evan.rowe@puc.state.tx.us](mailto:evan.rowe@puc.state.tx.us)). Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-9904381

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: July 20, 1999



#### Public Notice of Rulemaking and Workshop Regarding Natural Gas Generating Capacity

The Public Utility Commission of Texas (commission) initiates this rulemaking and announces a workshop regarding the administration and enforcement of Senate Bill 7, 76th Legislature, Regular Session

(1999), §39.9044 (Goal for Natural Gas). The workshop will convene on Wednesday, August 11, 1999, at 9:30 a.m. in the Commissioners' Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The room has been reserved until 1:00 p.m. Project Number 21072, *Goal for Natural Gas Generating Capacity* has been established for this proceeding. This notice is not a formal notice of proposed rulemaking; however, the parties' comments at the workshop will assist the commission in developing a commission policy and rule.

On Wednesday, August 4, 1999, the commission shall make available in Central Records under Project Number 21072 an agenda for the format of the workshop. The workshop agenda will also be posted to the commission's Internet home page. Questions concerning the workshop or this notice should be referred to Gary M. Torrent (512-936-7233 or [gary.torrent@puc.state.tx.us](mailto:gary.torrent@puc.state.tx.us)). Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-9904380

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: July 20, 1999



#### Public Notice of Workshop on Project Number 21074, Energy Efficiency Programs

The Public Utility Commission of Texas (commission) will hold a workshop regarding Goal for Energy Efficiency under Senate Bill 7 (§39.905), on Monday, August 9, 1999, at 9:30 a.m. in the Commissioners' Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701. Project Number 21074, *Energy Efficiency Programs* has been established this proceeding.

An agenda will be filed in Central Records under Project Number 21074 ten days prior to the workshop. Topics will include, but not be limited to standard offer programs, market transformation programs, performance contracting, program equity and funding for the statewide goal for energy efficiency. Participants should be prepared to address the issues at the workshop.

Questions concerning the workshop or this notice should be referred to Nieves López, Economist, Electric Industry Analysis Division, (512) 936-7388 or [nieves.lopez@puc.state.tx.us](mailto:nieves.lopez@puc.state.tx.us). Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-9904382

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: July 20, 1999



#### Starr County

##### Public Notice

Request for comments and proposals from interested parties interested in providing additional medicaid certified nursing facility beds.

House Bill 606, 75th, Legislature, the State of Texas, permits a County Commissioner's Court of a rural county (defined as a county with a population of 100,000 or less) to request that the Texas Department

of Human Services (TDHS) contract for additional Medicaid nursing facility beds in that county. This may be done without regard to the occupancy rate in available beds in the county.

Starr County Commissioners Court is considering desirability of requesting that TDHS contract for more Medicaid nursing facility beds in Starr County. The Commissioners Court is soliciting comments from all interested parties on the appropriateness of such a request. Additionally, the Commissioners Court seeks to determine if qualified entities are interested in submitting proposals to provide these additional Medicaid certified nursing facility beds. Comments and/or proposals should be submitted to Honorable Eloy Vera of Starr County Commissioners Court, Starr County Courthouse, Room #203, Rio Grande City, Texas 78582, telephone (956) 487-2307, by 5:00 p.m. on September 1, 1999. Action will be taken by the Commissioners Court at its next regular meeting on September 13, 1999.

TRD-9904365

Eloy Vera

Starr County Judge

Starr County

Filed: July 20, 1999



## Stephen F. Austin State University

### Notice of Consultant Contract Award

Pursuant to Texas Government Code, Chapter 2254, Stephen F. Austin State University provides the following information for publication in the *Texas Register*:

1. The services for custom software development and maintenance contract was awarded to LCS Development Group, LLC, pursuant to Texas Government Code, Chapter 2254.
2. Notice of the request for proposals was published in the May 21, 1999 edition of the *Texas Register* (Vol. 24, No. 21, pp. 3902).
3. The private consultant will provide maintenance and customized upgrades for custom written software for the University Police Department (UPD) and the University Center (UC).
4. The total value of the contract is \$35,000. The contract is effective July 13, 1999 and will terminate August 31, 2000.
5. The private consultant is LCS Development Group, LLC, 1923 South Street, Nacogdoches, TX 75961.
6. The consultant will provide maintenance and customized upgrades for custom written software for the University Police Department (UPD) and the University Center (UC). Custom software, previously written by Contractor, exists for transferring Parking Citation/Parking Permit fees to the Business Office SCT Billing Software (UPD) and for operating Dorm and Cafeteria Access (UC).

TRD-9904291

R. Yvette Clark

General Counsel

Stephen F. Austin State University

Filed: July 16, 1999



## The Texas A&M University System

### Request for Information

The Texas A&M University System (System) requests information from law firms interested in representing the System and its component institutions in tax-exempt bond matters. This RFI is issued for the purpose of establishing (for the biennium beginning September 1, 1999) a referral list from which the System, by and through its Office of General Counsel, will select appropriate counsel for representation on specific bond matters and securities law issues as the need arises. These needs include the usual and necessary services of a bond counsel in connection with issuance, sale and delivery of bonds and notes on which the interest is excludable from gross income under existing federal tax law.

**Description.** The System comprises nine universities, eight state agencies and a health science center in Texas. Public, tax exempt bond issuance is conducted under two major programs and is rated by three major rating agencies. Bonds are issued under authority granted the System in Article VIII, §18 of the Texas Constitution (Permanent University Fund). A variable rate demand note program with an authorized limit of \$95 million is frequently used to raise new funds in support of the capital improvement program. Note sales are normally conducted once or twice each year. Currently, \$15 million is issued and outstanding. Advance refunding of Permanent University Fund bonds are conducted periodically based on potential savings opportunities. Under authority granted in Chapter 55, Texas Education Code and Texas Civil Statutes, Articles 717k and 717q, and other applicable laws, the System issues revenue bonds for capital improvements. A tax-exempt variable rate note program is used for interim financing with long term fixed rate bonds sold to provide more permanent financing. The variable rate note program, currently in a commercial paper mode, is presently authorized up to \$125 million and has \$71.3 million outstanding. The System employs a revenue bond program which offers a combined pledge of all legally available revenues with certain exceptions (the Revenue Financing System). Advance refunding of bonds and escrow restructures of previously defeased bonds, based on market timing, may be expected. Federal tax related matters regarding bonds issued by the System, including strategies and management practices in the conduct of an exempt debt program requires a close working relationship with bond counsel. Contact is frequent, particularly in regard to the Revenue Financing System program due to the significant level of capital improvements anticipated throughout the System over the next two years. The System invites responses to this RFI from qualified firms for the provision of such legal services under the direction and supervision of the System's Office of General Counsel.

**Responses.** Responses to this RFI should include at least the following information: a description of the firm's or attorney's qualifications for performing the legal services, including the firm's prior experience in bond issuance matters and securities law issues, the names, experience, and technical expertise of the attorneys who may be assigned to work on such matters, and appropriate information regarding efforts made by the firm to encourage and develop the participation of minorities and women in the provision both of the firm's legal services generally and bond matters in particular; the submission of fee information (either in the form of hourly rates for each attorney who may be assigned to perform services in relation to the System's bond matters, flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls) and billable expenses; disclosures of conflicts of interest (identifying each and every matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to the System or to the State of Texas, or any of its boards, agencies, commissions, universities; or elected or appointed officials); and confirmation of willingness to comply with policies, directives and



guidelines of the System and the Attorney General of the State of Texas.

**Format and Person to Contact.** Three copies of the response are requested. The response should be typed, preferably double-spaced, on 8-1/2 by 11-inch paper with all pages sequentially numbered, either stapled or bound together. They should be sent by mail or delivered in person, marked "Response to Request for Information" and addressed to:

Delmar L. Cain, General Counsel  
Office of General Counsel  
The Texas A&M University System  
John B. Connally Building, 6th Floor  
Campus Mail Stop 1230  
College Station, Texas 77840-7896  
Telephone (409) 845-4372 for questions

**Deadline for Submission of Response.** All responses must be received by the Office of General Counsel of The Texas A&M University System at the address set forth above not later than 5:00 p.m., August 20, 1999.

TRD-9904389  
Vickie Burt Spillers  
Executive Secretary to the Board  
The Texas A&M University System  
Filed: July 20, 1999



#### Request for Proposal

Texas A&M University requests proposals from consulting firms qualified to assess data imaging system needs for the Departments of Admission and Records, Honors and Scholarships and Student Financial Aid. Interested firm should be thoroughly versed and experienced in assessing imaging system need and developing a migration information solutions.

Information can be obtained from Mary Sue Goldwater, Assistant Director of Purchasing Services, Texas A&M University, College Station, Texas 77843-1477. Ms. Goldwater can be reached at (409) 845-4579. Proposals from interested firms should be directed to her attention at the address above.

Selection criteria will include competence, experience knowledge and qualifications in the area of imaging systems assessment. Historically Underutilized Businesses are encouraged to participate in this request for proposal. All things being equal, a preference will be given to a consultant firm whose principal place of business is within the State of Texas.

Proposals must be received on or before 2:00 p.m., 30 July 1999.

TRD-9904297  
Vickie Burt Spillers  
Executive Secretary to the Board  
Board of Regents The Texas A&M University System  
Filed: July 16, 1999



#### Texas Tech University

Requests for Proposals

Texas Tech University (TTU) and Texas Tech University Health Sciences Center (TTUHSC) request information from law firms interested in representing TTU/TTUHSC in tax-exempt bond matters. This RFP is issued for the purpose of establishing (for the time frame beginning September 1, 1999 to August 31, 2000) a referral list from which TTU/TTUHSC, by and through its Office of General Counsel, will select appropriate counsel for representation on specific bond matters as the need arises. These needs include the usual and necessary services of a bond counsel in connection with the issuance, sale and delivery of bonds and notes on which the interest is excludable from gross income under existing federal tax law.

**Description.** Tax-exempt bonds and notes are issued by the Board of Regents of Texas Tech University (the "Board"), acting separately and independently for and on behalf of TTU and TTUHSC. Public, tax-exempt bond issuance is conducted under two major programs and is rated by three major rating agencies. Bonds are issued under authority granted in Article VII, Section 17, of the Texas Constitution (Higher Education Assistance Fund Bonds). A \$50 million commercial paper program for Higher Education Assistance Fund (HEAF) bonds may be considered for the 2000 fiscal year. A fixed rate bond sale is also being studied. Under authority granted in Chapter 55, Texas Education Code and Vernon's Texas Civil Statutes, Articles 717k and 717q, and other applicable laws, TTU anticipates issuing revenue bonds and/or notes for capital improvements. A \$100 million tax-exempt commercial paper program (with initial authority of \$60 million) is to be used for interim financing with long term fixed rate bonds sold to provide more permanent financing. TTU employs a revenue bond program which offers a combined pledge of all legally available revenues with certain exceptions (the "Revenue Financing System"). Federal tax related matters regarding bonds issued by TTU, including strategies and management practices in the conduct of an exempt bond program requires a close working relationship with bond counsel. Contact is frequent, particularly in regard to HEAF and RFS commercial paper programs due to the significant level of capital improvements anticipated over the next several years. TTU invites responses to this RFP from qualified firms for the provision of such legal services under the direction and supervision of TTU's Office of General Counsel.

**Responses.** Responses to this RFP should include at least the following information: (1) a description of the firm's or attorneys' qualifications for performing the legal services, including the firm's prior experience in bond issuance matters, the names, experience, and technical expertise of attorneys who may be assigned to work on such matters, and appropriate information regarding efforts made by the firm to encourage and develop the participation of minorities and women in the provision both of the firm's legal services generally and bond matters in particular; (2) the submission of fee information (either in the form of hourly rates for each attorney who may be assigned to perform services in relation to TTU's bond matters, flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls) and billable expenses; (3) disclosures of conflicts of interest (identifying each and every matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to TTU or the State of Texas, or any of its boards, agencies, commissions, universities, or elected or appointed officials); and (4) confirmation of willingness to comply with policies, directives and guidelines of TTU and the Attorney General of the State of Texas.

**Format and Person to Contact:** Two copies of the response are requested. The response should be typed, preferably double-spaced, on 8 1/2 x 11 inch paper with all pages sequentially numbered, either stapled or bound together. They should be sent by mail or

delivered in person, marked "Response to Request for Information, Bond Counsel" and addressed to Ms. Patricia Aldridge, Director of Contracting and Risk Management, Texas Tech University, 327 Drane Hall, Box 41101, Lubbock, Texas 79409-1101 (telephone (806) 742-3841 for questions).

Deadline for Submission of Response: All responses must be received by the TTU's Office of Contracting and Risk Management at the address set forth above no later than 5:00 p.m., Monday, August 23, 1999. Texas Tech University reserves the right to accept late proposals but does not guarantee their consideration.

TRD-9904422

James L. Crowson

Secretary to the Board of Regents

Texas Tech University

Filed: July 21, 1999



Texas Tech University and Texas Tech University Health Sciences Center ("Texas Tech"), requests proposals from professional firms interested in representing Texas Tech and its component members in certain tax matters. This RFP is issued to establish (for the time frame beginning September 1, 1999 to August 31, 2000) a referral list from which Texas Tech, by and through its Office of General Counsel, will select appropriate counsel for representation on specific tax matters as the need arises.

DESCRIPTION: Texas Tech is supported by legislative appropriations, tuition, fees, income from auxiliary enterprises, grants, gifts, sponsored research and other sources of revenues, all of which may be impacted by the Internal Revenue Code and regulations of the Internal Revenue Service. For assistance with such issues, Texas Tech will engage outside counsel for review of and advise regarding tax matters as they relate to higher education, including but not limited to the following: retirement programs, unrelated business income tax; personal income tax issues as they relate to donors; and Federal and State tax matters regarding compensation issues and nonresident alien tax issues. Texas Tech invites proposals in response to this RFP from qualified firms for the provision of such legal and tax services under the direction and supervision of the Texas Tech University's Office of General Counsel.

RESPONSES: Responses to this RFP should include at least the following: (1) a description of the firm's or attorney's qualifications for performing legal services, including the firm's prior experience in tax-related matters and retirement plans as they relate specifically to institutions of higher education; (2) the names and experience of the attorneys who will be assigned to work on such matters; (3) the availability of the lead attorney and others assigned to the project; (4) appropriate information regarding efforts made by the firm to encourage and develop the participation of minorities and women in the provision of legal services; (5) the submission of fee information (either in the form of hourly rates for each attorney who may be assigned to perform such services in relation to Texas Tech's tax matters, comprehensive flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls) and billable expenses; (6) a comprehensive description of the procedures to be used by the firm to supervise the provision of legal services in a timely and cost-effective manner; (7) disclosures of conflicts of interests (identifying each and every matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to Texas Tech or to the State of Texas, or any of its boards, agencies, commissions, universities, or elected or appointed officials); and (8) confirmation of willingness to comply with Texas

Tech's and the Texas Attorney General's policies, directives, and guidelines.

FORMAT AND PERSON TO CONTACT: Three copies of the proposal are requested. The proposal should be typed, preferable double-spaced on, 8 1/2 by 11 inch paper with all pages sequentially numbered, and either stapled or bound together. They should be sent by mail or delivered in person, marked "RESPONSE TO REQUEST FOR PROPOSAL, TAX COUNSEL" and addressed to Patricia Aldridge, Director of Contracting, as set forth below.

Evaluation: Proposals sent in response to this RFP will be evaluated in light of several criteria, including: expertise, availability of a lead attorney, prior experience in handling tax-related matters relating to higher education, procedures for providing timely and cost-effective services, and reasonableness of fees. Although the fee structure and overall cost of this representation will be an extremely important factor in evaluating proposals submitted in response to this RFP, the successful firm will clearly demonstrate exceptional expertise and experience with the tax matters made the subject of this RFP.

Proposals must remain firm as to services and prices for 90 days. No proposals will be accepted by oral communication, electronic mail, telegraphic transmission or telefacsimile transmission.

Proposers are requested to submit a standard form used to retain their services if available.

DEADLINE FOR SUBMISSION OF RESPONSE: All proposals will be received by the Office of Contracting at Texas Tech University at the address set for below no later than 3 p.m. August 20, 1999.

PROPOSAL DELIVERY and TIME AND DATE: Proposals received after August 20, 1999, 3 p.m. CST will returned unopened. Address proposals to: Patricia Aldridge Director of Contracting, 327 Drane Hall, Texas Tech University, 15th and University, Box 41101 Lubbock, Texas 79409-1101, Phone (806) 742-3841, Fax (806) 742-0350

TRD-9904423

James L. Crowson

Secretary to the Board of Regents

Texas Tech University

Filed: July 21, 1999



## Texas Workforce Commission

Request for Proposal Choices and Food Stamp Employment and Training Program

### A. PROPOSAL DESCRIPTION

The Texas Workforce Commission (TWC), Workforce Development Division, as authorized by federal and state laws, invites eligible entities to submit applications for FY 2000 and FY2001 funding of contracts to provide employment services for Choices and Food Stamp Employment and Training (FSE&T) in the North East Texas Local Workforce Development Area (LWDA), including the counties of Lamar, Red River, Bowie, Cass, Morris, Titus, Franklin, Hopkins and Delta. Offerors may bid on any or all services addressed in this RFP. Contractor(s) will collaborate to provide services in partnership with current Choices and FSE&T staff in this LWDA. Choices is a program for Temporary Assistance for Needy Families (TANF) participants providing employment-related and supportive services to assist TANF participants in moving from welfare to work. Choices services may include but are not limited to job readiness activities, job search assistance (including job placement and job development), case

management, subsidized employment (including On-the-Job Training [OJT]) and educational and training activities, as well as post-employment/job retention services. FSE&T is a U.S. Department of Agriculture-funded program which assists food stamp recipients who do not receive TANF but are considered "mandatory work registrants" in becoming employed and self-supporting. FSE&T services may include but are not limited to job search and job readiness activities, educational and/or vocational training opportunities and Workfare, for Able Bodied Adults Without Dependents (ABAWDs).

#### B. AUTHORIZATION OF FUNDING

The funds are authorized under the State Fiscal Year 2000-2001 Appropriations Bill.

#### C. AVAILABLE FUNDING

The total amount of available funding through this contract shall not exceed \$1,483,864 for Choices and \$132,569 for Food Stamp Employment & Training.

#### D. ELIGIBLE APPLICANTS

Applicants submitting proposals to provide Choices and FSE&T services must complete an Application Packet, meet the following criteria and provide required documentation as requested in the application to be considered eligible: (1)the offer must have been submitted by the due date for proposals; (2)the offer must be complete with required signatures; (3)the offer is for the requested services described in the instructions; (4)the funding requested is not more than the maximum amount and (5)the offeror must agree to offer the services in partnership with current Choices and/or FSE&T staff. TWC will exclude from further consideration for contract award any non-responsive offer or portion of an offer. TWC will notify the offeror by certified mail of the decision.

#### E. PROJECT SCHEDULE

Application submission deadline is August 30, 1999. The project is set to begin on October 1, 1999, and end August 31, 2000.

#### F. SCORING CRITERIA

The evaluation criteria for this RFP and their relative weights for scoring are: Past/Proposed Performance, 20 points; Organizational Capabilities and Structure, 10 points; Capability to Provide Services, 25 points; Fiscal Information, 20 points; Automation, 10 points; and Cost/Budget 15 points, for a maximum of 100 points.

#### G. SELECTION, NOTIFICATION AND NEGOTIATION PROCESS

Proposals will be graded by the Texas Workforce Commission. Grading criteria will be included in the application packet. Negotiations will take place immediately after selection. A person designated and authorized by the selected applicant organization to make budget and/or programmatic decisions must be readily available to respond to requested revisions between September 6 and 15, 1999. If a designated person is not readily available to promptly respond to requested revisions, the contract will not be awarded to the applicant.

Negotiations will be conducted by TWC as deemed necessary. TWC reserves the right to vary all provisions of this RFP prior to the execution of a contract and to execute amendments to contracts when TWC deems such variances and/or amendments are in the best interest of the State of Texas.

#### H. PAYMENT

Payment for services performed shall be billed on a cost reimbursement basis.

#### I. TWC'S OBLIGATIONS

TWC's obligations under this RFP are contingent upon the actual receipt by the Agency of Funds from the US Department of Health and Human Services and the US Department of Agriculture. If adequate funds are not available to make payment under the terms of this contract, TWC shall terminate this RFP or resulting contract and will not be liable for failure to make payments. For further information and to order an Application Packet, contact the TWC primary contact person. The primary contact person for this RFP is: Allison Thomas, Program Specialist, Texas Workforce Commission, Room 342-T, 101 East 15th Street, Austin, Texas 78778-0001, telephone: (512) 936-3555, fax: (512) 936-3420, email: allison.thomas@twc.state.tx.us.

TRD-9904284

J. Ferris Duhon

Assistant General Counsel

Texas Workforce Commission

Filed: July 16, 1999



#### Requests for Proposals for Selection of Asbestos Surveying Firm

The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 East 15th Street, Austin, Texas 78778-0001, hereby issues this request for proposal (RFP) for the purpose of selecting an engineering/asbestos surveying firm for a statewide asbestos surveying project at TWC's 62 agency-owned facilities (excluding the TWC facilities at 101 East 15th Street, 1411 Brazos, 1117 Trinity and 1215 Guadalupe in Austin).

This contract will require the asbestos surveying firm to perform site surveys to locate and map asbestos containing materials, if any, have samples analyzed and develop a report. The selected firm may also be requested to provide one generic asbestos management plan for training, work practices and procedures to ensure that occupants, maintenance and custodial personnel and outside contractors minimize their potential for exposure to asbestos containing materials which may be present in a Texas Workforce Commission Building.

Asbestos surveying firms whose previous work meets the requirements in this announcement are invited to submit asbestos surveying proposals, qualifications and cost estimates prior to 5:00 p.m., Monday, August 30, 1999, for consideration to the Texas Workforce Commission, Attn: George Hicks, 101 East 15th Street, Room 226T, Austin, Texas 78778-0001. Copies of the entire RFP are available by calling George Hicks at (512) 463-7486.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFP should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFP.

Selection of an asbestos surveying firm will be in accordance with state statutes and regulations.

TRD-9904285

J. Ferris Duhon

Assistant General Counsel

Texas Workforce Commission

Filed: July 16, 1999



The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 East 15th Street, Austin, Texas 78778-0001, hereby issues this request for proposal (RFP) for the purpose of selecting an engineering/asbestos surveying firm for an asbestos surveying project at TWC's agency-owned facilities at 101 East 15th Street, 1411 Brazos, 1117 Trinity, and 1215 Guadalupe in Austin.

This contract will require the asbestos surveying firm to perform site surveys to locate and map asbestos containing materials, if any, have samples analyzed and develop a report. The selected firm may also be requested to provide one generic asbestos management plan for training, work practices and procedures to ensure that occupants, maintenance and custodial personnel and outside contractors minimize their potential for exposure to asbestos containing materials which may be present in a Texas Workforce Commission building.

Asbestos surveying firms whose previous work meets the requirements in this announcement are invited to submit asbestos surveying proposals, qualifications and cost estimates prior to 5:00 p.m., Monday, August 30, 1999, for consideration to the Texas Workforce Commission, Attn: George Hicks, 101 East 15th Street, Room 226T, Austin, Texas 78778-0001. Copies of the entire RFP are available by calling George Hicks at (512) 463-7486.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFP should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFP.

Selection of an asbestos surveying firm will be in accordance with state statutes and regulations.

TRD-9904274  
J. Ferris Duhon  
Assistant General Counsel  
Texas Workforce Commission  
Filed: July 15, 1999



#### Requests for Qualifications for Selection of Professional Architectural/Engineering Services

The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 E. 15th St., Room 226T, Austin, Texas 78778-0001, hereby issues this request for statement of interest and qualifications (RFQ) for the purpose of selecting a professional architectural/engineering (A/E) firm for a roof replacement project at the TWC facility at 12445 Beechnut Street in Houston.

The contract will require the A/E firm to develop the scope of the project, and prepare construction drawings, specifications and bid documents. The contract will also require the A/E firm to perform project management, coordinate the work, be responsible for compliance with applicable regulations, and perform budgeting/payment activities.

A/E firms that meet the requirements described in this announcement are invited to submit Architect/Engineer Qualifications prior to 5:00 p.m., Monday, August 23, 1999, for consideration to the Texas Workforce Commission, Attn: Tony Tankersley, 101 E. 15th St., Room 226T, Austin, Texas 78778-0001. Copies of the entire RFQ are available by calling Tony Tankersley at (512) 936-3309.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFQ should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFQ.

Selection of an A/E firm will be in accordance with state statutes and regulations.

TRD-9904273  
J. Ferris Duhon  
Assistant General Counsel  
Texas Workforce Commission  
Filed: July 15, 1999



The Texas Workforce Commission (TWC), Facilities Construction and Maintenance Department, 101 E. 15th St., Room 226T, Austin, Texas 78778-0001, hereby issues this request for statement of interest and qualifications (RFQ) for the purpose of selecting a professional architectural/engineering (A/E) firm for a roof replacement project at the TWC facility at 616-618 N. Santa Fe Street in El Paso.

The contract will require the A/E firm to develop the scope of the project, and prepare construction drawings, specifications and bid documents. The contract will also require the A/E firm to perform project management, coordinate the work, be responsible for compliance with applicable regulations, and perform budgeting/payment activities.

A/E firms that meet the requirements described in this announcement are invited to submit Architect/Engineer Qualifications prior to 5:00 p.m., Monday, August 30, 1999, for consideration to the Texas Workforce Commission, Attn: Jim McKaskle, 101 E. 15th St., Room 226T, Austin, Texas 78778-0001. Copies of the entire RFQ are available by calling Jim McKaskle at (512) 305-9693.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFQ should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFQ.

Selection of an A/E firm will be in accordance with state statutes and regulations.

TRD-9904276  
J. Ferris Duhon

Assistant General Counsel  
Texas Workforce Commission  
Filed: July 15, 1999



The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 E. 15th St., Room 226T, Austin, Texas 78778-0001, hereby issues this request for statement of interest and qualifications (RFQ) for the purpose of selecting a professional architectural/engineering (A/E) firm for an Americans with Disabilities Act (ADA)/Texas Accessibility Standards(TAS) compliance project for the lobby floor restrooms in TWC's buildings at 101 E. 15th St., 1411 Brazos, and 1117 Trinity in Austin.

The contract will require the A/E firm to develop the scope of the project, and prepare construction drawings, specifications and bid documents. The contract will also require the A/E firm to perform project management, coordinate the work, be responsible for compliance with applicable regulations, and perform budgeting/payment activities.

A/E firms that meet the requirements described in this announcement are invited to submit Architect/Engineer Qualifications prior to 5:00, Monday, August 30, 1999, for consideration to the Texas Workforce Commission, Attn: George Hicks, 101 E. 15th St., Room 226T, Austin, Texas 78778-0001. Copies of the entire RFQ are available by calling George Hicks at (512) 463-7486.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFQ should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded to you as a result of this RFQ.

Selection of an A/E firm will be in accordance with state statutes and regulations.

TRD-9904275  
J. Ferris Duhon  
Assistant General Counsel  
Texas Workforce Commission  
Filed: July 15, 1999



The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 East 15th Street, Room 226T, Austin, Texas, 78778-0001, hereby issues this request for statement of interest and qualifications (RFQ) for the purpose of selecting a professional architectural/engineering (A/E) firm for an elevator repair project at the TWC facility at 301 West 13th Street in Fort Worth.

The contract will require the A/E firm to develop the scope of the project, and prepare construction drawings, specifications and bid documents. The contract will also require the A/E firm to perform project management, coordinate the work, be responsible for compliance with applicable regulations, and perform budgeting/payment activities.

A/E firms that meet the requirements described in this announcement are invited to submit Architect/Engineer Qualifications prior to 5:00 p.m., Monday, August 30, 1999, for consideration to the Texas

Workforce Commission, Attention: Bob Hughes, 101 East 15th Street, Room 226T, Austin, Texas, 78778-0001. Copies of the entire RFQ are available by calling Bob Hughes at (512) 936-3312.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFQ should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFQ.

Selection of an A/E firm will be in accordance with state statutes and regulations.

TRD-9904277  
J. Ferris Duhon  
Assistant General Counsel  
Texas Workforce Commission  
Filed: July 15, 1999



The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 East 15th Street, Room 226T, Austin, Texas, 78778-0001, hereby issues this request for statement of interest and qualifications (RFQ) for the purpose of selecting a professional architectural/engineering (A/E) firm for a media center build-out project at the TWC facility at 101 East 15th Street in Austin.

The contract will require the A/E firm to develop the scope of the project, and prepare construction drawings, specifications and bid documents. The contract will also require the A/E firm to perform project management, coordinate the work, be responsible for compliance with applicable regulations, and perform budgeting/payment activities.

A/E firms that meet the requirements described in this announcement are invited to submit Architect/Engineer Qualifications prior to 5:00 p.m., Monday, August 30, 1999, for consideration to the Texas Workforce Commission, Attention George Hicks, 101 East 15th Street, Room 226T, Austin, Texas 78778-0001. Copies of the entire RFQ are available by calling George Hicks at (512) 463-7486.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFQ should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFQ.

Selection of an A/E firm will be in accordance with state statutes and regulations.

TRD-9904278  
J. Ferris Duhon  
Assistant General Counsel  
Texas Workforce Commission  
Filed: July 15, 1999



The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 East 15th Street, Room 226T, Austin, Texas, 78778-0001, hereby issues this request for statement of interest and qualifications (RFQ) for the purpose of selecting a professional architectural/engineering (A/E) firm for an elevator refurbishing project at the TWC facility at 330 Dwyer Avenue in San Antonio.

The contract will require the A/E firm to develop the scope of the project, and prepare construction drawings, specifications and bid documents. The contract will also require the A/E firm to perform project management, coordinate the work, be responsible for compliance with applicable regulations, and perform budgeting/payment activities.

A/E firms that meet the requirements described in this announcement are invited to submit Architect/Engineer Qualifications prior to 5:00 p.m., Monday, August 30, 1999, for consideration to the Texas Workforce Commission, Attention Tony Tankersley, 101 East 15th Street, Room 226T, Austin, Texas, 78778-0001. Copies of the entire RFQ are available by calling Tony Tankersley at (512) 936-3309.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFQ should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFQ.

Selection of an A/E firm will be in accordance with state statutes and regulations.

TRD-9904279  
 J. Ferris Duhon  
 Assistant General Counsel  
 Texas Workforce Commission

Filed: July 15, 1999



The Texas Workforce Commission (TWC), Facilities, Construction and Maintenance Department, 101 East 15th Street, Room 226T, Austin, Texas, 78778-0001, hereby issues this request for statement of interest and qualifications (RFQ) for the purpose of selecting a professional architectural/engineering (A/E) firm for a structural inspection project at the TWC facilities at 330 Dwyer Ave. in San Antonio, 303 West 13th Street in Fort Worth, 925 Columbus Avenue in Waco, 8300 John Carpenter Freeway in Dallas, 616-618 North Santa Fe Street in El Paso, and 2613 Austin Street in Houston.

A/E firms that meet the requirements described in this announcement are invited to submit Architect/Engineer Qualifications prior to 5:00 p.m., Monday, August 30, 1999, for consideration to the Texas Workforce Commission, Attention George Hicks, 101 East 15th Street, Room 226T, Austin, Texas, 78778-0001. Copies of the entire RFQ are available by calling George Hicks at (512) 463-7486.

The Texas Workforce Commission recognizes the benefits of aiding and stimulating the growth of small disadvantaged and small women-owned business enterprises, and therefore requires that your firm consider in its proposal the participation of qualified, certified Historically Underutilized Businesses (HUBs) as subcontractors. It is TWC's intention that qualified HUBs receive a minimum of twenty percent (20%) of this professional services contract. If your firm is not certified as a HUB, your response to this RFQ should include a plan for utilization of HUBs in providing services to TWC in connection with any contractual agreement awarded you as a result of this RFQ.

Selection of an A/E firm will be in accordance with state statutes and regulations.

TRD-9904280  
 J. Ferris Duhon  
 Assistant General Counsel  
 Texas Workforce Commission  
 Filed: July 15, 1999



# *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     5 1/4" diskette

### **Texas Workers Compensation Commission, Title 28**

- Update service \$25/year

### **Texas Register Phone Numbers**

	<b>(800) 226-7199</b>
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
Public Officials, State	(512) 463-6334
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 \$150    Six Months \$100    First Class Mail \$250

**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)*

**Bill Me**

**Payment Enclosed**

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  
\_\_\_\_\_  
\_\_\_\_\_